

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr.MMO Nos.355 to 357 of 2025****Date of Decision: 09.07.2026****1. Cr.MMO No.355 of 2025****Nilesh Patel****Versus****.....Petitioner****State of H.P. and Another****.....Respondents****2. Cr.MMO No.356 of 2025****Siddhart Patel****Versus****.....Petitioner****State of H.P. and Another****.....Respondents****3. Cr.MMO No.357 of 2025****Milan Patel****Versus****.....Petitioner****State of H.P. and Another****.....Respondents***Coram**Hon'ble Mr. Justice Sandeep Sharma, Judge.**Whether approved for reporting? ¹ Yes.*

For the Petitioner(s): Mr. Ajay Kochhar, Senior Advocate, with Mr. Vaibhav Shukla (VALS Legal), Mr. Ashwani K. Sharma, Ms. Swati Sharma and Mr. Varun Chauhan, Advocates.

For the Respondents: Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocates General, with Mr. Ravi Chauhan and Mr. Anish Banshtu, Deputy Advocates General, for State.

Mr. Kulwant Singh Gill, Advocate, for respondent No.2.

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

Sandeep Sharma, J. *(Oral)*

By way of above captioned petitions filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, **(hereinafter, 'BNSS')**, prayer has been made on behalf of the petitioners for quashing of FIR No.14 of 2024, dated 02.02.2024, under Sections 285, 336, 337, 338, 304(ii), 304-A, 308, read with Section 34 of IPC and Section 92 of the Factories Act, 1948, registered at Police Station Barotiwala, District Solan, Himachal Pradesh, as well as consequential proceedings, including order of cognizance passed by learned Additional Chief Judicial Magistrate, Nalagarh, District Solan, vide case No.26/2024, CNR No.HPS020015352024.

2. Since common questions of facts and law are involved in all the above-captioned cases, this Court, after having clubbed all the cases, heard them together and are now being disposed of vide common judgment.

3. For having bird's eye view, quintessential facts, which are common in all the above captioned cases, as emerge from the pleadings as well as other material adduced on record by the respective parties are that company namely M/s N.R. Aromas, situate at Baddi, is engaged in the business of manufacture and trading of perfume and other perfumery products, such as alcohol free deodorant spray and room freshener etc. Petitioners herein are partners/Directors of afore firm, head-office of which is situate at Ratlam, Madhya Pradesh. On 02.02.2024, an unfortunate

accident of fire occurred during the day time in the premises of afore company, as a result thereof, panic and stampede like situation arose, which resulted in ill-fated demise of nine employees working in the factory and injuries to 35 employees.

4. Worker namely Satinder, who at that relevant time was working in the factory concerned, got his statement recorded under Section 154 Cr.P.C., stating therein that incident of fire occurred on account of rash and negligent act of the management of the Company. He alleged that on 02.02.2024 at about 01:30 pm, he, after having finished his lunch, came back on duty and noticed smoke coming out of the stairs. He also disclosed to the Police that when he opened the gate, he saw smoke as well as fire flames and as such, he shut the door. He disclosed to the Police that on coming to know about the fire in the factory, panic and chaos spread and he along with his wife, who was also working in the company, jumped from the first floor and received injuries. He also reported to the Police that many of the workers jumped out of the window and saved their lives, whereas persons working in the basement were trapped in fire. While stating that 80 to 90 workers were working in the factory at the time of alleged incident of fire, he alleged that some of them were unable to come out as they suffered grievous injuries. He also alleged in the complaint that some of the employees who had jumped from the first/second floor are under treatment and admitted at Brooklin Hospital and ESIC, Khatha, whereas two persons, namely Charan

Singh and Pinky had been referred to PGI Chandigarh, where Pinky succumbed to the injuries. He alleged that highly inflammable substances are used in factory and a little negligence can cause fire and danger to the lives of workers. He alleged that incident of fire took place on account of negligence of company, which had not made adequate arrangements for keeping the highly inflammable substance at appropriate place to be stored.

5. On the basis of aforesaid statement made by the complainant, named hereinabove, FIR sought to be quashed, came to be registered. Police initially lodged FIR under Section 285, 336, 337 and 304 of IPC against petitioners as well as other accused, namely Vinod Kumar and Chandrashekhar, however subsequently during investigation, factum of negligence of an employee namely Harish, which caused fire, also came to the notice of the Police, as a result thereof, Police incorporated Section 304-A of IPC and arrested Harish. However, subsequently, he was enlarged on bail by the Police. All the accused named in the FIR, including petitioners stand enlarged on bail.

6. After completion of investigation, Police has already presented Challan in the competent Court of law, but before same could be taken to its logical ends, petitioners have approached this Court in the instant proceedings for quashing of FIR inasmuch as they have been booked under Sections 304, Part II and 308 of Indian Penal Code.

7. Precisely, the grouse of the petitioners, as has been highlighted in the grounds of petitions and further canvassed by Mr. Ajay Kochhar, learned Senior Counsel representing the petitioners, duly assisted by Mr. Vaibhav Shukla, Mr. Ashwani K. Sharma and Ms. Swati Sharma, is that once it is not in dispute that petitioners, being partners/Directors of the company were not present in the factory premises at the time of unfortunate incident, coupled with the fact that head office of the company is situate at Ratlam, Madhya Pradesh, they could not have been booked under Sections 304, Part II and 308 of IPC. While making this Court peruse Challan submitted by the prosecution after completion of investigation in the competent court of law, Mr. Kochhar vehemently argued that as per own case of the prosecution, unfortunate accident of fire took place on account of negligence, if any, of co-accused Harish Chander, who, on the date of alleged incident, was assigned duty of heating up highly inflammable chemical known as Compound-10, containing 175 kilograms of chemical, which was to be put in the small packets. Since considerable time was to be consumed in heating of the said chemical, co-accused Harish Chander left for having his lunch and kept the same unattended, but on his return, he noticed smoke coming out from the said chemical and the moment he switched off the switch, the chemical caught fire, which subsequently engulfed the entire factory into extensive fire.

8. Mr. Kochhar further submitted that investigating agency, after having conducted investigation, especially statements of witnesses as well as employees of company, incorporated section 304-A of IPC and arrested Harish Chander for his having committed offence punishable under Sections 285, 336, 337, 338 and 304-A of IPC, however, subsequently, for no justifiable reasons, petitioners herein came to be arraigned as accused on the pretext that they are partners/Directors of M/s N.R. Aromas. He submitted that since there is nothing on record to suggest that petitioners, being in the capacity of partners/Directors of the company, were involved in day-to-day operation of the factory and there was omission, if any, on their part to take adequate steps of providing safety measures, they could not have arraigned as accused, that too for their having committed offence punishable under Sections 304-A, 304, Part II and 308 of IPC.

9. While making this Court peruse averments contained in the petition as well as documents annexed therewith, Mr. Kochhar vehemently argued that all requisite compliances and necessary permissions from the statutory authorities were duly obtained by the management and same were also renewed from time to time, including NOC from the Fire Department. He submitted that official of the Fire Department before issuing NOC used to inspect the premises thoroughly to check whether fire extinguishing equipments and the measures adopted for protection of the fire, apart from their placements at the appropriate places in the premises of the factory are

taken or not. He submitted that it has come in the investigation that NOC from the Fire Department was valid at the time of unfortunate incident. He also submitted that raw material and products stored in the factory premises were procured under valid license. While stating that entire firefighting equipment system stood installed in the premises of the factory in question, he also submitted that same were in perfect running condition and workers working in the premises were also conversant with the handling/operating of the firefighting equipments. Mock drill, as required, was also conducted after every three months, which was also inspected by the officials of the Fire Department before issuing the certificate. Mr. Kochhar submitted that petitioners being partners/Directors of the company could not have been made an accused for their allegedly having committed offence punishable under Sections 304, Part II and 308 of IPC, especially when it is not in dispute that majority of time they used to sit in Ratlam, Madhya Pradesh and technical staff appointed at Baddi was responsible for day-to-day affairs of the company. He submitted since in the instant case, Police has already arrived at a conclusion that accident occurred on account of rash and negligent act of co-accused Harish Chander, coupled with the fact that all necessary compliances, as per different statutes, were done by the Management, Section 304, Part II could not have been invoked in the case of the petitioners. He submitted that petitioners, being partners/Directors, have been taking all safety measures for the protection of employees as well as material, which fact can be appreciated from the fact that since 2006,

when the firm became functional and started aforesaid business, there had been no such unfortunate incident endangering the life of workers or damage to the property. He also submitted that evidence collected during investigation further reveals that to safeguard the interest and safety of employees, M/s N.R. Aromas had obtained employees compensation insurance policy from Tata AIG Insurance Limited, covering all risk of injury by accidents, fatal accident, medical expenses and occupational disease in the course of employment in the business which were taken and reviewed since the incorporation of firm (Annexure P-6). He also submitted that at the time of unfortunate incident, fire insurance policy taken by company was also valid and in that regard annual fee of ₹4,51,636/- was being paid by firm. He submitted that taking note of huge amount involved in insurance, Insurance Company before covering the risk had duly inspected the factory premises and after finding fire hydrant system, safety management, plant safety from rainwater, work permit system, automatic smoke detection and sprinkler system, emergency response plan, mock drill and general safety measures in order, issued the policy (Annexure P-7).

10. While responding to the allegation of prosecution that premises had no emergency exit, Mr. Kochhar argued that same is without any basis, rather statement made by many witnesses under Section 161 Cr.P.C. clearly reveals that majority of the workers came out of the premises after alleged incident of fire from the emergency exit. He submitted that factory premises

had three gates on the ground floor, out of these two gates were being used for bringing the raw material in the premises and transporting the finished product from the premises and the third gate was being exclusively used for ingress and egress of the employees of the firm. He submitted that there were three doors which opened towards the ground area, out of which one was exclusively marked and used as emergency exit. Similarly on the first, second and third floor, there was a marked emergency exit door, which always remained open for use in case of emergency. To substantiate his aforesaid claim, he specifically referred to the approved map (Annexure P-8).

11. While referring to the statements of witnesses, namely Savitri Devi wife of Amit Kumar, Savitri wife of Satinder Tarawati, Khusbu, Kranti, Sapna, Rajbharti, Pushpa and Anita, etc., recorded under Section 161 Cr.P.C., Mr. Kochhar submitted that there was a provision of emergency gate and using the same, number of people trapped in the fire saved their lives. He submitted that inflammable chemicals used in the production of perfumes were kept in compliances and in due standards of care and as such, an accidental fire occasioned on account of negligence of Harish Chander cannot be said to be an act of negligence of the management or the petitioners. He submitted the basic ingredients to bring the case within the mischief of Sections 285, 336, 337, 338, 304-A, 304 Part II and 308 of the Indian Penal Code, and Section 92 of the Factories Act are missing in the present case, as far as the petitioners are concerned and as such, prayer

made on their behalf for quashing of FIR deserves to be allowed. He strenuously argued that no case much less under Section 304, Part II is made out in the admitted facts and circumstances, for the reason that there is nothing on record, suggestive of the fact that the petitioners, being partners/Directors of the firm, was having intention or knowledge that the act of making perfume by using aromatic chemical can cause death of a person responsible for the manufacture of such perfume, as merely use of highly inflammable chemical itself cannot be ground to attract provisions contained in Section 304, Part II, especially when the factory/unit had the permission from the competent authority to use such chemicals for the production of perfume. He further submitted that mere stacking of drums containing highly inflammable chemicals by a Plant Head or its employee engaged in day-to-day operation of the factory cannot be ground to fasten the criminal liability upon the petitioners by concluding that the petitioners were having knowledge that storing of chemicals, which otherwise required for the production of perfume, would cause death or injuries to workers working in the premises of M/s N.R. Aromas. Lastly, Mr. Kochhar submitted that since, for the reasons and submissions made by him, the case of prosecution is bound to fail in all probabilities, this Court, while exercising power under Section 528 of BNSS, may proceed to quash the FIR in its *toto* or inasmuch as petitioners herein have been charged under Sections 304, Part II and 308 of IPC.

12. To the contrary, Mr. Rajan Kahol, learned Additional Advocate General, vehemently argued that the present petition is not maintainable for the reason that charge, if any, under relevant provisions of law is yet to be framed by competent Court of law on the basis of material adduced on record by the prosecution along with final report filed under Section 173 Cr.P.C. He submitted that since it is not in dispute that petitioners herein are the partners/Directors of the company, they cannot escape their liability for the negligence of its employees, which resulted in the death of nine workers. He submitted that after the incident of fire, majority of workers were trapped inside the factory premises as there was no emergency exit. He submitted that the passage going to the emergency doors was blocked on account of unsystematic stacking of drums containing highly inflammable substance. He submitted that had the management issued specific instructions to its employees in the factory to not stack drums containing inflammable substance in the corridors, many workers would have saved their lives by making their exit from the emergency door. He submitted that though the petitioners may be right in contending that they had no intention of causing accident, but they were fully aware that on account of stacking of inflammable substance in the factory premises, there is a possibility of incident of fire, but yet failed to take appropriate steps for the safety of workers. He further submitted that Section 304, Part II has been rightly invoked against the petitioners because this applies to acts done with the knowledge of potential death, but without explicit intent. Lastly, Mr. Kahol

submitted that the present petition is not maintainable at this stage because charges, if any, under Sections 304, Part II and 308 are yet to be framed against the petitioners, who otherwise, with a view to preempt the Court below from framing charges under the aforesaid provisions of law, have approached this Court in the instant proceedings, which are not maintainable.

13. I have heard learned counsel representing the parties and gone through the record of the case.

14. Before ascertaining the genuineness and correctness of the submissions and counter submissions having been made by the learned counsel for the parties vis-à-vis prayer made in the instant petition, this Court deems it necessary to discuss/elaborate the scope and competence of this Court to quash the criminal proceedings while exercising power under Section 482 of Cr.PC.

15. A three-Judge Bench of the Hon'ble Apex Court in case titled ***State of Karnataka v. L. Muniswamy and others***, 1977 (2) SCC 699, held that High Court while exercising power under Section 482 Cr.PC is entitled to quash the proceedings, if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed.

16. Subsequently, in case titled ***State of Haryana and others v. Bhajan Lal and others***, 1992 Supp (1) SCC 335, the Hon'ble Apex Court

while elaborately discussing the scope and competence of High Court to quash criminal proceedings under Section 482 Cr.PC laid down certain principles governing the jurisdiction of High Court to exercise its power. After passing of aforesaid judgment, issue with regard to exercise of power under Section 482 Cr.PC, again came to be considered by the Hon'ble Apex Court in case bearing Criminal Appeal No.577 of 2017 (arising out of SLP (CrL.) No. 287 of 2017) titled **Vineet Kumar and Ors. v. State of U.P. and Anr.**, wherein it has been held that saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose i.e. court proceedings ought not to be permitted to degenerate into a weapon of harassment or persecution.

17. Reliance is placed upon judgment of Hon'ble Apex Court in **Prashant Bharti v. State (NCT of Delhi)**, (2013) 9 SCC 293, relying upon its earlier judgment titled as **Rajiv Thapar and Ors v. Madan Lal Kapoor**, (2013) 3 SCC 330.

18. In this regard, reliance is place upon **Amish Devgan vs Union of India and Ors, (2021) 1 SCC 1**, wherein the Hon'ble Apex Court held as under:

“(vii) Conclusion and relief

116. At this stage and before recording our final conclusion, we would like to refer to decision of this Court in Pirthi Chand [State of H.P. v. Pirthi Chand, (1996) 2 SCC 37 : 1996 SCC (Cri) 210] wherein it has been held : (SCC pp. 44-45, paras 12-13)

“12. It is thus settled law that the exercise of inherent power of the High Court is an exceptional one. Great care should be

taken by the High Court before embarking to scrutinize the FIR/charge-sheet/complaint. In deciding whether the case is rarest of rare cases to scuttle the prosecution in its inception, it first has to get into the grip of the matter whether the allegations constitute the offence. It must be remembered that FIR is only an initiation to move the machinery and to investigate into cognizable offence. After the investigation is conducted (sic concluded) and the charge-sheet is laid, the prosecution produces the statements of the witnesses recorded under Section 161 of the Code in support of the charge-sheet. At that stage it is not the function of the court to weigh the pros and cons of the prosecution case or to consider necessity of strict compliance with the provisions which are considered mandatory and effect of its non-compliance. It would be done after the trial is concluded. The court has to prima facie consider from the averments in the charge-sheet and the statements of witnesses on the record in support thereof whether court could take cognizance of the offence on that evidence and proceed further with the trial. If it reaches a conclusion that no cognizable offence is made out, no further act could be done except to quash the charge-sheet. But only in exceptional cases i.e. in rarest of rare cases of mala fide initiation of the proceedings to wreak private vengeance issue of process under Criminal Procedure Code is availed of. A reading of a [Vide Corrigendum dated 20-3-1996 issued from Residential Office of Hon'ble Mr Justice K. Ramaswamy.] complaint or FIR itself does not disclose at all any cognizable offence — the court may embark upon the consideration thereof and exercise the power.”

19. Recently, Hon'ble Apex Court in ***Abhishek Singh vs Ajay Kumar and Ors., (2025) SCC OnLine SC 1313***, held as under:

“9. The scope of the Court's power to quash and set aside proceedings is well-settled to warrant any restatement. While the arguments advanced have the potential to raise many issues for consideration, we must first satisfy ourselves as to the propriety of the exercise of such power by the High Court. The task of the High Court, when called upon to adjudicate an application seeking to quash the proceedings, is to see whether, *prima facie*, an offence is made out or not. It is not to examine whether the charges may hold up in the Court. In doing so, the area of action is circumscribed. In *Rajeev Kourav v. Baisahab*, it was held:

“8. It is no more *res integra* that exercise of power under Section 482 CrPC to quash a criminal proceeding is only when an allegation made in the FIR or the charge-sheet constitutes the ingredients of the offence/offences alleged. Interference by the High Court under Section 482 CrPC is to prevent the abuse of process of any court or otherwise to secure the ends of justice. It is settled law that the evidence produced by the accused in his defence cannot be looked into by the court, except in very exceptional circumstances, at the initial stage of the criminal proceedings. It is trite law that the High Court cannot embark upon the appreciation of evidence while considering the petition filed under Section 482 CrPC for quashing criminal proceedings. It is clear from the law laid down by this Court that if a *prima facie* case is made out disclosing the ingredients of the offence alleged against the accused, the Court cannot quash a criminal proceeding.”

15. In that view of the matter, we hold that the High Court had improperly quashed the proceedings initiated by the appellant. It stands clarified that we have not expressed any opinion on the matter, and the guilt or innocence of the respondents has to be established in the trial, in accordance with the law. The proceedings out of the subject FIR, mentioned in paragraph 2 are revived and restored to the file of the concerned Court.”

20. Reliance in this regard is also placed upon judgment passed by the Hon'ble Apex Court in **B.N. John Vs. State of U.P., 2025 SCC OnLine SC 7**, which reads as under:

“7. As far as the quashing of criminal cases is concerned, it is now more or less well settled as regards the principles to be applied by the court. In this regard, one may refer to the decision of this Court in *State of Haryana v. Ch. Bhajan Lal*, 1992 Supp (1) SCC 335, wherein this Court has summarized some of the principles under which FIR/complaints/criminal cases could be quashed in the following words:

“102. 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 within 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 FIR 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 a private and personal grudge.”
(emphasis added)

8. Of the aforesaid criteria, clause no. (1), (4) and (6) would be of relevance to us in this case.

In clause (1) it has been mentioned that 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, then the FIR or the complaint can be quashed.

As per clause (4), where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order dated by the Magistrate as contemplated under Section 155 (2) of the CrPC, and in such a situation, the FIR can be quashed.

Similarly, as provided under clause (6), if there is an express legal bar engrafted in any of the provisions of the CrPC or the concerned Act under which the criminal proceedings are instituted, such proceedings can be quashed.”

21. Reliance is further placed upon the judgment passed by the Hon’ble Apex Court in ***Ajay Malik v. State of Uttarakhand, 2025 SCC OnLine SC 185***, which reads as under:

“8. It is well established that a High Court, in exercising its extraordinary powers under Section 482 of the CrPC, may issue orders to prevent the abuse of court processes or to secure the ends of justice. These inherent powers are neither controlled nor limited by any other statutory provision. However, given the broad and profound nature of this authority, the High Court must exercise it sparingly. The conditions for invoking such powers are embedded within Section 482 of the CrPC itself, allowing the High Court to act only in cases of clear abuse of process or where intervention is essential to uphold the ends of justice.

9. It is in this backdrop that this Court, over the course of several decades, has laid down the principles and guidelines that High Courts

must follow before quashing criminal proceedings at the threshold, thereby pre-empting the Prosecution from building its case before the Trial Court. The grounds for quashing, inter alia, contemplate the following situations : (i) the criminal complaint has been filed with mala fides; (ii) the FIR represents an abuse of the legal process; (iii) no prima facie offence is made out; (iv) the dispute is civil in nature; (v.) the complaint contains vague and omnibus allegations; and (vi) the parties are willing to settle and compound the dispute amicably (State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335)

22. It is quite apparent from the bare perusal of aforesaid judgments passed by the Hon'ble Apex Court from time to time that 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/her due to private and personal grudge, High Court while exercising power under Section 482 Cr.PC can proceed to quash the proceedings.

23. Now being guided by the aforesaid proposition of law laid down by the Hon'ble Apex Court, this Court would make an endeavor to examine and consider the prayer made in the instant petition vis-à-vis factual matrix of the case.

24. Having heard learned counsel representing the parties and perused material available on record, this Court finds that there is no dispute that the petitioners herein, at the time of the alleged incident, were partners/Directors of the firm, looking after the affairs of the company from

the head office at Ratlam, Madhya Pradesh, but they were not involved in the day-to-day functioning of the plant. It is also not in dispute, rather stands established on record that at the time of alleged incident, factory in question, namely M/s N.R. Aromas, had valid permission to manufacture perfume. It is also not in dispute that the NOC from the Fire Department was valid till 23rd March 2025, meaning thereby all safety requirements suggested by the Fire Department were very much in place at the time of the alleged incident. As per own case of the prosecution, fire broke out in the factory on account of the negligence of one of the worker, namely Harish Chander, who was assigned the duty of heating up the chemical. As per the statement given by the complainant as well as other workers working in the factory and co-accused of Harish Chander, on 02.02.2024, drum containing 170 kilograms of chemical was being heated by Harish Chander. Since considerable time was to be consumed in heating the chemical, above named Harish, left the spot for having his lunch. When he came back after lunch, on noticing smoke, he switched off the electric switch, but unfortunately, chemical caught fire, which subsequently engulfed the entire factory.

25. It has also come in the investigation that fire took place on account of short-circuiting near the site of heating. As a result of fire, smoke started coming out from the premises and as such, workers working in the factory started suffocating. Some of the workers were able to make their way out from the emergency exit, whereas some of them were trapped in the basement and unfortunately, on account of suffocation and explosion, they

lost their lives also. True it is that on account of unfortunate incident of fire, as many as nine persons died and number of workers received injuries, but having scanned the material made available before this Court, this Court is persuaded to agree with Mr. Kochhar, learned Senior Counsel representing the petitioners, that there is no evidence adduced on record by the prosecution, suggestive of the fact that the incident of fire took place on account of negligence, if any, of the petitioners, rather, same can be said to have been happened on account of the negligence of Mr. Harish Chander, who was otherwise duty-bound to remain present on the spot, till the chemical in question was properly heated. As far as the stacking of highly inflammable chemicals is concerned, it is not the case of the prosecution that company concerned had no valid license to purchase and stock such chemicals in the factory premises, rather, their case is that on account of unorderly stacking of drums in the corridors, workers trapped in the fire were unable to reach the emergency exit.

26. Statements made by some of the workers under Section 161 Cr.P.C., including the complainant, clearly reveal that majority of the workers were able to come out through the emergency exit. Unfortunately, some of the workers working in the basement were trapped. It is also not the case of the prosecution that drums containing highly inflammable substances allegedly kept in corridors caught fire at first instance, rather, incident of fire first-time took place at a place where chemical was being heated and thereafter it engulfed the entire factory premises. Even if it is

presumed that on account of unorderedly stacking of drums, workers working in the factory were unable to find their way out, but such fact, if any, may not be sufficient to invoke Section 304, Part II, as far as the petitioners are concerned, who admittedly, being part of the management, were sitting at Ratlam, Madhya Pradesh. It has come in the evidence that the petitioners, being partners/Directors of the firm, used to visit the factory at Baddi occasionally and work of operation as well as manufacture of the product, i.e. perfume, was being handled by the Plant Manager and Assistant Plant Manager, Vinod Kumar and Chandrashekhar, who have already been made accused. Since all the statutory compliances and necessary NOCs from the departments concerned stood taken/granted in favor of company at Baddi, coupled with the fact that separate staff stood appointed in the factory at Baddi to look after the operations and manufacturing, petitioners herein, being partners/Directors of the company, otherwise cannot be held vicariously liable for criminal act, if any, of co-accused.

27. At this stage, it would be apt to take note of Section 304, Part II, and Section 308 of the Indian Penal Code, which read as under:

“304. Punishment for culpable homicide not amounting to murder.—

Whoever commits culpable homicide not amounting to murder shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death,

or of causing such bodily injury as is likely to cause death, or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

308. Attempt to commit culpable homicide.—

Whoever does any act with such intention or knowledge and under such circumstances that, if he by that act caused death, he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.”

28. To prove case, if any, under Section 304 Part II, prosecution is necessarily required to prove that death of person in question was caused by act of the accused and he fully knew that such act of him is likely to cause death. In the case at hand, death of nine workers was not caused by any act of the petitioners, who admittedly at relevant time were not present at Baddi, rather, death of workers caused on account of rash and negligent act of co-accused Harish Chander, who was assigned duty to heat up the chemical. An attempt has been made by prosecution to invoke Section 304, Part II against petitioners on the ground that there was disorderly stacking of drums containing inflammable substance in the passage leading to the emergency exit, but having taken note of the fact that entire work of operation as well as manufacturing was being seen/handled by Plant Head and Assistant

Plant Head, namely Vinod Kumar and Chandrashekhar, who are also accused, petitioners, who at relevant time were sitting at Ratlam, cannot be held liable for any act of negligence of co-accused. Though there is nothing on record to suggest that petitioners had any knowledge with regard to stacking of drums containing inflammatory substance on the passages leading to emergency exit, but even if it is presumed that they had knowledge of stacking of inflammable substance on the passage, that would not be sufficient to infer that they had also knowledge that their act of stacking drums in the passage leading to emergency exit would cause death of workers. Moreover, it has specifically come in evidence that at the time of unfortunate accident of fire, more than 90 workers were working in the factory, out of which majority of workers were able to come out using emergency exit/corridors. It is only workers who were working in basement at the relevant time got trapped on account of huge amount of smoke.

29. Moreover, this Court finds that the factory, namely M/s N.R. Aromas, had been manufacturing perfumes, for which there is a requirement of flammable chemicals. It is none of the case of prosecution that management had stored inflammatory substance, other than substance which actually required for manufacturing of perfume, for which necessary permissions already stood granted to the afore company. Act of stacking inflammatory substance for manufacturing the perfume in the case at hand cannot be otherwise said to be act of negligence, if any, on the part of

management. There is nothing on record to attribute any act or conduct which remotely suggests that act of petitioners concerned was done with the knowledge that it is likely to cause death, but without any intention to cause death or to cause such bodily injury as it likely to cause death. There is also nothing on record which *prima facie* shows that petitioners are guilty of culpable homicide and that act allegedly committed by them is culpable homicide. There is nothing on record to indicate that the factory was being run by the petitioners with the knowledge that such running of factory was likely to cause death or injuries. Fact of merely storage of inflammatory chemicals would not suggest that petitioners had any knowledge that it was likely to cause death of human beings. Moreover, this Court cannot lose sight of the fact that factory is in operation for last 16 years, i.e. 2006 onwards and from that date till date of alleged incident, no unfortunate incident ever happened. It is also not in dispute that even on the date of the alleged incident, specialized work of heating up the chemical was assigned to a person who was expert in that.

30. For the reasons and discussion made hereinabove, this Court is persuaded to agree with Mr. Kochhar, learned Senior Counsel representing petitioners, that no case much less under Section 304 Part II is made out against the petitioners, for the reason that no cogent and convincing evidence has been collected on record by the prosecution, suggestive of the fact that petitioners being partners/Directors of firm had intention/knowledge that

act of making perfume by using aromatic chemical can cause death of person responsible for manufacture of such perfume. It is not in dispute, rather stands clearly established on record that management of factory in question had made adequate arrangements for the safety and security of workers working in company by providing emergency exit doors as well as placing fire extinguishers at the appropriate places. At the cost of repetition, it is observed that many workers saved their lives by using emergency exit doors and the corridors. Hence, this Court is not persuaded to agree with Mr. Rajan Kahol, learned Additional Advocate General, that workers trapped in fire were unable to use exit doors and corridors on account of disorderly stacking of the drums containing highly inflammable chemical.

31. Entire case of the prosecution against the petitioners herein is that petitioners herein were responsible for disorderly stacking of drums, but as has been observed hereinabove, job of stacking drums and storing chemicals in factory was not of the petitioners, who admittedly sit in head office at Ratlam, rather, responsibility of storage, if any, in the factory premises was of the co-accused namely Vinod Kumar and Chandrashekhar, being Plant Manager and Assistant Plant Manager. Moreover, act of mere stacking of drums containing highly inflammable chemical in factory premises cannot be a ground to conclude knowledge of the petitioners that act of storing chemical, which is otherwise required for production of perfume, would cause death of the workers working in the premises. It also

emerges from the investigation that safe houses were available on first and second floor of the factory premises for storing the highly inflammable chemical. Duty of management was only to provide safe houses for storing of chemical, which admittedly were provided, as has come in the investigation. Whether on the date of unfortunate incident, fact of drums containing inflammable substance were stored in safe-houses or corridors, cannot be said to be in the knowledge of management, which admittedly, at relevant time, used to sit at Ratlam, Madhya Pradesh.

32. Reliance is placed upon judgment dated 07.03.2025 passed by Hon'ble Apex Court in case titled **Yuvraj Laxmilal Kanther and Another Vs. State of Maharashtra**, Criminal Appeal No.2356 of 2024. In afore case, two contract employees were working on a shop front signboard at a height of 12 feet using an iron ladder provided to them. Unfortunately, while working, they got electrocuted, fell and sustained head and arm injuries and were declared dead on arrival at the hospital. FIR was registered alleging that the accused, who was an Interior Decorator Contractor and Store Operation Manager, failed to provide safety gear (safety shoes, safety belts, rubber shoes, helmets, etc.) to the workers despite knowing the life risk involved. Judicial Magistrate First Class opined that a case under Section 304, Part II is made out and accordingly committed the case to the Session Court. Learned Additional Sessions Judge and subsequently the High Court dismissed the discharge application filed by the accused under Section 227

Cr.P.C. Finally, the matter came before the Hon'ble Apex Court where issue arose for the consideration that whether non-provision of safety equipment to workers operating at a height attracts the ingredients of Section 304, Part II IPC (culpable homicide not amounting to murder). Hon'ble Apex Court held that Section 304 Part II is attracted when an act is done with the knowledge that it is likely to cause death, but without any intention to cause death. The foundational requirement is the commission of culpable homicide under Section 299 IPC, which demands a positive act with intention or knowledge. Relevant Paras of afore judgment read as under:

“12. We have noted above that the appellants have been charged for committing offence under Section 304 Part II IPC read with Section 34 IPC. Since Section 34 IPC covers common intention, the substantive charge against the appellants is under Section 304 Part II IPC which reads as under:

Punishment for culpable homicide not amounting to murder –

Whoever commits culpable homicide not amounting to murder shall be punished with imprisonment of either description for a term which may extend to ten years or with fine or with both, if the act is done with the knowledge that it is likely to cause death; but without any intention to cause death or to cause such bodily injury as is likely to cause death.

12.1. The ingredients constituting an offence under Section 304 Part II IPC are as follows:

- (i) he must commit culpable homicide not amounting to murder;
- (ii) the act must be done with the knowledge that it is likely to cause death;
- (iii) but such act is done without any intention to cause death or to cause such bodily injury as is likely to cause death.

12.2. Therefore, the first important expression is 'culpable homicide not amounting to murder'. Culpable homicide is defined in Section 299 IPC. It says that whoever causes death by doing an act with the intention of causing death or with the intention of causing such bodily injury as is likely to cause death or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

12.3. All culpable homicides are murders except in the cases excepted under Section 300 IPC. Thus, except the cases specifically exempted under Section 300 IPC, all other acts within the meaning of Section 299 IPC would amount to committing the offence of culpable homicide. However, what is important to note is that for committing the offence of culpable homicide, a positive act must be done by the doer with the intention that such act would cause death or cause such bodily injury as is likely to cause death or he having the knowledge that by such an act, death may be caused. What, therefore, is significant is that the doer of the act must have the intention of causing death or the intention of causing such bodily injury as is likely to cause death or has the knowledge that by doing such an act he is likely to cause death. Therefore, to commit the offence of culpable homicide, intention or knowledge is of crucial importance.

12.4. Coming back to Section 304 Part II IPC, we find that the said section would be attracted if anyone commits culpable homicide not amounting to murder if the act is done with the knowledge that it is likely to cause death but without any intention to cause death or to cause such bodily injury as is likely to cause death. Therefore, the requirement of Section 304 Part II IPC is that the doer must have the knowledge that the act performed is likely to cause death or to cause such bodily injury as is likely to cause death but without any intention to cause death. Thus, the basic ingredient of Section 304 Part II IPC is presence of knowledge and absence of intention. The doer must have the knowledge that the act performed by him would likely cause death etc but there should not be any intention to cause death.

13. This being the legal framework, let us now deal with the charge against the appellants taking the same as correct. According to the prosecution and accepted by the Trial Court and the High Court, the two accused persons had not taken proper care and caution by providing safety shoes, safety belt etc to the two employees though they were asked to perform the job of working on the sign board as part of decorating the front side of the shop which was approximately at a height of 12 feet from the ground level. The accused persons had provided only an iron ladder to the two employees but while working they were struck by electricity as a result of which they suffered electrocution and fell down. They suffered multiple injuries which led to their death. Therefore, both the accused persons were declared to be responsible for the unnatural death of the two deceased employees.

14. Even if we take the allegation against the appellants as correct, we are afraid no prima facie case can be said to have been made out against the appellants for committing an offence under Section 304 Part II IPC. From the record of the case, it is evident that there was no intention on the part of the two appellants to cause the death or cause such bodily injury as was likely to cause the death of the two deceased employees. It cannot also be said that the appellants had knowledge that by asking the two deceased employees to work on the sign board as part of the work of decoration of the frontage of the shop, they had the knowledge that such an act was likely to cause the death of the two deceased employees. As such, no prima facie case of culpable homicide can be said to have been made out against the appellants. If that be so, the subsequent requirement of having knowledge that the act was likely to cause the death but not having any intention to cause death would become irrelevant though we may hasten to add that nothing is discernible from the record of the case that the appellants had the knowledge that by asking the two employees to work on the sign board would likely cause their death or cause such bodily injury as is likely to cause their death.

15. Therefore, the basic ingredients for commission of offence under Section 304 Part II IPC are absent in the present case.”

33. In this regard, reliance is also placed upon judgment passed by Hon’ble Apex Court in case titled as **Keshub Mahindra and Others Vs. State of Madhya Pradesh** along with other connected Appeals 1996 (6) SCC 129. In the aforesaid case, Hon’ble Apex Court had an occasion to deal with the accused named in *Bhopal Gas Tragedy* case, where on account of gas leakage, more than 3000 people lost their lives. In the aforesaid case decided by the Hon’ble Apex Court, highly dangerous and toxic gas called MIC escaped from the tank of the Bhopal Factory, as a result thereof, 3,828 human beings lost their lives, whereas permanent injuries were caused to 18922 human beings, Police after having noticed aforesaid incident of gas leakage, registered case against the Management as well as other officials working at the Plant in Bhopal under Section 304-A IPC, which subsequently came to be converted to 304 Part II. Hon’ble Apex Court while hearing criminal appeals filed by some of the officials specifically elaborated upon the scope of Section 304 Part II and held as under:

“20. It, therefore, becomes necessary for us now to address ourselves on this moot question. As noted earlier the main charge framed against all these accused is under Section 304 Part II IPC. So far as Accused 2, 3, 4 and 12 are concerned they are also charged with offences under Sections 326, 324, IPC and 429 IPC read with Section 35 IPC while Accused 5 to 9 are charged substantially with these offences also. We shall first deal with the charges framed against the accused concerned under the main provisions of Section 304 Part II IPC. A look at Section

304 Part II shows that the accused concerned can be charged under that provision for an offence of culpable homicide not amounting to murder and when being so charged if it is alleged that the act of the accused concerned is done with the knowledge that it is likely to cause death but without any intention to cause death or to cause such bodily injury as is likely to cause death the charged offences would fall under Section 304 Part II. However before any charge under Section 304 Part II can be framed, the material on record must at least prima facie show that the accused is guilty of culpable homicide and the act allegedly committed by him must amount to culpable homicide. However, if the material relied upon for framing such a charge against the accused concerned falls short of even prima facie indicating that the accused appeared to be guilty of an offence of culpable homicide Section 304 Part I or Part II would get out of the picture. In this connection we have to keep in view Section 299 of the Penal Code, 1860 which defines culpable homicide. It lays down that: "Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide." Consequently the material relied upon by the prosecution for framing a charge under Section 304 Part II must at least prima facie indicate that the accused had done an act which had caused death with at least such a knowledge that he was by such act likely to cause death. The entire material which the prosecution relied upon before the trial court for framing the charge and to which we have made a detailed reference earlier, in our view, cannot support such a charge unless it indicates prima facie that on that fateful night when the Plant was run at Bhopal it was run by the accused concerned with the knowledge that such running of the Plant was likely to cause deaths of human beings. It cannot be disputed that mere act of running a Plant as per the permission granted by the authorities would not be a criminal act. Even assuming that it was a defective Plant and it was dealing with a very toxic and hazardous substance like MIC the

mere act of storing such a material by the accused in Tank No. 610 could not even prima facie suggest that the accused concerned thereby had knowledge that they were likely to cause death of human beings. In fairness to the prosecution it was not suggested and could not be suggested that the accused had an intention to kill any human being while operating the Plant. Similarly on the aforesaid material placed on record it could not be even prima facie suggested by the prosecution that any of the accused had a knowledge that by operating the Plant on that fateful night whereat such dangerous and highly volatile substance like MIC was stored they had the knowledge that by this very act itself they were likely to cause death of any human being. Consequently in our view taking the entire material as aforesaid on its face value and assuming it to represent the correct factual position in connection with the operation of the Plant at Bhopal on that fateful night it could not be said that the said material even prima facie called for framing of a charge against the accused concerned under Section 304 Part II IPC on the specious plea that the said act of the accused amounted to culpable homicide only because the operation of the Plant on that night ultimately resulted in deaths of a number of human beings and cattle. It is also pertinent to note that when the complaint was originally filed suo motu by the police authorities at Bhopal and the criminal case was registered at the Police Station Hanumanganj, Bhopal as Case No. 1104 of 1984 it was registered under Section 304-A of the IPC. We will come to that provision a little later. Suffice it to say at this stage that on the entire material produced by the prosecution in support of the charge it could not be said even prima facie that it made the accused liable to face the charge under Section 304 Part II. In this connection we may refer to a decision of the Calcutta High Court to which our attention was drawn by the learned Senior Counsel, Shri Rajendra Singh for the appellants. In the case of Adam Ali Taluqdar v. King-Emperor [AIR 1927 Cal 324 : 31 CWN 314 : 28 Cri LJ 334] a Division Bench of the Calcutta High Court made the

following pertinent observations while interpreting Section 304 Part II read with Section 34 IPC:

“Although to constitute an offence under Section 304, Part 2, there must be no intention of causing death or such injury as the offender knew was likely to cause death, there must still be a common intention to do an act with the knowledge that it is likely to cause death though without the intention of causing death. Each of the assailants may know that the act, they are jointly doing, is one that is likely to cause death but have no intention of causing death, yet they may certainly have the common intention to do that act and therefore Section 34 can apply to a case under Section 304, Part 2.”

Once we reach the conclusion that the material produced by the prosecution before the trial court at the stage of framing of charges did not even prima facie connect the accused with any act done with the knowledge that by that act itself deaths of human beings would be caused the accused could not be even charged for culpable homicide and consequently there would be no question of attracting Section 304 Part II against the accused concerned on such material. When on the material produced by the prosecution no charge could be framed against any of the accused under Section 304 Part II there would remain no occasion to press in service the applicability of Section 35 IPC in support of such a charge for those accused who were not actually concerned with the running of the Plant at Bhopal, namely, Accused 2, 3, 4 and 12.

34. In the aforesaid judgment, Hon'ble Apex Court categorically concluded that Section 304 Part II IPC applies when a person causes death without any intention to cause death or such bodily injury as is likely to cause death, but with the knowledge that the act is likely to cause death.

Meaning thereby that there must be an intention to do the act, even though there need not be an intention to cause death. The essential element is knowledge of the likely consequence, not intention. In the case before the Hon'ble Apex Court, case of the prosecution was that defects responsible for leakage of poisonous gas was very much in the knowledge of the Management, but yet no steps were taken to cure them. Hon'ble Apex Court having perused evidence collected on record, specifically concluded that persons responsible for the management of the Company had no definite knowledge about the defect in the functional plant, as such, they otherwise could not be charged with offence under Section 304 Part II.

35. Aforesaid judgment passed by Hon'ble Apex Court in Union Carbide case subsequently came to be followed in number of cases. In one of the cases titled as **K.P. Ramaswamy Vs. Inspector of Police, Perundurai Police Station**, Madras High Court specifically dealt with Section 304 Part II while considering the prayer made by the accused under Section 438 Cr.P.C. for anticipatory bail, which reads as under:

“23. In Keshub Mahindra v. State Of M.P., 1996 SCC (Cri) 1124, on the night between 2.12.1964 & 3.12.1984, there was leakage of toxic gas known as MIC from the Union Carbide Company's Unit situate in Bhopal and the Bhopal gas disaster took place. Thousands and thousands of innocent persons and animals have lost their lives. Many got maimed. After investigation, Police filed Final Report for offences under Section 304 II, 326, 324, 429 r/w 35, I.P.C as against certain officials of the Company, who were directly involved in the day-to-day operation of the Company's unit in Bhopal and also against A-2, namely, Keshub Mahindra/Managing Director, who was residing in

Bombay. Ultimately, A-2 questioned the framing of charge under Section 304 II, I.P.C as against him. The Hon'ble Apex Court quashed the charge under Section 304 II, I.P.C as against him on the ground that there was no commission of any act by him which has caused the death of the Bhopal gas victims.

24. In the said Bhopal Gas Tragedy case, the Hon'ble Apex Court observed as under:

“20. It, therefore, becomes necessary for us now to address ourselves on this moot question. As noted earlier, the main charge framed against all these Accused is under Section 304 Part II, I.P.C So far as Accused Nos. 2, 3, 4 & 15 are concerned they are also charged with offences under Sections 326, 324, I.P.C & 429, I.P.C, read with Section 35, I.P.C while Accused 5 to 9 are charged substantially with these offences also. We shall first deal with the charges framed against the concerned Accused under the main provisions of Section 304 Part II, I.P.C A look at Section 304, Part II shows that the concerned Accused can be charged under that provision for an offence of culpable homicide not amounting to murder and when being so charged if it is alleged that the act of the concerned Accused is done with the knowledge that it is likely to cause death but without any intention to cause death or to cause such bodily injury as is likely to cause death the charged offences would fall under Section 304 Part II. However, before any charge under Section 304, Part II can be framed, the material on record must at least prima facie show that the Accused is guilty of culpable homicide and the act allegedly committed by him must amount to culpable homicide. However, if the material relied upon for framing such a charge against the concerned Accused falls short of even prima facie indicating that the Accused appeared to be guilty of an offence of culpable

homicide Section 304 Part I or Part II would get out of the picture. In this connection we have to keep in view Section 299 of the Indian Penal Code which defines culpable homicide. It lays down that, “whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide”. Consequently the material relied upon by the prosecution for framing a charge under Section 304 Part II must at least prima facie indicate that the Accused had done an act which had caused death with at least such a knowledge that he was by such act likely to cause death. The entire material which the prosecution relied upon before the Trial Court for framing the charge and to which we have made a detailed reference earlier, in our view, cannot support such a charge unless it indicates prima facie that on that fateful night when the plant was run at Bhopal it was run by the concerned Accused with the knowledge that such running of the plant was likely to cause deaths of human beings. It cannot be disputed that mere act of running a plant as per the permission granted by the authorities would not be a Criminal act. Even assuming that it was a defective plant and it was dealing with a very toxic and hazardous substance like MIC the mere act of storing such a material by the Accused in Tank No. 610 could not even prima facie suggest that the concerned Accused thereby had knowledge that they were likely to cause death of human beings. In fairness to prosecution it was not suggested and could not be suggested that the Accused had an intention to kill any human being while operating the plant. Similarly on the aforesaid material placed on record it could not be even prima facie suggested by the prosecution that any of the Accused had a knowledge that by operating the plant on that fateful night whereat such

dangerous and highly volatile substance like MIC was stored they had the knowledge that by this very act itself they were likely to cause death of any human being.”

36. In aforesaid judgment, Madras High Court held that mere act of running of Plant, as per permission by the authorities, would not be a criminal act and even if it is presumed that it was a defective plant and it was dealing with very toxic and hazardous substance like MIC, the mere act of storing such a material by the accused in tank could not *prima facie* suggest that concerned accused had knowledge that storage of such is likely to cause death of human beings.

37. While placing reliance upon aforesaid judgment passed by Hon'ble Apex Court in Shamsher Singh (supra), High Court of Madhya Pradesh in case titled as **Sagar Yadav Vs. State of Madhya Pradesh** in Misc. Criminal Case No.48844 of 2022, decided on 23.11.2022, held that once Factory was being run with all due permission and approval of the authorities and service approval was issued by the authority prior to the incident, coupled with the fact that adequate measures for fire safety were taken, no case under Section 304 Part II is made out, rather, case if any, can be made out under Section 285 and 304-A of IPC.

38. In a case titled as **Rohit Suri and Others Vs. State of Himachal Pradesh**, Criminal Misc. Petition (Main) No.532 of 2022 decided on 26.04.2022, this Court had an occasion to deal with the scope of Section 304 Part II, where it was held as under:

“9. Investigation in the case is complete and nothing remains to be recovered from the bail petitioners. It is also not in dispute that bail petitioners are in judicial custody. There is another aspect of the matter that at the first instance case under Sections 286, 337, 304A of IPC and Section 9 (C) of Explosives Act 1884 was registered against the bail petitioners and other persons named in the FIR, but subsequently, police after having taken note of the fact that explosives substance was being made in the factory without there being license deleted the aforesaid Sections and re-registered the case against them under Sections 304, 120B of IPC and Section 5 of the Explosives Substance Act 1908. Precise case of the prosecution in the case at hand is that crackers were being manufactured unauthorizedly in the premises where fire broke, but definitely there is nothing on record which can compel this Court to conclude/infer that explosives substance or special category explosive substance as defined in the Explosives Substance Act, 1908 were being manufactured or stored in the premises. Aforesaid observation made by this court gains significance in view of the statement made by the complainant under Section 154 of the Cr.PC that there was no provision/facility provided in the factory for manufacturing of crackers. If it is so, prosecution is under obligation to prove manufacturing, if any, of the explosives substance in the premises in question to attract the provisions contained under Section 5 of the Explosive Substances Act, which clearly provide that any person who makes or knowingly has in his possession or under his control any explosive substance or special category explosive substance without there being any authority shall be liable for imprisonment, which may extend to ten years. Status report filed by the respondent-State as well as record made available to this court nowhere reveals that explosives substance as defined under Section 2 of the Act *ibid* ever came to be recovered from the premises in question. Otherwise also, to attract the provisions contained under Section 304 of IPC, which provides for punishment for culpable homicide not amounting to murder, prosecution is

required to prove that that bail petitioners caused death of workers working in the factory by doing an act with the intention of causing death or causing such bodily injury as is likely to cause death or if the act done with the knowledge that person is likely by such act to cause death. In the case at hand, though investigating agency has collected on record material to prove that factory was being run unauthorizedly, but definitely at this stage, there is no evidence collected on record to conclude that the bail petitioners had any intention or knowledge to cause death of the persons working in the factory. Whether death of the workers occurred on account of negligence of the bail petitioners, whereby they failed to provide /take adequate safety measures for their safety, is a question needs to be determined in the totality of facts the circumstances of the case.”

39. Reliance is also placed upon the judgment passed by the Hon’ble Apex Court in **Shantibhai J. Vaghela and Another Vs. State of Gujarat and Others, (2012) 13 SCC 231**. In afore case, two young children went missing from Asaram Bapu Ashram in Gujarat. Their decomposed bodies were later recovered from the bed of the Sabarmati River. Parents alleged that the Ashram authorities failed to conduct a prompt search, delayed informing the Police, advised tantric remedies and failed to secure access gates between the Ashram and the riverbed. An FIR was registered against seven Ashram inmates alleging Section 304 read with Section 34 IPC and Section 23 of the Juvenile Justice Act. High Court quashed the FIR to the extent of Section 304 IPC, while allowing the investigation under Section 304A IPC and the Juvenile Justice Act to continue. Parents and State appealed before the

Hon'ble Apex Court wherein issue came to be decided whether omissions, lapses or delays on the part of Ashram authorities in searching for missing children and securing premises make out a *prima facie* case of culpable homicide under Section 304 IPC or not. Hon'ble Apex Court, after having examined the entire case, held that the commission of culpable homicide requires some positive act on the part of the accused, as distinguished from silence, inaction, or a mere lapse. Hon'ble Apex Court further held that the allegation of delay in lodging complaints, failure to conduct immediate searches, or failure to guard access to the riverbed constitute omission lapses, not a positive act done with the intention or knowledge to cause death. Relevant Paras of afore judgment read as under:

“24. Section 299 IPC defines culpable homicide as causing of death by doing an act with the intention of causing of death or with the intention of causing such bodily injury as is likely to cause death or with the knowledge that by such act death is likely to be caused. Under Section 300 IPC all acts of culpable homicide amount to murder except what is specifically covered by the exceptions to the said Section 300. Section 304 of the Penal Code provides for punishment for the offence of culpable homicide not amounting to murder.

25. Commission of the offence of culpable homicide would require some positive act on the part of the accused as distinguished from silence, inaction or a mere lapse. Allegations of not carrying out a prompt search of the missing children; of delay in the lodging of formal complaint with the police and failure to take adequate measures to guard the access from the ashram to the river, which are the principal allegations made in the FIR, cannot make out a case of culpable homicide not amounting to murder punishable under Section 304 IPC.

To attract the ingredients of the said offence something more positive than a mere omission, lapse or negligence on the part of the named accused will have to be present. Such statements are conspicuously absent in the FIR filed in the present case.

26. A reading of the relevant part of the opinion of the Forensic Medicine Department of B.J. Medical College, Ahmedabad would go to show that possibility of death of the children by drowning cannot be ruled out. Expert opinion available on record indicates that mere absence of diatoms will not exclude the aforesaid possibility. The relevant part of the post-mortem report, as extracted, indicates presence of mud in the trachea of the children which fact also points to the possibility of death by drowning. The absence of any injuries on the body of the deceased; the attack on the bodies by wild animals and the possibility of the taking away of the missing organs of the deceased Dipesh by wild animals are all mentioned in the post-mortem report. The said facts cannot be excluded or ignored while construing the prima facie liability of the accused named in the FIR. The absence of any positive material to show the practice of black magic in connection with the incident is another significant fact that has to be taken note of.”

40. Reliance is also placed upon **Dr. Mani Kumar Chhetri Vs. State of West Bengal**, 2018 STPL 3671 Calcutta. In afore case, a major fire broke out in the upper basement of the Annexe-I building of AMRI Hospital, Kolkata, leading to asphyxia and the death of 92 admitted patients. Investigation revealed severe safety violations, i.e. illegal conversion of the upper basement into storerooms/pharmacy, storing combustible materials (cotton, plywood, paper), failure to install fire stops in electrical shafts (allowing toxic smoke to billow directly into patient wards via central AC),

and failure of automatic sprinklers/alarm systems. It also came to be alleged that the hospital enforced an internal practice named "Code Brown", which instructed staff to contain fires internally first and forbade calling external fire services immediately. Besides above, it also came to be alleged that Dr. Mani Kumar Chhetri, a nonagenarian medical professional, was the Managing Director and a member of the Managing Committee supervising day-to-day affairs. Trial Court framed charges under Section 304 Part II/308/36 IPC. In afore background, following issues came to be framed for adjudication by the High Court of Calcutta:

1. Can a Director/Managing Director be held criminally liable under the IPC when the company itself is not impleaded as an accused?
2. Does gross negligence and active suppression of fire risk attract Section 304 Part II/308, read with Sections 35 and 36 IPC, or only Section 304A IPC?

41. In afore case, it came to be held by the Calcutta High Court that unlike special statutes, the IPC does not contain provisions for vicarious liability, but liability here was based on the petitioner's direct personal dereliction of supervisory duty as Managing Director and a member of the Managing Committee. He had active knowledge of non-compliance with fire safety warnings and the conversion of the basement into hazardous stores. Non-joinder of the company does not bar prosecution against an individual Director for IPC offences. Calcutta High Court further held that when

individual acts and illegal omissions committed by multiple members of the senior management cumulatively lead to a fatal consequence, each individual is constructively responsible as if done by him alone. However, while dealing with Section 304 Part II and Section 304 IPC, Calcutta High Court categorically held that 'knowledge' under Section 299/304 Part II, requires awareness of consequences with a degree of certainty or virtual certainty. While the Senior Directors committed gross negligence under Section 304A read with Section 35 and Section 36 IPC, their failure in a supervisory role could not be directly imputed with actual knowledge that death was a certain likelihood to sustain Section 304 Part II. Though High Court of Calcutta upheld the rejection of the discharge prayer made at the behest of the petitioner in that case, but it modified the charges against the petitioner to Section 304A read with Section 35 and Section 36 IPC, along with West Bengal Fire Services Act charges.

42. Reliance is further placed upon the judgment of the Hon'ble Apex Court in **Kurban Hussain Mohammedali Rangawalla v. State of Maharashtra**, AIR 1965 SC 1616, wherein the issue before the Hon'ble Apex Court was whether criminal liability under Section 304A IPC can be fastened in the absence of a direct and proximate causal connection between the alleged negligent act and the death of the victims. The Hon'ble Court held that, for attracting Section 304A IPC, the rash or negligent act of the accused must be the *causa causans*, i.e., the direct, immediate and proximate cause

of death, and not merely a remote or indirect circumstance. Since the immediate cause of the accident was the overflow and ignition of the turpentine mixture and not any direct act of the proprietor, the conviction under Section 304A IPC was held to be unsustainable. However, the conviction under Section 285 IPC was maintained. Relevant Paras of the judgment read as under:

“We may in this connection refer to *Emperor v. Omkar Rampratap* [(1902) IV Bom LR 679] where Sir Lawrence Jenkins had to interpret Section 304-A and observed as follows:

“To impose criminal liability under Section 304-A Indian Penal Code, it is necessary that the death should have been the direct result of a rash and negligent act of the accused, and that act must be the proximate and efficient cause without the intervention of another's negligence. It must be the *cause causans*; it is not enough that it may have been the *cause sine qua non*.”

This view has been generally followed by High Courts in India and is in our opinion the right view to take of the meaning of Section 304-A. It is not necessary to refer to other decisions, for as we have already said this view has been generally accepted. Therefore the mere fact that the fire would not have taken place if the appellant had not allowed burners to be put in the same room in which turpentine and varnish were stored, would not be enough to make him liable under Section 304-A, for the fire would not have taken place, with the result that seven persons were burnt to death, without the negligence of Hatim. The death in this case was therefore in our opinion not directly the result of a rash or negligent act on the part of the appellant and was not the proximate and efficient cause without the intervention of another's negligence. The appellant must therefore be acquitted of the offence under Section 304-A.”

43. Reliance is placed upon the judgment of the Hon'ble Apex Court in **Shamsher Khan v. State (NCT of Delhi)**, (2000) 6 SCC 595, wherein the issue before the Hon'ble Apex Court was whether the manufacture or storage of explosive substances in violation of statutory requirements, by itself, is sufficient to attract Section 304 Part II IPC on the ground that the accused possessed the requisite knowledge that death was likely to occur. The Hon'ble Court held that to constitute an offence under Section 304 Part II IPC, the prosecution must establish that the accused consciously performed the act with the knowledge that it was likely to cause death. Mere engagement in a hazardous activity or violation of statutory provisions, without proof of the specific act which triggered the explosion and the requisite *mens rea*, would not satisfy the ingredients of Section 304 Part II IPC. Accordingly, the conviction under Sections 304 Part II and 308 IPC was set aside. Relevant paras of the judgment read as under:

“10. The appellant was convicted under Sections 304 and 308 IPC. Both the offences relate to commission and attempt to commit culpable homicide respectively. So culpable homicide is the common factor in both the courts. Section 299 of the Penal Code, 1860 defines culpable homicide, which has three alternative requirements. They are:

1. doing an act with the intention of causing death of a person, or
2. doing an act with the intention of causing such bodily injury as is likely to cause such death, or
3. doing an act with the knowledge that he is likely by such an act to cause death of another person.

11. Learned counsel for the respondent State made an endeavour to bring the case within the ambit of the third alternative, as the case cannot possibly be brought under any of the other two. The act proved to have been committed by the appellant along with Babu Khan in this case is manufacture of explosive substances like bombs. Hence what is to be established is, the above act must have been done with the knowledge that such act by itself was likely to cause death. If some other act had intervened which the offender did not do consciously which triggered the explosions that could not be counted as the act for that offender. No evidence had been let in by the prosecution to show that mere manufacture of such bombs is likely to cause death of any person, nor has any evidence let in for showing that the appellant had the knowledge that by manufacturing bombs death would possibly be caused to any human being without any other act being done.

12. We may also point out that the prosecution has not brought out any circumstance by which the Court could remotely attribute knowledge to the appellant that by manufacturing and possessing bombs death of any person was a likely consequence. By manufacturing a bomb alone no one can normally think that it would explode without anything more being done. Here something more would have happened which caused the explosion, what was that additional act is unknown to us. At any rate there is no material to show that the appellant had done that additional act.

13. In view of the aforesaid legal position we find no scope to bring the proved facts within the ambit of Section 299 IPC. If so, the question of culpable homicide would stand at bay. We, therefore, find it legally difficult to confirm the conviction either for the offences under Section 304 or for Section 308 IPC. As a corollary we set aside the conviction and sentence passed on the appellant in regard to those two counts.”

44. Reliance is further placed upon the judgment of the Hon'ble Apex Court in **Sanjay Dutt & Ors. v. State of Haryana**, Criminal Appeal No. 11 of 2025 decided on 02.01.2025, wherein the issue before the Hon'ble Apex Court was whether officers of a company can be prosecuted on the principle of vicarious liability in the absence of an express statutory provision creating such liability. The Hon'ble Court held that vicarious criminal liability cannot be fastened upon the officers of a company unless the statute under which prosecution is launched specifically creates such liability by way of a deeming provision. In the absence of such an express provision, officers cannot be prosecuted merely because they hold positions in the company or because the alleged act was committed on behalf of the company. Relevant para of the judgment reads as under:

“13. It is the cardinal principle of criminal jurisprudence that there is no vicarious liability unless the statute specifically provides so. Thus, an individual who has perpetrated the commission of an offence on behalf of a company can be made an accused, if the statute provides for such liability and if there is sufficient evidence of his active role coupled with criminal intent. The primary responsibility is on the complainant to make specific averments as are required under the law in the complaint so as to make the accused vicariously liable. For fastening criminal liability on an officer of a company, there is no presumption that every officer of a company knows about the transaction in question.”

45. Reliance is further placed upon the judgment of the Hon'ble Punjab and Haryana High Court in **S. Rajgopal v. State of Haryana**,

2024:PHHC:044030, wherein the issue before the Hon'ble High Court was whether directors of a company can be prosecuted under Section 304A IPC for site-level operational lapses solely by virtue of their corporate positions and whether the principle of vicarious liability is applicable to offences under the IPC. The Hon'ble Court held that vicarious liability is a concept of civil law and cannot be imported into criminal jurisprudence unless specifically provided by statute. It was further held that directors cannot be prosecuted under Section 304A IPC in the absence of any allegation establishing their direct personal involvement, specific overt act or omission leading to the accident. Accordingly, the supplementary chargesheet and summoning orders against the directors were quashed. Relevant Paras of the judgment read as under:

“19. Having heard the learned counsel for the parties and perused the record with their able assistance, the following question emerges for adjudication:-

“Whether the petitioners being Directors of L&T can be held vicariously liable for the offence under Section 304-A of the Indian Penal Code?”

20. The doctrine of vicarious liability is a civil concept and its applicability in criminal cases is an exception rather than the rule. The doctrine of vicarious liability originates from the maxim Qui Facit per Alium Facit per, which means any act done by the servant in the course of his employment is considered to be done by the master and in principle, the master is also liable for the said act. In the Indian context, a person can be held liable for the actions of another, with the

aid of provisions contained in Section 34, 120-B and 149 of the IPC. As such, in criminal law, in certain cases, a person may be held liable even though the actus reus was committed by another person.

21. However, the legal framework for imputing vicarious liability on corporate entities is categorically provided for in a variety of legislations such as the Income Tax Act, 1961, the Negotiable Instruments Act, 1881, the Insecticides Act, 1968, the Drugs and Cosmetics Act, 1940 and Essential Commodities Act, 1955 etc. A two Judge Bench of the Hon'ble Supreme Court in *Iridium India Telecom Ltd. Vs. Motorola Inc. and others* (2011) 1 SCC 74, considered the issue of a Company being vicariously responsible for the criminal actions of its employees and speaking through Justice S.S. Nijjar, took the view that the intent and acts of the individuals who acted on behalf of the Company would be paramount to establish the crime of cheating against the Company and the contention that a corporate body is an artificial person incapable of possessing criminal intent to commit the said offence was categorically rejected. A Constitution Bench of the Hon'ble Supreme Court in *Standard Chartered Bank Vs. Directorate of Enforcement* (2005) 4 SCC 530, speaking through Justice K.G. Balakrishnan for the majority view, further held that a Company is liable to be prosecuted and punished for criminal offences emanating from the actions of its Directors who were acting on behalf of the Company.

22. However, in the present case, the culpable negligence is alleged to have been committed in pursuance of the work awarded to L&T in terms of the agreement dated 21.08.2012. The complainant has sought to set up a case that L&T is an artificial legal entity which works through its Directors and as such, the Directors are vicariously liable for the culpable negligence of the Company.

23. In *Ravindranath Bajpe* (supra), a two Judge Bench of the Hon'ble Supreme Court, speaking through Justice M.R. Shah, has crystallized

the jurisprudence on the issue of vicarious liability of the Directors and management officials of a corporate entity. In the aforementioned case, the accused were the Chairman of Board of Directors, Managing Director and other management officials, who were charged with offences under Sections 420, 427, 447, 506, 34 read with Section 120-B of IPC alleging that all the accused possessed a criminal intent as they shared a common intention while committing the said offences. The Hon'ble Supreme Court referred to the judgments in Sunil Mittal (supra), Maksud Saiyed (supra) and Pepsi Foods Ltd. (supra) and formulated the following principles:-

1. No automatic vicarious liability in criminal offences:- It is the fundamental principle of criminal jurisprudence that there is no vicarious liability unless the statute specifically provides for it, which is conspicuously lacking in the IPC. Thus, the Directors or Management officials cannot be held vicariously liable for an offence since mens rea can be attributed to them, unless deeming statutory provisions for the same are provided in the relevant statute.
2. Doctrine of 'Alter Ego':- If a group of persons responsible for the conduct of business of the company has a criminal intent, the same can be imputed to the body corporate and not vice versa. Therefore, such person, who had committed the offence on behalf of the Company can be made an accused along with the Company only if there is specific attribution of his active participation with culpable intent.
3. Issuance of summons:- Summoning an accused in a criminal case requires application of judicial mind. The prima facie assessment and finding with regard to the complicity of the accused must be recorded by the Magistrate before summoning them.

46. Reliance is further placed upon the judgment of the Hon'ble Apex Court in **Shiv Kumar Jatia v. State (NCT of Delhi)**, (2019) 17 SCC 193, wherein the issue before the Hon'ble Apex Court was whether a Managing Director can be prosecuted under Section 304A IPC merely by virtue of his designation and whether the doctrine of alter ego permits fastening criminal liability upon a company official without proof of his personal involvement. The Hon'ble Court held that criminal prosecution of a director or officer of a company can be sustained only where there are specific allegations disclosing his active role, direct personal causation and the requisite *mens rea*. The doctrine of alter ego cannot be applied in reverse to automatically attribute the negligence of the company to its Managing Director. In the absence of any allegation of a specific overt act or omission, the criminal proceedings against the Managing Director were quashed. Relevant paras of the judgment read as under:

“19. The liability of the Directors/the controlling authorities of company, in a corporate criminal liability is elaborately considered by this Court in *Sunil Bharti Mittal* [*Sunil Bharti Mittal v. CBI*, (2015) 4 SCC 609 : (2015) 2 SCC (Cri) 687] . In the aforesaid case, while considering the circumstances when Director/person in charge of the affairs of the company can also be prosecuted, when the company is an accused person, this Court has held, a corporate entity is an artificial person which acts through its officers, Directors, Managing Director, Chairman, etc. If such a company commits an offence involving *mens rea*, it would normally be the intent and action of that individual who would act on behalf of the company. At the same time it is observed that it is the cardinal principle of criminal jurisprudence

that there is no vicarious liability unless the statute specifically provides for. It is further held by this Court, an individual who has perpetrated the commission of an offence on behalf of the company can be made an accused, along with the company, if there is sufficient evidence of his active role coupled with criminal intent. Further it is also held that an individual can be implicated in those cases where statutory regime itself attracts the doctrine of vicarious liability, by specifically incorporating such a provision.

47. Reliance in this regard is placed upon the judgment of the Hon'ble Apex Court in **S.K. Alagh v. State of Uttar Pradesh**, (2008) 5 SCC 662, wherein the issue before the Hon'ble Apex Court was whether a Managing Director or other corporate officers can be held vicariously liable for offences under the IPC committed by or on behalf of a company. The Hon'ble Court held that the Code does not contain any general provision creating vicarious criminal liability in respect of directors, managers or officers of a company. In the absence of a statutory provision or specific allegations constituting personal involvement in the commission of the offence, criminal liability cannot be fastened merely on account of the office held by such person. Relevant Para of the judgment reads as under:

“16. The Penal Code, save and except some provisions specifically providing therefor, does not contemplate any vicarious liability on the part of a party who is not charged directly for commission of an offence.”

48. Reliance in this regard is placed upon the judgment of the Hon'ble Apex Court in **Maksud Saiyed v. State of Gujarat & Ors.**, (2008) 5

SCC 668, wherein the issue before the Hon'ble Apex Court was whether the Chairman, Managing Director and other Directors of a company can be prosecuted under the IPC solely on account of their corporate designations. The Hon'ble Court held that where the statute does not provide for vicarious liability, criminal proceedings against company officials can be maintained only upon specific allegations attributing individual overt acts and the requisite *mens rea*. Mere holding of a high office in the company is insufficient to justify criminal prosecution. Relevant para of the judgment reads as under:

“13. Where a jurisdiction is exercised on a complaint petition filed in terms of Section 156(3) or Section 200 of the Code of Criminal Procedure, the Magistrate is required to apply his mind. The Penal Code does not contain any provision for attaching vicarious liability on the part of the Managing Director or the Directors of the Company when the accused is the Company. The learned Magistrate failed to pose unto himself the correct question viz. as to whether the complaint petition, even if given face value and taken to be correct in its entirety, would lead to the conclusion that the respondents herein were personally liable for any offence. The Bank is a body corporate. Vicarious liability of the Managing Director and Director would arise provided any provision exists in that behalf in the statute. Statutes indisputably must contain provision fixing such vicarious liabilities. Even for the said purpose, it is obligatory on the part of the complainant to make requisite allegations which would attract the provisions constituting vicarious liability.”

49. True it is that in the case at hand, nine persons lost their lives in the unfortunate incident of fire, but such fact cannot be a ground to charge

petitioners under Section 304, Part II and 308 for the detailed reasons made hereinabove. At this stage, Mr. Rajan Kahol, learned Additional Advocate General, attempted to argue that petition at hand is premature because submissions made in the instant proceedings, oral or documentary, ought to have been made by petitioners at the time of framing of charge. However, this Court is not impressed with the aforesaid submission of learned Additional Advocate General for the reason that scope of application of discharge is completely different from the scope of petition for quashing of criminal proceedings filed under Section 528 of BNSS. While arguing a case for discharge, accused will not be in a position to rely upon the document, which is not a part of the chargesheet. Similarly, ground of abuse of process of law will not be available to accused at the time of arguing the application of discharge. However, in a petition for quashing under Section 482 of Cr.P.C. or under Article 226 of the Constitution of India, a wider challenge is available including challenge on the ground of abuse of process of law. In such proceeding, accused can rely upon documents which are not the part of chargesheet. Reliance in this regard is placed upon judgment dated 29.11.2024 passed by Hon'ble Apex Court in case titled **Mukesh and Others v. State of Uttar Pradesh and Others**, arising out of Special Leave Petition (Criminal) No.12354 of 2024, which read as under:

“6. Learned counsel representing the State of Uttar Pradesh submits that the High Court order does not call for interference as the appellants have an efficacious remedy to challenge the order framing charge by filing a revision application. We are shocked to note the

approach adopted by the State Government. What is suggested by the State Government is that once charge-sheet is filed, accused cannot do anything except to wait till the charge is framed and thereafter, can file a revision application to challenge the order of framing charge.

7. At this stage, learned counsel appearing for the State submits that possibly because a remedy of filing revision application against the order framing charge was available, the High Court has dismissed the petition. We do not see any such reason forthcoming from the impugned order as the petition is dismissed as infructuous without mentioning how it has become infructuous.

8. It is true that the appellants can apply for discharge. However, the scope of application for discharge is completely different from the scope of a petition for quashing the criminal proceedings. While arguing a case for discharge, the appellants will not be in a position to rely upon any document which is not the part of charge sheet. The ground of abuse of process of law will not be available while arguing discharge application. However, in a petition for quashing either under Section 482 of the Code of Criminal Procedure, 1973 or under Article 226 of the Constitution of India, a wider challenge is available including a challenge on the ground of abuse of process of law. In such proceedings, the accused can rely upon documents which are not the part of the charge-sheet. Therefore, we reject the submission made by learned counsel appearing for the State. Though the submissions made on behalf of the State have no basis, we have dealt with the same elaborately to ensure that the same are not urged in a similar case.”

50. Reliance is also placed upon judgment dated 24.09.2025 passed by Hon’ble Supreme Court in **Anukul Singh Vs. State of Uttar Pradesh and Another**, Criminal Appeal No.4250 of 2025, which read as under:

8.4. Further reliance was placed on Anand Kumar Mohatta v. State (NCT of Delhi)⁶, wherein this Court held that the High Court’s jurisdiction under Section (2008) 13 SCC 678 (2019) 11 SCC

706 482 Cr.P.C. is not confined to the stage of FIR and can be exercised even after filing of charge sheet, to prevent abuse of process of law. Similarly, in Mukesh and others v. State of UP and others⁷, this Court held that the scope of Section 482 is wider than that of discharge proceedings, as in quashing petitions the accused may rely on documents outside the charge sheet to demonstrate abuse of process of law.

51. Consequently, in view of detailed discussion made hereinabove, as well as law taken into consideration, this Court finds merit in the submission of the petitioners that no case much less under Sections 304, Part II and 308 IPC is made out against them and as such, FIR, to the extent of charging petitioners under aforesaid provisions of law, is quashed and set aside, but with direction to Court below to proceed against the petitioners under other provisions of law.

52. Needless to say, observation/finding given in the instant judgment is only for the purpose of disposal of the present petitions and same shall have no bearing on the main case, which shall be decided by the learned trial court strictly on the basis of evidence as well as other material collected on record by the prosecution.

The present petitions are allowed and disposed of in the aforesaid terms. Pending application(s), if any, shall also stand disposed of.

July 09, 2026

Rajeev Raturi

**(Sandeep Sharma),
Judge**

**RAJEEV
RATURI**

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