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

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**CRM-M No.51242 of 2024
Date of Decision: 22.04.2025**

Parampal Singh

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Naveen Bawa, Advocate,
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking quashing of FIR No.121 dated 28.06.2022 registered under Section 420 of IPC and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014 (For short “Act, 2014”) at Police Station Beas, District Amritsar Rural, challan report filed therein and all subsequent proceedings having emanated therefrom.

2. Adumbrated facts as emanating from the record are that the

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aforementioned FIR was registered on the basis of a complaint lodged by respondent No.2-complainant Parminder Kaur alleging therein that the petitioner-accused was involved in the business of sending people abroad and on assurance given by him to the complainant to send and settle her daughter Jasleen Kaur abroad by incurring expenses of Rs.10 lakhs, she had parted with a sum of Rs.6 lakhs and had given the same to the petitioner who, however, neither sent her daughter abroad nor returned the money given to him. On insistence of complainant, he had deposited an amount of Rs.1,20,000/- in her bank account and had given a blank cheque to her but did not return the remaining amount and now he had been extending threats to kill her if she demanded money. After registration of FIR, investigation proceedings were initiated. The petitioner was joined into the proceedings and was extended benefit of bail. Investigation now stands completed and challan has been presented before the Court of jurisdictional Magistrate.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case by concocting a fabricated story by the complainant. Infact, the complainant is involved in money lending business and in September 2020, one Avtar Singh an employee of the petitioner had borrowed an amount of Rs.1,50,000/- from the respondent No.2-complainant. The respondent No.2 had asked Avtar Singh to give two blank cheques by way of security and since Avtar Singh did not have any cheque book, as such on his asking and in good faith, the petitioner had given two blank signed cheques pertaining to his account to the respondent No.2. The entire money borrowed by Avtar Singh had been returned to the respondent

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No.2 along with interest till 21.08.2021 and when the petitioner requested the respondent No.2 to give back his blank signed cheques, she kept on assuring to give the same but failed to return thereby compelling the petitioner to file a civil suit for permanent and mandatory injunction making prayer for directing the respondent No.2 to handover his cheques back to him. The said suit had been partly decreed ex parte in favour of the petitioner. He had never assured the respondent No.2 to send his daughter abroad nor any amount of money had been received by him. There is no proof of any transaction of money having taken place between the petitioner and the respondent No.2. The ingredients for commission of offences punishable under Section 420 of IPC and Section 13 of Act, 2014 are not at all attracted. The allegations in the FIR even if accepted to be correct on the face of the record do not prima facie constitute any case for commission of offence of cheating. The FIR has been lodged to abuse the process of law and to harass the petitioner. There are no chances of his conviction. With these broad submissions, it is argued that the petition deserves to be allowed and the FIR, challan report as well as the consequent proceedings are liable to be quashed.

4. Per contra, learned Senior Deputy Advocate General, Punjab has argued that the veracity of the allegations as levelled by the petitioner can be tested in the trial which has to take place before the trial Court and no ground for quashing the FIR has been made out. The allegations levelled against the petitioner have been prime facie established from the evidence collected by the investigating agency during investigation, culminating into

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filing of charge-sheet against the petitioner. Disputed questions 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. No extraordinary circumstance for exercising inherent powers of this Court under Section 528 of BNSS is made out. Accordingly, it is urged that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner and learned Senior Deputy Advocate General, Punjab at considerable length and have gone through the record carefully.

6. At the outset, it will be beneficial to look into the scope and ambit of the Court's power under Section 528 of BNSS (*which is pari materia with Section 482 of Cr.P.C.*) 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 this section, the High Court is not expected to analyze all the facts, which are placed before it and to not ordinarily embark upon an enquiry whether the evidence in question is reliable or not and whether on a reasonable appreciation of it, the accusation would not be sustained as that is the function of the trial Court. (See **State of Andhra Pradesh vs. Gourishetty Mahesh and others**, 2010 Criminal Law Journal 3844). The inherent powers under Section 482 of Cr.P.C./ 528 of BNSS can be exercised only when no other remedy is available to the litigant. Such powers are very specific and are meant to secure the ends of justice, to prevent abuse of process of Court or to pass such orders as may be necessary

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to give effect to any order under the Code. (See **Padal Venkata Rama Reddy @ Ramu vs Kovvuri Satyanarayana Reddy and others**, (2011) 12 SCC 437). In **Gian Singh vs. State of Punjab**, (2012) 10 SCC 303, Hon'ble Supreme Court had observed that the inherent power under Section 482 of Cr.P.C. 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. Hon'ble Supreme Court in **Dr. Monica Kumar and another vs. State of U.P. and others**, (2008) 8 SCC 781, has propounded that the inherent jurisdiction under Section 482 of Cr.P.C., though wide, is to be exercised sparingly, carefully and with caution, only when such exercise is justified by the test specifically laid down in the section itself and appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of this power. The inherent powers do not confer an arbitrary jurisdiction upon the High Court to act according to the whims and caprice.

7. 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 several guidelines have been laid down. Some of them, which are relevant for the purpose of disposal of the present petition, are reproduced as under:

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- (i). 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.
- (ii). Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. 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.
- (iii). 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.
- (iv). Where, the allegations in the F.I.R. 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.
- (v). Where the allegations made in the F.I.R. 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.
- (vi). 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.
- (vii) Where a criminal proceeding is manifestly attended

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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. Reference can also be made to **M/s Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and others**, 2021 SCC OnLine SC 315 wherein it was observed as follows:-

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

i) 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;

ii) Courts would not thwart any investigation into the cognizable offences;

iii) 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;

iv) 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);

v) 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;

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vi) Criminal proceedings ought not to be scuttled at the initial stage;

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

viii) 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.

ix) The functions of the judiciary and the police are complementary, not overlapping;

x) 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;

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

xii) 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

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Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

xiii) 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;

xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of **R.P. Kapur v. State of Punjab**, AIR 1960 Supreme Court 866 and **Bhajan Lal** (supra), has the jurisdiction to quash the FIR/complaint; and

xv) 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."

9. In **CBI v. Aryan Singh**, 2023 SCC OnLine SC 379, the Hon'ble Apex Court observed that while exercising powers under Section 482 of Cr.P.C., the Courts have a very limited jurisdiction and are only required to consider "whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not". In **Kaptan Singh vs. State of U.P. and others**, 2021 SCC Online SC 580 and **Dhruvaram Murlidhar Sonar vs. State of Maharashtra**, (2020) 3 SCC (Criminal) 672, it was observed that the appreciation of evidence is not

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permissible at the stage of quashing of proceedings in exercise of powers under Section 482 of Cr.P.C. as this power is an exception and not a rule. Inherent jurisdiction under Section 482 of Cr.P.C. though wide is to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself.

10. It is also well settled proposition of law that the Court is not required to go into the merits of the allegations and/or entering into the merits of the case as if it is exercising the appellate jurisdiction and/or conducting the trial, at the stage of exercising powers under Section 482 of Cr.P.C. In order to examine as to whether the factual contents of the FIR disclose any cognizable offence or not, the High Court cannot act like investigating agency nor can exercise the powers like an appellate court. The said question is required to be examined keeping in view the contents of the FIR and prima facie material, if any, requiring any proof. In view of the well settled position of law as discussed above, the instant case has been considered and it is observed that the allegations against the petitioner are that he had induced the complainant to part with a sum of Rs.6 lakhs on the assurance that he would send her daughter abroad. The police authorities after conducting thorough investigation in the matter, have filed challan against the petitioner. This Court is not inclined to embark on the question as to whether the evidence collected against the petitioner is reliable or not or whether the accusation would not be sustained in conviction as that is the function of the trial Court. This Court has to consider whether the allegations in the FIR disclose any prima facie offence as alleged against the

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petitioner or not? Correctness or otherwise of these allegations has to be decided only during trial. In the considered opinion of this Court, at this stage, it is not open to this Court to stifle proceedings by entering into the merits of the contentions raised on behalf of the petitioner. The High Court in exercise of its inherent powers is expected to quash the proceedings in criminal cases in rarest of rare cases with extreme caution. The instant one is not such a case. There are specific allegations against the petitioner. The defence as taken by him is triable issue. The petitioner is before the trial Court and it is for the said Court to consider the same. As such, this Court is not inclined to quash the proceedings. However, since the charges have not yet been framed in this case, the petitioner shall be at liberty to raise all the contentions which has been raised before this Court, at the time of addressing arguments on the point of charge before the learned trial Court. In view thereof, the petition stands dismissed along with pending application, if any.

11. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

22.04.2025
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(MANISHA BATRA)
JUDGE

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