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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.L.P. 346/2018 & CRL.M.A. 9582/2018

STATE OF NCT OF DELHI

.....Petitioner

Through: Mr. Sunil Kumar Gautam, APP
SI Rohit, PS Mandir Marg, New
Delhi

versus

NARESH KUMAR SHARMA

.....Respondent

Through: Mr. Ajay Bahl, Mr. Vikash Sharma,
Ms. Deepiksha Bhatt, Advs.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER
19.02.2025

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1. This is a petition filed under Section 378(3) of Cr.PC seeking grant of leave to appeal against the judgment dated 20.12.2017 passed by the learned ASJ in S.C. No. 09/2015 arising out of FIR No. 150/2013 registered at Police Station Mandir Marg wherein the learned Trial Court acquitted the respondent for the offences under section 376 of IPC and section 3(i)(xi) of SC/ST Act and also for the offence under section 174A of IPC.
2. Since the FIR was also registered under Section 174A of IPC, the learned Trial Court in paragraph 23 observed as under:

23. With regard to offence u/s 174-A IPC against accused Naresh Sharma, prosecution has not been able to prove that accused was a proclaimed offender. It is seen that there was



constant pressure on the accused Naresh Sharma from the side of Mahila Morcha as well as CAW Cell forcing accused to marry the prosecutrix. It Is also seen that as per evidence and documents on record that false charge of rape and allegations of SC/ST Act were made against the accused Naresh Sharma due to which he was absconding and his act was not voluntary. Therefore, considering the overall circumstances, no case u/s 174-A IPC Is made out against the accused Naresh Sharma and he is acquitted of the said charge.”

3. It is stated by Mr. Gautam, learned APP that section 174A of IPC is a standalone offence. Even if the respondent has been acquitted under section 376 of IPC and section 3(i)(xi) of SC/ST Act, the respondent still can be and should be prosecuted for offence punishable under Section 174A of IPC.
4. Since the same was not appreciated by the learned Trial Court, the present leave to appeal has been filed.
5. Both the parties rely on the judgment of ***Daljit Singh v. State of Haryana & Anr., 2025 INSC 21*** and the relevant paras read 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 Delhi)¹⁹; Divya Verma v. State²⁰; 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 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.

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."

6. On perusal, the Hon'ble Supreme Court has observed that it would be permissible for Courts to take note of the development of acquittal in favour of the respondent and may treat the same as reasonable ground to close the proceedings under Section 174A of IPC. In the said judgment, consequently, the Hon'ble Supreme Court closed the FIR under Section 174A of IPC.
7. At the outset, Mr. Bahl, learned counsel for the respondent expresses regret and apology on behalf of the respondent and states that the non-appearance before the Court was an inadvertent and a bonafide error and undertakers never to repeat the same in future.



8. The apology of the respondent is accepted and taken on record.
9. In the present case, the respondent has been acquitted for offences under Sections 376 and 3(1) (xi) of the SC/ST Act. The explanation that there was pressure from Mahila Morcha as well as CWA Cell seems to be plausible.
10. In view of the facts and in view of the judgment of ***Daljit Singh (supra)***, I am of the view that once the respondent has been acquitted, no useful purpose would be served in prosecuting the FIR registered under Section 174A of IPC.
11. For the said reasons, the leave to appeal is rejected.
12. Consequently, the appeal has become infructuous and is disposed of along with pending applications, if any.

JASMEET SINGH, J

FEBRUARY 19, 2025/sp

Click here to check corrigendum, if any