



2025:AHC:173674

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 No. - 44649 of 2024

Smt. Geeta Devi

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Applicant(s) : Gaurav Singh Tomar, Subhash Gosain
Counsel for Opposite Party(s) : G.A.

Court No. - 48

Judgement Reserved on 17.07.2025

Judgement Delivered on 25.09.2025

A.F.R.

HON'BLE ANISH KUMAR GUPTA, J.

1. Heard Sri Subhash Gosain, learned counsel for the applicant and and Sri Rakesh Kumar Mishra, learned A.G.A. for the State.
2. The instant application under Section 482 Cr.P.C. has been filed seeking quashing of the order dated 09.10.2024 passed in Criminal Revision No. 02 of 2024 (Smt. Geeta Devi vs. State of U.P. and Others) as well as the order dated 20.12.2023 passed in Complaint Case No. 173 of 2022 (Smt. Geeta Devi vs. Sunil Kumar and Others) under Sections 306, 504, 506, 388 I.P.C. and under Section 203 Cr.P.C., P.S.- Kotwali Orai, District- Jalaun.
3. Learned A.G.A. has raised a preliminary objection with regard to the maintainability of the instant application under Section 482 Cr.P.C., as the applicant had already availed the remedy of revision under Section 397 Cr.P.C. and the said criminal revision was rejected. Relying upon the provisions of Section 397(3) as well as 399(3) Cr.P.C., learned A.G.A. submits that the second revision is barred under the Code of Criminal Procedure. Thus, the Application under Section 482 Cr.P.C. is nothing

else but a second revision, which is specifically barred in the Code of Criminal Procedure, therefore, where there is a specific statutory bar the powers under Section 482 Cr.P.C., cannot be exercised.

4. In support of his submissions, learned A.G.A. has relied upon the judgments of the Apex Court in ***Dharampal & Ors. vs. Ramshri : 1993 (1) SCC 435, Deepti alias Arati Rai vs. Akhil Rai & Ors. : 1995 (5) SCC 751*** and also ***Rajathi vs C. Ganesan : 1999 SCC (Cri) 1118***.

5. *Per contra*, learned counsel for the applicant relying upon the judgment of the Apex Court in ***Krishnan and Another vs. Krihnaveni and Another: AIR 1997 Supreme Court 987***, which is a three-judge Bench, submits that there can be no fetters in the powers of the High Court under Sections 482 Cr.P.C. Once, the second revision is barred under the provision of the Code of Criminal Procedure, this Court has ample power to entertain the application under Section 482 Cr.P.C., if there is a miscarriage of justice. He has further relied upon the judgments in ***Lakshmi Bai Patel vs. Shyam Kumar Patel : 2002 3 JT 409***.

6. Learned counsel for the applicant has further relied upon the judgment of the Apex Court in ***Mohit vs. State of U.P. : 2013 (7) SCC 789***. He further places reliance upon the judgment of the Co-ordinate Bench of this Court in ***Criminal Misc. Writ Petition No. 718 of 2006 (Jagveer vs. State of U.P. and Another)***, wherein it is held that while exercising the powers under Article 227 of the Constitution of India, the evidence available on record cannot be re-appreciated by this Court. Relying upon the aforesaid observation, learned counsel for the applicant submits that once the Application under Section 156(3) Cr.P.C. was rejected and the criminal revision filed against the same was also rejected, the matter requires re-appreciation of evidence, therefore, the remedy under Article 227 is not available to the applicant herein. Further, he submits that the remedy of second revision is also barred under the provisions of Section 397(3) and 399(3) Cr.P.C. In view thereof, learned counsel for the applicant submits that where there is no remedy available to the applicant in a criminal case, the powers under Section 482 Cr.P.C. is unfettered and that can be exercised by this Court, if there is a miscarriage of justice.

7. In view thereof, learned counsel for the applicant submits that the

application under Section 482 Cr.P.C. filed by the applicant is maintainable.

8. Having heard the rival submissions so made by learned counsel for the parties, this Court has carefully gone through the record of the instant case.

9. The brief facts of the instant case are that the applicant herein filed an application under Section 156(3) Cr.P.C. against the opposite parties no. 2, 3 and 4, alleging therein that the son of the applicant herein was married to opposite party no.4. Since after the marriage, the opposite party no.4 used to quarrel with her son and used to pressurize him to transfer his property in her name and also bear the expenses of her maternal family members. In her application, she has also narrated various incidents and finally, it has been alleged that due to such torture and humiliation on the part of the opposite party no.4 and her family members, on 20.07.2021, at around 6:00 P.M., the son of the applicant herein went to his room, however, in the morning, when his room was not opened, then she informed the police and the police opened the door, and found that the son of the applicant herein had committed suicide. It is alleged that the opposite parties have abetted the son of the applicant to commit suicide and they are still threatening her for false implication in false cases. The said application was treated as a complaint case and thereupon the statements of witnesses under Sections 200 and 202 Cr.P.C. were recorded. However, vide order dated 20.12.2023, the complaint case of the applicant herein was rejected under Section 203 Cr.P.C. Aggrieved by the same, the applicant herein had filed the Criminal Revision No.2 (Smt. Geeta Devi vs. State of U.P. and Others) before the District and Sessions Judge, which has also been rejected vide impugned order dated 09.10.2024.

10. On the aforementioned backdrop, it has been submitted by learned A.G.A. that since the applicant has already availed the remedy of criminal revision, therefore, an application under Section 482 Cr.P.C. is not maintainable as the second revision is impermissible in view of the provisions of Sections 397(3) and 399(3) Cr.P.C.

11. Before proceeding further it would be relevant to take note of the

provisions of Section 482 Cr.P.C. as well as Sections 397 and 399 Cr.P.C., which reads as under:

S. 397 Calling for records to exercise powers of revision

(1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding. Sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.

(2) The powers of revision conferred by Sub-Section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them.

S. 399 Sessions Judge's powers of revision

(1) In the case of any proceeding the record of which has been called for by himself the Sessions Judge may exercise all or any of the powers which may be exercised by the High Court under Sub-Section (1) of section 401.

(2) Where any proceeding by way of revision is commenced before a Sessions Judge under Sub-Section (1), the provisions of Sub-Sections (2), (3), (4) and (5) of section 401 shall, so far as may be, apply to such proceeding and references in the said subsections to the High Court shall be construed as references

to the Sessions Judge.

*(3) Where any application for revision is made by or on behalf of any person before the Sessions Judge, **the decision of the Sessions Judge thereon in relation to such person shall be final and no further proceeding by way of revision at the instance of such person shall be entertained by the High Court or any other Court.***

S. 482 Saving of inherent power of High Court

Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

12. From the perusal of the aforementioned provisions, it is apparent that Section 397(1) Cr.P.C. confers power upon the High Court as well as the Sessions Judge to call for records in exercise of power of revision. However, sub-section (2) of Section 397 Cr.P.C. limits the power under this Section and restrained that the said power cannot be exercised in relation to an interlocutory order passed in any appeal, inquiry, trial or other proceedings. Sub-section (3) of Section 397 Cr.P.C. further restrains and limits the power of revision that once the application under Section 397(1) has been made by any person either before the High Court or the Sessions Judge, no further application by the same person can be entertained by the either of them. Meaning thereby, the second revision by the same person is impermissible.

13. Similarly, sub-section (3) of Section 399 Cr.P.C, also states that order passed in a revision by the Sessions Judge shall be final and no further proceedings by way of revision at the instance of such person shall be entertained by the High Court or any other court. Thus, according to the provisions of Section 399(3) Cr.P.C, further proceedings against the revisional order passed by the Sessions Judge are not permissible to be entertained even by the High Court or any other court.

14. Section 482 Cr.P.C. states the inherent power of the High Court and provides that nothing in this Code shall limit or affect the inherent power of the High Court to make such orders as may be necessary:

- (i) to give effect to any order under this Code;
- (ii) to prevent abuse of the process of any court; and
- (iii) to secure the ends of justice.

15. Before proceeding further it would be relevant to take note of some of the judgements of the Apex Court in this regard.

16 In *Madhu Limaye v. State of Maharashtra [(1977) 4 SCC 551 : 1978 SCC (Cri) 10]* the Three-Judge Bench was to consider the scope of the power of the High Court under Section 482 and Section 397(2) of the Code.

"6. The point which falls for determination in this appeal is squarely covered by a decision of this Court, to which one of us (Untwalia, J.) was a party in Amar Nath v. State of Haryana [(1977) 4 SCC 137 : 1977 SCC (Cri) 585] . But on a careful consideration of the matter and on hearing learned Counsel for the parties in this appeal we thought it advisable to enunciate and reiterate the view taken by two learned Judges of this Court in Amar Nath case but in a somewhat modified and modulated form. In Amar Nath case as in this, the order of the trial court issuing process against the accused was challenged and the High Court was asked to quash the criminal proceeding either in exercise of its inherent power under Section 482 of the 1973 Code corresponding to Section 561-A of the Code of Criminal Procedure, 1898 — hereinafter called the 1898 Code or the old Code, or under Section 397(1) of the new Code corresponding to Section 435 of the old Code. Two points were decided in Amar Nath case in the following terms:

“(1) While we fully agree with the view taken by the learned Judge that where a revision to the High Court against the order of the Subordinate Judge is expressly barred under sub-section

(2) of Section 397 of the 1973 Code the inherent powers contained in Section 482 would not be available to defeat the bar contained in Section 397(2).

(2) The impugned order of the Magistrate, however, was not an interlocutory order.

7. For the reasons stated hereinafter we think that the statement of the law apropos Point No. 1 is not quite accurate and needs some modulation. But we are going to reaffirm the decision of the Court on the second point.

8. Under Section 435 of the 1898 Code the High Court had the power to “call for and examine the record of any proceeding before any inferior criminal court situate within the local limits of its jurisdiction for the purpose of satisfying itself ... as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court”, and then to pass the necessary orders in accordance with the law engrafted in any of the sections following Section 435. Apart from the revisional power, the High Court possessed and possesses the inherent powers to be exercised ex debito justitiae to do the real and the substantial justice for the administration of which alone Courts exist. In express language this power was recognized and saved in Section 561-A of the old Code. Under Section 397(1) of the 1973 Code, revisional power has been conferred on the High Court in terms which are identical to those found in Section 435 of the 1898 Code. Similar is the position apropos the inherent powers of the High Court. We may read the language of Section 482 (corresponding to Section 561-A of the old Code) of the 1973 Code. It says:

“Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

At the outset the following principles may be noticed in relation to the exercise of the inherent power of the High Court which have been followed ordinarily and generally, almost invariably, barring a few exceptions:

“(1) That the power is not to be resorted to if there is a specific provision in the Code for the redress of the grievance of the aggrieved party;

(2) That it should be exercised very sparingly to prevent abuse of process of any Court or otherwise to secure the ends of justice;

(3) That it should not be exercised as against the express bar of law engrafted in any other provision of the Code.”

9. In most of the cases decided during several decades the inherent power of the High Court has been invoked for the quashing of a criminal proceeding on one ground or the other. Sometimes the revisional jurisdiction of the High Court has also been resorted to for the same kind of relief by challenging the order taking cognizance or issuing processes or framing charge on the grounds that the Court had no jurisdiction to take cognizance and proceed with the trial, that the issuance of process was wholly illegal or void, or that no charge could be framed as no offence was made out on the allegations made or the evidence adduced in Court. In the background aforesaid, we proceed to examine as to what is the correct position of law after the introduction of a provision like sub-section (2) of Section 397 in the 1973 Code.

10. As pointed out in Amar Nath case **the purpose of putting a bar on the power of revision in relation to any interlocutory order passed in an appeal, inquiry, trial or other proceeding, is to bring about expeditious disposal of the cases finally.** More often than not, the revisional power of the High Court was resorted to in relation to interlocutory orders delaying the

final disposal of the proceedings. The Legislature in its wisdom decided to check this delay by introducing sub-section (2) in Section 397. On the one hand, a bar has been put in the way of the High Court (as also of the Sessions Judge) for exercise of the revisional power in relation to any interlocutory order, on the other, the power has been conferred in almost the same terms as it was in the 1898 Code. On a plain reading of Section 482, however, it would follow that nothing in the Code, which would include sub-section (2) of Section 397 also, "shall be deemed to limit or affect the inherent powers of the High Court", But, if we were to say that the said bar is not to operate in the exercise of the inherent power at all, it will be setting at naught one of the limitations imposed upon the exercise of the revisional powers. In such a situation, what is the harmonious way out? In our opinion, a happy solution of this problem would be to say that the bar provided in sub-section (2) of Section 397 operates only in exercise of the revisional power of the High Court, meaning thereby that the High Court will have no power of revision in relation to any interlocutory order. Then in accordance with one of the other principles enunciated above, the inherent power will come into play, there being no other provision in the Code for the redress of the grievance of the aggrieved party. But then, if the order assailed is purely of an interlocutory character which could be corrected in exercise of the revisional power of the High Court under the 1898 Code, the High Court will refuse to exercise its inherent power. But in case the impugned order clearly brings about a situation which is an abuse of the process of the Court or for the purpose of securing the ends of justice interference by the High Court is absolutely necessary, then nothing contained in Section 397(2) can limit or affect the exercise of the inherent power by the High Court. But such cases would be few and far between. The High Court must exercise the inherent power very sparingly. One such case would be the desirability of the quashing of a criminal proceeding initiated illegally,

vexatiously or as being without jurisdiction. Take for example a case where a prosecution is launched under the Prevention of Corruption Act without a sanction, then the trial of the accused will be without jurisdiction and even after his acquittal a second trial, after proper sanction will not be barred on the doctrine of autrefois acquit. Even assuming, although we shall presently show that it is not so, that in such a case an order of the Court taking cognizance or issuing processes is an interlocutory order, does it stand to reason to say that inherent power of the High Court cannot be exercised for stopping the criminal proceeding as early as possible, instead of harassing the accused up to the end? The answer is obvious that the bar will not operate to prevent the abuse of the process of the Court and/or to secure the ends of justice. The label of the petition filed by an aggrieved party is immaterial. The High Court can examine the matter in an appropriate case under its inherent powers. The present case undoubtedly falls for exercise of the power of the High Court in accordance with Section 482 of the 1973 Code, even assuming, although not accepting, that invoking the revisional power of the High Court is impermissible."

17. Following the aforesaid judgement of **Madhu Limaye (supra)**, the Apex Court in **Raj Kapoor v. State, (1980) 1 SCC 43**, the Apex Court has observed as under:

"10. The first question is as to whether the inherent power of the High Court under Section 482 stands repelled when the revisional power under Section 397 overlaps. The opening words of Section 482 contradict this contention because nothing of the Code, not even Section 397, can affect the amplitude of the inherent power preserved in so many terms by the language of Section 482. Even so, a general principle pervades this branch of law when a specific provision is made: easy resort to inherent power is not right except under compelling circumstances. Not that there is absence of jurisdiction but that inherent power should not invade areas set apart for specific power under the same Code. In Madhu Limaye case [Madhu

Limaye v. State of Maharashtra, (1977) 4 SCC 551 : 1978 SCC (Cri) 10 : AIR 1978 SC 47] this Court has exhaustively and, if I may say so with great respect, correctly discussed and delineated the law beyond mistake. While it is true that Section 482 is pervasive it should not subvert legal interdicts written into the same Code, such, for instance, in Section 397(2). Apparent conflict may arise in some situations between the two provisions and a happy solution would be to say that the bar provided in sub-section (2) of Section 397 operates only in exercise of the revisional power of the High Court, meaning thereby that the High Court will have no power of revision in relation to any interlocutory order. Then in accordance with one or the other principles enunciated above, the inherent power will come into play, there being no other provision in the Code for the redress of the grievance of the aggrieved party. But then, if the order assailed is purely of an interlocutory character which could be corrected in exercise of the revisional power of the High Court under the 1898 Code, the High Court will refuse to exercise its inherent power. But in case the impugned order clearly brings about a situation which is an abuse of the process of the Court or for the purpose of securing the ends of justice interference by the High Court is absolutely necessary, then nothing contained in Section 397(2) can limit or affect the exercise of the inherent power by the High Court. But such cases would be few and far between. The High Court must exercise the inherent power very sparingly. One such case would be the desirability of the quashing of a criminal proceeding initiated illegally, vexatiously or as being without jurisdiction" [(1977) 4 SCC 551, 556, para 10 : AIR 1978 SC 47, 51] .

In short, there is no total ban on the exercise of inherent power where abuse of the process of the court or other extraordinary situation excites the court's jurisdiction. The limitation is self-restraint, nothing more. The policy of the law is clear that interlocutory orders, pure and simple, should not be taken up to the High Court resulting in unnecessary

litigation and delay. At the other extreme, final orders are clearly capable of being considered in exercise of inherent power, if glaring injustice stares the court in the face. In between is a tertium quid, as Untwalia, J. has pointed out as for example, where it is more than a purely interlocutory order and less than a final disposal. The present case falls under that category where the accused complain of harassment through the court's process. Can we state that in this third category the inherent power can be exercised? In the words of Untwalia, J.: (SCC p. 556, para 10)

"The answer is obvious that the bar will not operate to prevent the abuse of the process of the Court and/or to secure the ends of justice. The label of the petition filed by an aggrieved party is immaterial. The High Court can examine the matter in an appropriate case under its inherent powers. The present case undoubtedly falls for exercise of the power of the High Court in accordance with Section 482 of the 1973 Code, even assuming, although not accepting, that invoking the revisional power of the High Court is impermissible."

I am, therefore clear in my mind that the inherent power is not rebuffed in the case situation before us. Counsel on both sides, sensitively responding to our allergy for legalistics, rightly agreed that the fanatical insistence on the formal filing of a copy of the order under cessation need not take up this court's time. Our conclusion concurs with the concession of counsel on both sides that merely because a copy of the order has not been produced, despite its presence in the records in the court, it is not possible for me to hold that the entire revisory power stands frustrated and the inherent power stultified."

18. In ***Dharampal (supra)***, the Division Bench of the Apex Court has observed as under:

"6. The Sessions Judge had dismissed the said application on May 14, 1979. Section 397(3) bars a second

revision application by the same party. ***It is now well settled that the inherent powers under Section 482 of the Code cannot be utilised for exercising powers which are expressly barred by the Code.*** Hence the High Court had clearly erred in entertaining the second revision at the instance of respondent 1. On this short ground itself, the impugned order of the High Court can be set aside."

19. In ***Deepti alias Arati Rai (supra)***, the Division Bench of the Apex Court has observed as under:

"4. It should have also applied its mind to the aspect that second revision application, after dismissal of the first one by Sessions Court is not maintainable and ***that inherent power under Section 482 of the Code cannot be utilised for exercising powers which are expressly barred by the Code.*** As we find that the order passed by the High Court is not legal and just it will have to be set aside....."

20. In ***Krishnan (supra)***, the Three Judges' Bench of the Apex Court has observed as under:

"10. Ordinarily, when revision has been barred by Section 397(3) of the Code, a person — accused/complainant — cannot be allowed to take recourse to the revision to the High Court under Section 397(1) or under inherent powers of the High Court under Section 482 of the Code since it may amount to circumvention of the provisions of Section 397(3) or Section 397(2) of the Code. It is seen that the High Court has suo motu power under Section 401 and continuous supervisory jurisdiction under Section 483 of the Code. So, ***when the High Court on examination of the record finds that there is grave miscarriage of justice or abuse of the process of the courts or the required statutory procedure has not been complied with or there is failure of justice or order passed or sentence imposed by the Magistrate requires correction, it is but the duty of the High Court to have it corrected at the inception***

lest grave miscarriage of justice would ensue. It is, therefore, to meet the ends of justice or to prevent abuse of the process that the High Court is preserved with inherent power and would be justified, under such circumstances, to exercise the inherent power and in an appropriate case even revisional power under Section 397(1) read with Section 401 of the Code. As stated earlier, it may be exercised sparingly so as to avoid needless multiplicity of procedure, unnecessary delay in trial and protraction of proceedings. The object of criminal trial is to render public justice, to punish the criminal and to see that the trial is concluded expeditiously before the memory of the witness fades out. The recent trend is to delay the trial and threaten the witness or to win over the witness by promise or inducement. These malpractices need to be curbed and public justice can be ensured only when trial is conducted expeditiously.

21. In **Rajatjhi (supra)**, the Division Bench of the Apex Court has followed the judgement in **Krishnan (Supra)** and observed as under:

11. In the present case, the High Court minutely examined the evidence and came to the conclusion that the wife was living separately without any reasonable cause and that she was able to maintain herself. All this the High Court did in exercise of its powers under Section 482 of the Code which powers are not a substitute for a second revision under sub-section (3) of Section 397 of the Code. The very fact that the inherent powers conferred on the High Court are vast would mean that these are circumscribed and could be invoked only on certain set principles."

22. In **Laxshmi Bai Patel (supra)**, the Division Bench of the Apex Court has observed as under:

"(3) BEFORE taking up the merits of the case, it would be proper to consider the exercise of jurisdiction under section 482 Cr. P.C. by the High Court in the facts and circumstances

of the case. In a case where the sessions court exercising revisional power under section 397(3) Cr.P.C. has dismissed the revision petition by the aggrieved party, a second revision petition about acceptance of the same party is barred. **The position is well-settled that in such a case power under section 482 Cr.P.C. can be exercised by the High Court in rare cases and in exceptional circumstances where the court finds that permitting the impugned order to remain undisturbed will amount to abuse of process of the court and will result in failure of justice."**

23. In *Dhariwal Tobacco Products Ltd. v. State of Maharashtra*, (2009) 2 SCC 370, the Division Bench of the Apex Court has observed as under:

*"6. Indisputably issuance of summons is not an interlocutory order within the meaning of Section 397 of the Code. This Court in a large number of decisions beginning from R.P. Kapur v. State of Punjab [AIR 1960 SC 866] to Som Mittal v. Govt. of Karnataka [(2008) 3 SCC 574 : (2008) 2 SCC (Cri) 1 : (2008) 1 SCC (L&S) 910] has laid down the criterion for entertaining an application under Section 482. **Only because a revision petition is maintainable, the same by itself, in our considered opinion, would not constitute a bar for entertaining an application under Section 482 of the Code. Even where a revision application is barred, as for example the remedy by way of Section 115 of the Code of Civil Procedure, 1908, this Court has held that the remedies under Articles 226/227 of the Constitution of India would be available. (See Surya Dev Rai v. Ram Chander Rai [(2003) 6 SCC 675] .) Even in cases where a second revision before the High Court after dismissal of the first one by the Court of Session is barred under Section 397(2) [Ed.: The intended provision seems to be Section 397(3). In this regard See (1) Krishnan v. Krishnaveni, (1997) 4 SCC 241 : 1997 SCC (Cri) 544; (2) Puran v. Rambilas, (2001) 6 SCC 338 : 2001 SCC (Cri) 1124; (3) Kailash Verma v. Punjab State Civil Supplies Corpn., (2005) 2 SCC 571 : 2005 SCC (Cri) 538.] of the Code,***

the inherent power of the Court has been held to be available ."

24. In ***Mohit v. State of U.P., (2013) 7 SCC 789***, the Division Bench of the Apex Court has observed as under:

*"28. So far as the inherent power of the High Court as contained in Section 482 CrPC is concerned, the law in this regard is set at rest by this Court in a catena of decisions. However, we would like to reiterate that when an order, not interlocutory in nature, can be assailed in the High Court in revisional jurisdiction, then there should be a bar in invoking the inherent jurisdiction of the High Court. In other words, **inherent power of the Court can be exercised when there is no remedy provided in the Code of Criminal Procedure for redressal of the grievance. It is well settled that the inherent power of the Court can ordinarily be exercised when there is no express provision in the Code under which order impugned can be challenged.**"*

25. In ***Prabhu Chawla v. State of Rajasthan, (2016) 16 SCC 30***, the Three Judges' Bench of the Apex Court has observed as under:

6. In our considered view any attempt to explain the law further as regards the issue relating to inherent power of the High Court under Section 482 CrPC is unwarranted. We would simply reiterate that Section 482 begins with a non obstante clause to state:

"482. Saving of inherent powers of High Court .—Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any court or otherwise to secure the ends of justice."

A fortiori, there can be no total ban on the exercise of

such wholesome jurisdiction where, in the words of Krishna Iyer, J.

"abuse of the process of the court or other extraordinary situation excites the Court's jurisdiction. The limitation is self-restraint, nothing more". (Raj Kapoor case [Raj Kapoor v. State, (1980) 1 SCC 43 : 1980 SCC (Cri) 72] , SCC p. 48, para 10)

We venture to add a further reason in support. Since Section 397 CrPC is attracted against all orders other than interlocutory, a contrary view would limit the availability of inherent powers under Section 482 CrPC only to petty interlocutory orders! A situation wholly unwarranted and undesirable.

7. As a sequel, we are constrained to hold that the Division Bench, particularly in para 28, in Mohit [Mohit v. State of U.P., (2013) 7 SCC 789 : (2013) 3 SCC (Cri) 727] in respect of inherent power of the High Court in Section 482 CrPC does not state the law correctly. We record our respectful disagreement."

26. In Vijay v. State of Maharashtra, (2017) 13 SCC 317, the Division Bench of the Apex Court has observed as under:

"7. After hearing the counsel and also after perusing the impugned order, we are of the considered opinion that the order of the High Court has no legs to stand in view of the law laid down by this Court in Prabhu Chawla [Prabhu Chawla v. State of Rajasthan, (2016) 16 SCC 30] . In the above referred case, in view of the divergent opinions of this Court in Dhariwal Tobacco Products Ltd. [Dhariwal Tobacco Products Ltd. v. State of Maharashtra, (2009) 2 SCC 370 : (2009) 1 SCC (Cri) 806] and Mohit v. State of U.P. [Mohit v. State of U.P., (2013) 7 SCC 789 : (2013) 3 SCC (Cri) 727] , the matter was placed before the three-Judge Bench of this Court. The three-

Judge Bench took the view that Section 482 CrPC begins with a *non obstante* clause to state:

"482. Saving of inherent powers of High Court
.—Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any court or otherwise to secure the ends of justice."

As Section 397 CrPC is attracted against all orders other than interlocutory, a contrary view would limit the availability of inherent powers under Section 482 CrPC only to petty interlocutory orders! A situation which is wholly unwarranted and undesirable. **The three-Judge Bench has confirmed the law laid down by this Court in Dhariwal Tobacco Products Ltd. [Dhariwal Tobacco Products Ltd. v. State of Maharashtra, (2009) 2 SCC 370 : (2009) 1 SCC (Cri) 806]**

8. In view of the above settled law, mere availability of alternative remedy cannot be a ground to disentitle the relief under Section 482 CrPC and, apart from this, we feel that the learned Judge without appreciating any of the factual and legal position, in a mechanical way, passed the impugned order, which warrants interference by this Court. Accordingly, the order of the High Court is set aside and the matter is remanded to the High Court for reconsideration in the light of the settled legal position."

27. In Kaisar Jaha v. S.P., Distt. Sultanpur, 2024 SCC OnLine All 6758, the Coordinate Bench has observed as under:

"10. The two Judge Bench of the Hon'ble Supreme Court which decided Vipin Sahni (Supra) after relying upon the earlier two Judge Bench decision in the case of Mohit (Supra), did not take note of the three Judge Bench decision in the case of Prabhu Chawla (Supra), which will prevail over the two

Judge Bench decision. Thus the law as it exists now is that there are no absolute restrictions on the inherent powers of this Court and availability of a remedy of filing a revision would not create an absolute bar against the inherent powers of this Court being invoked. However, the inherent power can be invoked only to make such orders as may be necessary to give effect to any order under this Sanhita, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice."

28. In a recent judgement passed by this Court in ***Vijay Singh vs. State of U.P. and 7 Others (Application under Section 482 Cr.P.C.No. 14485 of 2024)*** dated 21.10.2024, the Coordinate Bench of this Court has observed as under:

*"10. Thus, it is clear that availing of remedy of revision before Sessions Judge under section 399 Cr.P.C. does not bar a person from invoking power of High Court under Section 482 Cr.P.C. but High Court should not act as a second Revisional Court under garb of exercising inherent powers. **While exercising inherent powers in such a matter, the High Court can interfere only where it is satisfied that if complaint is allowed to be proceeded with, it would amount to abuse of the process of Court or that interest of justice** otherwise call for quashing of the charges. When High Court on examination of record finds that there is grave miscarriage of justice or abuse of process of the Court or the required statutory procedure has not been followed with or there is failure of justice, it is the duty of High Court to have corrected it at the inception lest grave miscarriage of justice would ensue. It is therefore to meet the ends of justice or to prevent abuse of process that High Court is preserved with inherent powers and would be justified under such circumstance to exercise inherent powers. While exercising its inherent powers in such a matter it must be conscious of the fact that the Sessions Judge has declined to exercise his revisory power in the matter. Section 482 Cr.P.C. saves the inherent power of the High Court to make such*

orders as may be necessary to prevent abuse of the process of any Court or otherwise to secure the ends of justice and it has to be exercised sparingly and with circumspection. In exercising that jurisdiction the High Court can not embark upon an enquiry whether the allegations in the complaint are likely to be established by evidence or not. "

29. In the case of ***Nandu Alias Nandlal vs. State of U.P. and 7 Others (Application under Section 482 Cr.P.C. No. 2241 of 2025)*** dated 09.05.2025, the Coordinate Bench of this Court has observed as under:

*"13. Thus, it is clear that **availing of remedy of revision before Sessions Judge under section - 399 Cr.P.C. does not bar a person from invoking power of High Court under Section - 482 Cr.P.C. but High Court should not act as a second Revisional Court under garb of exercising inherent powers. Interference in such cases can only be made when there is grave miscarriage of justice or abuse of process of the Court or the required statutory procedure has not been followed with or there is failure of justice. It is therefore to meet the ends of justice or to prevent abuse of process that High Court is preserved with inherent powers and would be justified under such circumstance to exercise inherent powers.**"*

30. Thus, it is apparent that powers under Section 482 Cr.P.C., are not dependent on any other provisions of the Code of Criminal Procedure and the amplitude of this power is very wide and cannot be curtailed in any circumstances. However, since the power under Section 482 Cr.P.C is very wide and there is no restrictions on the same and it has been repeatedly held by the Apex Court that, except the self-restraint restrictions, there is no other restriction on exercise of power under Section 482 Cr.P.C. However, the said powers should be exercised in rarest of the rare cases with circumspection and intro-inspection. In view of the aforesaid authoritative pronouncement by Three Judges' Bench in ***Madhu Limaye (supra), Krishnan (supra) and Prabhu Chawla (supra)***, it is settled position of law that, despite there being an express provision under Sections 397(3) and 399(3) Cr.P.C., there cannot be a total ban on

the exercise of inherent power under Section 482 Cr.P.C. to prevent the abuse of the process of the court or to secure the ends of justice. In the light of the aforesaid judgements of Three Judges' Bench of the Apex Court in ***Madhu Limaye (supra)***, ***Krishnan (supra)*** and ***Prabhu Chawla (supra)***, it can be safely concluded that judgement of Division Bench of the Apex Court in ***Dharampal (supra)*** and ***Deepti alias Arati Rai (supra)***, relied by the learned A.G.A., do not hold the field. Therefore, merely because the applicant has approached this Court after having approached the Revisional Court under Sections 397 or 399 Cr.P.C., Section 482 Cr.P.C. application cannot be rejected on this ground alone. However, while entertaining an application under Section 482 Cr.P.C., the court must exercise such power with self-restraint and it should be exercised in the rarest of rare cases, only for the purpose of preventing the abuse of the process of court or securing the ends of justice.

31. Coming back to the facts of the instant case, from the complaint case it is apparent that there was a matrimonial dispute between the son of the applicant herein and his wife. From the material available on record, it is apparent that the death of the son of the applicant herein was caused by asphyxia and ante-mortem hanging. Thus, the death of the son of the applicant was suicidal. However, it has been alleged that due to the matrimonial dispute between them, the opposite parties came to the applicant's house around 6:00 P.M. on 20.07.2021 and they threatened that the opposite party no.4 would stay in the applicant's house only when the land, car, etc. were transferred in the name of the opposite party no.4. Thereupon, on the same date, the son of the applicant herein went inside the room and locked it from inside and did not open it. In the morning after getting no response from the applicant's son, the police was called to open the door and afterwards it was found that he had committed suicide.

32. In her statement, it has been further stated by the complainant that after the said incident, the opposite party no.4 stayed in the applicant's house and the cremation of her son was done. Thereafter, after four to five days later, she has gone along with her brother and thereafter, the applicant went to report at the police station that, due to her abetment, her son had committed suicide. The aforesaid facts has been duly appreciated by the trial court before rejecting the complaint case filed by the applicant

herein. It is a settled position of law that the abetment of suicide must be express and cannot be implied. However, from the entire allegations made on record, there is no express abetment to suicide on the part of the opposite parties except the usual chorus between husband and wife with regard to family properties.

33. Therefore, this Court does not find any illegality in the impugned orders passed by the court below. Accordingly, the instant application is ***dismissed.***

(Anish Kumar Gupta,J.)

September 25, 2025

Shubham Arya