

**COURT OF SUB DIVISIONAL JUDICIAL MAGISTRATE
AT BAGHAPURANA**

PBMOB10008022023



Presented on : 29-07-2023
Registered on : 29-07-2023
Decided on : 10-02-2025
Duration : 1 years, 6 months, 12 days

IN THE MATTER OF:

STATE

Vs.

HARMEET SINGH [ACCUSED]

**FIR No.244 dated 25-11-2022
Under Section 174-A IPC
PS BAGHA PURANA, MOGA**

*Present:- SHRI GURDEEP SINGH, LEARNED APP FOR STATE.
ACCUSED HARMEET SINGH ON BAIL, WITH
COUNSEL MS. PRABHPREET KAUR, ADVOCATE.*

SUMMARY:

(a) CIS no. of the case	:	CHI/112/2023
(b) CNR no. of the case	:	PBMOB10008022023
(c) Date of Commission of offence	:	31.05.2022
(d) Name of the complainant	:	ASI Harbinder Singh
(e) Name of the accused	:	Harmeet Singh son of Ujjagar Singh R/o Village Bagria, Tehsil Malerkotla, District Sangrur.
(f) Offence charged with	:	Under Section 174-A IPC

(g) **Plea of Accused** : Plead not guilty

(h) **Date of Pronouncement** : 10.02.2025

(I) **PRONOUNCED BY** : **PARUL,**
SUB DIVISIONAL JUDICIAL MAGISTRATE
BAGHAPURANA

JUDGMENT:

1. The above named accused has been sent up to face trial before this Court for the commission of offences punishable under Section 174-A of Indian Penal Code, 1860 (hereinafter referred as 'IPC') by the Officer-in-Charge of Police Station Bagha Purana, District Moga.

FACTS

2. Filtering unnecessary details, the allegations of prosecution against the accused, namely, Harmeet Singh are that when ASI Harbinder Singh was present at police Station Baghapurana, then MHC produced one letter No.5081/5B/PS-BPA dated 25.11.2022 received from the Court of Shri Sangam Kaushal, the then learned JMIC, Baghapurana and as per said letter, Harmeet Singh son of Ujjaggar Singh, resident of village Bagria, Tehsil Malerkotla, District Sangrur has been declared Proclaimed Person on 31.05.2022 by the Court of Shri Sangam Kaushal, the then learned Judicial Magistrate 1st Class for not appearing in the Court in complaint case under Section 138 of Negotiable Instruments Act bearing case No.NACT/7/2021 titled as Pargat Singh Versus Harmeet Singh and it has been ordered to

register a case against above Harmeet Singh under Section 174-A of IPC. As such, the present FIR for offence under Section 174-A of IPC was registered against accused Harmeet Singh. Thereafter, ASI Harbinder Singh arrested accused Harmeet Singh and after completion of investigation, challan under Section 174-A IPC was presented as per S.173 of Code of Criminal Procedure, 1973 (hereinafter referred as 'Cr.P.C').

3. On appearance of the accused in the Court, the copies of the challan etc. as relied upon by the prosecution were supplied to accused, free of costs as envisaged under Section 207 of the Cr.P.C.

4. Finding sufficient grounds to proceed against accused, charge under Section 174-A was framed on 29.07.2023, to which he pleaded not guilty and claimed trial. Thereafter, case was fixed for evidence of prosecution.

PROSECUTION EVIDENCE

5. Case of the prosecution has been unfolded by **PW-1 Honey Chugh, Ahlmad of the Court of learned JMIC, Baghapurana**, who deposed that on 05.07.2022, he was working as Ahlmad in the Court of learned JMIC, Baghapurana and on that day, accused Harmeet Singh son of Ujjagar Singh was required to appear in the Court on the basis of his proclamation but he did not turn up, so learned Court passed order to declare the accused as Proclaimed Person and sent intimation **Ex.P1** to SHO, P.S. Baghapurana. He identified the

signatures of Shri Sangam Kaushal, learned JMIC, Baghapurana as he was working under him and he had seen him writing and signing and well conversant to same.

6. Further, prosecution has examined **ASI Harbinder Singh as PW-2**, who deposed that on 25.11.2022, he was posted at Police Station Baghapurana. On that day, MHC handed over one intimation letter from the Court of learned JMIC Baghapurana, on the basis of which, he registered FIR **Ex.P2**. He further deposed that on that day, accused Harmeet Singh was arrested, personally searched and intimation of his arrest was given through memos **Ex.P3 to Ex.P5**. He recorded statements of witnesses. He further deposed that he can identify the accused, who had sought exemption from personal appearance for the day of his examination.

7. Further, prosecution has examined **Kewal Singh Reader of the Court of Shri Vijay Kumar, learned JMIC, Baghapurana as PW-3** who deposed that he has seen complaint under Section 195 Cr.P.C. in the judicial file which bears the signatures of Shri Sangam Kaushal, the then learned JMIC Baghapurana as he had worked under his supervision and he is well conversant with the same. The said complaint is **Ex.PW-3/A**.

8. Thereafter, Learned APP for the State gave up prosecution witness, namely, Senior Constable Jagjit Singh being unnecessary and closed evidence of prosecution by suffering separate statement on

31.01.2025.

9. Thereafter, statement of accused under Section 313 of the Cr.P.C. was recorded and all the incriminating evidence on record against him was put to him, to which he pleaded that he is innocent. He has not committed any offence. Police had registered false case against him. Accused opted not to lead evidence in his defence.

Arguments:

10. Learned APP for the State has contended that on 31.05.2022, in the area of Police Station Baghapurana, accused Harmeet Singh was directed to appear before the Court of Shri Sangam Kaushal the then Learned JMIC, Baghapurana but the accused failed to appear inspite of proclamation issued against him in complaint case under Section 138 of N.I. Act, titled as Pargat Singh Versus Harmeet Singh bearing complaint No.NACT/7/2021 and he was declared as proclaimed person, for which instant FIR under Section 174-A of IPC has been registered against the accused. He has further contended that PW-1 Honey Chugh Ahlmad of the concerned court, PW-2 ASI Harbinder Singh and PW-3 Kewal Singh Reader of the Court of learned JMIC Baghapurana have duly proved the case of the prosecution against the accused, for which he should be punished stringently.

11. On the other hand, learned Defence counsel has contended that the accused has not committed any offence as alleged and the

police has registered instant false case against the accused. Thus, the accused should be acquitted in the instant case.

12. I have heard the learned APP for the State and learned defence counsel and have gone through the case file carefully with their able assistance.

13. On the basis of pleaded facts, evidence adduced and arguments so advanced; following point of determination arises in the present case:-

Whether on 31.05.2022, in the area of Police Station Baghapurana, accused Harmeet Singh was directed to appear before the Court of Shri Sangam Kaushal the then Learned JMIC, Baghapurana but the accused failed to appear inspite of proclamation issued against him in complaint case under Section 138 of N.I. Act, titled as Pargat Singh Versus Harmeet Singh bearing complaint No.NACT/7/2021?

DISCUSSION & FINDINGS:

14. In the present case, it is in allegation against the accused that in a case titled as Pargat Singh Versus Harmeet Singh bearing No. NACT/7/2021 when he was supposed to appear before the concerned Court then he had willfully absented himself from his appearance in the Court and accordingly, after due proceedings, he was declared as Proclaimed Person by the orders of the Court dated 31.05.2022. Accordingly, present FIR under Section 174-A of IPC was registered

against accused Harmeet Singh and thereafter, on the basis of information given by concerned MHC, P.S. Baghapurana, accused was arrested in the present matter. In order to bring home guilt of accused in this case, the prosecution as examined PW-3 Kewal Singh, Reader of the Court of Shri Vijay Kumar, learned JMIC Baghapurana who has deposed before the court that since, he has worked with Shri Sangam Kaushal, the then learned JMIC, Baghapurana, therefore, he is conversant with his signatures and as such, he identifies his signatures over the complaint Ex.PW-3/A vide which sanction to prosecute under Section 195 of Cr.P.C. was given by the learned Officer against the present accused. Furthermore, PW-1 i.e. concerned Ahlmed of the Court has appeared in court and stated that on 05.07.2022 when he was working as Ahlmed with the learned JMIC Baghapurana then accused Harmeet Singh did not appear before the Court despite issuance of proclamation against him and accordingly, he was declared as Proclaimed Person and intimation in this regard was sent to Police Station Baghapurana vide Ex.P1. This witness has also identified the signatures of Shri Sangam Kaushal, the then learned JMIC Baghapurana. In his cross-examination, nothing specific has been asked for by learned defence counsel and rather, this witness has again stated that he identifies the signatures of the concerned Officer over the Ex.P1. PW-2 ASI Harbinder Singh has also deposed before the Court that on 25.11.2022, MHC had handed over one intimation letter to him,

on the basis of which he had registered FIR Ex.P2 and thereafter, accused was arrested and necessary investigation requirements were completed by him. During cross-examination of this witness as well only a single suggestion has been put forward by the learned defence counsel that the witness is deposing falsely but the reason for the same has not been disclosed on record. Pertinent to mention here that there are few principles enumerated under Section 82 of Cr.P.C. which are to be complied with by the person who had gone for the execution of the proclamation warrants and clearly, no such plea has been raised by defence in the present matter that those all conditions were not complied with by the serving official simultaneously. Clearly, the legislature seeing the growing number of Proclaimed Offenders had inserted Section 174-A IPC by way of Clause 44 of the Amendment Act of 2005 in Cr.P.C. which was brought into force with effect from 23 June 2006 vide notification No.SO923 (E) dated 21 June 2006 with a hope that it would be deterrent for the persons fleeing from the justice. Accordingly, the non-appearance of the accused in response to the proclamation under Section 82 of Cr.P.C. has been made a substantive offence and therefore the provision of Section 174-A of IPC required to be invoked against the absconding accused and the requisite punishment is to be granted. Pertinent to mention here that in his statement recorded under Section 313 of Cr.P.C. as well, no specific defence has been put forward by accused and rather, he has simply

stated that the police has registered instant false case against him. Therefore, considering all the aspects of the matter, in considered opinion of this Court, accused Harmeet Singh is held guilty under Section 174-A of IPC and he stands convicted thereunder. Let the convict be heard on question of sentence.

Pronounced in open Court:
Dated: 10.02.2025
Angrej Singh, STG-II

Sd/-
(PARUL), PCS,
Sub Divisional Judicial Magistrate,
Baghapurana/PB-0400.