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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 6731/2024 & CRL.M.A. 25704/2024 CRL.M.A.
28472/2024

ADITYA BHUTANI

.....Petitioner

Through: Mr. Naveen Kumar Chaudhary and
Mr. Harshit Chaudhary, Advs.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Laksh Khanna, APP for the State
with SI Tulsi Nagar, P.S. CR Park,
Delhi.
Mr. Yashpreet Singh, Advocate for R-
2.

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **12.03.2025**

1. The present petition has been filed under section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS') seeking quashing of the FIR No. 122/2023 dated 17.04.2023 registered under section 174A of the Indian Penal Code, 1860 ('IPC') at P.S.: Chitranjan Park, New Delhi.
2. The Petitioner also seeks to set aside the (i) impugned orders dated 31.03.2023 passed by the Trial Court separately in CT Case No. 12126 of 2019 and CT Case No. 13386 of 2019 declaring the Petitioner proclaimed offender and directing registration of the subject FIR; and (ii) impugned orders dated 08.07.2024 passed by Id. ASJ whereby the Revision Petition bearing No. 361 of 2023 and Revision Petition bearing No. 362 of 2023 against the orders dated 31.03.2023 were dismissed.
3. By way of a brief background, it is noted that, the dispute between the Petitioner and Respondent No.2 had arisen from 03 cheques that were



dishonoured. Accordingly, three complaint cases¹ under section 138 of the Negotiable Instrument Act, 1881 ('NI Act') were filed against the Petitioner which involved total amount of Rs. 33,00,000/-.

4. It is stated that by reason of default in appearance on the part of the petitioner, vide order dated 28.05.2022, learned Metropolitan Magistrate, Saket Courts, New Delhi ('Trial Court') had issued non-bailable warrants against the Petitioner, however, as the same could not be executed, accordingly, Trial Court issued proceedings under Section 82 of C.r.P.C. against the Petitioner on 15.07.2022. Since the process was duly executed by SI Shaji, PS C.R. Park on 03.10.2022, therefore, vide impugned order dated 31.03.2023 Petitioner was declared as proclaimed offender and pursuant to this, subject FIR under section 174A IPC was lodged against the Petitioner.

5. Learned counsel for the Petitioner states that in the interregnum, a settlement deed dated 06.07.2023 has been executed with the complainant, whereby the matter has been amicably settled.

6. He states that as per the settlement deed dated 06.07.2023 the Petitioner has agreed to pay a total amount of Rs. 40,00,000/- in six installments to Respondent No. 2 towards full and final payment in respect of all the dues, which are the subject matter of all the complaint cases. He states that the entire payment has been made. He states that there was a small delay in making the instalment which fell due in August; however, Respondent no. 2 (i.e. Complainant) has accepted the delayed instalment and subsequent payments. He states consequently the complaint cases would be disposed of as settled.

¹ CT Case No. 12126 of 2019 titled as "*HRG Agro Pvt. Ltd. Versus Mr. Aditya Bhutani*"; CT Case No. 13386 of 2019 titled as "*HRG Agro Pvt. Ltd. Versus Mr. Aditya Bhutani*"; CC no. 6503 of 2019 titled as



7. He states that since the complaint cases will stand disposed of therefore, it would be in the interest of justice to quash the subject FIR no. 122/2023 under 174A IPC and all the proceedings emanating therefrom.

8. Mr. Yashpreet Singh, learned counsel for Respondent no. 2 confirms the submissions of the Petitioner. He states in terms of the settlement deed dated 06.07.2023, Respondent no. 2 has received the full and final payment in respect of all the dues and all claims stands satisfied. He states that the Petitioner has no objection if the subject FIR is quashed and further undertakes that Petitioner will withdraw all the complaint cases on the next date of hearing.

9. Learned APP has fairly drawn this Court's attention to the judgment of Supreme Court in **Daljit Singh vs. State of Haryana and Another²**, which is apposite in the facts of this Case.

10. This Court has heard the submissions of the parties.

11. The offence alleged in the subject FIR is under section 174A IPC, which is indeed an independent offence arising from the Petitioner's abscondence in judicial proceedings before the Trial Court and thus inter-se compromise between the parties cannot be the sole ground for allowing the relief sought. However, what prevails before this Court is the fact that original offence for which the Petitioner's presence was required by the Court was the complaint case(s) under Section 138 of NI Act. However, the said complaint cases will be withdrawn on the next date of hearing by the complainant as recorded above, in view of the settlement of the claims.

"HRG Agro Pvt . Ltd. Versus Mr. Aditya Bhutani"

² 2025 SCC online 1



12. The Petitioner though was absconding, has since joined the judicial proceedings and has shown bonafide and settled the complaint amounts with the Respondent no. 2. The complainant as well is agreeable to the quashing of the subject FIR.

13. At this juncture it would be apposite to refer to the judgment passed by the Supreme Court in **Daljit Singh vs. State of Haryana and Another**³ wherein the Supreme Court in similar circumstances quashed the impugned FIR (therein) under Section 174A of the IPC, since the original offence in the form of criminal complaint under Section 138 of NI Act, 1881 was settled and withdrawn by the rival parties. The relevant portions of the judgment reads as under:

“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*

³ 2025 SCC online 1



Delhi) 2022 SCC OnLine Del 1023; Divya Verma v. State 2023 SCC OnLine Del 2619; Sameena & Anr. v. State GNCT of Delhi & Anr. CrI. M.C. No.1470 of 2021, Dated 17th May, 2022 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 174A 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 law, let us now turn to the present facts. As we have already noted supra, the Appellant stands acquitted of the main offence.

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10. None has disputed the above or brought to the attention of this Court such a fact that the said arrangement has not been complied with.

11. The Appellant has been acquitted which means that there is no case for which his presence is required to be secured. Resultantly, the appeal is allowed. In the attending facts and circumstances of the case, i.e. that the original offence pertains to the year 2010; the money subject matter of dispute stands paid, the judgment of the High Court with the particulars as mentioned in paragraph 1 of this judgment, stands quashed and set aside. All criminal proceedings, inclusive of the FIR under Section 174A IPC, shall stand closed. The Appellant's status, as a 'proclaimed person' stands quashed."

14. Thus, keeping in view the settlement between the parties, the full payment to the complainant, the withdrawal of the complaints on the next scheduled date of hearing and the fact that the Petitioner has since joined the proceedings; this Court is of the considered opinion that this is a fit case to exercise discretionary jurisdiction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The continuation of the proceedings would be an unnecessary burden on the State exchequer.



15. However, keeping in mind the fact that the FIR was registered in 2023 and the State machinery has been put to motion leading to unnecessary costs, ends of justice would be served if the Petitioner is put to costs. The Petitioner is directed to make payment of a total cost of Rs.40,000/- to the Delhi High Court Legal Services Committee (DHCLSC). Learned counsel for the Petitioner states that the cost will be deposited within two (2) weeks. In this regard, an affidavit of compliance shall be filed within three (3) weeks from today.

16. In view of the above, present petition is allowed, subject to payment of cost of Rs. 40,000/-. Consequently, the impugned order(s) dated 31.03.2023 passed by the Trial Court and 08.07.2024 passed by the Id. ASJ as well as the FIR No. 122/2023 dated 17.04.2023 registered under section 174A of IPC at P.S.: Chitranjan Park, New Delhi and all other subsequent proceedings arising thereof, are hereby quashed.

17. Pending applications (if any) is disposed of as infructuous.

18. The I.O. is directed to place a copy of this order on the record of the Trial Court where proceedings emanating from FIR No. 122/2023 are pending.

19. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

MARCH 12, 2025/mt/ms