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2025:PHHC:124269



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

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Date of decision: September 10, 2025

Suresh Kumar

....Petitioner

versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**Present:-** Mr. Poonam Malhan, Advocate for the petitioner.

Mr. Vishal Singh, AAG Haryana.

SUMEET GOEL, J. (ORAL)

Present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for setting aside/ quashing of FIR No.408 dated 25.04.2018, registered for commission of offences punishable under Sections 323, 325, 506 of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station Thanesar City, District Kurukshetra, Haryana, and challan report (charge-sheet) dated 02.05.2018 along with all consequential proceedings arising therefrom.

2. The gravamen of the allegations against the petitioner is that complainant, namely, Amit Kumar alleged that Suresh Kumar (petitioner herein) used to park his car near his house. On 23.04.2018, when the petitioner parked his car near the house of the complainant, then, the complainant objected to it, but the petitioner did not listen to him and did not

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remove his car from the said spot. Thereafter, on the next date, i.e., 24.04.2018 at about 12:00 p.m., the petitioner called the complainant to his home, and after alleging that the complainant had broken the glass of his car, the petitioner started beating him on the road. Meanwhile, the mother and father of the complainant intervened to rescue the complainant, but the petitioner pushed his mother and threw her to the ground, due to which, her left hip was fractured, and the petitioner also threatened to kill them.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further argued that no requisite medical record has been produced by the prosecution to substantiate the allegations in the challan. Learned counsel has further iterated that testimony(s) of the witnesses recorded before the learned trial Court is laden with inconsistencies and hence, cannot form the basis for conviction of the present petitioner. Learned counsel has further argued that incident, in fact, pertain to a road-side accident and the facts have been twisted so as to give it a colour of assault. Thus, quashing of the FIR in question along with all proceedings emanating therefrom is sought for.

4. Learned State counsel; while raising submissions with the reply by way of an affidavit dated 24.08.2025 of Sunil Kumar, HPS, DSP, HQ, Kurukshetra; has argued that investigation was carried out by the Investigating Officer in the right earnest and thereafter, the challan (charge-sheet) was presented on 04.05.2018. Learned State counsel has further submitted that total 08 prosecution witnesses have been cited, out of which,

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07 have been examined, whereas, 01 witness has passed away. He has urged that the petition in hand involves disputed question of facts, which ought to be gone into during the course of trial. On the strength of these submissions, dismissal of the present petition is sought for.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. Before delving into the matter, it would be appropriate to refer herein a judgment passed by this Court in ***Supinder Singh alias Soni*** versus ***State of Punjab and another, 2024(3) RCR (Criminal) 390***, wherein, it has been held as under:

“5. The prime issue that arises for consideration in the present petition is as to whether the FIR in question deserves to be quashed by this Court exercising its powers under Section 482 of Cr.P.C., 1973. The analogous legal issue that arises for consideration is whether this Court ought to exercise its powers under Section 482 of Cr.P.C., 1973 for quashing of the FIR in question in a case where material/substantial prosecution evidence has already been led before the trial Court.

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8. This Court has delved, in extenso, regarding the nature as also the scope and ambit of powers of High Court under Section 482 of Cr.P.C. The inherent powers of the High Court; statutorily recognized by way of Section 482 of the 1973 Code; are powers which are unbridled, unfettered and plenary in nature. It is unfathomable to even make a venture to exhaustively define the nature and extent of these powers, however alluring this idea may be. The powers under Section 482 of the Cr.P.C., 1973 are required to be exercised with the salutary purpose of giving effect to any order passed under the Code, to prevent abuse of process of any Court or to otherwise secure the ends of justice. The only restraint required to be exercised by the High Court while exercising such powers is that of self-restraint.

*8.1. The Hon’ble Supreme Court has held; as is clear from the dicta of judgments in the cases of **Akhil Sharda** case (supra) and **Chilakamarthi Venkateshwarlu** case (supra); that the High Court, while exercising its jurisdiction under Section 482 of the Cr.P.C., 1973, is not required to evaluate the sufficiency or reliability of the evidence. Therefore, the indubitable unequivocal conclusion is that evaluation of the prosecution evidence is in the domain of the trial Court and a High Court ought not to ordinarily dilate upon the nature, reliability and sufficiency of prosecution evidence brought on record, during the course of trial, while adjudicating a quashing petition. Such a venture by the High Court would tantamount to be a mini trial which is an avertible course. It cannot be said; as a matter*

*of absolute principle; that once substantial/important prosecution witness(s) have been examined, the High Court loses its powers under Section 482 of the Cr.P.C., 1973 to even consider a plea for quashing of an FIR (as also the proceedings emanating therefrom). The Hon'ble Allahabad High Court in the case of **Shueb Mahmood Kidwai** case (supra); while answering a reference made by a Single Judge; has held that the powers of the High Court under Section 482 of the Cr.P.C., 1973 to entertain a plea for quashing of an FIR (as also the proceedings emanating therefrom) is not ipso facto ousted on account of prosecution witnesses having been examined. In the considered opinion of this Court, the "maintainability of the petition" vis-a-vis. "desirability to entertain a petition" are two distinct concepts wherein these differ totocaelo. In other words, the difference is as stark as between chalk and the cheese. Therefore, the unequivocal conclusion is that the High Court has powers under Section 482 of the Cr.P.C., 1973 to entertain a plea for quashing of an FIR (as also the proceedings emanating therefrom) even when substantial/material prosecution witnesses have been examined, during course of trial, but it would be desirable to entertain such a petition at such stage only if there are accentuating/exceptional facts warranting such intervention. This Court must hasten to add a word of caution herein viz.; such a plea is required to be considered by the High Court with utmost circumspection and caution since it would essentially involve ratiocinating upon the relevance, sufficiency and nature of prosecution evidence which has come on record during the trial proceedings. Ergo, the High Court ordinarily ought not to interfere in such a situation.*

*8.2. More often than not, this Court is called upon to deal with petition(s) filed under Section 482 of Cr.P.C., 1973 for quashing of an FIR wherein notice of petition had earlier been issued but no order for staying proceedings was granted and while the petition remained pending adjudication, the trial Court proceedings have continued in the interregnum resulting in the recording of substantial/material prosecution evidence. While the mere continuation of trial Court proceedings and recording of substantial/material prosecution evidence should not, by itself, be the lone score for dismissing such petition; it nonetheless constitutes significant and relevant development(s) which must be considered by the Court at the time of final adjudication. It is not unknown that, petition(s) pending adjudication before Courts become unentertainable, due to efflux of time, especially when subsequent developments become significant nay pivotal. The Hon'ble Supreme Court, in a three Judges Bench judgment, in case of **Pasupuleti Venkateswarlu** (supra) has enunciated that subsequent events of fact which have material bearing on the case ought to be taken into consideration at time of final adjudication of such case. Therefore, the inevitable conclusion that emerges is that, where substantial/material prosecution evidence has been led even during pendency of a quashing petition before the High Court, it would be bounden upon the High Court to consider the aspect of such a petition having become unentertainable in view of this aspect of the matter. This Court must hasten to add a word of caution herein viz.; a quashing petition already pending adjudication before High Court, ought not to become unentertainable nay non-maintainable only on account of charge-sheet/challan (report under Section 173 of Cr.P.C., 1973) or framing of charges by trial Court during pendency of such a petition.*

9. As a result of above discussion, the following postulates emerge:

- I) The powers of the High Court under Section 482 of Cr.P.C., 1973 are unbridled, unfettered and plenary in nature. The only restriction upon exercise of such powers is self restraint.*

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II) i) A plea filed for quashing of an FIR (as also the proceedings emanating therefrom) filed before the High Court does not ipso facto become barred or non-maintainable in a case wherein substantial/material prosecution witnesses have already been examined.

ii) In such a scenario, the High Court ought to exercise a high degree of circumspection and caution while dealing with such a plea since it would essentially involve adjudication upon the relevance, veracity & sufficiency of prosecution evidence brought on record during trial proceedings which ordinarily ought to be best left to be considered by the trial Court. Ergo, accentuating facts/circumstances ought to exist for exercise of such power by the High Court.

iii) It is neither conceivable nor desirable to even venture to lay-down any exhaustive set of guideline(s) in this regard, however alluring this aspect may be. Such exercise of inherent powers ought to be best left to the discretion of the Court which is in seisen of the matter, as every case is sui generis in nature.”

7. Pursuant to the FIR in question having been registered on 25.04.2018, investigation was carried out and challan was presented in the case on 04.05.2018. Total 08 prosecution witnesses were cited, out of which, 07 have been examined, whereas, 01 has passed away. It is thus, indubitable that entire prosecution evidence has been concluded. From the material available on record, it is clear that the petitioner did not choose to challenge the order framing charge(s) against him on 22.10.2018. The submissions advanced by the leaned counsel for the petitioner in support of the quashing petition encompass issues requiring meticulous analysis of the prosecution evidence particularly the testimony of victim, that are best left to be adjudicated at trial. These issues essentially involve a detailed and critical appreciation of the evidentiary value and credibility of the testimony of the prime prosecution witness, namely, the victim. Engaging in such an analysis at this stage would amount to this Court undertaking a mini-trial, which is not appropriate, especially at this juncture. Moreover, no compelling or accentuating facts have been brought forward that would persuade this Court

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to hold that continuation of trial proceedings are abuse of process of law or Courts. This is especially at this stage, where the testimony of the all prosecution witnesses has already been recorded. Accordingly, the instant petition deserves dismissal.

- 7.1. It is, thus, ordained as hereunder:
- (i) The instant petition filed under Section 528 of the BNSS, seeking quashing of the impugned FIR as also the challan report (charge-sheet) dated 02.05.2018, is dismissed. There is no gainsaying that petitioner shall be at liberty to raise all pleas, as available to him in law, during trial proceedings;
 - (ii) Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case;
 - (iii) Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

September 10, 2025
mahavir

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