



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

**CRM-M-30540-2026 (O&M)
Date of Decision: 26.05.2026**

SHARWAN KUMAR ALIAS MADAN

...PETITIONER

V/S

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MS. JUSTICE SHALINI SINGH NAGPAL

Present: Mr. Mohit, Advocate, Mr. Pavitra, Advocate,
Mr. Sachin, Advocate and Mr. Bharat, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

SHALINI SINGH NAGPAL J.

1. Petitioner seeks quashing of FIR No. 0018 dated 05.05.2025 under Sections 66(E) Information Technology Act, 2000, Sections 126, 316(2), 351(3), 64(2)(m), 78, Bharatiya Nyaya Sanhita, 2023, Women Police Station, District Fatehabad, Haryana and all subsequent proceedings arising therefrom. Section 66(E) I.T. Act was deleted from the FIR during investigation.

2. Prosecutrix 'R', a women constable, alleged that in January, 2021, she became friendly with Sharwan Kumar @ Madan, who was associated with her colleague. In June, 2021, Sharwan Kumar @ Madan borrowed Rs.20,000/- from her. Thereafter, he asked for a loan to be sanctioned against her salary account. Accordingly, she got loan of Rs.4,57,200/- sanctioned on her salary account on 23.06.2021, which money he got transferred in his own account through online process. When she

asked him to return the money, he stopped responding to her calls. When she informed his family members, he deposited some amount. Thereafter, she stopped talking to him. Sharwan Kumar @ Madan then started harassing her by making phone calls and following her. In this regard, she moved a complaint in Women Police Station in October, 2023. The matter was compromised when Sharwan Kumar @ Madan sought apology and promised not to repeat the act in future. Thereafter, Sharwan Kumar @ Madan with malafide intention transferred some amount in her bank account through online mode which he later on withdrew through ATM.

3. In January, 2024, when she was taking rest in her official accommodation, he called her and thereafter visited her. He gave her some medicines after taking which she became intoxicated. Then, Sharwan Kumar @ Madan committed immoral act and left, extending threat that he had prepared a video and would eliminate her if she dared to move complaint. On that account, she did not disclose the incident. Thereafter, accused Sharwan Kumar @ Madan made physical relations with her under threat of making the video viral. He made many videos on his phone through a hidden App and made physical relations with her in some hotels by blackmailing her. When she learnt about his criminal antecedents, she blocked his number and stopped talking to him.

4. Prosecutrix further alleged that in January, 2025, Sharwan Kumar @ Madan started harassing her by making repeated visits. He also threatened to throw acid at her and to eliminate her, to get false case of extortion registered against her. In this connection, she moved an application in Police Station Sadar, Fatehabad. On 04.04.2025, when she and her mother were waiting for bus on the bus stand of her village, he came

with his white Brezza car no.HR 80E 5812 and tried to hit her and her mother, proclaiming that he would continue to harass her. On 27.04.2025, at about 2:30 noon, he again extended threats to her relatives, abused and quarreled with them, in which regard she moved a complaint in Police Station City, Fatehabad. She was called to the police station and pressurized to compromise the matter. On 30.04.2025, when she was going to Police Station for duty, accused Sharwan Kumar @ Madan came in his car and tried to abduct her but could not succeed. Thereafter, he ran away. A complaint was moved in the police station but the police was pressurizing her to settle the matter and threatening to implicate her in false cases. Accused Sharwan Kumar @ Madan was repeatedly making phone calls to her niece and was extending threats of death. Legal action was prayed for.

5. Learned counsel for the petitioner submits that prosecutrix was a police official who was earlier married and divorced. There was continuous contact between the petitioner and the complainant since 2021 including financial transactions. In the previous complaints made by prosecutrix against petitioner in July 2023 and February 2025, on record as Annexure P7 and P5, no allegations of sexual offence were levelled. The complaint for registration of FIR was moved after more than 1 year of the alleged occurrence. Complainant levelled vague, bald and frivolous allegations of rape against the petitioner. She had appeared as a witness before the trial Court and admitted that in January 2024, she accompanied the petitioner for shopping etc. and purchased jewellery with him in October 2024. She also admitted that from June 2021 to December 2024, her ATM card was used by the petitioner, with her consent and that she used to travel with the petitioner a number of times while returning from duty. Learned

counsel referred to the following judgments:-

1. *Jothiragawan Vs. State Rep. By The Inspector of Police and Another* 2025 SCC Online SC 628.
2. *Amol Bhagwan Nehul Vs. The State of Maharashtra and Another*, 2025(3) RCR(Criminal) 145.
3. *Samadhan Vs. State of Maharashtra and Another*, 2026(1) RCR (Criminal) 49.
4. *Pradeep Kumar Kesarwani Vs. The State of Uttar Pradesh and Another* 2025 (4) RCR (Criminal) 116.
5. *Dr. Avadesh Kumar Vs. State NCT of Delhi and Another*, 2026 NCDHC 490.
6. *Neeraj Kumar and Another Vs. State of U.P. and Another* 2026 NCAHC 33341.

6. Relying upon aforementioned judgments, learned counsel submits that the sexual relationship between prosecutrix and the petitioner was consensual and did not attract the culpability of Section 376(2)(n) IPC. It was urged that the FIR which was registered on false and concocted story, was abuse of the process of law, intended to harass the petitioner, with *mala fide* motives and deserved to be quashed.

7. Whether or not the prosecutrix was indeed raped under intoxication in January 2024 and thereafter, under threat of making her obscene videos viral and whether the relationship between petitioner and prosecutrix was consensual, are questions which require appreciation of evidence, upon examination of witnesses and their cross-examination. Disputed questions of fact, as per settled principles of law cannot be gone into in a quashing petition, when the FIR *prima facie* discloses commission

of cognizable offence.

8. Learned counsel for the petitioner has argued that the trial was in progress and prosecutrix had been recorded on 07.01.2026; that it was in her testimony that she went shopping with the petitioner made purchases of clothes and jewellery with him and he used her ATM card with her consent. In this context, suffice to say that appreciation of evidence of the prosecutrix in the trial is required to be done by learned trial Court, upon conclusion of evidence and not by this Court, in a quashing petition.

9. Inherent powers of this Court under Section 528 BNSS are to be exercised sparingly, with circumspection, in rarest of rare cases where continuation of proceedings would amount to miscarriage of justice or would result in abuse of the process of law. On the basis of documents placed before this Court, the FIR cannot be quashed since allegations against the petitioner having sexually violated the prosecutrix are direct. It has been observed in ***State of Haryana and Others vs. Ch. Bhajan Lal and Others, 1992 (Supp1) SCC 335***, that an FIR cannot be quashed unless the case clearly falls within the well demarcated categories laid down in that case by Hon'ble Supreme Court.

10. None of the judgments relied upon by learned counsel for the petitioner are helpful in the facts and circumstances of the case. In ***Jothiragawan Vs. State Rep. By The Inspector of Police and Another 2025 (supra)***, ***Amol Bhagwan Nehul Vs. The State of Maharashtra and Another(supra)***, ***Samadhan Vs. State of Maharashtra and Another, (supra)*** and ***Pradeep Kumar Kesarwani Vs. The State of Uttar Pradesh and Another (supra)***, allegations of rape were made, based on the promise of marriage. Such is not the position in our case. Judgment in ***Dr. Avadesh Kumar's case*** and ***Neeraj Kumar's case*** were rendered on their own

peculiar facts. There can be no denying that even after a charge-sheet has been filed, this Court can consider quashing under Section 528 BNSS. The facts of the case, however, do not warrant exercise of inherent jurisdiction of the Court for quashing of FIR under Section 528 BNSS.

- 11. The petition is dismissed.
- 12. Pending miscellaneous applications, if any, stand disposed of.

(SHALINI SINGH NAGPAL)
JUDGE

26.05.2026

Sumit Singla	Whether speaking/reasoned	Yes/No
	Whether reportable	Yes/No