

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

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2026.PHHC.074561



CRM-M-41523-2023 (O&M)

Date of decision: 12.05.2026

Surjeet Kumar**...Petitioner****Versus****State of Punjab and another****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. M. K. Bali, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Senior DAG, Punjab.

Mr. Sutikshan Sharma, Advocate
for respondent No. 2.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed under Section 482 Cr.P.C. seeking quashing of order dated 30.08.2022 (Annexure P-1), passed by the Court of learned Judicial Magistrate First Class, Sultanpur Lodhi in complaint bearing No. NACT-101 of 2018 titled as ***“Harwant Singh Vs. Surjeet Kumar”***, filed under Section 138 of the Negotiable Instruments Act, 1881 (*for short ‘N. I. Act’*), whereby the petitioner was declared as a proclaimed person and also for quashing of FIR No.68 dated 19.04.2023 registered under Section 174-A IPC at Police Station Sultanpur Lodhi, District Kapurthala alongwith all subsequent proceedings arising therefrom.

2. Briefly stated, respondent No.2 had instituted the aforementioned complaint against the petitioner before the learned Judicial Magistrate First

Class, Sultanpur Lodhi. During pendency of the said complaint, the petitioner was declared as a proclaimed person vide order dated 30.08.2022 and directions were issued to the SHO concerned to register an FIR under Section 174-A IPC against him. In pursuance of the aforesaid order, FIR No.68 dated 19.04.2023 came to be registered against the petitioner under Section 174-A IPC at Police Station Sultanpur Lodhi, District Kapurthala.

3. Learned counsel for the petitioner has argued that the petitioner came to know about the pendency of the complaint and registration of the FIR only when the police started visiting his house. Thereafter, the matter was amicably settled between the parties and respondent No.2 withdrew the complaint under Section 138 of the Negotiable Instruments Act after receiving the cheque amount in dispute. It is contended that the learned trial Court vide order dated 22.05.2023 dismissed the complaint as withdrawn on the basis of compromise arrived at between the parties.

4. It has further been argued that once the principal proceedings under Section 138 of the N. I. Act have been withdrawn on account of compromise, continuation of proceedings under Section 174-A IPC would amount to abuse of the process of law. Learned counsel has also argued that the order declaring the petitioner as proclaimed person is itself not sustainable inasmuch as the mandatory period contemplated under law had not been properly afforded to the petitioner. Reliance has been placed upon judgments passed by this Court in “Smriti v. State of Haryana and another”, ***CRM-M-20500-2022, decided on 12.05.2022*** and “***Narinder Pal Singh v. State of Punjab and another***”, ***CRM-M-41946-2020, decided on 26.05.2022***, wherein in similar circumstances, FIRs registered under Section 174-A IPC were

quashed after settlement of the main complaint under Section 138 of the Negotiable Instruments Act.

5. Mr. Sutikshan Sharma, Advocate has appeared on behalf of respondent No. 2 and has filed his *Vakalatnama*. He has admitted the factum of compromise having arrived at between the petitioner and respondent No. 2. He has submitted that he has no objection in case the present petition is allowed by this Court.

6. However, learned State counsel has opposed the prayer of the petitioner by submitting that there is no infirmity or illegality in the impugned order as well as in subsequent proceedings initiated against the petitioner including registration of impugned FIR. Hence, it is urged that the petition is liable to be dismissed.

7. This Court has heard the rival submissions.

8. The undisputed factual position emerging from the record is that the impugned FIR under Section 174-A IPC owes its origin to proceedings initiated in a complaint under Section 138 of the N. I. Act, instituted by respondent No.2 against the petitioner. It is also not in dispute that during pendency of the said complaint, the petitioner was declared as a proclaimed person vide order dated 30.08.2022 and, pursuant thereto, the impugned FIR came to be registered. A perusal of the record further reveals that subsequently the parties amicably resolved their dispute and respondent No.2 withdrew the aforementioned complaint after receipt of the cheque amount in question. The order dated 22.05.2023 passed by the learned trial Court clearly records that the complainant had received the amount and suffered a statement for withdrawal of the complaint. In the aforesaid backdrop, the seminal

question which arises for consideration is as to whether continuation of proceedings under Section 174-A IPC would survive once the principal proceedings under Section 138 of the N. I. Act already stand withdrawn on the basis of compromise between the parties.

9. The aforesaid issue is no longer *res integra*. Reference can be made to authority cited as ***Daljit Singh v. State of Haryana and another, Criminal Appeal No. 4359 of 2024, decided on 02.01.2025***, the Hon'ble Supreme Court has held 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. However, the Hon'ble Supreme Court quashed the impugned FIR under Section 174-A of the IPC since, *inter alia*, the original offence in the form of criminal complaint under Section 138 of N. I. Act in the said case had been settled and withdrawn by the rival parties. Reliance can also be placed upon ***Mohammad Hanif Attari v. State of Haryana, CRM-M-51049-2019, decided on 06.07.2023***, wherein this Court, while relying upon earlier judgments rendered in ***Baldev Chand Bansal v. State of Haryana and another, CRM-M-43813-2018, decided on 29.01.2019***; ***Vikas Sharma v. Gurpreet Singh Kohli and another, 2017(3) L.A.R. 584***; ***Microqual Techno Limited and others v. State of Haryana and another, 2015(32) RCR (Criminal) 790***; and ***Rajneesh Khanna Vs. State of Haryana and another, 2017(3) L.A.R. 555***, has held that where the principal complaint under Section 138 of the N. I. Act stands withdrawn on account of compromise, continuation of proceedings under Section 174-A IPC would amount to abuse of the process of law.

10. Similarly, in *Ashok Madaan v. State of Haryana and another, 2020(4) RCR (Criminal) 87*, it was held by this Court that though the offence under Section 174-A IPC may be an independent offence, yet where the FIR had been registered only because of absence of the accused in the main complaint and the said complaint itself no longer survives, continuation of proceedings under Section 174-A IPC would not serve any useful purpose and would amount to misuse of the process of Court. Reference may also be made to the judgments relied upon by learned counsel for the petitioner in *Smriti's case (supra)* and *Narinder Pal Singh's case (supra)*, wherein also, this Court quashed FIRs registered under Section 174-A IPC after settlement and withdrawal of the complaint under Section 138 of the Negotiable Instruments Act.

11. The ratio flowing from the aforesaid judgments squarely governs the present case. Once the substantive proceedings under Section 138 of the N. I. Act have culminated in a compromise and the complaint itself has been withdrawn, continuation of criminal proceedings under Section 174-A IPC would be wholly unjustified. The very purpose behind initiation of proceedings under Section 174-A IPC was to secure the presence of the petitioner in the complaint proceedings. After settlement of the dispute and withdrawal of the complaint, no fruitful purpose would be served by permitting the impugned FIR to continue.

12. Moreso, a reference can be made to the bar contained under Section 195 Cr.P.C. A coordinate Bench of this Court in *Pardeep Kumar Vs. State of Punjab and another, CRM-M-41656-2023, decided on 23.08.2023*, after undertaking an elaborate examination of Sections 174-A IPC and 195

Cr.P.C., has categorically held that cognizance of an offence under Section 174-A IPC cannot be taken except upon a complaint in writing by the concerned public servant or by a public servant to whom he is administratively subordinate. It was observed that though Section 174-A IPC is a cognizable offence, yet the same continues to fall within the ambit of Section 195(1)(a)(i) Cr.P.C., as the said provision expressly applies to offences punishable under Sections 172 to 188 IPC. It was further held that the Magistrate, after declaring an accused as proclaimed person, cannot simply direct the police to register an FIR under Section 174-A IPC and set the criminal law into motion through the police machinery, but is required to adopt the procedure prescribed under Section 195 Cr.P.C. by filing a complaint before the competent Court.

13. In the present case also, the impugned FIR under Section 174-A IPC came to be registered merely on the basis of directions issued by the learned trial Court to the SHO concerned after declaring the petitioner as proclaimed person, without institution of any complaint as contemplated under Section 195 Cr.P.C. Thus, the very initiation of proceedings stands vitiated being contrary to the mandatory statutory requirement. Consequently, continuation of the impugned proceedings would amount to abuse of the process of law and cannot be permitted to continue.

14. Apart from the above, this Court also finds substance in the contention raised on behalf of the petitioner that the proclamation proceedings do not appear to strictly satisfy the mandatory requirements contemplated under Section 82 Cr.P.C. The order dated 30.08.2022 itself records that proclamation was effected on 11.07.2022 for appearance on 20.07.2022.

Prima facie, the mandatory period of 30 days envisaged under law does not appear to have been duly adhered to before declaring the petitioner as proclaimed person.

15. In view of the settled legal position and keeping in view the peculiar facts and circumstances of the present case, this Court is of the considered opinion that continuation of the impugned FIR and consequential proceedings would amount to abuse of the process of law and miscarriage of justice. Consequently, the present petition is allowed and order dated 30.08.2022 passed by the learned Judicial Magistrate First Class, Sultanpur Lodhi in complaint No. NACT-101 of 2018 titled as **“Harwant Singh Vs. Surjeet Kumar”**, whereby the petitioner was declared as a proclaimed person, as well as FIR No.68 dated 19.04.2023 registered under Section 174-A IPC at Police Station Sultanpur Lodhi, District Kapurthala and all subsequent proceedings arising therefrom, are hereby quashed.

12.05.2026
Waseem R. Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>