

Serial No. 115

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

CRM(M) No.434/2023

CrIM No.803/2023

Reserved on: 03.09.2025
Pronounced on: 15.09.2025

Brij Raj Singh Salaria, Aged 63 years

S/O late Sh. Balwant Singh

R/O Village Khanpur

P.O Camp Gole Gujral,

Tehsil & Distt. Jammu (180002).

.....Petitioner

Through: Mr. Vijay Gupta, Advocate.

Vs.

1. UT of J&K Through Police Station
Gandhi Nagar, Jammu.
2. Senior Branch Manager
Bank of Baroda, Gandhi Nagar, Jammu.

..... Respondents

Through: Mr. P.D Singh, Dy. AG for R-1.
Mr. Anil Mahajan, Advocate for R-2.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

JUDGMENT

1. This petition under Section 482 of the Code of Criminal Procedure has been filed by the petitioner seeking quashment of criminal proceedings of case titled “**State vs. Brij Raj Singh Salaria**” File No.42/Challan dated 12.02.2011, pending before the Court of learned Additional Sessions Judge, Jammu (Trial Court) arising out of FIR No.12/2007 dated 11.01.2007 registered at Police Station Gandhi Nagar, Jammu, for commission of offences punishable under Sections 419, 420, 467, 468 and 471 RPC.
2. Pursuant to notices, both the respondents-investigating agency as well as complainant filed status report/objections.

3. Respondent No.1 seeks dismissal of this petition on the ground that this Court cannot appreciate evidence/statements which have been recorded by the Investigating Agency in view of the settled law by Hon'ble the Supreme Court and as the scope of interference by this Court in investigation is very narrow therefore, the powers under 482 CrPC are to be exercised very sparingly. It is further submitted that on receipt of compliant filed by respondent No.2, FIR No.12/2007 dated 11.01.2007 was registered against the petitioner and ASI Mohd. Iqbal after investigation of the matter and recording statements of complainant as well as other witnesses and other legal formalities concluded that offences punishable under Sections 419, 420, 467, 468 and 471 RPC were proved against the petitioner.

4. Objecting the petition, respondent No.2 stated that the petitioner has produced forged documents and with ill intention got the vehicle financed twice and after obtaining Banker's cheque opened the account in another bank by misrepresentation and withdrew the amount. The police, after investigation booked the petitioner for the offences punishable under sections 419, 420, 467, 468 and 471 RPC and laid the challan before the competent court, whose proceedings are pending in the Court of learned Additional Sessions Judge, Jammu.

5. Learned counsel for the petitioner argued that the dispute has been amicably resolved as the petitioner has fully adjusted the loan amount and the respondent-Bank has no outstanding claim or objection regarding the matter. On this count, the respondent No.2-Bank has given consent letters with regard to withdrawal of the criminal proceedings; that the continuation of proceedings would not serve any purpose in light of settlement of loan amount and would be a mere formality, amounting to abuse of process of law and this Hon'ble Court

has the power under Section 482 CrPC to quash such proceedings, in the interest of justice. In support of his contention, learned counsel has referred to judgments rendered by Hon'ble the Supreme Court of India in "**B.S. Joshi v. State of Haryana**" reported as (2003) 4 SCC 675 and "**Gian Singh v. State of Punjab**" (2012) 10 SCC 303, wherein the Supreme Court has upheld the principle that criminal proceedings can be quashed if parties have settled and the offence is of a private nature. He has also referred to a judgment dated 20.08.2008, rendered in **Criminal Appeal No. 1302 of 2008, SLP (CRL) No. 6355 of 2005**, titled "**Nikhil Merchant vs. CBI & Anr.**" wherein, the Apex Court allowed quashing even for offences under Section 420 IPC, holding that technicalities should not defeat the ends of justice when a compromise has been reached.

6. Learned counsel for the petitioner further submits that the offences are of compoundable nature, however, some sections invoked may be non-compoundable but the alleged fraudulent intent no longer subsists, as the complainant/bank's financial interests are no longer at risk. It is further submitted that the Courts in several cases allowed quashing, even in non-compoundable offences, when the dispute is purely financial and has been resolved through amicable settlement.

7. Learned Union Territory counsel has vehemently opposed the plea raised in this petition for the reasons that it is not a simple matter of dispute between the complainant-Banker and accused-loanee, but it has wider connotations as the accused had raised loan second time for a vehicle, which had already been financed earlier without liquidating earlier liability; that he had also forged letter of Tourism Department to have sponsored the loan; that accused had encashed

the loan cheque by opening an account fraudulently in the name of Sales Manager of the National Garages. The petitioner had thus cheated not only the complainant-Bank but also the National Garages and Tourism Department by forging their letters and using them to raise loan.

8. Learned counsel for the respondent No2-complainant-Bank has admitted the plea raised by the petitioner that he has fully liquidated the loan raised for the vehicle and there was no outstanding against him and that the respondent No.2-Bank had issued no-dues certificates and also expressed no objection to the withdrawal of the impugned FIR in question through communications bearing No.GNJ/179 dated 03.11.2010 and No.BOB/JMU/2022-23/1597 dated 16.03.2023. He further submits that the matter pertains to a loan transaction, and the grievance essentially arose from a financial dispute, which has now been amicably resolved between the complainant and the accused. He prayed that the appropriate orders in the case may be passed.

9. Heard learned counsel for the parties, considered their submissions and perused the record.

10. The brief facts of the case as narrated in the petition are that respondent No. 2 i.e., Sr. Branch Manager, Bank of Baroda, Gandhi Nagar Jammu filed a complaint with Station House Officer, Police Station, Gandhi Nagar Jammu alleging therein fraudulent withdrawal of payment meant for purchase of a vehicle TATA City Ride 407, under a loan arrangement, by the complainant by using forged documents and the vehicle loan amount was misappropriated through a third-party fake account. As a fallout of which, FIR No.12/2007 was registered against the petitioner by the Station House Officer, Police Station, Gandhi Nagar, Jammu, on 11.01.2007. On investigation of the case, it was found

that the petitioner, after receiving cheque No. 9426594 dated 24.03.2005 for an amount of ₹3,47,999/- issued by the respondent No.2-Bank as loan amount for the vehicle in question, deposited the same with Andhra Bank by opening an account in a fake name, from where he withdrew the whole loan amount. It was also found that the vehicle in question was already financed by Tata Finance Co. and this indicated that the accused-petitioner had withdrawn the loan amount fraudulently.

11. The Apex Court, after a survey of enunciation of law, right from the judgment of Privy Council in case titled “*King Emperor vs. Khwaja Nazir Ahmed*”, including Bhajan Lal by it, in a case *Neeharika Infrastructue Pvt. Ltd. vs. State of Maharashtra & Ors.*, reported as AIR 2021 SC 1918, has crystallized following principles for consideration by the High Courts on the inherent jurisdiction U/S 482 CrPC (now 528 BNSS):-

- i) Police has the statutory right and duty under the relevant provisions of the [Code of Criminal Procedure](#) contained in Chapter XIV of the Code to investigate into cognizable offences;
- ii) Courts would not thwart any investigation into the cognizable offences;
- iii) However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on;
- iv) The power of quashing should be exercised sparingly with circumspection, in the ‘rarest of rare cases’. (The rarest of rare cases standard in its application for quashing under [Section 482](#) Cr.P.C. is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court);

- v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;
- vi) Criminal proceedings ought not to be scuttled at the initial stage;
- vii) Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule;
- viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice or prevent the abuse of the process by Section 482 Cr.P.C.
- ix) The functions of the judiciary and the police are complementary, not overlapping;
- x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;
- xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;
- xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary

before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

- xiii) The power under [Section 482](#) Cr.P.C. is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court;
- xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint; and
- xv) When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under [Section 482](#) Cr.P.C., only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR.”

12. The allegations against the petitioner as discernable from the FIR are that the respondent No.2-Bank informed Station House Officer, Police Station Gandhi Nagar Jammu that on 16.03.2005, purchase of one Tata City Ride 407 vehicle was financed by the Bank to accused-petitioner, as the said loan case was sponsored by the Tourism Department of J&K Government. As such, respondent No.2 financed the case and issued cheque No.9426594 dated 24.03.2005 for an amount of ₹3,47,999/- in the name of National Garage, B.C Road Jammu. The respondent-Bank, on receipt of the said cheque along with sale invoice requested the Deputy Director Tourism Department Jammu to release the subsidy against the said loan case, and the office of Deputy Director Tourism, Jammu in turn replied to the Bank that no such case was ever

recommended/sponsored. On enquiry conducted by the respondent Bank, it was found that the accused-petitioner had deposited the cheque with Andhra Bank by opening an account in his own name as proprietor of Tata Garages, from which he encashed the whole cheque/loan amount. It was also found that the vehicle in question was already financed by Tata Finance Co., on 28.02.2005, therefore, the accused-petitioner has not only cheated the Bank but also played fraud by withdrawing whole of the cheque/loan amount illegally. Thus, the respondent No.1-Station House Officer, Police Station Gandhi Nagar, Jammu, has rightly registered the FIR against the accused-petitioner for the commission of offences punishable under Sections 419, 420, 467, 468, 471 RPC. After investigation chargesheet was laid before the court.

13. Based on the chargesheet, the trial Court has chargesheeted the petitioner as an accused for the commission of offences punishable under Sections 420, 467, 468, 471 RPC with the charges that on 01.03.2005 he had forged letters of Deputy Director Tourism and Sales Manager, National Garage Jammu, to release loan from Bank of Baroda, Branch Gole Market Jammu, based on which he had received a loan in the amount of ₹3,47,999/- vide cheque No.0426594 which he did not deposit with the National Garage, B.C Road, Jammu, and instead got it encashed from the account opened in his name as proprietor of National Garage with Andhra Bank Residency Road Jammu.

14. The petitioner by forging the documents had thus not only cheated the Tourism Department for taking the facility of subsidy but also forged the letter of Sales Manager, National Garage showing sale of the vehicle. Besides, he opened a fake account with Andhra Bank showing him as proprietor and encashed the amount illegally.

15. Plea with regard to quashing of chargesheet, is not tenable for the reason that, it is not a matter of private transaction between the complainant and the accused, which they may settle and ask the court to quash the chargesheet and proceedings carried therein. Rather, it is a case of forging the documents, using them to raise loan for the purchase of a vehicle already financed in his name, opening a fake Bank account in his name as proprietor of the National Garages with Andhra Bank and encashed the amount in a fraudulent manner.

16. Police in its investigation found the commission of offences punishable U/Ss 419, 420, 467, 468 and 471 RPC proved against the petitioner, as such chargesheet was laid against him before the trial court. Petitioner in such grave offences should face trial, to decide the case on merits, after trial.

17. Having regard to the aforesaid facts and circumstances and in view of the law laid down by the Apex Court, the petition is found to be without any merit and substance and the same is **dismissed**, accordingly, along with connected application.

18. Trial court is requested to conduct the proceedings in File No.42/Challan dated 12.02.2011, case titled “**State vs. Brij Raj Singh Salaria**” and decide the matter on its own merits. A copy of this judgment be forwarded to the trial court, for compliance.

Jammu:
15.09.2025
Surinder

(M.A Chowdhary)
Judge

Whether the order is speaking?
Whether the order is reportable?

Yes/No
Yes/No