

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

2025:PHHC:175814



329

CRM-M-22452-2025 (O&M)
Date of decision:19.12.2025

Anil Kumar Singh

... Petitioner

Vs.

U.T. of Chandigarh & another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Nitish Sharma, Advocate for the petitioner.

Mr. Viren Sibal, A.P.P., U.T., Chandigarh.

...

Manisha Batra, J. (Oral).

1. The present petition has filed by the petitioner under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking quashing of FIR No.97, dated 15.08.2021, registered under Sections 380, 457, 34 and 411 IPC, at Police Station Mauli Jagran, Chandigarh and all the subsequent proceedings having emanated therefrom.

2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR has been registered on the basis of written complaint submitted by complainant – Aashik Ilai alleging that he along with one Mohammed Aslam was residing in a rented accommodation. On the intervening night of 13.08.2021, someone entered into their room and had committed theft of their cell phones. He had checked CCTV footage and had found Sunny, who was already acquainted with him to be coming

towards his house. He raised suspicion that their mobile phones had been stolen by the aforementioned Sunny. By alleging that he had come to know that cell phones of some other persons, namely, Nikhil Kumar, Akhilesh Kumar and Neeraj had also been stolen by the aforementioned Sunny, he prayed for taking action in the matter.

3. After registration of the FIR, investigation proceedings were initiated. During investigation, accused Chaman and Sunny were arrested. Five cell phones were recovered from their custody. On the basis of disclosure statement suffered by them, the present petitioner was nominated as an accused. Mobile phone stolen from the complainant was recovered from him and the same had been identified by the latter. Investigation now stands completed and the challan has been presented against the petitioner and the co-accused.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case on the basis of disclosure statement of the co-accused, which cannot be considered to be admissible in evidence. The redmi mobile phone, which has been recovered from him had been purchased by him from one Manjit Kumar and was not a stolen property as alleged. The mobile phones of the complainant and others had already been recovered at the instance of accused Chaman. There is no invoice regarding purchase of mobile phone by the complainant. He did not even mention the IMEI number of his mobile phone and only SIM card number and make of mobile was mentioned in the complaint. No purpose is going to be served by subjecting him to trial and it would amount to abuse of process of law. There is no legally admissible evidence to connect him with the crime and there is

no prospects of his being convicted. It is, hence, urged that the impugned FIR is not sustainable qua him and is liable to be quashed.

5. Learned counsel appearing for U.T., Chandigarh has addressed arguments in support of his pleas as taken in the reply by submitting that the mobile phone belonging to the complainant had been recovered from the petitioner. The investigation has concluded. Charges are also going to be framed. The allegations levelled in the FIR, coupled with the proceedings conducted during the course of investigation make out a *prima facie* case for commission of subject offences as against the petitioner. The powers for quashing of FIR under Section 528 of the BNSS are to be exercised in extraordinary and exceptional circumstances and no such circumstance has been made out in this case. It is, thus, stressed that the petition does not deserve to be allowed.

6. This Court has heard rival submissions made by learned counsel for the parties.

7. At the outset, it will be profitable to look into the scope and ambit of the Court's power under Section 482 Cr.P.C. (*which is pari materia with Section 528 of BNSS*) as spelt out in several judicial pronouncements of Hon'ble Supreme Court as well as different High Courts. The well settled proposition of law is that in exercise of inherent powers under Section 482 Cr.P.C., the High Court is not expected to analyze all the facts, which are to be placed before the High Court. The power conferred under this section is very specific. To secure the ends of justice, to prevent the abuse of process of Court or to make any such orders as may be necessary to give effect to any order under the Code, such power can be exercised to prevent abuse of

process of Court. The Hon'ble Supreme Court has drawn up some guidelines in some categories of cases by way of illustration to circumscribe the exercise of inherent power under Section 482 of Cr.P.C. to prevent abuse of process of any Court or to secure the ends of the justice or to give effect to an order of the Court. A celebrated pronouncement on this point is the case cited as *State of Haryana Vs. Bhajan Lal : 1992 SUPP (1) SCC 335*, wherein Hon'ble Supreme Court had discussed different categories of cases wherein the power under Section 482 Cr.P.C. could be exercised either to prevent abuse of process of law or otherwise to secure the ends of justice, while observing that it might not be possible to lay down any precise, clearly defined, sufficiently channelized, inflexible guidelines or rigid formulae and to give an exhaustive list or myriad kind of cases where such powers should be exercised. The following principles have been culled out:-

“102 (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 private and personal grudge.”

8. The principles of law as laid down by Hon’ble Supreme Court in ***Bhajan Lal***’s case (supra) have been followed in a catena of judgments. In ***Paramjeet Batra vs. State of Uttarakhand, (2013) 11 SCC 673***, it was observed by Hon’ble Supreme Court that although the inherent powers of a High Court under Section 482 of the Code should be exercised sparingly and only for the purpose of preventing abuse of process of any Court or otherwise to secure ends of justice, yet, the High Court must not hesitate in quashing such criminal proceedings, where essential ingredients of the offence are not made out. In ***Mahendra K.C. vs. State of Karnataka, (2022)***

2 SCC 129: (2022) 1 SCC (Cri) 401, Hon'ble Supreme Court observed that the test to be applied is whether the allegations in the complaint, as they stand, without adding or detracting from the complaint, prima facie establish the ingredients of the offence alleged. At this stage, the High Court cannot test the veracity of the allegations, nor, for that matter, can it proceed in the manner that a judge conducting a trial would, based on the evidence collected during the course of the trial. In ***Priyanka Jaiswal vs. State of Jharkhand*, 2024 SCC Online SC 685**, Hon'ble Supreme Court observed that the Court exercising extraordinary jurisdiction under Section 482 of Cr.P.C. cannot conduct a mini trial or enter into appreciation of evidence of a particular case. The following observations were made:

“13. We say so for reasons more than one. This Court in catena of Judgments has consistently held that at the time of examining the prayer for quashing of the criminal proceedings, the court exercising extra-ordinary jurisdiction can neither undertake to conduct a mini trial nor enter into appreciation of evidence of a particular case. The correctness or otherwise of the allegations made in the complaint cannot be examined on the touchstone of the probable defence that the accused may raise to stave off the prosecution and any such misadventure by the Courts resulting in proceedings being quashed would be set aside. This Court in the case of Akhil Sharda¹ held to the following effect:

“28. Having gone through the impugned judgment and order passed by the High Court by which the High Court has set aside the criminal proceedings in exercise of powers under Section 482 Cr.P.C., it appears

that the High Court has virtually conducted a mini trial, which as such is not permissible at this stage and while deciding the application under Section 482 Cr.P.C. As observed and held by this Court in a catena of decisions no mini trial can be conducted by the High Court in exercise of powers under Section 482 Cr.P.C. jurisdiction and at the stage of deciding the application under Section 482 Cr.P.C., the High Court cannot get into appreciation of evidence of the particular case being considered.”

9. Similar view was taken in ***Minakshi Yadav vs. State of Uttar Pradesh, 2024 SCC Online 643***, wherein Hon’ble Supreme Court observed that the Court would not be justified in embarking upon an inquiry as to the reliability and genuineness or otherwise of the allegations made in the FIR or the complaint at the stage of quashing of the proceedings under Section 482 of Cr.P.C.

10. Reference can further be made to ***Gian Singh vs. State of Punjab, (2012) 10 SCC 303***, wherein Hon’ble Supreme Court observed that the power of the High Court in quashing a criminal complaint or an FIR, in exercise of its inherent jurisdiction, is distinct and different from the power given to a criminal court for compounding the offences under [Section 320](#) of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accordance with the guidelines engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court.

11. In ***Neeharika Infrastructure vs. State of Maharashtra : 2021***

SCC OnLine SC 315, the Apex Court observed that the Courts ought to be cautious in exercising powers under Section 482 of Cr.P.C. They do have power to quash. The test is whether or not the allegations in the FIR disclose the commission of a cognizable offence? The merits of the allegations are not to be entered into nor the power of the investigating agency to investigate into allegations involving the commission of a cognizable offence is to be treasured upon.

12. Similar position of law was reiterated by Hon'ble Supreme Court in *Ajay Malik vs. State of Uttarakhand, 2025 SCC OnLine SC 185*, wherein it was observed as follows:

“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 preempting 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*).”

13. It is also well settled that if charges are framed in accordance with Section 263 of BNSS on finding that a prima facie case stands made out, the persons arraigned may, if he feels aggrieved, invoke the revisional jurisdiction of the High Court or the Sessions Judge to contend that the charge-sheet submitted under Section 173 CrPC and documents sent with it did not disclose any ground to presume that he had committed any offence for which he is charged and the revisional court if so satisfied can quash the charges framed against him. It would not be justified for the High Court to invoke inherent jurisdiction under Section 482 of Cr.P.C. to quash the same except in rare cases. In this context, reference can also be made to In *Minakshi Bala vs. Sudhir Kumar, (1994) 4 SCC 142: 1994 SCC (Cri) 1181*, wherein it was observed by Hon’ble Supreme Court that once the Competent Court has framed the charges, the person aggrieved may invoke the revisional jurisdiction and the High Court should not exercise its inherent jurisdiction under Section 482 of Cr.P.C., except in the rare cases. Reliance can also be placed upon *Naresh Kumar and others vs. State of Himachal Pradesh and others, 2023 STPL 2994 HP*, where in FIR was sought to be quashed but the order framing charge and other orders passed by the trial Court taking cognizance were not challenged. It was observed by the High Court of Himachal Pradesh that in the absence of any specific challenge to the investigation conducted by the police and orders passed by

the Court of competent jurisdiction, whereby the cognizance was taken and thereafter the charges were framed, the FIR in question should not be quashed. It was also noticed that most of the prosecution witnesses had already been examined. The prayer made by the accused to quash the FIR was declined.

14. On applying the parameters as laid down by the Hon'ble Supreme Court in aforecited judgments to the peculiar facts of this case, it may be stated that at the time of filing of this petition, challan had been presented and even charges have been framed and the matter was listed for recording statements of the prosecution witnesses. The petitioner has not specifically challenged the charges as framed against him nor the orders taking cognizance of the offences have been challenged. As such, this Court need not exercise its jurisdiction under Section 528 of BNSS to hold enquiry into the factual aspects of the case, or to embark upon the question whether the evidence in question is reliable or not since that is the function of the trial Judge. Even otherwise, on going through the contents of the FIR, it is revealed that the allegations clearly disclose a *prima facie* case against the petitioner, which justify the registration of criminal proceedings against him. It cannot be said that these allegations are bereft of even the basic facts, which are absolutely necessary for constituting a *prima facie* case for the offences alleged nor can it be said that the allegations made in the complaint, even if taken at face value to be true in entirety, do not disclose any offence. Rather, on appreciation of material on record on the touchstone of above said legal position, this Court finds that there are specific allegations in the FIR as against the present petitioner. In such circumstances, the instant case

certainly does not fall within any of the categories of the cases calling for the exercise of power by this Court under Section 528 of BNSS. It appears that by seeking to quash the FIR and the criminal proceedings, the petitioner intends to stifle a legitimate prosecution. Specific allegations have been raised in the FIR regarding forging documents/agreements and cheating the complainant. The allegations levelled in the FIR do not advance the case of the petitioner at this stage to seek quashing of the FIR. Disputed question of facts cannot be delved into by this Court at this stage to exercise jurisdiction under Section 528 of BNSS to quash the FIR in question.

15. Keeping in view the facts and circumstances of the case, this Court finds no ground whatsoever to interfere at this stage for quashing of the FIR in question. The petition is accordingly dismissed.

16. It is, however, clarified that no observations made herein above are the reflection on the merits of the case and shall have no bearing on trial. The same are confined for the decision of the present petition only.

19.12.2025

harjeet

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No