CNR No: PHHC011200462021
2026:PHHC:105871

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(128) CRM-M-54185-2021 (O&M)
Date of Decision:**04.08.2026**

ARVIND ASHAT

… Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

... Respondents

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CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Ms. Sudesh Sahi, Advocate for
Mr. Varinder Arora, Advocate
for the petitioner.

Ms. Navreet Kaur, Asstt. AG, Punjab.

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VIRINDER AGGARWAL, J. (Oral)

1. The present petition has been instituted under Section 482 of the Code of Criminal Procedure, 1973, seeking quashing of FIR No.106 dated 31.08.2018, registered under Section 174-A of the Indian Penal Code, 1860, at Police Station Phul (Annexure P-1), along with all consequential proceedings arising therefrom.

2. Learned counsel for the petitioner contends that the impugned FIR is a manifest abuse of the process of law and deserves to be quashed. It is submitted that the FIR under Section 174-A IPC emanates from proceedings initiated in a complaint under Sections 138 and 142 of the Negotiable Instruments Act, 1881, wherein the petitioner was declared a proclaimed offender on account of his alleged non-appearance.

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2.1. Learned counsel submits that, at the relevant point of time, the petitioner was already in judicial custody in connection with another criminal case and remained incarcerated from 26.04.2018 to 13.08.2021. Consequently, the petitioner was under a legal disability to appear before the Court concerned and could not have intentionally evaded the judicial process. It is further contended that the factum of the petitioner's judicial custody was neither brought to the notice of the learned Trial Court nor duly verified before initiating proceedings under Section 82 Cr.P.C. and subsequently registering the impugned FIR.

2.2. It is further argued that the proclamation proceedings themselves suffer from serious procedural irregularities. The house at which the proclamation was allegedly executed was no longer in the possession of the petitioner, the property having already been sold prior to the alleged service. Moreover, the premises had been locked by the Chandigarh Police in connection with another criminal case, rendering the alleged mode of service wholly ineffective and illusory. Learned counsel thus submits that the mandatory requirements governing proclamation proceedings were not complied with, and the petitioner was deprived of a meaningful opportunity to appear before the Court.

2.3. It is, accordingly, contended that the continuation of the proceedings under Section 174-A IPC, founded upon an invalid proclamation order, amounts to abuse of the process of the Court and deserves to be quashed in exercise of the inherent jurisdiction of this Court under Section 482 Cr.P.C. and prayed that instant petition be allowed.

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3. Per contra, learned State counsel has vehemently opposed the present petition and supported the registration of the impugned FIR. It is contended that the petitioner failed to appear before the learned Trial Court despite issuance of process in accordance with law, compelling the Court to initiate proclamation proceedings under Section 82 Cr.P.C. and thereafter declare him a proclaimed offender. It is further submitted that the impugned FIR under Section 174-A IPC has been registered pursuant to a judicial order and, therefore, carries a presumption of legality.

3.1. Learned State counsel further argues that the plea regarding the petitioner's judicial custody or the alleged defects in the service of proclamation are disputed questions of fact, which cannot be adjudicated in proceedings under Section 482 Cr.P.C. It is submitted that whether the petitioner had sufficient cause for his non-appearance or whether the proclamation was duly executed are matters requiring appreciation of evidence before the competent Court. It is further contended that the inherent jurisdiction of this Court is to be exercised sparingly and only in exceptional circumstances, and no case has been made out demonstrating that the continuation of the prosecution amounts to abuse of the process of law. Accordingly, it is prayed that the present petition, being devoid of merit, be dismissed.

4. I have heard learned counsel for the parties at considerable length and have meticulously perused the paper book and the material placed on record with their able assistance.

5. The Hon'ble Supreme Court, in ***Daljit Singh vs. State of Haryana & another, Criminal Appeal No.4359 of 2024 (arising out of***

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Special Leave Petition (Crl.) No.12606 of 2023), decided on 02.01.2025, has authoritatively laid down the following principles governing the exercise of jurisdiction in matters pertaining to prosecution under Section 174-A of the Indian Penal Code:-

(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 & Anr. v. State GNCT of Delhi & Anr. 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

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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.

5.1. Applying the aforesaid principles to the facts of the present case, this Court finds that the petitioner has succeeded in demonstrating that, on the date he was declared a proclaimed offender, he was already in judicial custody in connection with FIR No.50 dated 31.03.2017, registered at Police Station North (Sector-3), Chandigarh. The order dated 13.08.2021 passed by this Court, whereby the petitioner was enlarged on bail in the aforesaid case, unequivocally records that he had remained in judicial custody continuously since 26.04.2018. Thus, on the date when the proclamation proceedings culminated in the order declaring him a proclaimed offender, the petitioner was under lawful judicial detention and was, therefore, incapable of appearing before the learned Trial Court.

5.2. It is, thus, evident that the petitioner's non-appearance before the Court was neither deliberate nor wilful, but was occasioned solely on account of his incarceration in another criminal case. In such circumstances, the very foundation for initiating proceedings under Section 174-A of the Indian Penal Code stands substantially eroded. A person who is already in judicial custody cannot ordinarily be attributed with an intentional or deliberate evasion of the process of the Court. Consequently, permitting the prosecution under Section 174-A IPC to continue in the peculiar facts of the present case would amount to an abuse of the process of law and would result in manifest injustice.

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5.3. Accordingly, in view of the law laid down by the Hon'ble Supreme Court in **Daljit Singh's** (supra), the present petition deserves to succeed. Consequently, FIR No.106 dated 31.08.2018, registered under Section 174-A of the Indian Penal Code, 1860, at Police Station Phul (Annexure P-1), together with all consequential proceedings arising therefrom, are hereby quashed.

6. In view of the final adjudication of the present petition, all pending miscellaneous applications, if any, arising out of or ancillary thereto, shall also stand disposed of. The adjudication of the principal lis has rendered all such interlocutory proceedings infructuous and, consequently, no separate or further orders are called for in respect thereof.

(VIRINDER AGGARWAL)
JUDGE

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Gaurav Sorot

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No

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