IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CR.MMO No. 948 of 2026
Reserved on: 29.10.2026
Decided on: 17.11.2026

Sandeep Negi & others .... Petitioners

Versus

State of H.P. .... Respondents

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?[1] No.

For the Petitioners : Mr Rakesh Chauhan, Advocate.

For the Respondents/State : Mr. Pawan Kumar Nadda, Additional Advocate General, for respondents No.1 and 2/State.

Mr. Nikhil Kanwar, Advocate, for respondents No. 3 to 8.

Rakesh Kainthla, Judge

The petitioners have filed the present petition for quashing of FIR No. 3 of 2025, dated 03.01.2025, registered at Police Station Kandaghat, District Solan, H.P., for the

[1] Whether reporters of Local Papers may be allowed to see the judgment? Yes.

commission of an offence punishable under Section 117 (2) of the Bharatiya Nyaya Sanhita (BNS) and consequential proceedings arising out of it, based on a compromise between the parties.

2. It has been asserted that the matter has been reconciled between the parties with the intervention of the respectable persons of the society. A cross-FIR No. 1 of 2025 has been quashed by this Court in CrMMO No. 481 of 2026. Hence, the petition.

3. The statements of the informant, Shubham Thakur, and victims—Harshul Thakur, Vipul Thakur, Mohit Thakur, Kartik Sharma, and Aman Verma-were recorded on 16.09.2026, in which they stated that they had entered into a compromise with the accused voluntarily, without any influence from any person, and had no objection to quashing the FIR based on a compromise between the parties.

4. Heard.

5. The FIR has been registered for the commission of an offence punishable under Section 117 (2) of BNS. Section 359 (2) of Bharatiya Nagarik Suraksha Sanhita (BNSS) provides that an offence punishable under Section 117 (2) of BNS can be

compounded with the permission of the Court before which any prosecution for such offence is pending. Therefore, the petitioners have an alternative and efficacious remedy of approaching the learned Magistrate before whom the proceedings are pending. No reason has been assigned as to why this Court should exercise the inherent jurisdiction of the Court.

6. It was held in ***Madhu Limaye v. State of Maharashtra, (1977) 4 SCC 551: 1978 SCC (Cri) 10*** that inherent jurisdiction should not be exercised when a specific remedy exists. It was observed:

> At the outset, the following principles may be noticed in relation to the exercise of the inherent power of the High Court, which have been followed ordinarily and generally, almost invariably, barring a few exceptions:
>
> > "(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."

7. It was laid down by the Full Bench of the Delhi High Court in ***Gopal Dass vs State, AIR 1978 Del 138,*** that the jurisdiction under Section 482 of CrPC is vested in the Court to make such order as may be necessary to give effect to any order under the

Code, prevent abuse of the process of any Court or otherwise to secure the ends of justice. This jurisdiction cannot be exercised when a specific remedy is available under the other provisions of the Code. It was observed: -

> "**8.** In order to determine the question under consideration as to what is the scope of the inherent powers of the High Court becomes relevant. The inherent powers of the High Court inhere in it because of its being at the apex of the judicial set-up in a State. The inherent powers of the High Court, preserved by section 482 of the Code, are to be exercised in making orders as may be necessary to give effect to any order under the Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. Section 482 envisages that nothing in the Code shall be deemed to limit or affect the inherent powers of the High Court exercised by it with the object of achieving the above said three results. It is for this reason that section 482 does not prescribe the contours of the inherent powers of the High Court, which are wide enough to be exercised in suitable cases to afford relief to an aggrieved party. While exercising inherent powers, it has to be borne in mind that this power cannot be exercised in regard to matters specifically covered by the other provisions of the Code. (See ***R.P. Kapur v. State of Punjab, AIR 1960 S.C. 866) (1)***. This principle of law had been reiterated succinctly by the Supreme Court recently in ***Palanippa Gounder v. The State of Tamil Nadu, (1977) 2 SCC 634: AIR 1977 SC 1323 (2),*** therein examining the scope of section 482, it was observed that a provision which saves the inherent powers of a Court cannot override any express provision in the statute which saves that power. *Putting it in another form, the Court observed that if there is an express provision in a statute governing a particular subject, there is no scope for invoking or exercising the inherent powers of the Court because the Court ought to apply the provisions of the statute which are made advisedly to govern the particular subject matter.*" (Emphasis supplied)

8. It was held in ***Arun Shankar Shukla v. State of U.P., (1999) 6 SCC 146: 1999 SCC (Cri) 1076: 1999 SCC OnLine SC 647*** that

the jurisdiction under section 482 of CrPC is extraordinary and should not be exercised when a specific remedy has been provided under the Code. It was observed:

> "**2.** It appears that, unfortunately, the High Court, by exercising its inherent jurisdiction under Section 482 of the Criminal Procedure Code (for short "the Code"), has prevented the flow of justice on the alleged contention of the convicted accused that it was polluted by the so-called misconduct of the judicial officer. It is true that under Section 482 of the Code, the High Court has inherent powers to make such orders as may be necessary to give effect to any order under the Code or to prevent the abuse of the process of any court or otherwise to secure the ends of justice. *But the expressions "abuse of the process of law" or "to secure the ends of justice" do not confer unlimited jurisdiction on the High Court, and the alleged abuse of the process of law or the ends of justice could only be secured in accordance with law, including procedural law and not otherwise. Further, inherent powers are in the nature of extraordinary powers to be used sparingly for achieving the object mentioned in Section 482 of the Code in cases where there is no express provision empowering the High Court to achieve the said object. It is well-nigh settled that the inherent power is not to be invoked in respect of any matter covered by specific provisions of the Code or if its exercise would infringe any specific provision of the Code.* In the present case, the High Court overlooked the procedural law which empowered the convicted accused to prefer a statutory appeal against the conviction for the offence. The High Court has intervened at an uncalled-for stage and soft-pedalled the course of justice at a very crucial stage of the trial.
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> **xxxxx**
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> **9.** In our view, the order passed by the High Court entertaining the petition of the convicted accused under Section 482 of the Code is, on the face of it, illegal, erroneous, and, to say the least, unfortunate. It was known to the High Court that the trial court passed proceedings to the effect that final judgment and order convicting the accused were pronounced by the trial court. It was also recorded by the trial court that, as the accused were absent, the Court had issued non-bailable warrants. In

> such a situation, instead of directing the accused to remain present before the Court for resorting to the steps contemplated by the law for passing the sentence, the High Court has stayed further proceedings, including the operation of the non-bailable warrants issued by the trial court. *It is disquieting that the High Court has overlooked the important legal aspect that the accused has a right of appeal against the order of conviction purported to have been passed by the trial court. In such circumstances, the High Court ought not to have entertained a petition under Section 482 of the Code and stonewalled the very efficacious alternative remedy of appeal as provided in the Code*. Merely because the accused made certain allegations against the trial judge, the substantive law cannot be bypassed.

9. It was held by the Hon'ble Supreme Court in ***Hamida v. Rashid*, *(2008) 1 SCC 474*,** that the inherent jurisdiction under Section 482 of CrPC is to be exercised sparingly and should not be exercised when an alternative remedy is available. It was observed:

> "**7.** It is a well-established principle that inherent power conferred on the High Courts under Section 482 CrPC has to be exercised sparingly with circumspection and in rare cases, and that too to correct patent illegalities or when some miscarriage of justice is done. The content and scope of power under Section 482 CrPC were examined in considerable detail in ***Madhu Limaye v. State of Maharashtra [(1977) 4 SCC 551: 1978 SCC (Cri) 10: AIR 1978 SC 47],*** and it was held as under : (SCC p. 555, para 8)
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> The following principles may be stated in relation to the 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;
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> (2) that it should be exercised very sparingly to prevent abuse of the 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.

8. In ***State v. Navjot Sandhu [(2003) 6 SCC 641: 2003 SCC (Cri) 1545],*** after a review of a large number of earlier decisions, it was held as under: (SCC p. 657, para 29)

> "29. ... The inherent power is to be used only in cases where there is an abuse of the process of the court or where interference is absolutely necessary for securing the ends of justice. The inherent power must be exercised very sparingly, as cases that require interference would be few and far between. The most common case where inherent jurisdiction is generally exercised is where criminal proceedings are required to be quashed because they are initiated illegally, vexatiously or without jurisdiction. Most of the cases set out hereinabove fall in this category. It must be remembered that the inherent power is not to be resorted to if there is a specific provision in the Code or any other enactment for redress of the grievance of the aggrieved party. This power should not be exercised against an express bar of law engrafted in any other provision of the Criminal Procedure Code. This power cannot be exercised as against an express bar in some other enactment."

9. In ***Arun Shankar Shukla v. State of U.P. [(1999) 6 SCC 146: 1999 SCC (Cri) 1076],*** the High Court had entertained a petition under Section 482 CrPC after an order of conviction had been passed by the Sessions Judge and before the sentence had been awarded and further proceedings in the case had been stayed. In appeal, this Court set aside the order of the High Court after reiterating the principle that it is well settled that inherent power is not to be invoked in respect of any matter covered by specific provisions of the Code or if its exercise would infringe any specific provision of the Code. It was further observed that the High Court overlooked the procedural law which empowered the convicted accused to prefer a statutory appeal against conviction of the offence and intervened at an uncalled-for stage and soft-pedalled the course of justice at a very crucial stage of the trial. The order of the High Court was accordingly set aside on the ground that a petition under Section 482 CrPC could not have been entertained as the accused had an alternative remedy of an appeal as provided in the Code. *It is not*

> *necessary to burden this judgment with other decisions of this Court, as the consistent view throughout has been that a petition under Section 482 CrPC cannot be entertained if there is any other specific provision in the Code of Criminal Procedure for redress of the grievance of the aggrieved party.*
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> **10.** In the case in hand, the respondents-accused could apply for bail afresh after the offence had been converted into one under Section 304 IPC. They deliberately did not do so and filed a petition under Section 482 CrPC in order to circumvent the procedure whereunder they would have been required to surrender, as the bail application could be entertained and heard only if the accused were in custody. It is important to note that no order adverse to the respondents-accused had been passed by any court, nor was there any miscarriage of justice or any illegality. In such circumstances, the High Court committed a manifest error of law in entertaining a petition under Section 482 CrPC and issuing a direction to the subordinate court to accept the sureties and bail bonds for the offence under Section 304 IPC. The effect of the order passed by the High Court is that the accused, after getting bail in an offence under Sections 324, 352 and 506 IPC on the very day on which they were taken into custody, got an order of bail in their favour even after the injured had succumbed to his injuries and the case had been converted into one under Section 304 IPC without any court examining the case on merits, as it stood after conversion of the offence. The procedure laid down for the grant of bail under Section 439 CrPC, though available to the respondents-accused, having not been availed of, the exercise of power by the High Court under Section 482 CrPC is clearly illegal, and the impugned order passed by it has to be set aside." (Emphasis supplied)

10. Similarly, it was held in ***B.S. Joshi vs. State of Haryana, 2003 (4) SCC 675,*** that the High Court can quash the F.I.R. in non-compoundable offences based on compromise, suggesting that the power under Section 482 CrPC is not to be exercised in

respect of offences which are compoundable under Section 320 of CrPC, except in exceptional cases.

11. In the present petition, it has been asserted in para 6 of the petition that offences are non-compoundable and cannot be compounded by the learned Trial Court, which is false because Section 117 (2) of BNS is compoundable, and it is not the case that the petitioners had approached the learned Magistrate, but the learned Magistrate had not exercised the jurisdiction vested in it. Therefore, no case is made out for exercising the inherent jurisdiction of this Court, which is to be exercised sparingly.

12. In view of the above, the present petition fails and is dismissed.

13. The observations made hereinbefore shall remain confined to the disposal of the present petition and will have no bearing whatsoever on the merits of the case.

(Rakesh Kainthla)
Judge

17th November, 2026
(Ravinder)