



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

289

CRM-M-56282-2025**Date of decision: 21.01.2026**

BALWINDER KUMAR

.....Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

.....Respondents

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

Present: - Mr. Sham Lal Saha, Advocate
for the petitioner.

Mr. Omkar Singh Wahla, Sr. DAG, Haryana.

Mr. Nikhil Mittal, Advocate
for respondent No.2.

VINOD S. BHARDWAJ, J. (Oral)

1. Prayer in the present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 is for quashing of impugned order dated 04.07.2025 passed by Additional District Judge, Kurukshetra whereby the petitioner has been declared as a proclaimed person in appeal bearing No. CRA/251/2019 arising out of criminal complaint case bearing No. NACT No.1404 of 2017, dated 05.12.2017 for offence under Section 138 of the Negotiable Instruments Act, 1881 along with all subsequent proceedings arising therefrom, on the basis of compromise dated 01.09.2025 (Annexure P-4).

2. The complaint in question was instituted by Hans Raj, son of Chuhar Singh, who averred that on 21.08.2016, the accused-petitioner had

borrowed a sum of Rs.2,80,000/- from him for the purpose of house repairs and to meet his domestic requirements. It is stated that despite repeated demands made by the complainant-respondent for repayment of the said amount, the accused-petitioner failed to discharge his liability and, in discharge of the legally enforceable debt, issued three cheques drawn on ICICI Bank, Pipli Branch, Ladwa Road, District Kurukshetra, bearing cheque No. 003635 dated 25.09.2017 for a sum of ₹30,000/-, cheque No. 003633 dated 25.09.2017 for a sum of ₹1,50,000/- and cheque No. 003634 dated 25.09.2017 for a sum of ₹1,00,000/-, in favour of the complainant-respondent. The complainant presented cheque No. 003633 dated 25.09.2017 for encashment through Punjab National Bank, Kathgarh (Ambala); however, the said cheque was returned unpaid vide memo dated 09.10.2017 with the endorsement "Refer to drawer". It is further stated that upon non-payment of the dues despite being informed of the dishonour, the present complaint under Section 138 of the Negotiable Instruments Act, 1881 was filed.

3. The parties led their respective evidence and on consideration of the respective arguments, the trial Court convicted the petitioner for offence under Section 138 of the Negotiable Instruments Act, 1881 vide judgment dated 02.07.2019 passed in complaint NACT No. 1404 of 2017. An appeal was thus filed against the above judgment of conviction in the Court of Session.

4. It is averred that with the intervention of the respectables from both sides, the matter has now been settled and amicably resolved. It is further submitted that the compromise amongst the parties was effected on account of free will and without any pressure and coercion.

5. Pursuant to the order dated 09.10.2025, a cost of Rs. 25,000/- has been deposited by the petitioner and the receipt thereof is taken on record and a report has also been received from the Judicial Magistrate 1st Class, Kurukshetra vide Memo No. 38 dated 12.11.2025. The relevant extract of the report reads thus:-

I	Total number of persons found involved as accused in the dispute/complaint.	01
II	Number of complainant/victim(s)	01
III	Whether all the accused and complainant/victims are party to compromise & signed the same	Yes
IV	In case, any affected person (accused & complainant) is left out or not arrayed as party in the quashing petition before High Court detail whereof: or His/her statement is still to be recorded, in compliance to the direction of this Court, details of such person;	NO
V	Whether any accused has been declared as a proclaimed offender/person or any such proceedings against him/her have been initiated or pending adjudication.	Yes
VI	Report of the Court whether compromise is genuine voluntary and without any coercion or undue influence;	Yes
VII	Any other aspect relevant to the present case.	NA

6. Counsel for the petitioner submits that owing to compelling economic circumstances, the petitioner had gone abroad to earn his livelihood and to support his family and for the said reason could not appear before the Appellate Court on the date fixed. The absence of the petitioner was neither deliberate nor with any intention to evade the process of law, but was occasioned solely on account of his employment overseas. Consequently, in his absence, the impugned order declaring the petitioner as a proclaimed person came to be passed. It is further submitted that the entire dispute between the parties has been amicably resolved and the respondent has duly received all his dues and no claim of any nature whatsoever now survives against the petitioner. Vide a separate order passed today, the criminal complaint bearing no. NACT No. 1404-2017 as well as the appeal bearing no. 251/2019 and all consequential proceedings against the petitioner on the basis of the compromise effected between the parties has already been quashed. He submits that in view of the settlement having attained finality and the very substratum of the proceedings having been extinguished, the continuance of the order declaring the petitioner as a proclaimed person would serve no useful purpose and would amount to an abuse of the process of law.

7. Mr. Nikhil Mittal, Advocate appears on behalf of respondent No. 2 and reiterate the settlement and their concurrence to the quashing of the FIR alongwith all the other consequential proceedings including the impugned order herein declaring the petitioner as a proclaimed person.

8. Counsel appearing for the state contends that the offence contemplated under Section 174-A of the IPC constitutes an independent and substantive penal provision, the commission of which attains completion upon

the failure of an individual to appear before the Court, after being duly proclaimed as per Section 82 of the Cr.P.C. It is contended that the subsequent compromise between the parties, the settlement of the underlying dispute or even the eventual withdrawal or extinguishment of the proclamation proceedings does not expunge the act constituting the offence under Section 174-A, as the liability for such non-appearance is distinct from the merits of the original complaint.

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

10. The Supreme Court in the case of Daljit Singh v. State of Haryana reported as 2025 SCC OnLine SC 1 has clarified that while Section 82 of the Code of Criminal Procedure is intended to secure the presence of an accused by declaring him an absconder for evading legal process, Section 174A of the Indian Penal Code creates a distinct substantive offence for failure to appear in compliance with such a proclamation. The offence under Section 174A is complete the moment the accused fails to appear at the specified time and place and may continue even if the proclamation under Section 82 is subsequently withdrawn. However, if the accused is ultimately acquitted of the principal offence for which the proclamation was issued, the proceedings under Section 174A would not subsist.

11. In view of the report submitted by the Judicial Magistrate First Class, Kurukshetra and having regard to the settled principles laid down by the Hon ble Supreme Court on the subject, the instant petition is allowed. The aforesaid impugned order dated 04.07.2025 passed in appeal bearing No. CRA/251/2019 which is arising out of criminal complaint bearing No. NACT

No.1404 of 2017, dated 05.12.2017 and all other consequential proceedings arising therefrom **are hereby quashed** in view of the compromise dated 01.09.2025 (Annexure P-4).

Petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

JANUARY 21, 2026
Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No