

In the Court of Priyanka,
Judicial Magistrate Ist Class, Phul

CNR No. **PBBTB10019462024**



Case No. CHI/509/2024

Presented on : 03-05-2024

Registered on : 03-05-2024

Decided on : 12-08-2026

State	Versus	Gurdas Singh aged about 43 years son of Nachhattar Singh resident of VPO Lehra Mohabbat, Tehsil Phul, District Bathinda. Accused.
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F.I.R. No. 64 Dated 10.05.2017
Under Section: 174-A of IPC.
Police Station: Phul

Present: Sh. Sahil Jindal, APP for the State.
Accused Gurdas Singh appeared in person along-with Counsel Sh. P.S. Sidhu Adv. and Sh. H.S. Chauhan Adv.

JUDGMENT:-

The above-named accused has been sent up by the Police Station, Phul, for facing trial under Section 174-A of Indian Penal Code, 1860.

2. The case of the prosecution as made out from the report under section 173 Cr.P.C., and other accompanying documents is that vide order dated 05.05.2017, the accused was declared proclaimed person in case File No. 10 dated 27.10.2016, under Sections 138 NI Act. Thus, the accused has violated/disobeyed the orders of the Court and have committed the offence punishable under section 174-A IPC. On the basis of that tehrir, case punishable under Section 174-A of IPC was registered against the accused. Investigation was carried out. Accused was arrested. Statements of the witnesses were recorded. After completion of investigation, challan was presented in the Court for putting the accused on trial.

3. Copy of challan was supplied to the accused free of costs as envisaged under Section 207 Cr.P.C. Thereafter, the accused was charge sheeted under Section 174-A IPC on 31.08.2024, to which he pleaded not guilty and claimed trial.

4. Prosecution in support of its case has examined following witnesses:

No. of witness	Name of witness	Nature of testimony
PW1	C Harjinder Singh No. 1171/BTI	Proved on record arrest memo of accused PW1/A, personal search memo of accused PW1/B.
PW2	Retired ASI Surjit Singh	Proved on record registration of present FIR Ex-PW2/A.
PW3	ASI Avtar Singh	Witness of arrest of accused and proved on record arrest memo of accused PW1/A, personal search memo of accused PW1/B
PW4	Ajay Kumar, Reader of Court of Ld. JMIC, Phul.	Proved on record order dated 05.05.2017 passed in case bearing COMA no. 332-2016, Ex-PW4/A vide which accused was declared proclaimed offender.

Thereafter, Ld. APP closed the prosecution evidence by separate statement.

5. Statement of accused Gurdas Singh under Section 313 Cr.P.C. recorded in the form of question answer wherein accused has denied all the allegations and pleaded false implication. Accused opted not to lead any evidence.

6. I have heard learned APP for the State and learned defence counsel for the accused and have gone through the case file carefully.

7. The point for determination in the present case is that whether on 05.05.2017, in the area of Court Complex Phul, accused was ordered to appear in the Court of Sh. Sumit Bhalla, the then, Ld. SDJM, Phul in a case File No. 10 dated 27.10.2016, under Sections 138 NI Act, but accused had not appeared in the said Court and declared P.O by the said Court vide order dated 05.05.2017 and thereby committed an offence punishable under Section 174-A of the IPC or not.

8. Arguments were advanced. Learned APP for the State argued that the prosecution has proved its case beyond reasonable doubt against the accused and the prosecution has proved the fact beyond reasonable doubt on record that accused did not appear before the Court despite proclamation on the specified date & time and consequently, accused was declared proclaimed person on dated

05.05.2017 by the Court. Thus, prayed that accused be convicted under Section 174-A IPC and be awarded maximum punishment as per law.

9. Learned defence counsel argued that accused has been falsely implicated in the present case and thus, prayed that accused be acquitted of the charge framed against him as the prosecution has failed to prove its case beyond reasonable doubt.

10. After hearing learned APP and learned defence counsel and having gone through the case file very carefully. The prosecution, in order to establish the guilt of accused examined 4 witnesses and proved on record Order dated 05.05.2017 Ex-PW4/A vide which accused was declared proclaimed offender in case File No. 10 dated 27.10.2016 i.e. COMA no. 332-2016, registration of present FIR Ex-PW2/B, arrest memo of accused PW1/A, personal search memo of accused PW1/B.

11. Perusal of Order dated 05.05.2017 Ex-PW4/A clearly shows that proclamation as required under section 82 Cr.P.C. was issued against accused Gurdas Singh and the same was received back duly effected and due to non-appearance of the accused in the Court on the expiry of requisite period, accused was declared proclaimed person. Subsequently, on, accused was arrested and the present FIR was registered under section 174-A of the IPC.

12. From the bare perusal of section 174-A IPC, it is clear that whenever any person fails to appear at the specified place and specified time as required by proclamation published under section 82 (1) of Cr.P.C., he/she shall be punished with imprisonment for a term which may extend to three years or with fine or with both. Further, where such declaration has been made under section 82(4) of Cr.P.C. pronouncing him as a proclaimed offender, he shall be punished with imprisonment for a term which may extend to seven years and with fine.

13. It is pertinent to mention herein that section 174-A IPC was added in Indian Penal Code vide Code of Criminal Procedure (Amendment) Act, 2005. As per the object clause of this amendment, this section was added in order to curb the tendency on the part of criminals not to attend the Court in response to the proclamation published under section 82(1) or under section 82(4) Cr.P.C.

14. As per section 82 Cr.P.C, if the court has reasons to believe (whether after taking evidence or not) that any person against whom a warrant has been

issued by it, has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than 30 days from the date of publishing such proclamation. Further, as per section 82(3) Cr.P.C. such publication shall be conclusive evidence that the requirements of this section have been complied with and that proclamation was published on such day. Since all the witness are formal/official, nothing has brought out from their cross-examination, which might be beneficial to the accused.

15. In view of the above said discussion, this Court is of the considered view that the prosecution has proved its case against the accused beyond reasonable doubt. Accordingly, the charge framed against the accused under section 174-A IPC stands proved beyond all reasonable doubt, therefore, accused Gurdas Singh is held guilty under section 174-A IPC and convicted thereunder. Let accused be heard on the quantum of sentence.

Pronounced in Open Court:

12.08.2026

(Manjeet Dhariwal Stenographer Gr. III)

(Priyanka)PCS

Judicial Magistrate, Ist Class

Phul/UID No. PB0777

QUANTUM OF SENTENCE:

Present: Sh. Sahil Jindal, APP for the State.
Accused Gurdas Singh appeared in person along-with Counsel Sh.
P.S. Sidhu Adv. and Sh. H.S. Chauhan Adv.

Heard on quantum of sentence. The learned APP for the State contended that maximum prescribed sentence be awarded to the convict whereas, convict Gurdas Singh has stated that he has already settled case bearing COMA No. 332-2016 with the complainant in amicable settlement and same has already been disposed of, therefore, he should be dealt with leniency.

After giving thoughtful consideration to the rival submissions of the learned APP for the State and learned counsel for the accused, this court is of the view that this court is bound to consider the fact as to whether convict is entitled to be released on probation before passing sentence upon him. As per Section 4 (1) of Probation of Offenders Act 1958, when any person is found guilty of having committed an offence not punishable with death or imprisonment for life and the Court by which the person is found guilty is of opinion that having regard to the

circumstances of the case impleading of nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct, then notwithstanding anything contained in any other law for the time being in force, the Court may instead of sentencing him at one to any punishment direct that he be released on his entering into bond with or without sureties to appear and receive sentence when called upon during such period not exceeding three years, as the Court may direct and in meantime to keep the peace and be of good behavior. Therefore, after taking into consideration the principle enshrined in the criminal jurisprudence, this court is of the view that principle of imposition of punishment is to serve a dual purpose i.e. retributive cum reformative, as such, keeping in view the entire facts and circumstances of this case and the antecedents of convict, this Court is of the view that benefit of probation should be given to convict. Moreover, ends of justice shall be squarely met, if convict be released on probation, as such, convict is ordered to be released on probation on furnishing personal probation bonds in the sum of **Rs.20,000/-, for a period of 2 years**, undertaking to keep peace and be of good behaviour and in default, to come present before this Court during the said period to receive sentence. **Cost of litigation of Rs.500/- is imposed upon the convict. Cost of litigation paid.** Probation bonds furnished, which are accepted and attested. Bail bonds and surety bonds stands discharged. File be consigned to the record room. Copy of judgement be supplied to accused free of cost.

Pronounced in Open Court:

12.08.2026

(Manjeet Dhariwal Stenographer Gr. III)

Certificate:-

(Priyanka)PCS

Judicial Magistrate, Ist Class

Phul/UID No. PB0777

This judgment contains 5 pages which are directly dictated, read and signed by me.

Pronounced in Open Court:

12.08.2026

(Manjeet Dhariwal Stenographer Gr. III)

(Priyanka)PCS

Judicial Magistrate, Ist Class

Phul/UID No. PB0777