

Meena Pothireddy vs State Of Haryana And Another on 29 January, 2025

Neutral Citation No:=2025:PHHC:013581

CRM-M-8611-2022 (O&M) and 29 other cases

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283 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

1. CRM-M-8611-2022 (O&M)
Date of Decision: 29.01.2025
MEENA POTHIREDDY ...Petitioner

Versus

STATE OF HARYANA AND ANOTHER ...Respondents

2. CRM-M-10676-2022 (O&M)
Date of Decision: 29.01.2025
MEENA POTHIREDDY ...Petitioner

Versus

STATE OF HARYANA AND ANOTHER ...Respondents

3. CRM-M-8759-2022 (O&M)
Date of Decision: 29.01.2025
MEENA POTHIREDDY ...Petitioner

Versus

STATE OF HARYANA AND ANOTHER ...Respondents

4. CRM-M-8763-2022 (O&M)
Date of Decision: 29.01.2025
MEENA POTHIREDDY ...Petitioner

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STATE OF HARYANA AND ANOTHER ...Respondents

5. CRM-M-8768-2022 (O&M)
Date of Decision: 29.01.2025
MEENA POTHIREDDY ...Petitioner

Versus

STATE OF HARYANA AND ANOTHER ...Respondents

6. CRM-M-8771-2022 (O&M)
Date of Decision: 29.01.2025
MEENA POTHIREDDY ...Petitioner

Versus

STATE OF HARYANA AND ANOTHER ...Respondents

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7. CRM-M-8775-2022 (O&M)
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MEENA POTHIREDDY ...Petitioner

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8. CRM-M-8783-2022 (O&M)
Date of Decision: 29.01.2025
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9. CRM-M-8785-2022 (O&M)
Date of Decision: 29.01.2025
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10. CRM-M-8786-2022 (O&M)
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11. CRM-M-8789-2022 (O&M)
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12. CRM-M-8791-2022 (O&M)
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13. CRM-M-8797-2022 (O&M)
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14. CRM-M-8799-2022 (O&M)
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15. CRM-M-8802-2022 (O&M)
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CRM-M-8841-2022 (O&M)
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CRM-M-8842-2022 (O&M)
Date of Decision: 29.01.2025

MEENA POTHIREDDY

...Petitioner

Versus

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...Respondents

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CRM-M-8843-2022 (O&M)
Date of Decision: 29.01.2025

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...Petitioner

Versus

STATE OF HARYANA AND ANOTHER ...Respondents

22. CRM-M-8844-2022 (O&M)
Date of Decision: 29.01.2025

MEENA POTHIREDDY ...Petitioner

Versus

STATE OF HARYANA AND ANOTHER ...Respondents

23. CRM-M-8846-2022 (O&M)
Date of Decision: 29.01.2025

MEENA POTHIREDDY ...Petitioner

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24. CRM-M-8847-2022 (O&M)
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25. CRM-M-9021-2022 (O&M)
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26. CRM-M-9066-2022 (O&M)
Date of Decision: 29.01.2025

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27. CRM-M-9067-2022 (O&M)
Date of Decision: 29.01.2025
MEENA POTHIREDDY ...Petitioner

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STATE OF HARYANA AND ANOTHER ...Respondents

28. CRM-M-54527-2021 (O&M)
Date of Decision: 29.01.2025
MEENA POTHIREDDY ...Petitioner

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29. CRM-M-8756-2022 (O&M)
Date of Decision: 29.01.2025
MEENA POTHIREDDY ...Petitioner

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30. CRM-M-10630-2022 (O&M)
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CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR
Present: Mr. Deepam Ragav, Advocate
for the petitioner(s).

Mr. Ramesh Kumar Ambavta, AAG Haryana.

Mr. Satyam Tandon, Advocate for respondent(s) No. 2.

Harpreet Singh Brar, J. (Oral)

1. Prayer in CRM-M-8611-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 429 dated 26.03.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 02.07.2018 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).
2. Prayer in CRM-M-10676-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 408 dated 26.03.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.02.2018 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).
3. Prayer in CRM-M-8759-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 428 dated 26.03.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 02.07.2018 vide which proceedings under Section 6 of 24 Neutral Citation No:=2025:PHHC:013581 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).
4. Prayer in CRM-M-8763-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 927 dated 22.05.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.04.2019 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).
5. Prayer in CRM-M-8768-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 926 dated 22.05.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.04.2019 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).
6. Prayer in CRM-M-8771-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 1851 dated 18.09.2019 (Annexure P-2) under Section 174- A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 26.08.2019 vide which proceedings under Section 174-A was initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).
7. Prayer in CRM-M-8775-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 416 dated 26.03.2019 (Annexure P-2) under Section 174-A 7 of 24 Neutral Citation No:=2025:PHHC:013581 of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.02.2018 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).
8. Prayer in CRM-M-8783-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 425 dated 26.03.2019 (Annexure P-2) under Section 174-A of Indian Penal

Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.02.2018 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).

9. Prayer in CRM-M-8785-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 404 dated 25.03.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.02.2018 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).

10. Prayer in CRM-M-8786-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 426 dated 26.03.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.02.2018 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).

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11. Prayer in CRM-M-8789-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 413 dated 26.03.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.02.2018 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).

12. Prayer in CRM-M-8791-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 452 dated 29.03.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.02.2018 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).

13. Prayer in CRM-M-8797-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 421 dated 26.03.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.02.2018 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).

14. Prayer in CRM-M-8799-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 410 dated 26.03.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.02.2018 vide which proceedings under Section 9 of 24 Neutral Citation No:=2025:PHHC:013581 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).

15. Prayer in CRM-M-8802-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 423 dated 26.03.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.02.2018 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).

16. Prayer in CRM-M-8835-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 187 dated 13.02.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 16.03.2018 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).

17. Prayer in CRM-M-8838-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 419 dated 26.03.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.02.2018 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).

18. Prayer in CRM-M-8840-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 417 dated 26.03.2019 (Annexure P-2) under Section 174-A 10 of 24 Neutral Citation No:=2025:PHHC:013581 of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.02.2018 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).

19. Prayer in CRM-M-8841-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 424 dated 26.03.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.02.2018 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).

20. Prayer in CRM-M-8842-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 411 dated 26.03.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.02.2018 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).

21. Prayer in CRM-M-8843-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 415 dated 26.03.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.02.2018 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).

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22. Prayer in CRM-M-8844-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 427 dated 26.03.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 02.07.2018 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).

23. Prayer in CRM-M-8846-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 414 dated 26.03.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.02.2018 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).

24. Prayer in CRM-M-8847-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 420 dated 26.03.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.02.2018 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).

25. Prayer in CRM-M-9021-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 422 dated 26.03.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.02.2018 vide which proceedings under Section 12 of 24 Neutral Citation No.:2025:PHHC:013581 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).

26. Prayer in CRM-M-9066-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 925 dated 22.05.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.04.2019 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).

27. Prayer in CRM-M-9067-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 412 dated 26.03.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.02.2018 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).

28. Prayer in CRM-M-54527-2021 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 418 dated 26.03.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.02.2018 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).

29. Prayer in CRM-M-8756-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 405 dated 25.03.2019 (Annexure P-2) under Section 174-A 13 of 24 Neutral Citation No:=2025:PHHC:013581 of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.02.2018 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).

30. Prayer in CRM-M-10630-2022 Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 407 dated 26.03.2019 (Annexure P-2) under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and order dated 19.02.2018 vide which proceedings under Section 174-A were initiated against the petitioner and she was declared as proclaimed person (Annexure P-3).

31. Following order was passed on 11.03.2022 in CRM-M-8756-2022 and 10630-2022:

Present petition has been filed by the petitioner for quashing of FIR (Annexure P-2) and order (Annexure P-

3) vide which the petitioner was declared proclaimed person and the trial Court gave necessary directions to initiate pro-

ceedings against her under Section 174-A IPC and all the subsequent proceedings thereof including registration of FIR (Annexure P-2).

The counsel for the petitioner inter-alia con-

tends that at the relevant time the petitioner was not residing at the address given in the criminal complaint by respondent No.2. At that time the petitioner was residing in Andhra Pradesh and as such she never received any summons issued by the Court. The counsel further argued that the petitioner was sleeping Director, whereas the entire business is being run by her husband, who has already been granted regular bail by the trial Court.

Notice of motion to respondent No.2.

14 of 24 Neutral Citation No:=2025:PHHC:013581 At this stage, Mr. Sharad Kapoor, Advocate along with Mr. Satyam Tandon, Advocate and Mr. Sharad Kapoor, Advocate put in appearance on behalf of the complainant/respondent No.2 and made prayer that copy of paper book be supplied to Mr. Satyam Tandon, Advocate. They are directed to file power of attorney on behalf of the complainant before the Registry during the course of the day.

The counsel for the petitioner is directed to supply complete copy of paper to Mr. Satyam Tandon, Advocate during the course of the day.

The main case is under Section 138 of NI Act which is compoundable offence, so the parties are directed to make sincere efforts for amicable settlement by the next date of hearing.

In the meantime, the petitioner is directed to appear in the trial Court on 14.3.2022 and on her appearance she is ordered to be released on interim bail by the said Court to its own satisfaction till next date of hearing in the present case.

Now be listed on 23.3.2022.

Photocopy of this order be placed on the file of connected case."

32. Following order was passed on 05.01.2022 in CRM-M-54527- 2021:

"Present petition has been filed by the petitioner for quashing of order dated 19.2.2018 (Annexure P-3) vide which the petitioner was declared proclaimed person and the trial Court gave necessary directions to initiate proceedings against him under Section 174-A IPC and all the subsequent proceedings thereof including registration of FIR No.418 dated 26.3.2019 registered under Section 174-A IPC at Police Station Shivaji Nagar, Gurugram.

15 of 24 Neutral Citation No:=2025:PHHC:013581 The counsel for the petitioner inter-alia con-

tends that at the relevant time the petitioner was not residing at the address given in the criminal complaint by respondent No.2. At that time the petitioner was residing in Andhra Pradesh and as such she never received any summons issued by the Court. The counsel further argued that the petitioner was sleeping Director, whereas the entire business is being run by her husband, who has already been granted regular bail by the trial Court.

Notice of motion to respondent No.2 for 23.3.2022.

In the meantime, the petitioner is directed to appear in the trial Court on 18.1.2022 the date already fixed there and on her appearance she is ordered to be released on interim bail by the said Court to its own satisfaction till next date of hearing in the present case."

33. Following order was passed in all other petitions on 07.03.2022:

"Present petition has been filed by the petitioner for quashing of FIR (Annexure P-2) and order (Annexure P-

3) vide which the petitioner was declared proclaimed person and the trial Court gave necessary directions to initiate pro-

ceedings against her under Section 174-A IPC and all the subsequent proceedings thereof including registration of FIR (Annexure P-2).

The counsel for the petitioner inter-alia con-

tends that at the relevant time the petitioner was not residing at the address given in the criminal complaint by respondent No.2. At that time the petitioner was residing in Andhra Pradesh and as such she never received any summons issued by the Court. The counsel further argued that the petitioner was sleeping Director, whereas the entire business is being run by her husband, who has already been granted regular bail by the trial Court.

Notice of motion to respondent No.2.

16 of 24 Neutral Citation No:=2025:PHHC:013581 At this stage, Mr. Sharad Kapoor, Advocate along with Mr. Satyam Tandon, Advocate and Mr. Subh Kapoor, Advocate put in appearance on behalf of the complainant/respondent No.2 and made prayer that copy of paper book be supplied to Mr. Satyam Tandon, Advocate. They are directed to file power of attorney on behalf of the complainant before the Registry during the course of the day.

The counsel for the petitioner is directed to supply complete copy of paper to Mr. Satyam Tandon, Advocate during the course of the day.

The main case is under Section 138 of NI Act which is compoundable offence, so the parties are directed to make sincere efforts for amicable settlement by the next date of hearing.

In the meantime, the petitioner is directed to appear in the trial Court on 14.3.2022 and on her appearance she is ordered to be released on interim bail by the said Court to its own satisfaction till next date of hearing in the present case.

Now be listed on 23.3.2022.

Photocopy of this order be placed on the file of connected case."

34. Learned counsel for the petitioner, inter-alia submits that in compliance of aforementioned orders, the petitioner has surrendered before the trial Court and has subsequently been released on regular bail. Further, the petitioner is now regularly appearing before the learned trial Court. Moreover, learned counsel contends that the impugned orders have been passed by the trial Court without following the mandate of Section 82(1) of Cr.P.C. Lastly, it is argued that the FIR (supra) is not maintainable due to the bar imposed by Section 195(1)(a)(i) of Cr.P.C., which clearly states that a written complaint is to be filed, in cases of offences enumerated from Section 172 to Section 188 of IPC 17 of 24 Neutral Citation No:=2025:PHHC:013581 (both included), by the concerned public servant before the Court which can take cognizance. Since the registration of an FIR is not maintainable in such cases, the FIR (supra) is liable to be quashed. In support of his arguments, counsel for the petitioner relies upon the judgments passed by this Court in Pardeep Kumar vs.

State of Punjab, CRM-M-41656-2023 decided on 23.08.2023; Ashok Madan vs. State of Haryana 2020(4) R.C.R. (Cri.) 87; Sonu vs. State of Haryana 2021 (1) RCR (Cri.) 319 and the judgment of the Gujarat High Court in Govindbhai Patel Vs. State of Gujarat 2004 (4) RCR (Criminal) 830.

35. Per contra Learned State counsel supports the orders passed by the learned trial Court by contending that the petitioner did not put in appearance before the trial Court intentionally and deliberately and, therefore, having left with no other option, proclamation and the subsequent proceedings resulting in the registration of the FIR (supra) were initiated to secure her presence.

36. Learned counsel for respondent No. 2 opposes the prayer made in the present petitions on the ground that the petitioner blatantly refuses to comply with the undertaking given by her before this Court and respondent No. 2 has already initiated Contempt of Court proceedings against the petitioner in this regard. Despite the clear direction that the parties shall make sincere efforts for an amicable settlement, passed by this Court, no sincere efforts have been made by the petitioner to arrive at a just and appropriate compromise. This clearly demonstrates mala-fide on her part.

37. I have heard learned counsel for the parties and perused the record of the case with their able assistance and with the consent of parties, the matter is taken up for final disposal.

38. Section 174A of the IPC was introduced through the Amendment Act of 2005, and a corresponding amendment was made to Schedule 1 of the 18 of 24 Neutral Citation No:=2025:PHHC:013581 Criminal Procedure Code (CrPC), classifying this provision as a cognizable offence. However, no corresponding amendment was made to Section 195 of the CrPC to exclude Section 174A IPC from its scope. The proposition that Section 174A IPC is governed by the procedure as laid out in Section 195 Cr.P.C. is further supported by the fact that Section 174A IPC and the corresponding Section 209 of the Bhartiya Nyaya Sanhita 2023, are essentially identical. However, Section 209 has been explicitly removed from the purview of Section 215 of the Bhartiya Nagarik Suraksha Sanhita, 2023 which mirrors Section 195 of CrPC. In its present form, thus, Section 195 of the CrPC clearly encompasses Section 174A IPC, as the legislature in its wisdom this time has specifically excluded Section 209 of the Bhartiya Nyaya Sanhita from the ambit of Section 215 of the Bhartiya Nagarik Suraksha Sanhita. Furthermore, in 2006, an amendment was made to Section 195(1)(b) of the CrPC, but Section 195(1)(a)(i) was left unchanged. Therefore, it is evident that Section 195 of the CrPC applies to the offence under Section 174A IPC.

39. As it is conclusive that Section 174A IPC is governed by Section 195, it would be apposite to emphasize that the drill of Section 195 of the CrPC is mandatory in nature. This position is supported by the judgment of the Hon'ble Supreme Court's rendered in C. Muniappan & Others. v. State of Tamil Nadu, (2010) 9 SCC 567, wherein the following observations were made:

"20. Section 195(a)(i) Criminal Procedure Code bars the court from taking cognizance of any offence punishable under Section 188 Indian Penal Code or abetment or attempt to commit the same, unless, there is a written complaint by the public servant concerned for contempt of his lawful order. The object of this provision is to provide for a particular procedure in a case of contempt of the lawful

authority of the public servant. The court lacks competence to take cognizance in certain types of offences enumerated therein. The legislative intent behind such a provision 19 of 24 Neutral Citation No:=2025:PHHC:013581 has been that an individual should not face criminal prosecution instituted upon insufficient grounds by persons actuated by malice, ill-will or frivolity of disposition and to save the time of the criminal courts being wasted by endless prosecutions. This provision has been carved out as an exception to the general rule contained under Section 190 Criminal Procedure Code that any person can set the law in motion by making a complaint, as it prohibits the court from taking cognizance of certain offences until and unless a complaint has been made by some particular authority or person. Other provisions in the Criminal Procedure Code like sections 196 and 198 do not lay down any rule of procedure, rather, they only create a bar that unless some requirements are complied with, the court shall not take cognizance of an offence described in those Sections. (vide *Govind Mehta v. The State of Bihar*, AIR 1971 Supreme Court 1708; *Patel Laljibhai Somabhai v. The State of Gujarat*, AIR 1971 Supreme Court 1935; *Surjit Singh & Ors. v. Balbir Singh*, 1996(3) RCR (Criminal) 240 : (1996) 3 SCC 533; *State of Punjab v. Raj Singh & Anr.*, 1998(1) RCR (Criminal) 576 : (1998) 2 SCC 391; *K. Vengadachalam v. K.C. Palanisamy & Ors.*, (2005) 7 SCC 352; and *Iqbal Singh Marwah & Anr. v. Meenakshi Marwah & Anr.*, 2005(2) RCR (Criminal) 178 : 2005(1) Apex Criminal 581).

21. The test of whether there is evasion or non-compliance of Section 195 Criminal Procedure Code or not, is whether the facts disclose primarily and essentially an offence for which a complaint of the court or of a public servant is required. In *Basir-ul-Haq & Ors. v. The State of West Bengal*, AIR 1953 Supreme Court 293; and *Durgacharan Naik & Ors. v. State of Orissa*, AIR 1966 Supreme Court 1775, this Court held that the provisions of this Section cannot be evaded by describing the offence as one being punishable under some other sections of Indian Penal Code, though in truth and substance, the offence falls in a category mentioned in Section 195 Criminal Procedure Code. Thus, cognizance of such an offence cannot be taken by mis-describing it or by putting a wrong label on it.

22. In *M.S. Ahlawat v. State of Haryana & Anr.*, 1999(4) RCR (Criminal) 718, this Court considered the matter at length and held as under :

"....Provisions of Section 195 Criminal Procedure Code are mandatory and no court has jurisdiction to take cognizance of any of the offences mentioned therein unless there is a complaint in writing as required under that section." (Emphasis added)

23. In *Sachida Nand Singh & Anr. v. State of Bihar & Anr.*, 1998(1) RCR (Criminal) 823 : (1998) 2 SCC 493, this Court while dealing with this issue observed as under :

20 of 24 Neutral Citation No:=2025:PHHC:013581 "7. ..Section 190 of the Code empowers "any magistrate of the first class" to take cognizance of "any offence" upon

receiving a complaint, or police report or information or upon his own knowledge. Section 195 restricts such general powers of the magistrate, and the general right of a person to move the court with a complaint to that extent curtailed. It is a well-recognised canon of interpretation that provision curbing the general jurisdiction of the court must normally receive strict interpretation unless the statute or the context requires otherwise."

(Emphasis supplied)

24. In *Daulat Ram v. State of Punjab*, AIR 1962 Supreme Court 1206, this Court considered the nature of the provisions of Section 195 Criminal Procedure Code. In the said case, cognizance had been taken on the police report by the Magistrate and the appellant therein had been tried and convicted, though the concerned public servant, the Tahsildar had not filed any complaint. This Court held as under :

"The cognizance of the case was therefore wrongly assumed by the court without the complaint in writing of the public servant, namely, the Tahsildar in this case. The trial was thus without jurisdiction ab initio and the conviction cannot be maintained. The appeal is, therefore, allowed and the conviction of the appellant and the sentence passed on him are set aside."

(Emphasis added)

25. Thus, in view of the above, the law can be summarised to the effect that there must be a complaint by the public servant whose lawful order has not been complied with. The complaint must be in writing. The provisions of Section 195 Criminal Procedure Code are mandatory. Non-compliance of it would vitiate the prosecution and all other consequential orders. The Court cannot assume the cognizance of the case without such complaint. In the absence of such a complaint, the trial and conviction will be void ab initio being without jurisdiction."

40. Section 195(1)(a)(i) of the CrPC specifies that no court shall take cognizance of any offence punishable under Sections 172 to 188 of the IPC unless a written complaint is made by the concerned public servant or another public servant to whom they are administratively subordinate. This provision serves as an explicit bar, stating that the court cannot take cognizance of a matter based on a Final Report under Section 173 of Cr.P.C. A complaint, as defined under Section 2(d) of the CrPC, excludes a Police Report or Final Report. Thus, cog-

21 of 24 Neutral Citation No.: 2025:PHHC:013581 nizance can only be taken on a written complaint filed in Court under Section 200 of the CrPC. Further, Section 21(3) of the IPC defines "public servant" to include every judge or any person empowered by law to perform adjudicatory functions, either individually or as part of a body. As a result, from the plain language of Section 195 of the CrPC, it is clear that criminal prosecution under Sections 172 to 188 of the IPC can only be initiated through a written complaint filed by the concerned public servant or another public servant to whom they are administratively subordinate. (See: *Pardeep Kumar vs. State of Punjab and Another*

(supra); Jarnail Singh @ Rana vs. State of Punjab, CRM-M-48718- 2019 decided on 17.04.2024 and Charanjit Singh @ Channi CRM-M-453- 2023 pronounced on 06.12.2023)

41. In the present case, the learned Magistrate, being a public servant as defined under Section 21 of the IPC, was required to follow the procedure pre- scribed by law if he intended to initiate proceedings against the petitioner for the offence under Section 174A of the IPC. The proper course of action would have been to file a written complaint before the competent jurisdictional court. How- ever, instead of adhering to this legal requirement, the learned Magistrate merely forwarded a copy of its orders to the local police, directing them to initiate pro- ceedings under Section 174A IPC, which effectively led to the registration of the impugned FIR. Given the mandatory nature and scope of Section 195 of the CrPC, such an approach is in clear violation of its provisions. Consequently, both the order passed by the Magistrate directing the initiation of proceedings and the resulting FIR stand contrary to the procedural safeguards enshrined in Section 195 of Cr.P.C.

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42. While the scheme of criminal justice system necessitates curtail- ment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness. Additionally, it is a settled law that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods are necessarily forbidden. Refer- ence can be made to the judgment of the Hon'ble Apex Court in Dharani Sug- ars and Chemicals Ltd. v. Union of India reported in (2019) 5 SCC 480.

43. In the eventuality of her non-appearance, the presence of the accused first ought to have been secured by issuing summons or bailable war- rants, and non-bailable warrants or proclamation should not generally be issued at the first instance. A perusal of the impugned order reveals that the trial Court has issued a proclamation straight away, without recording any reasons to indic- ate that the petitioner has absconded or is concealing herself from the process of law. Conspicuously, no summons or bailable warrants were issued prior to issu- ance of the proclamation. This Court in the judgment passed in Major Singh @ Major Vs. State of Punjab 2023 (3) RCR (Criminal) 406; 2023 (2) Law Herald 1506 has held that the Court is first required to record its satisfaction before is- suance of process under Section 82 Cr.P.C. and non-recording of the satisfaction itself makes such order suffering from incurable illegality. Furthermore, the learned counsel for the petitioner has taken a specific stand that the petitioner was declared to be a proclaimed person without following the drill of Section 82 23 of 24 Neutral Citation No:=2025:PHHC:013581 Cr.P.C. Since the proclamation was never served on the petitioner, all actions taken post non-execution of the proclamation stand vitiated.

44. In view of the above discussion, the present petitions are allowed and the impugned order(s) dated 02.07.2018, 19.02.2018, 19.04.2019, 26.08.2019, 16.03.2018 vide which, the petitioner was declared as proclaimed person as well as FIR Nos. 429, 408, 428, 416, 425, 426, 413, 421, 410, 423,

419, 417, 424, 411, 415, 427, 414, 420, 422, 412, 418 and 407 dated 26.03.2019, FIR Nos. 404, 405 dated 25.03.2019, FIR No. 925, 926, 927 dated 22.05.2019, FIR No. 1851 dated 18.09.2019, FIR No. 452 dated 29.03.2019, FIR No. 187 dated 13.02.2019 under Section 174-A of Indian Penal Code registered at Police Station Shivaji Nagar, Gurugram (Haryana) and all the subsequent proceedings arising therefrom are hereby quashed qua the petitioner.

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

46. A photocopy of this order be placed on the files of other connected cases.

(HARPREET SINGH BRAR)
JUDGE

29.01.2025
Ajay Goswami

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

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