

2025:PHHC:102849



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

**SR. NO.125**

**CRM-M-40973-2025**

**DATE OF DECISION:07.08.2025**

**ATUL KUMAR PATEL @ PATEL ATUL KUMAR**

**...PETITIONER**

**VERSUS**

**M/S INDIA INFOLINE HOUSING FINANCE THROUGH ITS  
AUTHORISED REPRESENTATIVE UJJAWAL CHAUDHARY AND  
ANOTHER**

**...RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT**

**Present:** Mr. Satish Sharma, Advocate  
for the petitioner.

Mr. Rajinder Kumar Banku, Sr. DAG, Haryana.

**N.S. SHEKHAWAT, J.**

1. The present petition has been filed under Section 528 of BNSS with a prayer to quash order dated 16.03.2020 passed in Complaint No.17461/2017 (Annexure P-1) filed by respondent No.1/complainant, whereby the petitioner has been declared as proclaimed person. A further prayer has been made to quash FIR No.0916 dated 22.03.2020 under Section 174-A IPC at Police Station Shivaji Nagar, District Gurugram along with all consequential proceedings arising therefrom.

2. Learned counsel for the petitioner contends that a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the NI Act') was filed against the present petitioner by respondent No.1. During the pendency of the said complaint (Annexure P-1), the petitioner never received summons and therefore he was not aware of the criminal complaint.

Consequently, he could not appear before the trial Court and was ultimately declared as proclaimed person vide order Annexure P-2. In compliance of the order (Annexure P-2), the aforementioned FIR was ordered to be registered against the present petitioner.

3. Learned counsel next contends that when the petitioner came to know about the above-mentioned order (Annexure P-2) and FIR (Annexure P-3), he approached respondent No.1/complainant and made the entire payment to him. Consequently, respondent No.1 appeared before the Lok Adalat and had withdrawn the complaint under Section 138 of the NI Act on 08.07.2025. Learned counsel next submits that the proceedings for declaring the petitioner as proclaimed person were initiated to procure his presence before the trial Court and since the main case already stands withdrawn, the proceedings arising out of order (Annexure P-2) would not serve any purpose. Thus, the impugned order (Annexure P-2) and the FIR (Annexure P-1) are liable to be quashed by this Court.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner and submitted that the petitioner intentionally did not appear before the trial Court and he was rightly declared as a proclaimed person after following the process of law.. Even the FIR (Annexure P-3) was registered, in compliance of the order (Annexure P-2).

5. I have heard the learned counsel for the parties and perused the case file minutely.

6. A co-ordinate Bench of this Court in **CRM-M-43813- 2018** titled as “**Baldev Chand Bansal vs. State of Haryana and another**”, decided on 29.01.2019 has held as under:-

*“Prayer in this petition is for quashing of FIR No.64 dated 15.02.2017 filed under Section 174-A 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 vs. Gurpreet Singh Kohli and another (supra)**, 2017, (3) L.A.R.584, **Microqual Techno Limited and others Vs. State of Haryana and another**, 2015 (32) RCR (Crl.) 790 and “**Rajneesh Khanna Vs. 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 174-A of the Indian Penal Code at Police Station Sector-5, Panchkula** and all other subsequent proceedings arising thereof, are hereby quashed.”*

7. A perusal of the above said judgment would show that in a similar case where the FIR had been registered under Section 174-A IPC in

view of the order passed in proceedings under Section 138 of the Act, while declaring the petitioner therein as a proclaimed offender, a co-ordinate Bench after relying upon various judgments observed that once the main petition under Section 138 of the Act stands withdrawn in view of an amicable settlement between the parties, the continuation of proceedings under Section 174-A IPC is nothing but an abuse of the process of law. The said aspect was one of the main considerations for allowing the petition and setting aside the order declaring the petitioner therein as a proclaimed person as well as quashing of the FIR under Section 174-A IPC.

8. Another co-ordinate Bench of this Court in a case titled as **“Ashok Madan vs. State of Haryana and another”** reported as **2020(4) RCR (Criminal) 87** has also held as under:-

*“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 I.P.C. shall be abuse of the process of court.*

*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.”*

9. In the present case also, the main case has already been withdrawn by the complainant. Consequently, the continuation of the

proceedings arising from the impugned order dated 16.03.2020 (Annexure P-2) and FIR No.0916 dated 22.03.2020 under Section 174-A IPC at Police Station Shivaji Nagar, District Gurugram (Annexure P-3) would be an abuse of process of the Court. Similar observations have been made by this Court in the matter of **“Anil Kumar Versus Jitender Kumar and another, CRM-M- 5878-2022 decided on 06.04.2022”**, **“Anil Kumar Versus Jitender Kumar and another, CRM-M-5755-2022 decided on 06.04.2022 and “Varinder Kumar @ Virender Kumar Versus State of Haryana and another, CRM-M-42551- 2021 decided on 19.04.2022 .**

10. In view of the above, the present petition is allowed and impugned order dated 16.03.2020 (Annexure P-2) and FIR No.0916 dated 22.03.2020 under Section 174-A IPC at Police Station Shivaji Nagar, District Gurugram (Annexure P-3) alongwith all subsequent proceedings arising therefrom are hereby ordered to be quashed.

**(N.S. SHEKHAWAT)**  
**JUDGE**

**07.08.2025**  
mks

Whether Speaking/Reasoned: YES / NO  
Whether Reportable: YES / NO