

S. No. 42
Regular Cause List

INTHE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CRM(M) 120/2023

DR. BILAL AHMAD KHAN

...Petitioner(s)

Through: None

Vs.

UNION TERRITORY OF J AND K
THROUGH SHO P/S KUPWARA

...Respondent(s)

Through: Mr. Faheem Shah, GA

CORAM:

HON'BLE MR. JUSTICE VINOD CHATTERJI KOUL-JUDGE

ORDER
08.12.2025

1. There is no representation on behalf of the petitioner.
2. Petitioner through the medium of this petition has challenged the FIR No.0287/2022 registered against him for the offences punishable under Section 354-D and 506 IPC. The said FIR has been registered on the basis of a complaint filed by the Complainant-Zahoor Ahmad Paray.
3. The FIR no. 0287/2022 registered for the offences punishable under Section 354-D and 506 IPC with the Police Station, Kupwara is sought to be quashed by the petitioner in this petition precisely on the ground that the said FIR has been registered at the instance of complaint filed by one Zahoor Ahmad Paray whereas the alleged victim has not approached the police and reported the matter to it. It is stated that he has been wrongly implicated for the said offences on baseless allegations which are vague, cryptic and no date and specific time has been given with regard to the alleged commission of acts. Moreover, the allegations are such which no prudent person could believe as the basic ingredients of the said offences and the same are missing. The allegations as contained in the FIR are that the sister of the complainant is being harassed by the petitioner and is passing lewd remarks against her and her relatives. It is also stated in the complaint that the petitioner

used to send audio and text messages to all the relatives of my sister including her husband by branding my sister as a bad girl. It is also stated in the complaint that earlier also in the year 2020 and 2021, the petitioner used to send text messages but thereafter promised in the Police Station, Kupwara, that he will not repeat the earlier mistakes again. Therefore, the complainant has prayed that FIR may be registered against the petitioner for his conduct and approach.

4. The petitioner seeks exercise of inherent powers under Section 482 Cr.P.C. to quash the impugned FIR. Thus, it would be appropriate to say that the scope of Section 482 Cr.P.C. is well defined and inherent powers could be exercised by the High Court, to prevent abuse of process of the Court and to otherwise secure the ends of justice. This inherent power is to be exercised *ex debito justitiae*. However, in exercise of such powers, it is not permissible for the High Court to appreciate the evidence as it can only evaluate material documents on record to the extent of its *prima facie* satisfaction about existence of sufficient ground for proceedings against accused and the Court cannot look into materials, acceptability of which is essentially a matter for trial.
5. The judicial conscience of the High Court should persuade it to quash such criminal proceedings in exercise of power vested in it under Section 482 Cr.P.C., and if answer to all the steps, as enumerated hereinafter, is in affirmative, as has been held by the Supreme Court in

Rajiv Thapar v Madan Lal Kapoor, 2013 (3) SCC 330:-

"Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Code of Criminal Procedure:

- i. Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the material is of sterling and impeccable quality?
- ii. Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.
- iii. Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is

such, that it cannot be justifiably refuted by the prosecution/complainant?

- iv. Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?"

6. The case in hand, when examined on the touchstone of law laid down by the Supreme Court, does not at all persuade this Court to grant the relief prayed for by the petitioner in the instant petition.
7. It is well settled law that Section 482 of the Code of Criminal Procedure empowers the High Court to exercise its inherent powers to prevent abuse of the process of Court. The Supreme Court in ***State of Telangana v. Habib Abdullah Jeelani, reported in 2017 (2) SCC 779***, has held that the powers under Section 482 Cr.P.C., to quash the FIR, is to be exercised in a very sparing manner as is not to be used to choke or smother the prosecution that is legitimate. Inherent powers do not confer an arbitrary jurisdiction on the High Court to act according to whim or caprice. Such power has to be exercised sparingly, with circumspection and in the rarest of rare cases. Inherent powers in a matter of quashing FIR have to be exercised sparingly and with caution and only when such exercise is justifying by the test specifically laid down in provision itself. Power under Section 482 Cr.P.C., is a very wide, but conferment of wide power requires the Court to be more cautious. It casts an onerous and more diligent duty on the Court.
8. The Supreme Court in ***State of Haryana and others v. Bhajan Lal and others, 1992 Supp (1) SCC 335***, has elaborately considered scope and ambit of Section 482 Cr.P.C. and Article 226 of the Constitution of India in the background of quashing the proceedings in criminal investigation. After noticing various earlier pronouncements, the Supreme Court made certain categories of cases by way of illustration, where the power under Section 482 Cr.P.C. can be exercised to prevent abuse of the process of the Court or secure ends of justice.
9. In 16. The above settled position of law has also been reiterated by the Supreme Court in *Priti Saraf & anr v. State of NCT of Delhi & anr*, 2021 SCC Online SC 206, and it has been said that inherent power of

the High Court is an extraordinary power which has to be exercised with great care and circumspection before embarking to scrutinize a LAD complaint/FIR/ charge-sheet in deciding whether the case is the rarest of rare cases, to scuttle the prosecution at its inception. It is settled that whether the allegations in the complaint were true, is to be decided on the basis of evidence during the trial. In the matter of exercise of inherent power by the High Court, the only requirement is to see whether continuance of the proceedings would be a total abuse of the process of the Court.

10. In the aforementioned backdrop it may be appropriate to mention here that Section 482 of the Code of Criminal Procedure, preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognizes and preserves powers which inhere in the High Court. The High Court, while forming an opinion whether a criminal proceeding or complaint or FIR should be quashed in exercise of its jurisdiction under Section 482 Cr. P.C., must evaluate whether the ends of justice would justify the exercise of the inherent powers. While inherent power of the High Court has a wide ambit and plenitude, it has to be exercised to secure ends of justice or to prevent an abuse of the process of any court.

From the aforesaid settled position of law, it is seen that this is not the aim and objective of provisions of Section 482 Cr. P.C. more particularly when petition on hand does not unveil any ground muchless cogent or material one, to indicate that the inherent powers are to be exercised to prevent abuse of process of law and to secure ends of justice. In that view of matter, impugned FIR does not call for any interference and as a consequence of which, petition on hand is liable to be dismissed.

11. Insofar as the contents of the compliant and FIR are concerned, same discloses commission of cognizable offence and once the commission of cognizable offence is made out from the complaint and ingredients satisfied, the police is required to investigate the same by registering

the FIR. Since the complaint on the basis of which FIR has been registered discloses the commission of cognizable offence punishable under Section 354-D and 506 IPC, therefore, no fault can be found with the registration of case or investigation thereon.

12. Registration of FIR and investigation carried thereon does not in any way amount to abuse of process of law, as the complaint discloses the commission of cognizable offence. Therefore, there is no ground to display indulgence under inherent powers vested under Section 482 Cr.P.C. and to interfere with the registration of FIR against the petitioner, as such, petition in question is held to be without any merit and is ***dismissed*** accordingly. In the peculiar facts of the case, there shall be no order as to costs.

(VINOD CHATTERJI KOUL)
JUDGE

Srinagar
08.12.2025.
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