

PUNJAB AND HARYANA HIGH COURT

SINGLE BENCH

(Before : Vikram Aggarwal, J.)

M/S SRB TRADERS THROUGH ITS PRORPIETOR

Vs.

STATE OF HARYANA AND ANOTHER

Criminal Miscellaneous (M) No 40338 of 2026 (O&M)

Decided on : 23-07-2026

Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 528 — Bharatiya Nyaya Sanhita, 2023 — Section 209 — FIR for failure to appear as proclaimed person — Quashing where main NI Act complaint withdrawn — Petitioner declared proclaimed person for non-appearance in NI Act complaint, resulting in FIR under S. 209, BNS — Underlying NI Act complaint subsequently withdrawn on settlement between parties — Held, once the main complaint stands withdrawn on settlement, no useful purpose survives in continuing proclamation proceedings or the consequential FIR; continuation would amount to abuse of process — FIR and proclamation order quashed. [Paras 9, 10, 12]

JUDGMENT

Vikram Aggarwal, J.-This is a petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'the BNSS'), for quashing of FIR No. 117 dated 04.07.2025 under Section 209 of the Bharatiya Nyaya Sanhita (for short 'the BNS') registered at Police Station Civil Lines, Gurgaon (Annexure P.1) and the order dated 06.06.2025 (Annexure P.2), passed by the Court of Judicial Magistrate, Ist Class, Gurugram, vide which the petitioner was declared a proclaimed person in a complaint case under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the N.I. Act') bearing No.NACT/17622/2020 titled as 'Sunil Kumar Vs. M/s SRB Traders'.

2. In a complaint under Section 138 of the N.I. Act filed by complainant-respondent No.2, summons were issued to the petitioner. As despite service none appeared on behalf of the petitioner, proclamation under Section 84 of the BNSS, was issued against the petitioner and vide order dated 06.06.2025 passed by the trial Court, the petitioner was declared a proclaimed person. As a result of the same, FIR No.117 dated 04.07.2025 was registered against the petitioner under Section 209 of the BNS at Police Station Civil Lines, Gurgaon.

3. Learned counsel for the petitioner submits that though the petitioner was declared a proclaimed person by the trial Court vide order dated 06.06.2025, yet the fact remains

that the matter between the parties stands settled and the complaint was withdrawn by complainant-respondent No.2 on 16.12.2025. It is submitted that once the very complaint stands withdrawn, no purpose would be served by continuing with the order declaring the petitioner as a proclaimed person and consequential registration of the FIR under Section 209 of the BNS and further proceedings arising therefrom.

4. Notice of motion.

5. Mr. Amit Sahni, Addl. AG, Haryana, accepts notice on behalf of respondent No.1 and opposes the prayer made in the petition.

6. There would be no necessity of issuing notice to respondent No.2-complainant, for, in view of the nature of the order that is proposed to be passed, no prejudice would be caused to him.

7. I have considered the submissions made by learned counsel for the parties.

8. No doubt, a complaint under Section 138 of the N.I. Act, was filed by the complainant against the petitioner. As despite the issuance of summons/proclamation, the petitioner did not appear before the trial Court, he was declared a proclaimed person. However, the fact remains that the complaint filed by the complainant stands withdrawn on 16.12.2025 on account of a settlement between the parties. The order dated 16.12.2025 passed by the Judicial Magistrate, Ist Class, Gurugram, reads as under:-

"The complainant has appeared before the Court and made a statement that the matter has been settled with the accused out of the Court. Therefore, the complainant does not want to proceed further with the present complaint and requested the same may be dismissed as withdrawn. Statement of the complainant in this regard has been recorded separately.

Heard. In view of aforesaid statement of the complainant, present complaint is hereby dismissed as withdrawn.

File be consigned to record room after due compliance."

9. Thus, once the complaint under Section 138 of the N.I. Act stands withdrawn, no useful purpose would be served by continuing with the proclamation proceedings and the consequential FIR registered under Section 209 of the BNS.

10. A Coordinate Bench of this Court in Baldev Chand Bansal vs. State of Haryana and another (CRM-M-43813-2018 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."

Still further, in **Narender Vs. State of Haryana and another (CRM-M-6659-2023 decided on 08.02.2023)**, a Coordinate Bench of this Court, while relying upon the judgment in **Ashok Madan vs. State of Haryana and another, 2020(4) RCR (Criminal) 87**, quashed the order declaring the petitioner therein as a proclaimed person and consequential FIR under Section 174-A, IPC.

This Court in **Anil Dhiman Vs. State of Punjab and another (CRM-M-28812-2023 decided on 01.06.2023)**, while quashing the order vide which the petitioner therein was declared a proclaimed person and the consequential FIR under Section 174-A IPC, has held as under:-

"7. Going by the facts of the case, it is clear that even with the continuation of the FIR, no useful purpose will be served and the interest of justice demands that the same should be quashed. A Coordinate Bench of this Court also ceased of the same question relying upon the judgment in the case of Ashok Madan v. State of Haryana and another 2020 (4) RCR (Criminal) 87 wherein it had been held that since the FIR under Section 174-A IPC had been registered only on account of absence from the proceedings in the main case which had been subsequently regularized by the Court while granting bail to the petitioner, the default stood condoned and, therefore, the FIR deserved to be quashed. A Coordinate Bench of this Court also took the same view in the case of Rahul Dureja and another v. State of Punjab 2022 (1) RCR (Criminal) 248 and held as under:-

"A perusal of the above judgment would show that where FIR has been registered under Section 174-A of the IPC in view of the order passed in the proceedings under Section 138 of the Act of 1881, while declaring the petitioners as proclaimed persons in the said proceedings, a coordinate

Bench after relying upon various judgments, had observed that once the accused persons had appeared in the proceedings under Section 138 of the Act of 1881 and had been granted the concession of bail, then the effect of order declaring the accused person as proclaimed person would dissipate and the ground for registration of the FIR under Section 174-A of the IPC would no longer exist and thus, any proceeding under Section 174-A of the IPC would be an abuse of the process of the Court."

8. A similar view has been taken by the Coordinate Benches of this Court in *Vikas Sharma v. Gurpreet Singh Kohli* and another CRM-M-32465-2017, decided on 13.09.2017 and *Deepak v. State of Haryana* and another CRM-M-14623-2021, decided on 17.02.2022."

11. Learned State counsel has not been able to dispute the aforesaid facts and the position of law as laid down in the aforesaid judgments.

12. In view of the above, the instant petition is allowed.

FIR No. 117 dated 04.07.2025 registered under Section 209 of the BNS; the order dated 06.06.2025 declaring the petitioner a proclaimed person and all consequential proceedings arising therefrom, are hereby quashed.

Pending application(s) if any, shall also stand disposed of.