

S. No. suppl 2

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

(through virtual mode)

Pronounced on . 04.05.2026
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CRM(M) 210/2023

Shoiab Lone

...Petitioner(s)

Through: Mr. Asif Ahmad Bhat, adv. with
Ms. Bhat Azra, adv.

VS.

UT of J&K ands ors

...Respondent(s)

Through: Mr. Hakim Aman Ali, Dy AG for R-1 to 4

CORAM:

Hon'ble Mr. Justice Mohd. Yousuf Wani, Judge.

JUDGMENT

- Through the medium of the instant petition filed in terms of provisions of Section 482 of the Criminal Procedure Code, 1973, (now repealed but applicable in the case and hereinafter referred to as the Code for short), corresponding to Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS for short), the petitioner has sought the quashment of the case FIR No. 96 of 2023 dated 13.05.2023 registered with the Police Station, Baramulla U/ss 376, 342 & 506 IPC on the main grounds that same is outcome of false and malicious complaint filed the Respondent No.5 in order to black mail him. That the genuineness of the complaint of Respondent No.5 basing the impugned case FIR comes under a dense eclipse by her own previous contradictory statements made by her before the Respondents 3 and 4 in the shape of similar

reports/complaints. That the allegations made in the impugned FIR are so absurd and inherently improbable that no prudent man can believe the same. That he is innocent and has not committed the offences alleged in the impugned case FIR. That the allegations made in the FIR even if taken at their face value and accepted in their entirety, do not *prima facie* constitute any offence or make out a case against him. That the registration of the impugned case FIR appears to be apparently actuated by malafides. That the complaint basing the impugned FIR constitutes a concocted story having been built up without reference to occurrence, date, time and year. That the impugned FIR being outcome of false, frivolous and concocted allegations deserves to be set aside in view of the law laid down by the Hon'ble Supreme Court of India in Mukesh vs. State (NCT Delhi) 2017 6 SCC 1 and State of Haryana vs. Bajan Lal 1992 Supp 1 SCC 335.

2. The facts of the petitioner's case in brief are that he is a victim of false propaganda launched by the Respondent No.5/complainant with the malicious design to blackmail.

That the complainant/Respondent No.5 has filed numerous complaints against him with the sole object to blackmailing him for extraction of money.

That the Respondent No.5/complainant one and half year before approached him and expressed her state of destitution seeking some financial help whereupon he being social activist assured her of financial help to the extent of his ability

as he used to do such things. That with the passage of time, the Respondent No.5/complainant started to make some unjustified demands and also used to threaten him in case her demands are not fulfilled. That he in the recent past completely stopped to give any sort of money to the complainant where upon she was infuriated to file multiple bogus, false and fabricated complaints against him apart from propagating and contending that she is his legally wedded wife.

That in the first complaint lodged by the Respondent No.5 with the police station Rajbagh on 03.05.2023, she alleged him to be her legal husband. That in the said complaint lodged by her with the Police Station Rajbagh she stated that on 2nd May, 2023 a lady namely Shabana came along with other lady and men at the Government Quarter F-12 situated at Jawahir Nagar wherein they physically harassed and mentally tortured her besides causing damage to the Government property. That the said quarter has been allotted to one Shoib Nabi Lone from last 12 years and she has been residing there from last one month on the consent of the said Shoib Nabi Lone who is her legal husband. That in the second previous complaint lodged by the Respondent No.5 with the Police Station Kreari Baramulla she again alleged herself as the wife of the petitioner. That in her said complaint she stated that she once visited the District Police Office Baramulla in connection with some family issue, where she met the petitioner Shoib Lone. That the petitioner after listening to her problem assured her of full help and also called her to his Baramulla Quarter. That she came into phone

contact with the petitioner through one of her relatives. That after some time the petitioner disclosed the fact of his love with her and his desire to enter into Nikah with her. That when she asked the petitioner that he is already married, the later assured her that he will maintain both the wives with justice. That having regard to the petitioner's being a politician they decided to go outside the valley for entering into marriage by execution of Nikah and accordingly they left for Delhi where they stayed at a Hotel for about 7 days. That they performed the Nikah and stayed at JK House for some time. That the petitioner retained all the papers regarding their marriage with him with the assurance of keeping the same at a safe place. That after returning from Delhi, they used to meet frequently at the Baramulla quarter. That when the secret of their marriage began to leak with the knowledge of the same to the public, she was forced to leave from her home and to stay with the petitioner at a different places. That she demanded marriage documents from the petitioner so as to justify the genuineness of her living with him but he avoided.

That in the last complaint dated 13.05.2023 resulting into the registration of the impugned case FIR she made the allegation of commission of rape on the petitioner in contradiction to her earlier complaints in which she had allegedly claimed herself to be the petitioner's wife. That in the said complaint dated 13.05.2023 made by her to the SHO Police Station Baramulla, she stated that she had some issue with the police in connection whereof she met the petitioner

who assured her of full help. That the petitioner asked her to meet him at his Baramulla Khajabagh quarter and she accordingly went there in good faith. That the petitioner committed rape upon her and threatened her of dire consequences in case she tried to disclose. That he repeated the crime multiple times and even wrongfully kept her confined in his said accommodation for days together.

3. The official respondents 1 to 4 through their reply affidavit resisted the petition on the grounds inter alia that same deserves outright dismissal as the allegations against the petitioner stand *prima facie* established as per the evidence collected during investigation till date.

That the petitioner is involved in the commission of the offences punishable U/ss 376, 342 and 506 IPC which are highly anti-social and non-bailable.

That the contentions of the petitioner can be ascertained only during the investigation of the case which is yet to be concluded. That during the investigation of the case, the statement of the victim/Respondent No.5 came to be recorded before a Magistrate in terms of Provisions of Section 164 of the Code. That her medical examination also came to be conducted at GMC Baramulla. That the investigation conducted till date *prima facie* establishes the involvement of the petitioner in the case. That, as per the law laid down by the Hon'ble Supreme Court of India in *M. Narayan Dass v. State of Karnataka (2003) 11 SCC 251*, the power to quash criminal proceedings is to be exercised very sparingly, with circumspection, and only in the

rarest of rare cases. That the Court would not be justified in embarking upon an enquiry into the reliability or genuineness of the allegations made in the FIR. That it can also be not enquired whether the allegations in the complaint are likely to be established or not.

That the Hon'ble Supreme Court in an another case cited as "XYZ vs. State of Gujarat" (2019) 10 SCC 337, has laid down that Court cannot make a roving inquiry while considering a petition U/s 482 of the Code.

That, in the said case, it was, *inter alia*, laid down by the Hon'ble Apex Court that the High Court had been carried away by the agreement/settlement arrived at between the parties and recorded a finding that the physical relationship between the appellant and the second respondent was consensual, despite allegations that documents had been obtained under threat and coercion.

That the Hon'ble Supreme Court of India in ***State of Haryana vs. Bhajan Lal 1992 Supp (1) SCC 335***, while setting aside the judgment of the High Court has held at its para-40, that:-

"40. The core of the above sections namely 156, 157 and 159 of the Code is that if a police officer has reason to suspect the commission of a cognizable offence, he must either proceed with the investigation or cause an investigation to be proceeded with by his subordinate; that in a case where the police officer sees no sufficient ground for investigation, he can dispense with the investigation altogether; that the field of investigation of any cognizable offence is exclusively within the domain of the investigating agencies over which the courts cannot have

control and have no power to stifle or impinge upon the proceedings in the investigation so long as the investigation proceeds in compliance with the provisions relating to investigation and that it is only in a case wherein a police officer decides not to investigate an offence, the concerned Magistrate can intervene and either direct an investigation or in the alternative, if he thinks fit, he himself can, at once proceed or depute any Magistrate subordinate to him to proceed to hold a preliminary inquiry into or otherwise to dispose of the case in the manner provided in the Code."

4. The respondent No. 5/complainant, however, in her reply/objection dated 29.01.2025, contradicted her earlier report (FIR) and pleaded that she is an orphan lady who has only her brothers at home for support in running the household. That it was in the year 2020 when her brother was arrested by Police in connection with some false and frivolous case and kept at some unknown location without any information to the family. That she in order to trace and seek the release of her brother from the police custody, knocked the doors of every one for help but nobody helped her. That one of her relatives suggested her to meet the petitioner being Ex-MLA apart from being a social activist and she accordingly did, approach the petitioner for help who immediately assisted her in tracing out the whereabouts of her brother in police custody besides helping her financially as well. That even after helping in the release of her brother, the petitioner on her request accommodated her in his company on monthly salary. That, however, she was forced and compelled, under threats from certain unknown persons, to file a complaint against the petitioner.

That after some months, when her fear subsided and she felt mentally safer, she filed an application on 22.11.2023 before the SHO, Police Station Baramulla, requesting that her statement be re-recorded under Section 164 of the Code before a Magistrate in order to bring on record certain material facts which she had omitted under threat and coercion. That however, the SHO of the concerned police station and the Investigating Officer refused to get her statement re-recorded.

That she subsequently approached the Court of the learned CJM, Baramulla, by way of a formal application seeking directions to the SHO, Police Station Baramulla, and the Investigating Officer of the case to have her statement re-recorded in the impugned FIR. That however, the Court of the learned Mobile Magistrate, Baramulla (Sub Judge), to whom the said application was assigned, dismissed the same vide order dated 06.12.2023, without appreciating the facts and circumstances of the case. That she even requested the I.O of the case to place on record her statement prepared and signed by her for consideration but he did not agree, to the said extent also. That she thereafter approached this Court through the medium of a petition under Section 482 of the Code, bearing No. CRM(M) 731 of 2023, seeking setting aside of the order dated 06.12.2023 passed by the learned Magistrate declining to re-record her statement, while assigning cogent and justified reasons in the said petition.

5. I have heard the learned counsel for the petitioner/accused and the learned counsel for the official respondent/UT. Considered their rival submissions. The private respondent No. 5/complainant, however, appeared in person before the Court on 30.09.2025 and submitted that the complaint lodged by her with Police Station Baramulla on 13.05.2023 is not genuine, having been filed under threat and coercion at the relevant time. She further submitted that the petition filed by the petitioner be allowed and that the impugned FIR be quashed, as she has no objection to the same.
6. I have perused the instant petition, the replies filed by the respondents, the earlier petition bearing No. CRM(M) 731/2023 filed by respondent No. 5, and the documents annexed with the present petition, especially the earlier complaints made by respondent No. 5/complainant at Police Stations Rajbagh Srinagar and Kreari, respectively.
7. I have given my thoughtful consideration to the rival arguments advanced on both the sides.
8. Keeping in view the aforementioned perusal and consideration, this court is of the opinion that it may meet the ends of justice in case the instant petition is allowed and the impugned case FIR bearing No. 96 of 2023 dated 13.05.2023 of P/S Baramulla is quashed.
9. The Court feels convinced to quash the impugned FIR on twin grounds:-

- i) The allegations in the complaint dated 13.05.2023 resulting into the registration of the impugned case FIR 96/2023 of P/S Baramulla look to be apparently false and doubtful in the facts and circumstances of the case having regard to the earlier complaints made by the complainant/Respondent No.5 with the Police Stations Rajbagh, Srinagar and Kreari, Baramulla.
- ii) The complainant/Respondent No.5 has herself appeared in the court on 30.09.2025 and submitted that she has no objection in allowing the petition and setting aside the impugned case FIR.

10. Having regard to the facts and circumstances of the case, the relationship, if any which was previously alleged by the complainant/respondent No. 5 in her complaint dated 13.05.2023 as forced and under undue influence, appears to have been consensual. In the earlier two complaints, laid first in point of time, the complainant had, *inter alia*, alleged herself to be the wife of the petitioner/accused. However, the petitioner, in his petition, described the said allegations as attempts by the complainant/respondent No. 5 to blackmail him.

Respondent No. 5, who is major and was so both at the time of lodging the complaint dated 13.05.2023, which resulted in the registration of the impugned FIR, as well as at the time of filing the earlier complaints before Police Stations Rajbagh Srinagar and Kreari Baramulla, appeared before the Court on 30.09.2025 and submitted that she has no objection in allowing the petition and setting aside the impugned FIR.

11. The conduct of the respondent No.5/complainant in approaching the SHO Police Station Barmaulla and the I.O of the case first in

point of time during the investigation of the impugned case FIR with the request to re-record her statement U/s 164 of the Code, her subsequently approaching the CJM Baramulla with an application seeking re-recording of her statement pursuant to the denial of SHO/I.O of the case and the filing of a petition earlier before this Court bearing CRM(M) 731/2023 seeking the same prayer of re-recording of her statement u/s 164 of the Code upon being disappointed even from the court of the Ld. Magistrate (Special Mobile Magistrate/Sub Judge Baramulla) can be considered as a ground for allowing the petition with the quashment of the impugned FIR, in the ends of justice. Even if, she cannot be supposed for arguments sake to have struggles for re-recording of her statement on factual basis yet in the alternate the said conduct of the complainant can be considered to presume and believe that she any way wanted to be out of picture for the sake of her reputation.

12. The Respondent No.5/complainant in her reply/objection to the instant petition has pleaded that she lodged the complaint dated 13.05.2023 upon threat and coercion.
13. It is also needful to mention that this court has already vide its order dated 21.02.2025 passed on the earlier petition of the complainant/Respondent No.5 CRM(M) 731/2023 observed that there is no bar under law for re-recording of the statement of a victim/complainant as the sole object of the investigation process is to ascertain the genuineness of a complaint/allegation and not to file a case before the Court. This Court has already vide

aforesaid order directed SHO/IO of the case to consider the re-recording of the statement of the complainant/Respondent No. 5 (petitioner therein) with the direction to take a final call in the matter by perusing and considering all the evidence in juxtaposition. The court was told that the SHO Police Station Baramulla/IO of the case did not re-record the statement of the Respondent No.5/complainant pursuant to the said order dated 21.02.2025 of this Court. The authoritative law relied upon by the learned counsel for the official respondents/UT has been laid down in the facts and circumstances of their own cases and even in the said referred cases the quashment of FIR in the case like the instant one has not been barred.

14. In view of the desire of the Respondent No.5/complainant regarding the setting aside of the impugned FIR after allowing the petition as evidenced from her verbal submission made at the hearing of the case on 30.09.2025, her reply to the instant petition her earlier reports made to police stations Rajbagh Srinagar and Kreari Baramulla and also from the fact of her filing the earlier petition CRM(M) 731/2023 for re-recording her statement, there appears to be no prospect of the case even if put to trial, ending in favour of the prosecution.
15. The conduct of the respondent No.5/complainant as hereinbefore referred to amounts to the implied prayer for compounding of the matter on her part. As hereinbefore mentioned, this court feels it to meet the ends of justice in case the impugned case FIR

is set aside as the same is likely to save the complainant from the agony of trial and any dent to her reputation.

16. Although this Court is of the opinion that an FIR cannot be generally and in routine manner allowed to be quashed in exercise of the powers under Section 528 of BNSS corresponding to Section 482 of the Code on the main ground that the parties have settled their controversy that had become the cause of occurrence, yet exceptional ground appears to be made out in the opinion of the Court, in the facts and the circumstances of the case, for invoking its extraordinary powers under Section 528 of BNSS to quash the FIR in question.
17. The provisions of Section 359 of the BNSS corresponding to Section 320 of the Code do not restrict but limit and circumvent the powers of this Court under Section 528 of the BNSS corresponding to Section 482 of the Code regarding quashment of FIR's and criminal proceedings for the sake of the society at large which is real beneficiary of the criminal justice delivery system.
18. This Court in its opinion feels fortified with an authoritative judgment of the Hon'ble Apex Court cited as "***Gopal Kumar B. Nar Vs. CBI (2014) 5 SCC 800***" in which it has been held that "though quashment of non- compoundable offence under **Section 482 CrPC**, following a settlement between the parties would not amount to circumvention of Section 320, but such power has to be exercised with care and caution and would depend on facts of each case."

19. The Hon^{ble} Supreme Court in "[Parbatbhai Aahir Alias Parbatbhai Bhimsinhbhai Karmur and Ors vs State of Gujarat and Anr.](#) (2017) 9 SCC 641" has considered the aspect of the invocation of the inherent powers by the High Courts under Section 528 of the BNSS corresponding to Section 482 of the Code and was pleased to lay down some broad governing principles for invocation of such power of the High Courts. The relevant portions of the judgment are reproduced as under for the sake of convenience:-

"Section 482 is prefaced with an overriding provision. The statute saves the inherent power of the High Court, as a superior court, to make such orders as are necessary (i) to prevent an abuse of the process of any court; or (ii) otherwise to secure the ends of justice."

The broad principles which emerge from the precedents on the subject, may be summarized in the following propositions:-

“(i) Section 482 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;

(ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable;

(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(vi) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

(viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

(ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(x) There is yet an exception to the principle set out in propositions (viii) and (ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.”

20. It is also needful to reproduce the relevant portion of the law [laid down by Hon“ble Supreme Court in "Kapil Gupta Vs. State \(NCT of Delhi\) and Anr 2022 15 SCC 44"](#) on an appeal, impugning the judgment and order dated 28.09.2021 passed by the learned Single Judge of the High Court of Delhi thereby dismissing the criminal petition, which was filed for quashing the criminal proceedings, as under:

“i. In present case, consent given by respondent No. 2 for putting an end to proceeding was voluntary and without any coercion and duress. Respondent No. 2, in order to live in peace, wants to bring an end to criminal proceedings.

ii. Though court should be slow in quashing proceedings wherein heinous and serious offences are involved. High Court is not foreclosed from examining as to whether there exists material for incorporation of such offences or as to whether there is sufficient evidence which if proved would lead to proving for offence charged with.

iii. Court has also to take into consideration as to whether settlement between the parties is going to result in harmony

between them which may improve their mutual relationship.

iv. It is also relevant to consider as to what is the stage of proceedings. If application (for quashing proceedings) is made at belated stage wherein evidence has been led and matter is at stage of arguments or judgment, Court should be slow to exercise power to quash proceedings. However, if such application is made at initial stage before commencement of trial, said factor will weight with Court in exercising its power.

v. In present case, facts and circumstances are peculiar. Respondent 2 is young lady of 23 years. She feels that going through trial in one case, where she is complainant, and in other case, wherein she is accused, would rob prime of her youth. She feels that if she is made to face trial rather than getting any relief, she would be faced with agony of undergoing trial.

vi. In both aforesaid cases, though charge-sheets have been filed, charges are yet to be framed and as such, trial has not yet commenced. It is further to be noted that since Respondent 2 herself is not supporting prosecution case, even if criminal trial is permitted to go ahead, it will end in nothing else than acquittal. If request of parties is denied, it will be amounting to only adding one more criminal case already overburdened criminal courts.

vii. In that view of the matter, though in heinous or serious crime like rape, Court should not normally exercise powers of quashing proceedings, in peculiar facts and circumstances of present case and in order to give succor to respondent 2 so that she is saved from further agony of facing two criminal trials, one as victim and one as accused, present is a fit case wherein extraordinary powers of Supreme Court be exercised to quash criminal proceedings. viii. In that view of the matter, proceedings in criminal cases arising out of both aforesaid FIRs are quashed and set aside.”

21. This Court in its opinion also feels fortified with the authoritative judgments of the Hon^{ble} Apex Court cited as "[*Gyan Singh Vs. State of Punjab* \(2012\) 10 SCC 303](#) and "[*Narender Singh Vs. State of Punjab* \(2014\) 6 SCC 466](#)", the relevant paras of which are reproduced as hereunder for the sake of convenience:

"[*Gian Singh Vs. State of Punjab* \(2012\)10 SCC 303](#)"

"In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceedings."

"[*Narender Singh Vs. State of Punjab* \(2014\) 6 SCC 466](#)"

"In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offence under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution;

When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure : (i) ends of justice, or (ii) to prevent abuse of the process of any Court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the [Prevention of Corruption Act](#) or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender."

22. Having regard to the implied settlement of the dispute between the petitioner/accused and the complainant/respondent No. 5, the continuance of the criminal proceedings sought to be quashed appears to be a futile exercise, for just completing the procedure for putting a matter to trial for recording an order of acquittal at the end.
23. In its opinion, this Court is fortified with the law [laid down by](#) Hon'ble Supreme Court in, (i) ***Satesh Nehra vs Delhi Administration 1996 (III) Crimes 85 SC***; (ii) ***Madan Mohan Abott vs. State of Punjab AIR 2008 SC 1969*** and (iii) ***Jugdish Chananan and ors Vs. State of Haryana and anr. AIR 2008 SC 1968***. Relevant Paras of the referred judgments deserve a needful mention as under:

"Satesh Nehra V/S Delhi Administration 1996 (III) Crimes 85 SC."

"But when the judge is fairly certain that there is no prospect of the case, ending in conviction, the valuable time of the court should not be wasted for holding a trial only for purpose of formally completing the procedure to pronounce the conclusion at a future date. Most of the Sessions Courts in India are under heavy pressure of work load. If the Sessions Judge is almost certain, that the trial would be only an exercise in futility or sheer wastage of time, it is advisable to truncate or swap the proceedings."

"(ii) Madan Mohan Abott Vs. State of Punjab, AIR 2008 SC 1969"

"In disputes where the question involved is of a purely personal nature the court should ordinarily accept the terms of compromise even in criminal proceedings keeping the matter alive with no possibility of a result in favour of the prosecution in a luxury, which the courts, grossly overburdened as they cannot afford and that the time so save can be utilized in deciding more effective and meaningful litigation."

"(iii) Jugdish Chananan and ors Vs. State of Haryana and anr AIR 2008 SC 1968"

"In the light of the compromise it is unlikely that the prosecution will succeed in the matter. We also see that the dispute is a purely personal one and no public policy is involved in the transaction that had been entered into between the parties. To continue with the proceedings, therefore, would be a futile exercise we accordingly allow the appeal and quash FIR83/12.3.2001 P/S City Sonapat and on subsequent proceedings."

24. Provisions of Section 320 of the Code corresponding to Section 359 of the BNSS do not restrict but only limit the powers of this Court under Section 482 of the Code corresponding to Section 528 of BNSS so that the extraordinary powers are used only in exceptional circumstances to meet the ends of justice. Provisions of Section 482 of the Code (528 of BNSS) have an overriding affect and are not to be read as subject to the provisions of Section 320 of the Code (359 of BNSS).
25. The court is required to form an opinion in the facts and the circumstances of a particular case, as to whether the quashment of criminal proceedings is likely to meet the ends of justice.
26. This Court in the attending facts and circumstances is of the opinion that an exceptional case appears to be made out, and the non-interference by this Court is likely to result in miscarriage of justice. The Hon'ble Apex Court in "**MS Neharika**

Infrastructure Private Ltd vs. State of Maharashtra and Ors. (2021) CriLJ 2419”decided on 13.04.2021, has laid down certain guiding principles for consideration in connection with the hearing of petitions filed under Section 482 of the Code corresponding to Section 528 BNSS or under Article 226 of the Constitution of India. Although the Hon’ble Apex Court has stressed that criminal proceedings ought not to be scuttled at the initial stage as the functions of judiciary and the police are complementary, not overlapping, yet the interference in exceptional circumstances has been permitted.

27. This court is conscious of the law laid down by the Hon’ble Apex Court in *State of Haryana and Ors v. Bhajan Lal and ors AIR 1992 SC604, Upkar Singh vs. Ved Prakesh and ors (2004) SC 4320 and Neharika Infrastructure Pvt Ltd vs. State of Maharashtra and Ors 2021 CrLJ 2419: SCC online SC 315*, to the effect that courts should not normally interfere with the criminal proceedings at the initial stage especially where commission of the cognizable offence(s) is apparently discernible, unless there are compelling reasons to do so, for the allegations being absurd or actuated by malafides/malice.
28. It has been held by the Hon’ble High Court of the Madhya Pradesh at Gwalior, in case titled *Santosh Gujjar and Ors vs. the State of Madhya Pradesh and ors Misc Criminal Case No. 10163 of 2024 dated 20.08.2024* at para 29.5 of the judgment as under:

“While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases

would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.”

29. In the backdrop of the aforementioned discussion, the petition is allowed and the impugned case FIR bearing No. 96/2023 dated 13.05.2023 registered with Police Station, Baramulla, is quashed.
30. It is needful to mention that this court had already vide order dated 22.05.2023 stayed the investigation in the case.
31. **Disposed of.**

(Mohd. Yousuf Wani)
Judge

Jammu:
04..05.2025
"Ayaz"

- | | | |
|------|---|-----|
| i) | Whether the judgment is speaking ? | Yes |
| ii) | Whether the judgment is reportable in law journal ? | Yes |
| iii) | Whether the judgment is reportable in press/media ? | NO. |