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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Sr. No.120

**CRM-M-49187-2024 (O&M)
Date of decision : 06.02.2025**

Devendra Chhabra @ Davender Chhabra

..... Petitioner

VERSUS

State of UT Chandigarh and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Petitioner Devendra Chhabra @ Davender Chhabra
in person.

Mr. Y.S. Rathore, Addl. PP, UT Chandigarh
for respondent No.1.

KIRTI SINGH, J. (Oral)

1. The instant petition has been filed under Section 528 of BNSS, 2023 for quashing of the FIR No.104 dated 05.08.2020, under Section 354-D IPC, registered at Police Station West Sector-11, Chandigarh and all other proceedings arising therefrom.
2. The translated version of the FIR is reproduced below:-

“To, cyber Crime cell/DIG Chandigarh Police HQ Sector-9 Chandigarh. Date 02.06.2020. Subject:-Complaint Against Harassment and Cyber Stalking-Reg. Sir/Madam, I, Sanjana Vatts, am posted as district youth coordinator, Nehru Yuva Kendra Chandigarh, Ministry of youth affairs and sports, GOI. This is to bring to yours notice that I am being harassed by Devender Chhabra, resident of Kurukshetra, Haryana from his number-9817114430, 9896850245, 9812398481, on daily basis since April 2020. Devender Chhabra, Mentioned above is sending me messages via whatsapp. And making phone calls on whats App, as well as on my personal mobile number throughout the day. He is using different numbers to do this. He is constantly harassing me mentally, constantly following me on social media, such as facebook, whats app. He is tried many times to contact me. through whats App calls, normal calls, even I had mentioned many times my disinterest in him and also gave him physical warning. Even after that he is also calling on my office landing number to enquire about my

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whereabouts office timing and my area of residence. I am not only being harassed by him on regular basis but he is also tarnishing my image as a government employee. He is also compromising my dignity as a women. Therefore, I request your kind consideration in this and further necessary action, Since Devender Chhabras actions are entirely abnormal and hence he is a threat to my life. I say this, because I live alone in Chandigarh, Which is my current place of posting. Please find attached the messages received, calls record from his numbers for your ready reference to initiate the investigation in this matter. You are humbly requested that alleged Devender Chhabra is continuously following me through social media and also physically. Kindly register the FIR against Devender Chhabra Under relevant and action of law. Sd/ Sanjana Vatts.'

3. The petitioner, who has appeared in person, submits that he has been falsely implicated in this case and the essential ingredients, to attract an offence under Section 354-D IPC, have not been fulfilled. He further submits that initially, he had sent messages on whatsapp but when the complainant refused to entertain/respond to his messages, he did not pursue any further, hence, an offence under Section 354-D IPC is not made out against him. He has relied upon Annexure P3 i.e. a copy of messages allegedly sent by the petitioner to the complainant.

4. In compliance of order dated 03.10.2024, status report has been filed by the learned State counsel in Court today. The same is taken on record. Learned State counsel while relying upon the status report submits that there are serious allegations against the petitioner. The petitioner was arrested on 28.09.2020 and subsequently he was released on bail. Final report in the present case was presented on 22.01.2022 before the trial Court and charge(s) was framed under Section 354-D IPC vide order dated 17.08.2023. Till date, out of a total of 12 prosecution witnesses, 02 witnesses including the complainant have been examined. A phone belonging to the petitioner was recovered and sent to CFSL for forensic

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examination, but same was not found to be in working condition, however, the mobile numbers mentioned in the FIR were found to be registered in the name of petitioner and his father. It is further submitted that the petitioner is habitual as he is involved in another case i.e. FIR No.56 dated 27.04.2021, under Section 354-B IPC, registered at Police Station West Sector-11, Chandigarh in which the trial is pending before the Court of learned JMIC, Chandigarh and as per the last order dated 13.09.2024 in this case, the trial Court has issued non-bailable warrants against the petitioner. Further, the contentions made by the petitioner are subject matter of trial and he shall raise these contentions before the learned trial Court during the trial in his defence as this Court is not an appropriate forum to appreciate the evidence in a petition filed under Section 528 of BNSS, 2023 as same would amount to conducting a mini trial.

5. Heard the rival submissions made by the petitioner and learned counsel for the State.

6. The principles governing quashing of FIRs and criminal proceedings were summed up by the Hon'ble Supreme Court in case of ***Neeharika Infrastructure (P) Ltd. v. State of Maharashtra, (2021) 19 SCC 401*** after analysing catena of judicial precedents. The relevant observations of the decision are extracted hereunder:

“13. From the aforesaid decisions of this Court, right from the decision of the Privy Council in the case of Khawaja Nazir Ahmad, the following principles of law emerge:

13.1. Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into cognizable offences;

13.2. Courts would not thwart any investigation into the cognizable offences;

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13.3. However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on;

13.4. The power of quashing should be exercised sparingly with circumspection, in the 'rarest of rare cases'. (The rarest of rare cases standard in its application for quashing under Section 482 Cr. P.C. is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court);

13.5. While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;

13.6. Criminal proceedings ought not to be scuttled at the initial stage;

13.7. Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule;

13.8. Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice or prevent the abuse of the process by Section 482 Cr. P.C.

13.9. The functions of the judiciary and the police are complementary, not overlapping;

13.10. Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;

13.11. Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

13.12. The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

13.13. The power under Section 482 Cr. P.C. is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court;

13.14. However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the selfrestraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint; and

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13.15. When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under Section 482 Cr. P.C., only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR.”

7. In a judgment titled as ***State of Uttar Pradesh & Anr. vs. Akhil Sharda & Ors. 2022(3) RCR (Criminal) 841*** the Hon’ble Supreme Court has held as under:-

“7. 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.”

8. In a judgment titled as ***Chilakamarthi Venkateshwarlu & Anr. vs. State of Andhra Pradesh & Anr., AIR 2019 SC 3913***, the Hon’ble Supreme Court has held as under:-

“15. In exercising jurisdiction under Section 482 it is not permissible for the Court to act as if it were a trial Court. The Court is only to be prima facie satisfied about existence of sufficient ground for proceeding against the accused. For that limited purpose, the Court can evaluate materials and documents on record, but it cannot appreciate the evidence to conclude whether the materials produced are sufficient or not for convicting the accused.

16. The High Court should not, in exercise of jurisdiction under Section 482, embark upon an enquiry into whether the evidence is reliable or not, or whether on a reasonable appreciation of the evidence the allegations are not sustainable, for this is the function of the trial Judge. This proposition finds support from the judgment of this Court in Zandu Pharmaceutical Works Ltd. and Ors. v. Mohd. Sharful Haque and Another, 2004(4) RCR (Criminal) 937: (2005) 1 SCC 122.”

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9. The Hon’ble Supreme Court, in judgments rendered in *Akhil Sharda (supra)* and *Chilakamarthi Venkateshwarlu (supra)*, has held that while exercising jurisdiction under Section 482 of the Cr.P.C. (now Section 528 of BNSS, 2023), the High Court is not required to assess the sufficiency or reliability of the evidence. The High Court, in considering a quashing petition, should not ordinarily delve into the nature, reliability, or sufficiency of the prosecution's evidence presented during the trial. Such an undertaking would be akin to conducting a mini-trial, which is an undesirable and avoidable course of action.
10. In view of observations made here-in-above the present petition deserves to be dismissed.
11. Ordered accordingly.
12. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

06.02.2025
Ramandeep Singh

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No