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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 9246/2024**
KARAN CHHABRAPetitioner

Through: Mr. G.S. Sandhu and Mr. K.D. Bhalla,
Advts.

versus

THE STATE (NCT OF DELHI) & ANR.Respondents
Through: Mr. Hitesh Wali, APP for State with SI
Sandeep Kr. Yadav (I.O), PS. Malviya
Nagar.
Mr. Atul Gupta, Adv. for R-2.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

% **ORDER**
19.02.2025

CRL.M.A. 35457/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. The present petition has been filed under Section 528 BNSS, 2023 seeking quashing of FIR No.117/2023 under Section 174A IPC registered at Police Station Malviya Nagar and all consequential proceedings emanating therefrom on the ground that the underlying offence under Section 138 of NI Act has already been compounded.
4. Issue notice. The learned APP for the State accepts notice. He submits that since the parties have arrived at a settlement, the State has no objection in case the FIR in question is quashed.
5. The petitioner is present in Court whereas, the respondent no. 2, who



was complainant in the complaint under Section 138 of NI Act, has joined through VC. The parties have been identified by their respective counsel, as well as, by the Investigating Officer SI Sandeep Kr. Yadav (I.O), PS. Malviya Nagar.

6. The learned counsel for the petitioner submits that the present FIR is an outcome of proceedings under Section 138 of NI Act. He submits that in the said case, NBWs were issued against the present petitioner and subsequently process under Section 82 CrPC was initiated. However, since the petitioner failed to appear after proclamation, the present FIR came to be registered.

7. He submits that during pendency of the proceedings, the parties to the complaint under Section 138 NI Act had arrived at compromise and the order of the learned Metropolitan Magistrate compounding the said offence is annexed as Annexure P-8 to the petition.

8. He submits that since the underlying offence has already been compounded, therefore, the continuation of proceedings of the present FIR will not serve any purpose. He, therefore, urges the Court that the present FIR may also be quashed.

9. In support of his submission, he has placed reliance on the decision of the Hon'ble Supreme Court in ***Daljit Singh vs. State of Haryana & Anr., 2025 SCC OnLine SC 1***, in which under similar circumstances the Hon'ble Supreme Court had quashed the FIR under Section 174A IPC as the appellant therein stood acquitted in the underlying offence. The relevant part of which reads thus:-

“7.1. The purpose of Section 82 Cr. P.C., as can be understood from a bare reading of the statutory text is to ensure that a person who is called to appear before a Court, does so. This Section appears as part of Chapter VI which is titled ‘Process to Compel Appearance’.



Section 83 to 90 provide for the additional method of attachment of property to the end of securing appearance. Necessarily then some or the other proceeding has to be ongoing for which the presence of such person is necessary. The words of the Section dictate that it can be only issued in respect of a person against whom a warrant has been issued. Neither a warrant nor proclamation subsequent can be conjured up out of thin air.

7.2. Section 174A IPC, inserted by the 2005 Amendment to the Penal Code, 1860 inserts a substantive offence, prescribing punishment of three years or fine or both when such proclamation is issued under Section 82(1) Cr. P.C. and, seven years and fine if the said proclamation is under Subsection (4) thereof. The object and purpose of this Section is to ensure penal consequences for defiance of a Court order requiring a person's presence.

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 v. State GNCT of Delhi*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 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.”

(emphasis supplied)

10. The learned counsel for the respondent no.2 affirms the fact that the parties have arrived at a settlement and the underlying offence under Section 138 of NI Act stands compounded. Likewise, the respondent no.2, on a query posed by the Court, states that he has no objection in case the FIR is quashed. This court may also hasten to add that compounding of an offence entails acquittal of the accused, who is charged with an offence¹.

11. In view of the aforesaid position and regard being had to the decision of the Hon'ble Supreme Court in ***Daljit Singh*** (supra), this Court is of the view that no useful purpose will be served in continuing the proceedings arising out of the aforesaid FIR and the same deserves to be quashed to secure the ends of justice by exercising the inherent powers under Section 482 CrPC.

12. Consequently, the petition is allowed and the FIR No.117/2023 under Section 174A IPC registered at Police Station Malviya Nagar alongwith all

¹ Section 320(8) CrPC = Section 359(8) BNSS



other proceedings emanating therefrom, is quashed.

13. The petition stands disposed of in the above terms.

14. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J

FEBRUARY 19, 2025/dss