

CRM-M-49970-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-49970-2023 (O&M)

Vikram Singh

....Petitioner

versus

State of Haryana

....Respondent

Date of Decision: July 27, 2026

Date of Uploading: July 28, 2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Manish Beniwal, Advocate for the petitioner.

Mr. Satbir Singh Goripuria, DAG Haryana.

SUMEET GOEL, J. (ORAL)

The substantive prayer made in the petition in hand reads thus:

“IT IS THEREFORE HUMBLY PRAYED THAT THE PETITION MAY KINDLY BE ACCEPTED AND FIR NO.330 DATED 17/12/2017 P.S BHIWANI CIVIL LINES U/S 174-A IPC (ANNEXURE P-1) WHICH WAS REGISTERED IN CONSEQUENT TO THE ORDER PASSED BY LD. JMIC, BHIWANI DATED 18.12.2017 (ANNEXURE P-3) DECLARING PETITIONER AS PROCLAIMED PERSON IN A COMPLAINT CASE U/S 138 NEGOTIABLE INSTRUMENT ACT 1881, MAY KINDLY BE QUASHED, IN THE INTEREST OF JUSTICE.

IT IS PERTINENT TO MENTION HERE THAT NOW IN THE COMPLAINT CASE U/S 138 NEGOTIABLE INSTRUMENT ACT 1881 NO.COMA-5435-2014 TITLED PERSAIN CHANDER VS VIKRAM, PARTIES HAVE REACHED TO AMICABLE SETTLEMENT AND THE ENTIRE AMOUNT WAS PAID BY THE PETITIONER AND VIDE ORDER DATED 16.09.2023 (ANNEXURE P-4), COMPLAINT U/S 138 NEGOTIABLE INSTRUMENT ACT HAS BEEN WITHDRAWN ON THE BASIS OF COMPROMISE.”

2. The impugned FIR (as set out in the petition in hand) reads thus:

“At this time a letter from the Court of Sh. Ashutosh JMIC Bhiwani is received at Police Station through post. Details are as under:

Copy order dt. 29-11-17 CASE NO. COMA 5435.2014 COMA/5435/2014 Comp. u/s-138 NI ACT PS-CL BWN. SH B.B. JAIN ADV. PESI-18.12.2017. CIS NO COMA. 5435.2014 Persain Chander Vs Vikram Present complainant not present but represented by Sh. B.B. Jain, Adv. An application for exemption from personal appearance of complainant moved. Heard Keeping in view the fact and circumstances mentioned in the application the same is allowed and personal appearance of the complainant is exempted for today only. Today the case was fixed for appearance of accused Vikram in pursuance of proclamation issued against him Proclamation was duly published Statement of serving official was recorded to this effect Mandatory period of 30 days as described in section 82 CRPC has elapsed and despite this, accused Vikram failed to appear before this court. It is already 2.00pm, Further wait is not

justified Accused vikram is declared proclaimed person Intimation of this order be sent to SHO, Police Station Civil Lines Bhiwani to register a FIR under section 174-A IPC In case of delay, SHO Police Station Civil Lines, Bhiwani shall be sole responsible. Put up on 18.12 2017 for awaiting status report from SHO Police Station Civil Lines, Bhiwani as well as for evidence of prosecution under section 299 CRPC. Sd- (Ashtosh) JMIC, BHIWANI UID No. HR 0363 DATED 29.11.2017 Prity. st. III Next date of hearing. 18.12.2017. Today orders received at police station and in computer FIR NO. 330, DATED 17/12/2017 U/S 174-A OF IPC, P.S. BHIWANI CIVIL LINES HARYANA is lodged and original letter kept in the Police Station. For further course of action file handed over to HC Surender 700, who already gone for official work and copies of FIR will be sent by post to the senior officers and Illaqa Magistrate.”

3. Learned counsel for the petitioner has submitted that the impugned FIR, has its genesis, in a criminal complaint filed against the petitioner (*herein*) under Section 138 of the NI Act, in proceedings whereof the petitioner was declared as a proclaimed person & hence the impugned FIR came to be registered against the petitioner. Learned counsel for the petitioner has argued that the petitioner could not appear in the complaint case as the summons were never served upon him, and, thus, he was declared as proclaimed person, vide order dated 29.11.2017. Learned counsel has further argued that, pursuant to the said order, FIR in question under Section 174-A of IPC has been registered against the petitioner. Learned counsel has iterated that the complainant in the complaint case, namely Persain Chander, had passed away on 28.05.2021 and a compromise has been effected between the petitioner and the LRs of the complainant, and, accordingly, LRs of the complainant appeared before the Court below, made statement to the effect that they have compromised the matter with the accused and do not want to proceed further with the complaint. Based thereon, the complaint under Section 138 of the NI Act was dismissed as withdrawn, vide order dated 16.09.2023 (Annexure P-4) by the learned JMIC, Bhiwani.

3.1. It has been further iterated that since the criminal complaint under Section 138 of NI Act, has already been withdrawn as the rival parties had entered into a settlement, therefore, no useful purpose would be served by continuation of the proceedings *qua* the impugned FIR. To buttress this aspect of his argument,

learned counsel for the petitioner has relied upon the order dated 16.09.2023 passed by the JMIC, Bhiwani, which reads thus:

“Original file received from the record room. The complaint had been filed by one Persain Chander @ Happy son of Jagdish Chander. File had been sent to the record room after declaring the accused Vikram a proclaimed person by Ld. Predecessor Court. The present LR application have been filed by the legal heirs of deceased namely Sunita (wife), Jagdish Chander (father) and Ankit Siwatch (son). A separate undertaking of Ankit Siwatch have also been filed as he is studying in Russia. The application is duly accompanied by the death certificate of the deceased complainant. The same is heard and allowed. Amended title have been filed. It be attached at proper place.

Fresh power of attorney on behalf of the LRs have been filed by Sh. Surjeet Saini, Advocate.

At this juncture, the legal heirs namely Sunita (wife of deceased), Jagdish Chander (father of deceased) have suffered a statement that they have already received the cheque amount Rs. 4,00,000/- from the accused.

At this juncture, learned counsel for the complainant have suffered a statement recorded separately to the effect that he withdraws the present complaint on the instruction of complainant as compromise has been effected between the parties. He further stated that no due remains regards the impugned cheque and requested that file may kindly be consigned. Heard. In view of the statement given by Ld. Counsel for the complainant, the present complaint is hereby dismissed-as-withdrawn. These papers be attached with the main file and be consigned to the record-room after due compliance.”

On the strength of above arguments, learned counsel for the petitioner has pressed for grant of petition in hand.

4. Learned State counsel has opposed the petition in hand. He, however, does not dispute the fact that the parties have amicably resolved the matter and the main complaint stands dismissed as withdrawn.

4.1. Since the FIR in question pertains to Section 174-A of IPC, this Court does not deem it appropriate to call upon the complainant-side in complaint case under Section 138 of the NI Act.

5. I have heard learned counsel for the rival parties and have perused the paper-book.

6. The seminal question that arises for consideration in the present petition is as to whether the impugned FIR (as also proceedings arising therefrom) under Section 209 of BNS (erstwhile Section 174-A of the IPC) deserves to be quashed in the factual matrix of the present case.

7. At this juncture; it would be apposite to refer herein to a judgment of this Court passed in *CRM-M-51049-2019* titled as *Mohammad Hanif Attari vs. State of Haryana, decided on 06.07.2023*, relevant whereof reads as under:

“3. In view the fact that after the principle proceedings in which the petitioner was declared Proclaimed Offender stand concluded, the question would arise is: 'whether in the given circumstances, proceedings under Section 174A of the IPC pursuant to FIR No.425 dated 17th of November, 2017 can be allowed to continue.

4. The question framed *ibid* is no more *res integra* and already stands answered by Co-ordinate Bench of this Court in CRM-M-43813-2018 titled as "Baldev Chand Bansal v. State of Haryana and another" vide order dated 29.01.2019, which held as under:

“Prayer in this petition is for quashing of FIR No.64 dated 15.02.2017 filed under Section 174A of the Indian Penal Code registered at Police Station Sector-5, Panchkula and all other subsequent proceedings arising thereof as well as order dated 24.10.2016 passed by the trial Court vide which a direction was issued to register the aforesaid FIR.”

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Learned counsel for the petitioner has relied upon the decisions rendered by this Court in "Vikas Sharma v. Gurpreet Singh Kohli and another (*supra*), 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 v. State of Haryana and another" 2017 (3) L.A.R. 555 wherein in an identical circumstance, this Court has held that since the main petition filed under Section 138 of the Act stands withdrawn in view of an amicable settlement between the parties, therefore, continuation of proceedings under Section 174A of IPC shall be nothing but an abuse of the process of law.

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In view of the same, I find merit in the present petition and accordingly, present petition is allowed and the impugned order dated 24.10.2016 passed by Judicial Magistrate, 1st Class, Panchkula as well as FIR No.64 dated 15.02.2017 registered under Section 174A of the Indian Penal Code at Police Station Sector-5, Panchkula and all other subsequent proceedings arising thereof, are hereby quashed."

5. Same is the view of another Co-ordinate Bench in the "Ashok Madaan v. State of Haryana and another" reported as 2020 (4) RCR (Criminal) 87, wherein it has been held that:

"No doubt, the learned counsel for the respondent has vehemently argued that the offence under Section 174A I.P.C. is independent of the main case, therefore, merely because the main case has been dismissed for want of prosecution, the present petition cannot be allowed, however, keeping in view the fact that the present FIR was registered only on account of absence from the proceedings in the main case which had been subsequently regularised by the court while granting bail to the petitioner, the default stood condoned. In such circumstances, continuation of proceedings under Section 174A LP.C. shall be abuse of the process of court.

7. Accordingly, the petition is allowed. FIR No. 446 dated 21.08.2017, registered under Section 174A I.P.C. at Police Station Kotwali, District Faridabad, as well as consequential proceedings shall stand quashed.”

7.1. More recently, the Hon’ble Supreme Court in a judgment titled as *Daljit Singh vs. State of Haryana and Another*, Criminal Appeal No.4359 of 2024 decided on 02.01.2025; has held that:

“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) 2022 SCC OnLine Del 1023; Divya Verma v. State 2023 SCC OnLine Del 2619; Sameena & Anr. v. State GNCT of Delhi & Anr. CrI. M.C. No.1470 of 2021, Dated 17th May, 2022** 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. xxxxxxxxxx"

However, the Hon'ble Supreme Court quashed the impugned FIR (therein) under Section 209 of the BNS (erstwhile Section 174-A of the IPC) since, *inter alia*, the original offence in the form of criminal complaint under Section 138 of NI Act, 1881 in the said case had been settled and withdrawn by the rival parties.

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 174-A of IPC, when perused in the light of *ratio decidendi* of the judgment of the Hon'ble Supreme Court in *Daljit Singh's* case (supra), unequivocally shows that an FIR under Section 174-A of the IPC does not *proprio vigore* become liable to be quashed, in

case the rival parties have entered into a compromise and such criminal complaint/FIR has been compromised and quashed/withdrawn accordingly. However, at the same time, the factum of the criminal complaint/FIR (in furtherance of proceedings whereof) having been compromised/settled, 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 174-A of IPC. This fact assumes greater significance considering that the initial proceedings pertain exclusively to a private criminal complaint under Section 138 of NI Act, 1881, which the legislature has expressly classified as a compoundable offence. Such litigation, especially in the backdrop of original offence having been compromised will have an adverse impact on the overburdened Court-dockets. Allowing such prosecution, when initial complaint has been settled/withdrawn would undermine the legislative intent and distort the remedial nature of Section 138 of NI Act of 1881. It would tantamount to contravening the principles of fairness, proportionality, and justice in criminal proceedings. A literal interpretation may sometimes lead to unjust outcomes that also contradicts the law's underlined 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, when the dispute is essentially personal in nature and a genuine compromise has been reached, the High Court may intervene to quash the criminal proceedings, recognizing the continuation thereof would be non-productive and unjust in the given circumstances. 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 posits 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 original offence being an offence under Section 138 of Negotiable Instruments Act of 1881, the original offence alleged to have been committed in the year 2014, the subject matter of the original offence having

been settled amicably between the parties and the criminal complaint under Section 138 of the NI Act having been withdrawn on the basis of such settlement/compromise; this Court deems it appropriate that the impugned FIR as also all proceedings emanating therefrom deserve to be quashed.

11. It is, hence, directed as under:
- (i) Instant petition is **allowed**;
 - (ii) The FIR No.330 dated 17.12.2017, registered under Section 174-A of IPC, at Police Station Bhiwani Civil Lines (Aannexure P-1) which was registered in consequent to the order dated 18.12.2017 (Annexure P-3) passed by learned JMIC, Bhiwani declaring petitioner as proclaimed person, in a complaint case under Section 138 of the Negotiable Instrument Act, 1881, stand **quashed**;
 - (iii) All pending application(s), if any, stands disposed of.

(SUMEET GOEL)
JUDGE

July 27, 2026
mahavir
Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No