



\$~69

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC010354602026

+ CRL.M.C. 5636/2026, CRL.M.A. 23548/2026, CRL.M.A. 23549/2026, CRL.M.A. 23550/2026

MANJU ABBOT

.....Petitioner

Through: Mr. Harshvardhan Pandey, Adv.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Raghuinder Verma, APP with
SI Dharmendra Sharma, PS.: Patel
Nagar

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

05.08.2026

%

1. By virtue of the present petition under *Section 528¹* of the Bharatiya Nagarik Suraksha Sanhita, 2023 (**BNSS**) [erstwhile *Section 482* of the Code of Criminal Procedure (**CrPC**)], the petitioner seeks setting aside of the order dated 21.03.2025 passed by the learned Additional Sessions Judge-08 (West), Tis Hazari Courts, Delhi in Cr. Rev. No.61/2022 arising out of FIR No.422/2017 registered at PS.: Patel Nagar under *Section 420* of the Indian Penal Code, 1860 (**IPC**).

2. *Briefly put*, after registration of the aforesaid FIR, charges under *Section 406* IPC were framed against the respondent no.2 *vide* order dated 23.11.2021. Aggrieved thereby, a revision petition was preferred by the respondent no.2 before the learned Sessions Court which came to be



allowed *vide* the impugned order dated 21.03.2025 and consequently, respondent no.2 was discharged of the offence under *Section 406 IPC*. Thus, the present petition under *Section 528 BNSS* thereagainst by the petitioner/ original complainant.

3. At the outset, it is trite that the inherent jurisdiction of this Court under *Section 528 BNSS* ought not to be resorted to if there is a specific remedy provided under the BNSS. *Section 528 BNSS* cannot be used to either circumvent the provisions as available in law or use it in the form of an appeal. At the end of the day, the Court ought not to be called upon to exercise its “*inherent powers*”, more so, since it is only to be exercised whence “... .. *necessary to give effect to any order under BNSS, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice*”.

4. The Hon’ble Supreme Court in the celebrated judgment of ***Madhu Limaye vs. State of Maharashtra***², though passed in a case under *Section 482 CrPC* has categorically laid down the following principles in relation to exercise of the inherent power of the High Court:-

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

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

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

[Emphasis Supplied]

¹

² (1977) 4 SCC 551



5. In addition to the aforesaid, this Court is mindful of the fact that mere availability of an alternative remedy may not, in every case, operate as an absolute bar to exercise the inherent powers. In this regard, it is relevant that the Hon'ble Supreme Court in ***Dhariwal Tobacco Products Limited vs. State of Maharashtra and Another***³ has held as under: -

*“6. Indisputably issuance of summons is not an interlocutory order within the meaning of Section 397 of the Code. This Court in a large number of decisions beginning from R.P. Kapur v. State of Punjab to Som Mittal v. Govt. of Karnataka has laid down the criterion for entertaining an application under Section 482. **Only because a revision petition is maintainable, the same by itself, in our considered opinion, would not constitute a bar for entertaining an application under Section 482 of the Code.** Even where a revision application is barred, as for example the remedy by way of Section 115 of the Code of Civil Procedure, 1908, this Court has held that the remedies under Articles 226/227 of the Constitution of India would be available. **Even in cases where a second revision before the High Court after dismissal of the first one by the Court of Session is barred under Section 397(2)* of the Code, the inherent power of the Court has been held to be available.**”*

[Emphasis Supplied]

6. However, in those cases wherein any party like the petitioner herein is seeking to derive benefit of Section 528 BNSS by calling upon the Court to exercise its “inherent powers”, it is always incumbent upon such party like the petitioner herein to satisfy the Court with some basis by making assertions/ raising requisite grounds therefor. This is because such “inherent powers” are to be used sparingly, for specific purposes, much less for a simpliciter appeal.

³ (2009) 2 SCC 370



7. Interestingly, what is remarkable is that the legislature in its own wisdom while enacting the BNSS as late as in the year 2023, chose to retain the very same structure of *Section 482 CrPC* in *Section 528 BNSS* without expanding the scope thereof.

8. The aforesaid clearly reflects that it was always the intention/ purpose/ mandate of the legislature throughout to carve out a distinction with the revisional jurisdiction under *Section 438 BNSS* [earlier *Section 397 CrPC*], appellate jurisdiction under *Section 413 BNSS* [earlier *Section 372 CrPC*] and extra-ordinary jurisdiction under *Section 528 BNSS* [earlier *Section 482 CrPC*]. Therefore, it would be wrong to try and read one provision into another as the same will surely be against the mandate of the Statute.

9. In fact, a harmonious construction of the law laid down by the Hon'ble Supreme Court in both ***Madhu Limaye (supra)*** and ***Dhariwal Tobacco Products Limited (supra)*** reflect that all the provisions in the erstwhile CrPC/ now existing BNSS have to be read together, and not in isolation, more so, as neither of them have been modified and/ or altered at any stage subsequently.

10. Therefore, in the present case though the petitioner had the remedy of revision before this Court, however, instead of availing the same within the limitation period, the petitioner has approached this Court under *Section 528 BNSS*, and that too, after an unexplained delay of almost *one and a half years* only to circumvent that what is not permissible under law. Significantly, no exceptional circumstance has been brought to the notice of this Court which would warrant exercise of its extraordinary inherent jurisdiction at this belated stage. There is no such case made out



by the petitioner herein. Under such circumstances, the present petition, at such a belated stage, after lapse of the statutory timeline, cannot be allowed. If done so, then it will be wholly against the whole intent/purpose, and the mandate of BNSS.

11. Clearly, the petitioner is asking this Court to exercise its “*inherent powers*” in a manner which is beyond the purview of *Section 528 BNSS*, and that too, to overcome the lapse of statutory period not availed by the petitioner within the prescribed period therefor.

12. Accordingly, finding no merits, the present petition is dismissed.

SAURABH BANERJEE, J.

AUGUST 05, 2026/bh