



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

254

CRM-M-21702-2024 (O&M)

Date of decision: 20.04.2026

Divyanshu Budhiraja

...Petitioner(s)

VERSUS

State of Haryana

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Manav Sharma, Advocate for
Mr. Partap Singh, Advocate for the petitioner(s).

Dr. (Ms.) Malvika Singh, DAG Haryana.

VINOD S. BHARDWAJ, J. (Oral)

1. The present petition has been filed by the petitioner seeking quashing of FIR bearing No. 0002 dated 03.01.2024, under Section 174-A IPC, registered at Police Station Sector 14, Panchkula as well as quashing of order dated 15.12.2023 (Annexure P-14), passed by the Magistrate declaring the petitioner as “proclaimed person” in case bearing FIR No. 16 dated 28.01.2018, under Section 3-A of Haryana Prevention of Defacement of Property Act, 1989.

2. The following order was passed on 07.05.2024 by this court:

1. *Through the instant petition, prayer is made for quashing FIR No. 0002 dated 03.01.2024, under Section 174-A IPC, registered at Police Station Sector 14, Panchkula, and further prayer has been made for quashing of order dated 15.12.2023, (Annexure P-14), passed by the learned Magistrate concerned declaring the petitioner as “proclaimed person”.*

2. *It is not under dispute that prior to this petition, the*

petitioner has approached this Court twice, firstly, when the non- bailable warrants were issued by the learned trial court, the petitioner maintained the petition under Section 482 Cr.P.C. through CRM-M-58771-2023. However, the same was dismissed as withdrawn vide order dated 22.11.2023, (Annexure P/13), and thereupon, the petitioner again approached this Court, once proclamation proceedings were initiated against him, and that petition also met with the same result, and the petition was ordered to be dismissed as withdrawn vide order dated 10.1.2024. This is third round of litigation where, now the petitioner, has approached this Court, for seeking quashing of FIR 0002 dated 03.01.2024, under Section 174-A IPC, registered at Police Station Sector 14, Panchkula, on his being declared as “proclaimed person” vide order dated 15.12.2023 (Annexure P-14), in case FIR No. 16 dated 28.1.2018, under Section 3-A of Prevention of Defacement to Public Property Act, 1984, registered at Police Station Sector-14, Panchkula, and also order dated 15.12.2023, (Annexure P-14) declaring him as “proclaimed person”.

3. On the previous date of hearing i.e. 2.5.2024, when this Court was not inclined to exercise its inherent powers envisaged under Section 482 Cr.P .C., to quash the FIR in question including order dated 15.12.2023, since the petitioner was a “proclaimed person”, the learned counsel for the petitioner seeks an adjournment to have instructions from the petitioner as to whether, he is ready to surrender before the learned trial court concerned, or not. The relevant extract of the order is read as under:-

“1. After addressing arguments at length, the learned counsel for the petitioner seeks some time to get instructions from his client as to whether he is ready to surrender or not before the learned trial Court concerned, in pursuance of the order dated 15.12.2023,

wherethrough, he has been declared a “Proclaimed Person”, however, by reserving his right to challenge the impugned FIR, which is the outcome of the order (supra).

2. Request allowed.

3. List on 07.05.2024.”

4. Today, the learned counsel for the petitioner at the very outset submits that in deference to the directions issued by the learned court, the petitioner has caused appearance before it, and filed his regular bail application, and whereupon, he has been released on regular bail vide order dated 3.5.2024. The certified copy of that order, which is filed before this Court, during the course of arguments, is taken on record as Annexure-A. Furthermore, he submits that he does not now press the prayer seeking quashing of PO order, and his grievance only remains with regard to the registration of the impugned FIR.

5. Since the petitioner has caused appearance before the learned trial court after being declared as “proclaimed person”, and has been released on regular bail, therefore, this Court proceed to consider the legality of the registration of the impugned FIR against the petitioner.

6. In asking for the second relief (supra), he submits that in fact the petitioner is facing the trial under Section 3-A of Prevention of Defacement to Public Property Act, 1984, which is compoundable offence, and he has moved an application for compounding the said offence, in which notice has been served upon the Municipal Corporation concerned. For that, he draws attention of this Court to the observations of the learned trial court concerned while granting the relief of regular bail to the petitioner vide order dated 3.5.2024. The relevant extract is read as under:-

“Further, an application for compounding the said FIR in lieu of Section 4 of the Haryana Prevention of

Defacement of Property Act, 1989, P.S. Sector- 14, Panchkula also moved on behalf of the applicant/accused. Let, notice of the said application in pursuance of Section 4(2) read with Section 3 of the said Act be issued to Executive Officer or Secretary of the Municipal Corporation, Panchkula for 06.07.2024, the date already fixed. Papers be tagged with the main file. File be sent back to the concerned Court immediately.”

7. *Learned counsel for the petitioner in addition submits that in view of the judgments passed by this Court in Pardeep Kumar vs State of Punjab and another, Law Finder Doc Id# 2325731 and Darshan Singh vs State of Punjab and others, Law Finder Doc Id # 2529290, the impugned FIR is not maintainable.*

8. *Notice of motion for 22.8.2024.*

9. *Mr. Bhupender Singh, DAG, Haryana waives service on behalf of the State.*

10. *In the meanwhile, further proceedings arising out of the instant FIR are ordered to be stayed.”*

3. Perusal of the above orders shows that, in compliance of the aforesaid order, the petitioner appeared and was granted bail by the trial court.

4. Learned counsel appearing on behalf of the petitioner submits that at the time of registration of FIR No. 16 dated 28.01.2018, the petitioner was the President of Haryana Youth Congress and had also been associated with the National Students' Union of India (NSUI). It is contended that the petitioner had raised certain issues concerning unemployment and on account thereof, he has been falsely implicated in the aforesaid FIR. It is further submitted that in the said FIR, the petitioner was granted bail by the

learned Additional Chief Judicial Magistrate, Panchkula, vide order dated 28.12.2021. Learned counsel submits that on 30.07.2022, an application seeking exemption from personal appearance was moved on behalf of the petitioner; however, the same came to be dismissed and on the very same date, warrants of arrest were issued against him. It is contended that the said warrants, as well as the subsequent warrants issued thereafter, were never served upon the petitioner. In this regard, reliance is placed on the report called for by the Court of the learned Chief Judicial Magistrate, Panchkula, which indicates that the petitioner was not residing at the address mentioned in the Court record. Despite the same, the petitioner came to be declared a proclaimed person, resulting in the registration of FIR No. 0002 dated 03.01.2024 under Section 174-A IPC at Police Station Sector 14, Panchkula.

5. Learned counsel further submits that in the original case arising out of FIR No. 16 dated 28.01.2018 under Section 3-A of the Haryana Prevention of Defacement of Property Act, 1989, the petitioner has since been acquitted by the Court of the learned Chief Judicial Magistrate, Panchkula, vide judgment dated 15.04.2025. He thus submits that once the proceedings in the main case stand terminated on account of acquittal of the petitioner herein, no purpose would be served by keeping the present proceedings alive, more-so when there are circumstances showing no service of the petitioner as well.

6. Referring to the status report filed by way of an affidavit of Rakesh Kumar, HPS, Assistant Commissioner of Police, Panchkula, on behalf of the State of Haryana, learned State counsel has advanced submissions in tandem with the stand taken in the said status report and has

opposed the present petition and has prayed for its dismissal.

7. I have heard the counsel appearing for the parties and have gone through the documents appended with the present petition.

8. Hon'ble Supreme Court in the case of ***Daljit Singh v. State of Haryana & Others*** reported as ***2025 SCC OnLine SC 1*** has held that Section 174A IPC constitutes an independent and substantive offence which is attracted the moment a person fails to appear in response to a proclamation issued under Section 82 Cr.P.C. The offence is complete upon such non-appearance and can be prosecuted independently, even if the proclamation under Section 82 Cr.P.C. subsequently ceases to exist. However, the Court has also clarified that though proceedings under Section 174A IPC may continue as a stand-alone offence, the Court can, in appropriate cases, take into account subsequent developments, such as acquittal in the main case, and may close such proceedings if the circumstances so warrant. The relevant extract thereof are as under:

“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); Divya Verma v. State; Sameena v. State GNCT of Delhi. 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.

9. The record speaks to the fact that an FIR under Section 174A IPC was registered against the Appellant, in connection with which, he was released on bail by the Judicial Magistrate, First Class, Bhiwani, vide order dated 19th December, 2022. It reads:—

xxx xxx xxx xxx xxx

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.

9. Further, while examining the analogous provisions of Section 174A and Section 229A of the Indian Penal Code, both being designed to

penalize conduct whereby an individual evades or defies the process of law, a Co-ordinate Bench of this court vide order dated **01.09.2025** passed in **CRM-M-15467 of 2025** titled as **Paramjit Singh @ Kaka Vs State of Punjab**, has held that the inherent jurisdiction under Section 528 BNSS, 2023 / Section 482 Cr.P.C., 1973 is primarily intended to prevent abuse of the process of law and to secure the ends of justice and that once the main trial culminates in acquittal, any ancillary proceedings arising therefrom cannot be permitted to continue independently, as their continuation would amount to abuse of the judicial process. The relevant extract thereof read as under:

xxx xxx xxx xxx xxx

The above principle(s) of law; though held in the realm of dealing with an FIR under Section 174A of IPC arising out of criminal complaint under Section 138 of the Negotiable Instruments Act, 1880; would apply with same vigour to an FIR under Section 229A of IPC arising out of a FIR under Section NDPS Act.

8. *It is for the High Court, while exercising its innate plenary powers under Section 528 of BNSS, 2023/428 of Cr.P.C., 1973, to ratiocinate that it should not apply the law in an austere, academic and exacting technical manner, without considering its practical implications. The law is not merely a set of programmed, nailed-to-the-ground rules, to be applied without context. It must be enforced, while bearing in mind, that its purpose is to ensure substantive justice between the parties. The statutory provision of Section 229A of IPC, when perused in the light of ratio decidendi of the judgment of the Hon'ble Supreme Court in Daljit Singh (supra) and of this Court in the case of Sanjeet (supra) unequivocally shows that an FIR under*

Section 229A of the IPC does not proprio vigore become liable to be quashed, in case the main trial has been decided on merits and culminated in acquittal. However, at the same time, the factum of acquittal and the said judgment having attained finality, is indubitably, a relevant factor to be considered while dealing with a plea for quashing of an FIR (as also proceedings emanating therefrom) under Section 229A of IPC. This fact assumes greater significance considering that once the main trial has been decided on merits and culminated in acquittal, the ancillary proceedings which have no independent existence, cannot be permitted to continue, as the same would amount to abuse of the process of law. Such litigation, especially in the backdrop of main trial having been decided and result in acquittal, will have an adverse impact on the overburdened Court-dockets. Allowing such prosecution, when the main trial has resulted in acquittal would undermine the legislative intent; thereby contravening the principles of fairness, proportionality, and justice in criminal proceedings. A literal interpretation may sometimes lead to unjust outcomes that also contradict the law's underlying purpose. Therefore, the High Court under its inherent jurisdiction must balance the letter of Law with its spirit, ensuring fair and equitable results. This approach underscores Law's role as an apparatus for fostering societal harmony and addressing the real-world complexities, efficaciously as also effectively, rather than mere literal/technical compliance.

9. 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, it is a settled canon of criminal jurisprudence that once the main trial has culminated in acquittal, the ancillary proceedings which derive their foundation therefrom cannot independently subsist and their continuance would only amount

to an abuse of the process of law. 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-blood, its very essence, its 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 in fact 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 fulfill 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 and equitable to do so, in particular to ensure the observance of the due process of law, to prevent vexation or oppression, to do justice nay 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 petitioner (herein) having been acquitted of the offence under Section the NDPS Act, the original offence alleged to have been committed in the year 2014 and no useful purpose seeming to be arising by continuation of the proceedings qua the impugned FIR; this Court deems it appropriate that the impugned FIR as also all proceedings emanating therefrom deserve to be quashed.

10. It is thus evident that this Court has taken a consistent view and have quashed the proceedings arising as a result of order declaring as a proclaimed person and the consequent registration of the FIR under Section 174-A IPC not advancing any interest of the justice and to be a mere protraction of an agony of criminal trial upon an accused when the main dispute has already been finalized.

11. The object underlying the declaration of a person as a proclaimed offender/person is to secure the presence of an accused before a Court of law and to ensure that the judicial process is not thwarted by deliberate evasion. Such a declaration is not intended to be punitive in itself, but is a coercive mechanism devised to compel appearance and facilitate the effective adjudication and finalisation of the proceedings pending against the accused. In essence, the purpose is to prevent the frustration of the trial process and to uphold the authority of the Court by ensuring that an accused does not defeat the course of justice by remaining absent. Once the presence of the accused is secured or the main proceedings themselves stand concluded, the very rationale behind such a declaration loses its significance.

12. It is evident from the facts and circumstances of the present case that the petitioner has already been acquitted in the main case arising out of

FIR No. 16 dated 28.01.2018, registered under Section 3-A of Haryana Prevention of Defacement of Public Property Act, 1984 at Police Station Sector-14, Panchkula, by the Court of Chief Judicial Magistrate, Panchkula vide judgment dated 15.04.2025, thereby eroding the very substratum of the proceedings arising out of FIR bearing No. 0002 dated 03.01.2024, under Section 174-A IPC, registered at Police Station Sector 14, Panchkula. The record further reflects that the warrants of arrest were not duly served upon the petitioner and that his declaration as a proclaimed person suffers from procedural infirmities. Additionally, the petitioner had been granted bail earlier and had participated in the proceedings. In such circumstances, the continuation of the present FIR would serve no useful purpose and would amount to nothing but an abuse of the process of law.

13. Accordingly, this petition is ***allowed*** and FIR bearing No. 0002 dated 03.01.2024, under Section 174-A IPC, registered at Police Station Sector 14, Panchkula as well as the summoning order dated 15.12.2023, along with all subsequent proceedings emanating therefrom, are quashed qua the petitioner herein.

(VINOD S. BHARDWAJ)
JUDGE

20.04.2026

Mangal Singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No