



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

119

CRM-M-59505-2025 (O&M)
Date of Decision : 21.11.2025

PAWAN KUMAR

...Petitioner

VERSUS

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Akshay Bansal, Advocate
for the petitioner.

Mr. Gautam Thapar, Sr. DAG, Punjab.

AARADHNA SAWHNEY, J. (ORAL)

CRM-46033-2025

This is an application filed under Section 528 of BNSS for placing on record zimni orders as Annexure P-7.

For the reasons mentioned in the application, the same is allowed, subject to all just exceptions. Zimni orders (Annexure P-7) are taken on record.

CRM-M-59505-2025

1. Petitioner is seeking quashing of the FIR No.52 dated 29.05.2024, under Section 174-A IPC (now Section 209 BNS) at Police Station Khanauri, District Sangrur, arising out of complaint bearing NACT No.92 dated 12.07.2022 titled "Mukandi Lal Vs. Pawan Kumar" registered against him u/s 138 of NI Act.
2. Relevant facts as emerging from the documents on record be noticed hereinbelow:-



Criminal complaint bearing NACT No.92 of 2022 titled “Mukandi Lal Vs. Pawan Kumar” was filed by the respondent No.2-complainant against petitioner for the commission of offence under Section 138 of NI Act alleging therein that cheque bearing No.733811 dated 14.06.2022 amounting to Rs.10,24,000/- issued by petitioner in favour of complainant was dishonoured. Legal notice was also served upon petitioner, who neither replied to the same nor made the payment. Hence, the complaint against him under Section 138 of NI Act was registered.

3. Learned counsel contends that petitioner was totally unaware of the pendency of the aforesaid complaint precisely for the said reason he did not appear before the learned trial Magistrate. His absence was neither deliberate nor unintentional. On 06.02.2023, he (p) was declared ‘*Proclaimed Person*’, in terms of Section 82(1) Cr.P.C. As soon as, petitioner came to know of the pendency of the complaint, he appeared before the learned SDJM, Moonak and taking a lenient view of the matter the concession of bail was granted to him vide order dated 09.03.2023.

It is further the submission of learned counsel that the local counsel representing the petitioner before the learned trial Magistrate did not intimate about the next date of hearing, as a result of which, petitioner could not appear before the Court concerned and consequently was again declared ‘*Proclaimed Person*’, vide order dated 13.02.2024, resulting in lodging of FIR No.52 dated 29.05.2024 against him under Section 174-A IPC (Section 209 BNS). Learned counsel next contends that petitioner, who was always ready and willing to settle the dispute approached complainant and offered to pay the due amount. On their joint request, the matter was referred to the National Lok Adalat on 13.09.2025



where complainant withdrew complaint (NACT No.92 dated 12.07.2022). With this backdrop, learned counsel submits that since petitioner has already been acquitted in the main offence, continuation of proceedings under Section 174-A of IPC (Section 209 BNS) would be a sheer abuse of process of law.

Reliance has been placed upon the following judgments of the coordinate Bench of this Court passed in *Soni Kumar versus State of Punjab*, bearing CRM-M-55315-2024, decided on 10.01.2025, *Deepak versus State of Haryana and another*, bearing CRM-M-14623-2021, decided on 17.02.2022 and *Pardeep Kumar Vs. State of Punjab and another*, bearing CRM-M-41656 of 2023, decided on 23.08.2023 wherein the FIR registered under Section 174-A IPC arising out of the same complaint between the parties had been quashed. In support of his submissions, learned counsel has also relied upon the judgment of the Hon'ble Supreme Court in the case of *Daljit Singh versus State of Haryana and another*, bearing Criminal Appeal No.4359 of 2024, decided on 02.01.2025.

Second leg of submission advanced by learned counsel is that as per settled proposition of law, period of 30 days from the issuance of publication of proclamation is required to be given to the accused and that in case the Court adjourns the matter such adjournment beyond the 30 days cannot be treated as compliance of requisite provisions.

In support of his contentions, learned counsel places reliance upon following judgments:-

- 1. *Ashok Kumar vs. State of Haryana and another* 2013(4) RCR (Criminal) 550**
- 2. *CRM-M-40897-2019 titled as Prit Pal Singh vs. State of Punjab and others*, decided on 03.02.2020**



4. I have heard learned counsel for the petitioner and have carefully gone through the material available on record.

5. By way of the instant petition, the petitioner is seeking quashing of the present FIR registered under Section 174-A IPC (now Section 209 of BNS), 2023 on the ground that complaint bearing NACT No.92 dated 12.07.2022 (wherein petitioner was declared as '*Proclaimed Person*') had been withdrawn as the financial dispute between the parties had been settled amicably and the continuation of the present proceedings lodged against him, vide FIR No. 52 dated 29.05.2024, under Section 174-A IPC (Section 209 of BNS) would be an abuse of process of law.

It would be appropriate to refer to the judgment of Hon'ble the Supreme Court in ***Daljit Singh's case (supra)***, wherein it was held as follows:-

"7.3 Now, what happens if the status under Section 82 Cr.P.C. is nullified i.e., the person subjected to such proclamation, by virtue of subsequent developments is no longer required to be presented before a Court of law. Then, can the prosecution still proceed against such a person for having not appeared before a Court during the time that the process was in effect. The answer is in the affirmative. We say so for the following reasons:-

(i) The language of Section 174A, IPC says "whoever fails to appear at the specified place and the specified time as required by proclamation...". This implies that the very instance at which a person is directed to appear, and he does not do so, this Section comes into play;

(ii) What further flows from the language employed is that the instance of non-appearance becomes an infraction of the Section, and therefore, prosecution therefor would be independent of Section 82, Cr.P.C. being in effect;



(iii) So, while proceedings under Section 174A IPC cannot be initiated independent of Section 82, Cr.P.C., i.e., can only be started post the issuance of proclamation, they can continue if the said proclamation is no longer in effect.

(iv) We find that the Delhi High Court has taken this view, i.e., that Section 174A, IPC is a stand-alone offence in *Mukesh Bhatia v. State (NCT of Delhi)*¹⁹; *Divya Verma v. State*²⁰; *Sameena & Anr. v. State GNCT of Delhi & Anr.*²¹ For the reasons afore-stated, we agree with the findings made in these judgments/orders. At the same time, it stands clarified that we have not commented on the merits of the cases.

(v) Granted that the offence prescribed in Section 74A IPC is indeed stand-alone, given that it arises out of an original offence in connection with which proceedings under Section 82 Cr.P.C. is initiated and in the said offence the accused stands, subsequently, acquitted, it would be permissible in law for the Court seized of the trial under such offence, to take note of such a development and treat the same as a ground to draw the proceedings to a close, should such a prayer be made and the circumstances of the case so warrant.

8. In conclusion, we hold that Section 174A IPC is an independent, substantive offence, that can continue even if the proclamation under Section 82, Cr.P.C. is extinguished. It is a stand-alone offence. That being the position of 2022 SCC OnLine Del 1023 2023 SCC OnLine Del 2619 CrI. M.C No,1470 of 2021, Dated 17th May, 2022 law, let us now turn to the present facts. As we have already noted supra, the Appellant stands acquitted of the main offence.”



A Coordinate Bench of this Court, in similar circumstances, in the case of ***Soni Kumar's case (supra)*** has quashed the FIR under Section 174-A IPC stating that where the main complaint has been withdrawn, the continuation of proceedings would be an abuse of process of law. The relevant extract thereof is as under:-

“The inherent jurisdiction under Section 528 BNSS, 2023/Section 482 Cr.P.C., 1973 is primarily aimed at preventing abuse of judicial process and securing the ends of justice. Thus, when the dispute is essentially personal in nature and a genuine compromise has been reached, the High Court may intervene to quash the criminal proceedings recognizing the continuation thereof would be non-productive and unjust in the given circumstances. The inherent powers of a High Court are powers which are incidental replete powers, which if did not so exist, the Court would be obliged to sit still and helplessly see the process of law and Courts being abused for the purposes of injustice. In other words; such power(s) is intrinsic to a High Court, it is its very life immanent attribute.

Without such power(s), a High Court would have form but lack the substance. These powers of a High Court hence deserve to be construed with the widest possible amplitude. These inherent powers are in consonance with the nature of a High Court which ought to be, and has infact been, invested with power(s) to maintain its authority to prevent the process of law/Courts being obstructed or abused. It is a trite posit of jurisprudence that though laws attempt to deal with all cases that may arise, the infinite variety of circumstances which shape events and the imperfections of language make it impossible to lay down provisions capable of governing every case, which in fact arises. A High Court which exists for the furtherance of justice in an indefatigable manner, should therefore, have unfettered power(s) to deal with situations which, though not expressly provided for by the law, need to be dealt with, to prevent



injustice or the abuse of the process of law and Courts. The juridical basis of these plenary power(s) is the authority; in fact the seminal duty and responsibility of a High Court; to uphold, to protect and to fulfil the judicial function of administering justice, in accordance with law, in a regular, orderly and effective manner. In other words; Section 528 of BNSS, 2023 reflects peerless powers, which a High Court may draw upon as necessary whenever it is just an due process of law, to prevent vexation or oppression, to do justice substantial justice between the parties and to secure the ends of justice.

10. *Keeping in view the entirety of the attending facts and circumstances of the case in hand; especially the original offence being an offence under Section 138 of Negotiable Instruments Act of 1881, the original offence alleged to have been committed in the year 2021, the subject matter of the original offence having been settled amicably between the parties and the criminal complaint under Section 138 of Negotiable Instruments Act, 1881 having been withdrawn on the basis of such settlement/compromise; this Court deems it appropriate that the FIR as also all proceedings emanating therefrom deserve to be quashed.”*

Another Coordinate Bench of this Court in the case of **Deepak’s case** (*supra*), has also held as under:-

“An affidavit was also filed by respondent No.2, which has been annexed as Annexure R-1, wherein in para 4 of the same, it has been stated that respondent No.2-Bank has no objection, in case, the present FIR is quashed against the petitioner because the Bank has received the cheque amount and consequently, the complaint has been withdrawn. Since, the proceedings under Section 138 of the Act of 1881 has been withdrawn and the present FIR has been registered on account of non-appearance of the petitioner, this Court feels that continuance of the proceedings in the present FIR would be an abuse



of process of the Court. Keeping in view the abovesaid facts and circumstances, as well as the authorities of law referred to above, the present petition is allowed and FIR No.969 dated 04.11.2018 registered under Section 174-A of IPC at Police Station Ballabgarh City, District Faridabad (Annexure P-3) and all the consequential proceedings arising therefrom, are ordered to be quashed qua the petitioner.”

In the present case, since the original complaint bearing NACT No.92 dated 12.07.2022 under Section 138 of NI Act has been withdrawn on the ground that the parties have compromised the financial dispute between them, as per law referred to above, no useful purpose would be served by continuing the proceedings under Section 174-A IPC (now Section 209 of BNS) against the petitioner.

While interpreting, the provision of Section 82 (1) Cr.P.C., this Court in ***Ashok Kumar vs. State of Haryana and another 2013(4) RCR (Criminal) 550***, held that a period of 30 days is required to be given to the accused and that even in case, the Court adjourns the matter subsequently, such adjournment beyond 30 days cannot be treated as compliance of requisite provisions.

Similar proposition of law was laid down in ***Prit Pal Singh vs. State of Punjab and others, CRM-M-40897-2019, decided on 03.02.2020***.

In view of the above referred judgments and as has been rightly pointed out by learned counsel, even the requirements of Section 82 Cr.P.C. (Section 82 of BNSS) has not been complied before petitioner was declared ‘*Proclaimed Person*’, since the period of 30 days from the date when the proclamation was issued on 09.02.2024 and when the accused was directed to be



present in the Court on 13.02.2024, had not lapsed, the matter was adjourned to subsequent date. This adjournment, would not cure the initial defect.

Further, there is nothing in the report of the executing constable that he had read the proclamation order at the site, which he was required to do. In view of the said flaw, it is evident that there has been no compliance of sub clause (i) of Sub Section 2 of Section 82 Cr.P.C.

6. Resultantly, the present petition is allowed and the impugned FIR No. 52 dated 29.05.2024 under Section 174-A IPC (Section 209 of BNS, 2023) registered at Police Station Khanauri, District Sangrur, (Annexure P-1) and all consequential proceedings arising therefrom against the petitioner are hereby quashed.

(AARADHNA SAWHNEY)
JUDGE

21.11.2025
Nisha Yadav

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No