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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of Decision: 03.11.2026***

\# **CNR No.DLHC010529732026**

\+ **CRL.M.C. 8231/2026, CRL.M.A. 34511/2026**

SUNNY KHURANA .....Petitioner

Through: Mr. Saurabh Yadav, Adv.

versus

STATE(NCT OF DELHI) AND ANR .....Respondents

Through: Mr. Hemant Mehla, APP for State along with Mohd. Naved and Mr. Mayank Chaudhary, Advs.
SI Prashant, PS H.N. Din.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (ORAL)

1. By way of the present petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) [corresponding to Section 482 of the Code of Criminal Procedure, 1973 ("CrPC")], the petitioner seeks quashing of FIR No.0181/2026 dated 03.09.2026, registered at PS Hazrat Nizamuddin, South East District, New Delhi, under Sections 64(1) and 351(3) of the Bharatiya Nyaya Sanhita, 2023 (BNS), and all proceedings emanating therefrom.

2. The factual conspectus is that the FIR was registered on the complaint of the respondent no.2. She states that she came to know the petitioner at a gym in January, 2026. They gradually became friends, and thereby starting communicating with one another using various social media platforms.

3. The FIR narrates how the acquaintance between the complainant/respondent no.2 and the petitioner progressed. The said FIR

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makes a specific allegation of forcible sexual intercourse, alleged to have been committed in a hotel room under the threat of a knife. The relevant portions of the same are reproduced hereunder:

terrified. We went into the hotel room and talked for about 2-3 hours, but he did not address the issue of resolving the family dispute and kept repeating that he would fix everything. Meanwhile, he received multiple calls from his office and said he needed to step out briefly and would return, after which we would go together to either his house or mine to clarify everything. He instructed me to stay quiet if my husband or his wife spoke of divorce, saying he would handle it himself. He then left for his office. After waiting for him, I called and asked if he was returning or if I should leave. He told me to rest or sleep for a while and that he was coming straight back to the hotel. I went to sleep. When he returned in the morning and woke me up, he was intoxicated. He told me he drank alcohol with a friend due to tension. He turned off the lights and lay down. I asked him why he turned off the lights and urged him to

talk and leave. At this, he flew into a rage, stating he would leave at his own will. When I turned to leave towards the door, he grabbed me, forced me onto the bed, pulled out a knife, and threatened to slit my throat if I screamed or made noise. He forcibly dragged me on the bed and established forced physical relations with me against my will (committed rape). I was terrified that he might kill me, so I remained quiet and kept crying. In this manner, under threat and intimidation, he committed forced physical relations (rape) with me 2-3 times. When his intoxication wore off, he threatened me not to disclose this to anyone, warning that if I told anyone, he would kill my family. He told me to come with him quietly and resolve the family dispute. I returned with him. As our houses are nearby, we traveled together up to Dwarka Mor. I asked him whose house we were going to, and he said we would go to his house and call my husband there. While we were traveling in an E-Rickshaw, my husband spotted us, stopped the rickshaw, and questioned us. Sunny lied saying he was returning from work, but I disclosed the entire truth that Sunny had forcibly raped me. I started crying loudly on the road, gathering a crowd, and called the emergency number 112 to register my complaint. When the public learned that Sunny had committed rape, they started beating him. The police arrived at the scene and asked me to submit a written complaint. However, my condition was severely deteriorated that day, and I was not in a position to give a statement. Hence, I returned home without lodging a complaint that day. Today, after recovering, I have come to the police station to submit my complaint regarding the rape committed against me. It is requested that legal action be taken on my complaint and strict punishment be meted out to the accused Sunny Khurana.

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4. Learned counsel for the petitioner submits that the parties were in a consensual relationship, as is evident from the chats/messages between the petitioner and the respondent no.2. He further submits that the petitioner was assaulted by respondent no.2's husband and that, despite the petitioner's attempt to register the FIR against respondent no.2's husband, no such FIR was registered with regard thereto.

5. It is further submitted that the complainant/respondent no.2 and her husband have been trying to extort money from the petitioner. Learned counsel submits that the petitioner has already paid Rs.1,50,000/- to the complainant/respondent no.2 and her husband, and that a further demand of Rs.10,00,000/- has been raised. The petitioner has, thus, alleged that he has been falsely implicated in the instant case.

6. Learned counsel also places reliance upon the order dated 08.09.2026 passed by the learned Additional Sessions Judge (SFTC), South-East District, Saket Courts, New Delhi in Bail Matters No.2686/2026, whereby the petitioner was granted bail, and in particular upon the observation recorded therein that the WhatsApp chats between the petitioner and the complainant/respondent no.2 *prima facie* show that the petitioner and the complainant/respondent no.2 were in a consensual relationship.

7. The law governing the exercise of jurisdiction to quash an FIR under Section 528 BNSS [corresponding to Section 482 CrPC] is well settled.

8. Such jurisdiction is available, *inter alia*, where the allegations in the FIR, taken at their face value and accepted in their entirety, do not *prima facie* constitute any offence, or where the proceedings are manifestly attended with *mala fides*.

9. The leading authority on this point is ***State of Haryana vs. Bhajan Lal***,

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1992 Supp (1) SCC 335, wherein the Supreme Court laid out the categories of cases in which such power may be exercised. The relevant extracts have been reproduced hereunder:

> *"102. …* ***(1) 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.***
>
> *xxx* *xxx* *xxx*
>
> ***(7) Where a criminal proceeding is manifestly attended 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.****"*

10. Furthermore, it would be beneficial to reproduce the following observations (*qua* the powers of the High Court to quash FIR) of the Supreme Court in ***R.P. Kapur v. State of Punjab***, 1960 SCC OnLine SC 21, as relied upon by ***Bhajan Lal*** (supra):

> *"Cases may also arise where the allegations in the first information report or the complaint****, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged; in such cases no question of appreciating evidence arises****; it is a matter merely of looking at the complaint or the first information report to decide whether the offence alleged is disclosed or not. …"*

11. Considering the above *dicta*, this Court, at this stage, must not embark upon appreciation of evidence. Rather, it is incumbent on this Court to consider if the allegations stated in the FIR *prima facie* satisfy the elements of the offences invoked therein. This Court cannot undertake an extensive exercise to weigh the defence against the allegations or decide which version of the factual account is true.

12. Tested on this standard, no case for quashing is made out in the present case. As noticed, the FIR makes a specific and detailed allegation of rape,

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which, taken at face value, discloses the ingredients of the offence punishable under Sections 64(1) and 351(3) BNS.

13. It is pertinent to note that the case made out by the complainant does not conceal any prior acquaintance. The FIR itself narrates the friendship from January, 2026 and as to how the association between the respondent no.2 and the petitioner progressed over a period of time. The circumstance that the parties were previously acquainted, or that they exchanged intimate messages, as has been pressed upon by the petitioner, does not by itself establish consent to the sexual act alleged. Reference in this regard may be made to this Court's observations in ***Akshay Aditya v. State of NCT & Anr.***, BAIL APPLN. 3355/2026, pronounced on 30.10.2026:

> *"47. The consensual nature of the relationship, even if accepted, does not by itself answer the specific allegation of force on the identified dates, made in the FIR and reiterated in the statement of the complainant under Section 183 BNSS.* ***In this regard, it must be emphasised that consent to a relationship is not tantamount to consent to each act within it.*** *A reference can be made to Explanation 2 to Section 63 of the BNS, which defines consent in the following terms:*
> *'Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act: Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.'"*
>
> **(emphasis supplied)**

14. To accept the petitioner's case at this stage, the Court would have to conduct a mini-trial, weighing his version and documents against the allegations in the FIR to determine consent. The same would be beyond the province of this Court in the exercise of its jurisdiction under Section 528 BNSS.

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15. With regard to the ground of a malicious FIR, even taking the petitioner's argument at its highest, it rests entirely on an examination of the chats/messages exchanged and his own version of a consensual relationship. However, the authenticity of these chats is itself disputed. Additionally, the petitioner's allegations of assault against respondent no. 2's husband is also disputed and requires verification/investigation. Cumulatively, these are disputed questions of fact that must be established at trial.

16. The Supreme Court in ***Pardeep Kumar Kesarwani v. The State of Uttar Pradesh***, 2025 SCC OnLine SC 1947, has laid down the following guidelines in the context of a malicious/*mala fide* FIR:

> "*20. The following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.:-*
> *(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e.,* ***the materials is of sterling and impeccable quality?***
> *(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e.,* ***the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.***
> *(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that* ***it cannot be justifiably refuted by the prosecution/complainant?***
> *(iv) Step four, whether proceeding with the* ***trial would result in an abuse of process of the court, and would not serve the ends of justice?***
> ***If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal – proceedings****, in exercise of power vested in it under Section 482 of the Cr.P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings*

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arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused."

(emphasis supplied)

17. Tested on the anvil of the aforesaid guidelines, the present case does not qualify for quashing. It cannot be said that the petitioner has been able to make out any irrefutable case; there are several aspects which necessarily have to be tested during trial.

18. Considering the circumstances, this Court finds no merit in the present petition.

19. Accordingly, the petition is dismissed. The pending application also stands disposed of.

20. It is made clear that the petitioner shall be at liberty to raise all pleas including those based on the chats, the alleged assault, the alleged demand for money etc. before the learned trial Court which shall duly consider the same in accordance with law.

21. Nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

SACHIN DATTA, J

NOVEMBER 3, 2026/cl/sd/vk

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