

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr. MMO No. : 714 of 2025****Reserved on : 24.09.2025****Decided on : 23.12.2025**

Reeta Hingmang

...Petitioner

Versus

State of H.P. & Another

...Respondents

*Coram***The Hon'ble Mr. Justice Virender Singh, Judge.***Whether approved for reporting?*¹ **Yes**

For the petitioners : Mr. Mridul Nag, Advocate (through video conferencing) and Ms. Aanchal Harish, Advocate.

For the respondent : Mr. Tejasvi Sharma and Mr. Varun Chandel, Additional Advocate General with Mr. Rohit Sharma, and Ms. Ranjna Patial, Deputy Advocates General, for respondent No.1.

Mr. Bhim Raj Sharma, Advocate, for respondent No.2.

Virender Singh, Judge

Petitioner Reeta Hingmang has filed the present petition, under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS'), for quashing of FIR No.93 of 2024, dated 27.05.2024, (hereinafter referred to as the FIR, in question) registered, under Sections 341, 504 and 506 of the Indian Penal Code

¹ *Whether Reporters of local papers may be allowed to see the judgment? Yes.*

(hereinafter referred to as the IPC'), with Police Station Shimla West, District Shimla, H.P., as well as, the proceedings resultant thereto.

2. According to the petitioner, she had lodged FIR No.87 of 2024, dated 22.05.2024, against respondent No.2, qua his alleged act of misbehaviour, physical assault, use of criminal force with intent to disrobe the petitioner and attempt to outrage her modesty, constituting cognizable offences punishable under Sections 354, 504, 506 and 509 of the IPC.

3. Petitioner has also reiterated the contents of FIR No.87 of 2024 and according to her, since, the matter was reported to Police Station Shimla West, by her, as such, the FIR, in question, has been got registered against her, by respondent No.2, as a counter blast thereto. Respondent No.2 has lodged FIR No.93 of 2024, on 27.5.2024, in collusion and connivance with one Bhupender Kalsaik and his wife, who, as per the petitioners, are her immediate neighbours and having land dispute with her father.

4. According to the petitioner, respondent No.2, has lodged FIR No.93 of 2024, maliciously and falsely, as a

counter blast to the FIR, in question, lodged by the petitioner. FIR No.93 of 2024, dated 27.05.2025, is also the result of abetment made by Bhupinder Kalsaik, who is working as PSO in the Department of Language, Art and Culture and is having influence within the police department.

5. In addition to this, it has also been pleaded that bare reading of FIR No. 87 of 2024, does not disclose any offence and the same has been lodged with *mala fide* intent. In addition to this, the said FIR is also stated to be lodged with the intent to arm-twist and coerce the petitioner. The said FIR is also stated to be lodged after six days from the alleged incident and no explanation has been given in the FIR, in question.

6. On the basis of the above facts, the following substantive relief has been sought:-

- (i) *Quash FIR No.0093 of 2024, dated 27.05.2024, registered at Police Station Boileauganj West Shimla, District Shimla, H.P., under Sections 341, 504 and 506 of IPC, along with all consequential proceedings arising therefrom;*
- (ii) *Pass any other or further orders as may be deemed just and proper in the interest of justice."*

7. When put to notice, respondent No.1-State has filed the status report, disclosing therein, that on 27.05.2024, respondent No.2, Rajinder Singh Thakur, moved a complaint, disclosing therein, that he is resident of Chamrog, Post Taradevi, Tehsil and District Shimla. On 21.05.2024, at about 9.30 p.m., when, he was on the way to his home, from his shop, near the house of Madan Singh Thakur, Rita Hingmang (petitioner) and other residents of Amrita Niwas, had restrained him to proceed further and given beatings to him with fist and kicks blow. When, the complainant prevented them to do so, then, they abused him and threatened him to eliminate. House of Rita Hingmang (petitioner) is stated to be situated about 100 meters away from the house of the complainant and she used to quarrel with him. The said incident was witnessed by Madan Singh Thakur, Surender Singh Thakur and other persons. Incident was also recorded in the CCTV. Due to the death of his father-in-law, he could not make the report and on 27.05.2024, when he was on his way to his shop, then petitioner Rita Hingmang stared him and abused him,

as such, he has requested that case be lodged against her and he does not want to get himself medically examined.

8. On the basis of the above facts, the police of Police Station Shimla West, registered the FIR, in question and investigation was entrusted to LHC Rekha No.113 and thereafter to SI Randheer Singh.

9. On 14.06.2024, at the instance of complainant Rajinder Singh Thakur, spot was visited and spot map was prepared. Statements of the witnesses were recorded, under Section 161 Cr.PC. On the basis of the statements of the witnesses, the involvement of any other person was not found, as such, Section 34 of the IPC was deleted.

10. On 12.08.2024, the CCTV footage of 21.05.2024, from 9.31 p.m. to 09.43 p.m., was downloaded and was taken into possession by keeping the same in the DVD. On 28.07.2024, the petitioner was associated and was arrested.

11. During investigation, it has been found that in the year 1998, complainant Rajinder Singh Thakur, has sold four biswa of land to the father of the petitioner, and her father has constructed a five storeyed house over it, in

the year 2002 and in that process, he has allegedly encroached upon the land of Rajinder Singh Thakur, therefore, there is a land dispute between them. Only son of Rajinder was murdered, as such, he remained distressed and sometimes consumes liquor.

12. On 21.05.2025, at about 7.30 p.m., the father of the petitioner had a fall and sustained injuries on his foot and the petitioner took her father to DDU Zonal Hospital, Shimla in her vehicle. When the petitioner, along with her father returned back from DDU Zonal Hospital, Shimla, at about 9.30 p.m., when reached 100 meters away from her house, then, at Chamrog bazar, the complainant, after closing his shop, under the influence of liquor, was found coming back to his home, by taking lift in someone's vehicle. When, the vehicles of both petitioner and respondent No.2, reached nearer to each other, then, due to the old dispute, complainant Rajinder Singh Thakur uttered the words '**O Gorkhe Kahan Ja Raha Hai**', due to which, a quarrel had taken place between the petitioner and the complainant and the petitioner lodged FIR No. 87 of 2024, dated 22.05.2025, under Section 354, 504, 506, 509, IPC.

13. It is the further case of the police that after quarrel, Rajinder Singh had gone to his home, however, he was chased by petitioner Rita Hingmang and in front of the house of Madan Singh, petitioner restrained the complainant to proceed further, abused him and threatened him to kill.

14. As per the CCTV footage, on 21.05.2024, at about 21.34.50, a male voice was recorded, at 21.35.09, a lady was found abusing, at 21.36.09, abuses of complainant, at 21.36.19, a lady with resemblance of petitioner, wearing white clothes, at 21.37.08, the said lady making signs and abusing and on 21.37.49, the said lady was seen having shoe in her hand. Similarly, on 21.05.2025, from 21.34. to 21.43 p.m., the complainant, petitioner and other ladies and gents, were found scuffling with each other.

15. Lastly, it has been mentioned, in the status report, that after completion of the investigation, charge sheet, under Sections 341, 504, 506 IPC was filed, which is pending in the Court of learned Additional Chief Judicial

Magistrate, Court No.1, Shimla. Petitioner has also placed on record the copy of the charge-sheet.

16. Petitioner is before this court under Section 528 of the BNSS. Scope of Section 482 Cr.P.C. (528 of BNSS), has elaborately been discussed by the Hon'ble Apex Court, in the year 1992, in the lead case reported as **1992 CrLJ, 527**, titled as **State of Haryana Vs. Chaudhary Bhajan Lal & Others**, in which, the Hon'ble Apex Court has formulated the guidelines for exercising the powers under Section 482 Cr.P.C. Relevant paragraph 107 of the judgment is reproduced as under:-

“107. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Where the allegations made in the First Information Report or the complaint, even if they

are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

2. Where the allegations in the First Information Report and other materials, if any, accompanying the FIR. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate with the purview of Section 155(2) of the Code.

3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

4. Where, the allegations in the FLR do not constitute a cognizable offence but constitute only. a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

17. This view has again been reiterated by a three Judge Bench of the Hon'ble Apex Court in ***Neeharika Infrastructure Pvt. Ltd. Versus State of Maharashtra & Others, 2021 SCC Online SC 315***. Relevant paragraph 38 of the judgment is reproduced as under:-

38. In the case of *Golconda Lingaswamy (supra)*, after considering the decisions of this Court in the cases of *R.P. Kapur (supra)* and *Bhajan Lal (supra)* and other decisions on the exercise of inherent powers by the High Court under **Section 482 Cr.P.C.**, in paragraphs 5, 7 and 8, it is observed and held as under:

“5. Exercise of power under **Section 482** of the Code in a case of this nature is the exception and not the rule. The section does not confer any new powers on the High Court. It only saves the inherent power which the Court possessed before the enactment **of the Code**. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely: (i) to give effect to an order under **the Code**, (ii) to prevent abuse of the process of court, and (iii) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognises and

preserves inherent powers of the High Courts. All courts, whether civil or criminal, possess in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice on the principle quando lex aliquid aliqne concedit, conceditur et id sine quo res ipsa esse non potest (when the law gives a person anything, it gives him that without which it cannot exist). While exercising powers under the section, the Court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised ex debito justitiae to do real and substantial justice for the administration of which alone courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent such abuse. It would be an abuse of the process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.

7. In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under [Section 482](#) of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge. Judicial process, no doubt should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death.....

8. As noted above, the powers possessed by the High Court under [Section 482](#) of the Code are very wide and the very plenitude of the power requires great caution in its exercise. Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. High Court being the highest court of a State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether

factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage. [See [Janata Dal v. H.S. Chowdhary](#) [(1992) 4 SCC 305 : 1993 SCC (Cri) 36 : AIR 1993 SC 892] and [Raghubir Saran \(Dr.\) v. State of Bihar](#) [AIR 1964 SC 1 : (1964) 1 Cri LJ 1] .] It would not be proper for the High Court to analyse the case of the complainant in the light of all probabilities in order to determine whether a conviction would be sustainable and on such premises, arrive at a conclusion that the proceedings are to be quashed. It would be erroneous to assess the material before it and conclude that the complaint cannot be proceeded with. In a proceeding instituted on complaint, exercise of the inherent powers to quash the proceedings is called for only in a case where the complaint does not disclose any offence or is frivolous, vexatious or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same in exercise of the inherent powers under [Section 482](#) of the Code. It is not, however, necessary that there should be meticulous analysis of the case before the trial to find out whether the case would end in conviction or acquittal. The complaint/FIR has to be read as a whole. If it appears that on consideration of the allegations in the light of the statement made on oath of the complainant or disclosed in the FIR that the ingredients of the offence or offences are disclosed and there is no material to show that the complaint/FIR is mala fide, frivolous or vexatious, in that event there would be no justification for interference by the High

Court. When an information is lodged at the police station and an offence is registered, then the mala fides of the informant would be of secondary importance. It is the material collected during the investigation and evidence led in court which decides the fate of the accused person. The allegations of mala fides against the informant are of no consequence and cannot by themselves be the basis for quashing the proceeding.”

18. In view of the guidelines, as laid down, by the Hon'ble Apex Court, this Court would proceed to discuss the stand, as taken by the petitioner, in the present petition.

19. It is no longer *res integra* that at the time of deciding the petition under Section 482 Cr.PC, this Court cannot assume the powers of the appeal/revisional Court, nor, this Court can act as trial Court. While holding so, the view of this Court is being guided by the decision of Hon'ble apex Court in ***Chilakamarthi Venkateswarlu & Another versus State of Andhra Pradesh & Another, (2019) 10***

Scale 239. Relevant paragraph 15 of the judgment is reproduced as under:-

“15. In exercising jurisdiction under Section 482 it is not permissible for the Court to act as if it were a trial Court. The Court is only to be prima facie satisfied about existence of sufficient

ground for proceeding against the accused. For that limited purpose, the Court can evaluate materials and documents on record, but it cannot appreciate the evidence to conclude whether the materials produced are sufficient or not for convicting the accused.”

20. Similar view has also been taken by the Hon'ble Apex Court in **S.W. Palanitkar & Others versus State of Bihar & Another, (2002) 1 Supreme Court Cases, 241.**

21. At the time of deciding the petition, only *prima facie* case is to be seen and the truthfulness of the allegations are not to be seen. Reference in this regard can be made to the decision of Hon'ble Apex Court in **Rajiv Thapar & Others versus Madan Lal Kapoor, (2013) 3 SCC, 330.**

22. One thing is not in dispute, in the present case that qua the incident, which had allegedly been taken place on 21.05.2024, the petitioner has already lodged a case bearing FIR No.87 of 2024, dated 22.05.2024, under Sections 354, 504, 506 and 509 IPC. It seems that petitioner wants to bring her case within condition No.7, as enumerated, by Hon'ble Supreme Court in **Chaudhary Bhajan Lal's** case *supra*.

23. In this case, as per respondent No.2 (complainant), the incident allegedly had taken place on 21.05.2024, however, the matter was reported to the police on 27.05.2024. He has made a futile attempt to explain the delay in lodging the FIR of the incident, which had allegedly taken place on 21.05.2024 and lodged on 27.05.2024, however, the vague averments 'since his father-in-law has expired, he could not made the report', is too short to explain the delay and this explanation is to be seen in the light of the admitted fact that the petitioner had already lodged FIR against him on 21.05.2024, that too, under the heinous offence of outraging the modesty of a woman.

24. Not only this, respondent No.2 has also made a futile attempt to justify his act by lodging FIR, by deposing that on 27.05.2024, when, he was coming back from his shop, the petitioner had stared him and abused him. In the absence of any explanation, the said act is too short to prove the ingredients of the offence, for which, the FIR in question has been lodged.

25. The petitioner, in the present case, has placed on record the copy of the charge sheet. As per the

statement of respondent No.2, recorded under Section 161 Cr.PC, he admitted that on 21.05.2024, he has uttered the words '**O Gorkhe Kahan Ja Raha Hai**'.

26. Another point, which has been highlighted by the learned counsel for the petitioner, in this case, is that respondent No.2 allegedly made a complaint on 27.05.2024, whereas, his statement under Section 161 Cr.PC, was recorded on 14.06.2024, almost after 17 days, from the date of making the complainant and a new version has been introduced, disclosing therein, that petitioner allegedly uttered the words "**Accha hua tera ladka mara hai tatha teri ladki banjh hai, tujhe inhin karmon ka fal mila hai**".

27. Although, the delay in lodging the FIR, is to be explained by the complainant during the trial, but, considering the peculiar facts and circumstances, according to which, the petitioner had lodged a case against respondent No.2, on 21.05.2024, under Sections 354, 504, 506 and 509 IPC, lodging the FIR, after six days, is nothing, but, the result of deliberations with the witnesses. Prompt lodging of FIR, rules out the deliberations, as such, the

delay in lodging the FIR, in the present case, is fatal for the case of respondent No.2.

28. In view of the above admitted fact, the arguments of the learned counsel for the petitioner, hold water that the present FIR is nothing, but counter blast to the FIR, lodged against respondent No.2, by the petitioner.

29. Respondent No.2 has not mentioned the date of death of his father-in-law and also not made any efforts to explain the reason for lodging the FIR, after six days. Although, a futile attempt has been made in the statement under Section 154 Cr.PC, when he deposed that on 27.05.2024, when, he was on his way to his house, then petitioner Rita Hingmang stared him and abused him, however, the same appears to be a futile attempt to bring his complaint within the definition of prompt lodging of the case. Learned counsel for respondent No.2, could not point out as to how the ingredients of Sections 341, 504 and 506 IPC are made out from the FIR, as well as, the investigation conducted by the Police.

30. When respondent No.2, is also facing trial in a case registered under Sections 354, 504, 506 and 509 IPC,

then, the present proceedings would be nothing, but abuse of process of law and the same comes under the purview of guideline No.7, as enumerated by Hon'ble Supreme Court in **Chaudhary Bhajan Lal's** case (*supra*)

31. In view of the discussion made above, this Court is of the view that it is a fit case, where, the FIR, in question, as well as, the resultant proceedings, pending before the learned trial Court is liable to be quashed, by exercising the powers under Section 482 Cr.PC.

32. Consequently, the present petition is allowed and the FIR No.93 of 2024 dated 27.05.2024, registered under Sections 341, 504 and 506 of IPC, with Police Station Shimla West, District Shimla, as well as, the proceedings, resultant thereto, are ordered to be quashed.

33. Pending application(s), if any, shall also stand disposed of.

(**Virender Singh**)
Judge

December 23, 2025 (*ps*)