2025:AHC-LKO:67574-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW

CRIMINAL MISC. WRIT PETITION No. - 9068 of 2025

Umed @ Ubaid Kha and others

…..Petitioner(s)

Versus

State of U.P. Thru. Secy. Home Lko. and others

…..Respondent(s)

Counsel for Petitioner(s)	:	Sheikh Mohammad Ali,
Counsel for Respondent(s)	:	G.A., Pawan Kumar Mishra, Ramesh Gupta

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Court No. - 11

HON'BLE ABDUL MOIN, J.
HON'BLE MRS. BABITA RANI, J.

Order on I.A. No.3/25 [Application for impleadment of victim as opposite party no.5]

1. This is an application for impleadment of victim Vandana Verma wife of Pankaj Kumar Verma as opposite party no.5 in the array of the parties.

2. The averments made in the affidavit filed in support of the application are satisfactory.

3. On due consideration the application is allowed.

4. Let the victim Vandana Verma wife of Pankaj Kumar Verma as per details given in the said affidavit be impleaded as opposite party no.5 in the array of the parties during the course of the day.

Order on memo of writ petition

5. Heard learned counsel for the petitioners, Dr. V.K. Singh, learned Government Advocate assisted by Shri G.D. Bhatt, learned A.G.A.

appearing for respondents no.1 to 3, Shri Pawan Kumar Mishra, learned counsel appearing for respondent no.4 as well as Shri Ramesh Gupta, learned counsel appearing for respondent no.5.

6. As the facts are undisputed and the records including the case diary have also been produced by the learned AGA as such we proceed to decide the case with the consent of the parties.

7. This petition is a glaring example of the State Authorities falling and scrambling over each other in order to score brownie points on the basis of the FIR which has been lodged by the respondent no.4.

8. The reasons why we say this are detailed below -

9. Instant petition has been filed praying for the following reliefs :-

"(i) issue a writ, order or direction in the matter of certiorari quashing the impugned First Information Report dated 13.09.2025 lodged by opposite party no.4 which was registered as FIR/ Crime No.0239 of 2025 at police station Matera, District Bahraich, under Section 140 (1) B.N.S. as contained in Annexure No.1 to the writ petition, so far as it relates to petitioners.

(ii) Issue a writ, order or direction in the nature of Mandamus commanding the opposite parties not to arrest the petitioners on the basis of First Information Report dated 13.09.2025 lodged by opposite party no.4 which was registered as FIR/ Crime No.0239 of 2025 at police station - Matera, District Bahraich, under Section 140 (1) B.N.S., as contained in Annexure No.1 to the writ petition."

10. From the facts as stated by the learned counsel for the petitioners and perusal of records it emerges that respondent no.5 who is wife of respondent no.4, went away from her house on 08.9.2025 taking her jewellery and cash at the instigation of the petitioners who are engaged in religious conversion. Respondent no.4 lodged the aforesaid FIR under Section 140 (1) of the B.N.S. 2023 on 13.9.2025.

11. In order to give some rigor and force to the said FIR, it was also indicated that the accused petitioners run a gang which is engaged in religious conversion.

12. Shri Ramesh Gupta, learned counsel appearing for respondent no.5 states that immediately on the respondent no.5 coming to know about the said FIR being lodged on 13.9.2025 and seeing the frivolous and false nature of the FIR in which false allegations have been cast on the petitioners, she returned on her own accord along with jewellery. Her statement to the Investigating Officer was recorded on 15.9.2025. Thereafter her statement was recorded under Section 180 B.N.S.S on 16.9.2025 which was recorded on the basis of threats and coercion extended by respondent no.4 and her in-laws. The respondent no.5, who is also present in person namely Smt. Vandana Verma, who is identified by her counsel namely Sri Pankaj Kumar Verma, upon being confronted with her statement recorded under Section 180 of B.N.S.S, states that the said statement was recorded under threats and coercion as extended by her husband namely respondent no.4 and her in-laws and she had no choice but to give the said statement. She also states that the jewellery taken by her is part of her stridhan. The Court records the said statement of respondent no.5.

13. In her statement given on 16.9.2025 she also stated that her jewellery was given in safe custody to Ubaid and she asked him to give her remaining jewellery to her husband, i.e., respondent no.4.

14. At this stage, learned A.G.A. states that on the basis of the instructions given by the Investigating Officer namely Shri Daya Ram Saroj, who is present in court along with records, that the jewellery has been recovered and is now in police custody (Malkhana) Thana Matera, District Bahraich and that the respondent no.4 has filed an application for release of the said jewellary before the competent Court.

15. On the basis of her statement under Section 180 B.N.S.S, the Investigating Officer has added Sections 316 (2), 317 (2) B.N.S. and

Section 3 (1) (5) of Prohibition of Unlawful Conversion of Religion Act, 2021 (Act, 2021) which were added on 17.9.2025.

16. On the basis of same, petitioner no.1 was arrested on 18.9.2025. Subsequently, on 19.9.2025, the statement of respondent no.5 was recorded under section 183 B.N.S.S 2023 in which she has categorically stated that she had gone from her house on her own accord as her husband beats her regularly. However, in her statement she does not allege anything about any religious conversion having taken place. She has also handed over entire jewelry, which was in her possession, to the police officers as stated by her.

17. For the sake of convenience her statement under Section 183 of the B.N.S.S is reproduced below :-

> *"**अवलोकन बयान पीडिता अन्तर्गत धारा 183 बीएनएसएस.....** बयान अन्तर्गत धारा 183 बीएनएसएस... आज दिनांक 19.09.202 को विवेचक दयाराम सरोज व म०आ० सीमा यादव पीड़िता वंदना वर्मा पत्नी पंकज वर्मा उम्र 39 वर्ष निवासी मटेरा चौराहा बहराइच को बयान हेतु लाया गया पीडिता ने शसपथ बयान किया कि... मै दिनांक 08.09.202 को दिन में 10.30 बजे अपन ससुराल से अकेले दिल्ली को गयी थी। दिल्ली में मेरी बेटी मुस्कान रहती है। लेकिन दिल्ली में कहाँ रहती है मुझे नहीं पता। फिर मैं अपनी बेटी के पास भी नहीं गयी। क्यों कि मैं घर पर किसी को नहीं बताना चाहती थी कि मैं कहाँ पर हूं। मेरे पति मुझ बहुत मारते थे इस लिए मैं घर छोड क निकल गयी थी। मैं एक सोने का सिक्का, 2 सोने की चेन (बच्चो की), लेकर घर से गयी थी। लेकिन ये सब सामान मैने थाना बहराइच पर पुलिस को दे दिया था। मै दिल्ली में 34 दिन तक अवध विहार बस स्टैण्ड, दिल्ली में रूकी थी। मैं अकेले गयी थी। मै काम ढूढने दिल्ली गयी थी। मुझे ओ कुछ नहीं कहना है। प्रमाणित किया जाता है कि बयान पीडिता के बोलने पर अक्षरशः व नियमानुसार अंकित किया गया। बयान सुनकर तस्दीक किया ह० वंदना। ह० अंग्रेजी अर्जिता वर्मा एसीजे/जेएम 5 बहराइच ।"*

18. As already indicated above, the petitioner no.1 has been arrested on 18.9.2025 on the basis of the offences under the provisions of the Act, 2021 which carry a sentence of 10 years. However, in view of the statement of the respondent No.5 under Section 183 of the B.N.S.S., the

offence under the Act, 2021 is clearly not attracted as no religious conversion has taken place.

19. If the provisions of Section 316(2) and 317(2) of B.N.S. are seen, the same only entail a sentence of five years and three years respectively and thus keeping in view the law laid down by the Hon'ble Apex Court in the case of **Arnesh Kumar vs. State of Bihar and another - (2014) 8 SCC 273**, the same would not have entailed automatic arrest of petitioner no.1.

20. The Court may also examine the provisions of Section 140(1) of the B.N.S., 2023 in which the FIR was initially lodged.

21. For the sake of convenience Section 140 of the B.N.S., 2023 is reproduced below:-

> ***"Section 140: Kidnapping or abducting in order to murder or for ransom, etc.***
>
> ***(1)*** *Whoever kidnaps or abducts any person in order that such person may be murdered or may be so disposed of as to be put in danger of being murdered, shall be punished with imprisonment for life or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.*
>
> ***(2)*** *Whoever kidnaps or abducts any person or keeps a person in detention after such kidnapping or abduction, and threatens to cause death or hurt to such person, or by his conduct gives rise to a reasonable apprehension that such person may be put to death or hurt, or causes hurt or death to such person in order to compel the Government or any foreign State or international inter-governmental organisation or any other person to do or abstain from doing any act or to pay a ransom, shall be punishable with death, or imprisonment for life, and shall also be liable to fine.*
>
> ***(3)*** *Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.*
>
> ***(4)*** *Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt, or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."*

22. From perusal of the Section 140 of the B.N.S., 2023, it emerges that sub section (1) of Section 140 of the B.N.S., 2023 pertains to kidnapping or abducting in order to murder or for ransom, etc., for which the punishment prescribed is up to 10 years and fine.

23. From the statement of the respondent No.5 dated 19.09.2025 it is apparent that she has stated to have gone on her own accord to her daughter in Delhi and thereafter returned and thus, the offence as per Section 140 of B.N.S., 2023 is clearly not made out.

24. As regards the offences under Sections 316(2) and 317(2) of B.N.S., 2023, the same pertains to criminal breach of trust and stolen property for which the maximum punishment prescribed is 5 years and 3 years respectively for which there cannot be automatic arrest keeping in view the law laid down by the Hon'ble Supreme Court in the cases of Hon'ble Supreme Court in re; **Arnesh Kumar (supra)** and **Satender Kumar Antil vs. CBI and another- (2022) 10 SCC 51.** However, even otherwise the said offences are clearly not made out considering the statement of the respondent No.5 as given before us that the Jewellery pertains to stridhan and the fact that the jewellery is now in the custody of the police.

25. However, it is not understood that when on 19.9.2025 respondent no.5 has given statement under Section 183 B.N.S.S, which has already been reproduced above from which it emerges that none of the offences as prescribed under the Act of 2021 or Sections 140, 316(2) and 317(2) of B.N.S. are said to have been committed by the petitioners, as to why corrective action was not taken by the authorities on their own accord. Further, keeping in view the statement as given by the respondent no.5, it is apparent that the FIR has been lodged under the aforesaid provisions of the Act, 2021 and Section 140 of the B.N.S. without any offence in fact being committed by the petitioners under the Act 2021 or B.N.S. as specifically stated by the victim, respondent no.5. It is thus apparent that a false FIR has been lodged by the respondent no.4 under the Act, 2021.

26. Further, considering the statement of the respondent No.5 having been recorded under Section 183 of the B.N.S.S., action under Section

169 Cr.P.C. (now Section 189 of the B.N.S.S. 2023) should have been resorted to by the authorities more particularly when in view of the statement of the alleged victim there was no evidence or reasonable ground or suspicion to justify the forwarding of the petitioners to Magistrate and consequently the petitioner No.1 who was in custody should have been released. However, the said course of action was also not resorted to by the authorities for reasons best known and the petitioner No.1 is continuing to languish in jail even at the time of dictating of this order.

27. Considering the aforesaid, the course of action to be adopted by this Court will now have to be considered.

28. In this regard, it would be apt to refer to the recent judgment of the Hon'ble Supreme Court in the case of ***Rajendra Bihari Lal vs State of U.P. & Ors. : 2025 SCC OnLine SC 2265*** wherein the Hon'ble Supreme Court has held as under:-

> ***66***. *The power to quash criminal proceedings is guided by the principle of preventing the abuse of the process of law or miscarriage of justice, and of securing the ends of justice. It can be done by the High Court in exercise of its extraordinary power under Article 226 of the Constitution or by exercise of its inherent powers under Section 482 of the Cr.P.C. (Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (for short, "the B.N.S.S.")) and even by the Supreme Court under Article 32 of the Constitution, if the circumstances so require.*
>
> ***67***. *Section 482 of the Cr.P.C. stipulates that nothing in the Cr.P.C. limits or affects the inherent powers of the High Court to make orders to give effect to any order under the Cr.P.C., or to prevent abuse of the process of any Court, or otherwise to secure the ends of justice. The powers vested can even be exercised suo motu to secure the ends of justice. In State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335, this Court made it abundantly clear that the High Courts in exercise of their extraordinary power under Article 226 or the inherent powers under Section 482 of the Cr.P.C., should act with a view to prevent abuse of process of any court or secure the ends of justice. A three-Judge Bench of this Court in State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568, placing reliance on Bhajan Lal (supra), held thus:*

> *"**29**. Regarding the argument of the accused having to face the trial despite being in a position to produce material of unimpeachable character of sterling quality, the width of the powers of the High Court under Section 482 of the Code and Article 226 of the Constitution is unlimited whereunder in the interests of justice the High Court can make such orders as may be necessary to prevent abuse of the process of any court or otherwise to secure the ends of justice within the parameters laid down in Bhajan Lal case [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426]."*
>
> *(Emphasis supplied)*

***68**. In Pepsi Foods Ltd. v. Special Judicial Magistrate, (1998) 5 SCC 749, it was held by this Court that the nomenclature under which the petition has been filed is not relevant and it does not bar the court from exercising its jurisdiction which it possesses by virtue of its very existence. The relevant observations read thus:*

> *"26. Nomenclature under which petition is filed is not quite relevant and that does not debar the court from exercising its jurisdiction which otherwise it possesses unless there is special procedure prescribed which procedure is mandatory. If in a case like the present one the court finds that the appellants could not invoke its jurisdiction under Article 226, the court can certainly treat the petition as one under Article 227 or Section 482 of the Code. It may not however, be lost sight of that provisions exist in the Code of revision and appeal but some time for immediate relief Section 482 of the Code or Article 227 may have to be resorted to for correcting some grave errors that might be committed by the subordinate courts. The present petition though filed in the High Court as one under Articles 226 and 227 could well be treated under Article 227 of the Constitution."*
>
> *(Emphasis supplied)*

***69**. A three-Judge Bench of this Court, speaking through Gajendragadkar, J., as His Lordship then was, in Talab Haji Hussain v. Madhukar Purshottam Mondkar, 1958 SCC OnLine SC 81, succinctly explained the intention of the legislature behind adding Section 561A to the Code of Criminal Procedure, 1898, which is in pari materia with Section 482 of the Cr.P.C., and Section 528 of the B.N.S.S. The Court held that the provisions of the Code do not limit or affect the inherent power of the High Court. The legislature cannot anticipate every lacuna that may arise in the implementation of procedural law and it is precisely to address such lacunas that, the law recognises the existence of inherent power in courts. The relevant observations read thus:*

"5. Section 561-A of the Code was added to the Code in 1923 and it purports to save the inherent power of the High Courts. It provides that nothing in the Code shall be deemed to limit or affect the inherent power of the High Court to make such 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. It appears that doubts were expressed in some judicial decisions about the existence of such inherent power in the High Courts prior to 1923. That is why legislature enacted this section to clarify the position that the provisions of the Code were not intended to limit or affect the inherent power of the High Courts as mentioned in Section 561-A. It is obvious that this inherent power can be exercised only for either of the three purposes specifically mentioned in the section. This inherent power cannot naturally be invoked in respect of any matter covered by the specific provisions of the Code. It cannot also be invoked if its exercise would be inconsistent with any of the specific provisions of the Code. It is only if the matter in question is not covered by any specific provisions of the Code that Section 561-A can come into operation, subject further to the requirement that the exercise of such power must serve either of the three purposes mentioned in the said section. In prescribing rules of procedure legislature undoubtedly attempts to provide for all cases that are likely to arise; but it is not possible that any legislative enactment dealing with procedure, however carefully it may be drafted, would succeed in providing for all cases that may possibly arise in future. Lacunae are sometimes discovered in procedural law and it is to cover such lacunae and to deal with cases where such lacunae are discovered that procedural law invariably recognizes the existence of inherent power in courts. It would be noticed that it is only the High Courts whose inherent power is recognized by Section 561-A; and even in regard to the High Courts' inherent power definite salutary safeguards have been laid down as to its exercise. It is only where the High Court is satisfied either that an order passed under the Code would be rendered ineffective or that the process of any court would be abused or that the ends of justice would not be secured that the High Court can and must exercise its inherent power under Section 561-A. There can thus be no dispute about the scope and nature of the inherent power of the High Courts and the extent of its exercise."

(Emphasis supplied)

***70**. The aforesaid decisions of this Court make it clear that where the High Court is satisfied that the process of any court is being abused or likely to be abused or that the ends of justice would not be secured, it is*

not only empowered but also obligated under the law to exercise its inherent powers. The provision does not confer any new power on the High Court but rather saves the power which the High Court already possesses, from before the enactment of the legislation, by reason of its very existence. In exercise of its power, it would be legitimate for the High Court to quash any criminal proceedings, if the High Court finds that the initiation or continuation of it may lead to abuse of process of court, and quashing of the proceedings would serve the ends of justice.

***71**. While observing that it is not possible to lay down an exhaustive list of circumstances and situations wherein such inherent power could be exercised, this Court in Bhajan Lal (supra), nonetheless illustrated certain categories of cases wherein the extraordinary power under Article 226 or the inherent power under Section 482 of the Cr.P.C. can be exercised by the High Court. We would like to reproduce paragraph 102 of the said judgment which reads thus:*

> *"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*
>
> *(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.*
>
> *(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR 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.*
>
> *(3) 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.*

(4) Where, the allegations in the FIR 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.

(5) Where the allegations made in the FIR 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.

(6) 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.

(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."

(Emphasis supplied)

***72**. This Court in Rajiv Thapar v. Madan Lal Kapoor, (2013) 3 SCC 330, laid down steps that ought to be followed by the High Court to determine the veracity of a prayer for quashing of proceedings. The steps were premised on the understanding that the courts are not barred from looking at the materials produced by the accused of sterling and impeccable quality. It was held that the material should be such as would persuade a reasonable person to reject, dismiss and condemn the allegations as false. The judicial conscience of the High Court would then be persuaded to exercise its power under Section 482 of the Cr.P.C. to quash the proceedings with a view to prevent abuse of process of the court and secure the ends of justice. The relevant observations have been reproduced hereinbelow:—*

"30. Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashment raised by an accused by invoking the power vested in the High Court under Section 482 CrPC:

30.1. Step one: whether the material relied upon by the accused is sound, reasonable, and indubitable i.e. the material is of sterling and impeccable quality?

30.2. 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?

30.3. 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?

30.4. 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?

30.5. If the answer to all the steps is in the affirmative, the judicial conscience of the High Court should persuade it to quash such criminal proceedings in exercise of power vested in it under Section 482 CrPC. 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 arising therefrom) specially when it is clear that the same would not conclude in the conviction of the accused."

……..……..……..

***82**. In the State of A.P. v. Golconda Linga Swamy, (2004) 6 SCC 522, this Court elaborated on the types of material the High Court can take into consideration to quash an FIR. The Court drew a fine distinction between consideration of materials that may be tendered as evidence and appreciation of such evidence and that only such material that manifestly runs contrary to the accusations in the FIR could be considered for the purpose of quashing. The relevant observations read thus:—*

"5.[…] Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent such abuse. It would be an abuse of the process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.

6. In R.P. Kapur v. State of Punjab [AIR 1960 SC 866 : 1960 Cri LJ 1239] this Court summarised some categories of cases where

inherent power can and should be exercised to quash the proceedings : (AIR p. 869, para 6)

(i) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;

(ii) where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged;

(iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.

7. In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge.[…]"

(Emphasis supplied)

***83**. What should be the approach of the court in cases where an accused seeks quashing of an FIR or proceedings on the ground that such proceedings are manifestly frivolous, or vexatious, or instituted with an ulterior motive for wreaking vengeance was delineated by this Court in Mohammad Wajid v. State of U.P., 2023 SCC OnLine SC 951, wherein one of us, J.B. Pardiwala, J., speaking for the Bench held that the courts owe a duty to look into other attending circumstances emerging from the record of the case, and if need be, read between the lines. We may refer to the following observations for the benefit of exposition:*

"36. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely.

37. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc. then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not.

38. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged."

(Emphasis supplied)

***84**. Recently, a Coordinate Bench of this Court in Imran Pratapgadhi v. State of Gujarat, 2025 SCC OnLine SC 678, dealt with a case wherein the High Court had rejected the petition under Section 528 of the B.N.S.S. read with Article 226 of the Constitution by holding that since the investigation was at a nascent stage, the High Court should not interfere in view of the decision of this Court in Neeharika (supra). This Court found the registration of the FIR to be a mechanical exercise and a clear abuse of the process of law as no prima facie case was made out against the appellant qua the provisions invoked. The Court held that there is no absolute rule that when the investigation is at a nascent stage, the High Court should not exercise its jurisdiction to quash an FIR in exercise of its jurisdiction under Article 226 of the Constitution or under Section 482 of the Code. To prevent abuse of the process of law, the High Court may interfere even though the investigation is at the nascent stage. The relevant observations read thus:—*

"36. In the instant case, as we have seen, no prima facie case can be said to have been made out against the appellant qua the

> *sections invoked. In such a case, registration of the FIR appears to be a very mechanical exercise and is a clear abuse of the process of law. In fact, registration of such FIR virtually borders on perversity. We are surprised that this very crucial aspect escaped the notice of the High Court. The High Court ought to have nipped the mischief at the threshold itself.*
>
> *37. We fail to understand how the High Court concluded that the message was posted in a manner that would certainly disturb social harmony. Thereafter, the High Court gave a reason that the investigation was at a nascent stage. There is no absolute rule that when the investigation is at a nascent stage, the High Court cannot exercise its jurisdiction to quash an offence by exercising its jurisdiction under Article 226 of the Constitution of India or under Section 482 of the CrPC equivalent to Section 528 of the B.N.S.S. When the High Court, in the given case, finds that no offence was made out on the face of it, to prevent abuse of the process of law, it can always interfere even though the investigation is at the nascent stage. It all depends on the facts and circumstances of each case as well as the nature of the offence. There is no such blanket rule putting an embargo on the powers of the High Court to quash FIR only on the ground that the investigation was at a nascent stage. If such embargo is taken as an absolute rule, it will substantially curtail the powers of the High Court which have been laid down and recognised by this Court in the case of State of Haryana v. Bhajan Lal."*

29. From perusal of the judgment of the Hon'ble Supreme Court in the case of ***Rajendra Bihari Lal (supra)*** it emerges that the Hon'ble Supreme Court has held that that where the High Court is satisfied that the process of any court is being abused or that the ends of justice would not be secured, it is not only empowered **but also obligated** under the law to exercise its inherent powers. **In exercise of its power, it would be legitimate for the High Court to quash any criminal proceedings, if the High Court finds that the initiation or continuation of it may lead to abuse of process of court, and quashing of the proceedings would serve the ends of justice.**

30. The Hon'ble Supreme Court after placing reliance on its earlier judgment in the case of ***Rajiv Thapar v. Madan Lal Kapoor, reported in (2013) 3 SCC 330*** has indicated the steps that ought to be followed by the High Court to determine the veracity of a prayer for quashing of

proceedings. The steps were premised on the understanding that the courts are not barred from looking at the materials produced by the accused of sterling and impeccable quality. **It was held that the material should be such as would persuade a reasonable person to reject, dismiss and condemn the allegations as false and that the judicial conscience of the High Court would then be persuaded to exercise its power to quash the proceedings with a view to prevent abuse of process of the court and secure the ends of justice.**

31. The Hon'ble Supreme Court further held that as to what should be the approach of the court in cases where an accused seeks quashing of an FIR or proceedings on the ground that such proceedings are manifestly frivolous, or vexatious, or instituted with an ulterior motive for wreaking vengeance and it has been held that the **courts owe a duty to look into other attending circumstances emerging from the record of the case, and if need be, read between the lines.**

32. Considering the aforesaid principles of law as enunciated by the Hon'ble Supreme Court, the facts of the case as already enumerated above and the statement of the alleged victim/respondent No.5 under Section 183 of the B.N.S.S., 2023, it is apparent that the aforesaid FIR has been lodged in a vexatious manner by the respondent No.4 and the authorities. Further, despite having the statement of respondent No.5 as recorded on 19.09.2025, the authorities have failed to exercise the power as vested in them under Section 189 of the B.N.S.S., 2023 and have failed to take corrective action with regard to the petitioner No.1 who, despite a lapse of almost one and a half months from the statement dated 19.09.2025, continues to languish in jail.

33. The Court having gone through the entire records including the case diary which has been produced by the learned Government Advocate thus proceeds to exercise the powers vested in it under Article 226 of the Constitution of India to quash the FIR and all consequential proceedings.

34. Next aspect which has to be considered by the Court is as to whether in the facts of the case, some exemplary cost is to be imposed considering the fact that for no fault of his, petitioner no.1 is incarcerated

in jail since 18.9.2025 and the fact that respondent authorities had an option of rectifying themselves considering the statement of the victim under Section 183 of B.N.S.S given on 19.9.2025 by submitting a final report or report under Section 189 of B.N.S.S., 2023 yet no action has been taken in this regard till date.

35. In this regard, it would be apt to refer to the judgment of the Hon'ble Supreme Court in the case of ***Rini Johar v. State of MP, 2016 SCC OnLine SC 594*** wherein considering the arrest of the petitioner which was made in clear violation of the mandate of law enshrined under Sections 41 and 41-A of the Cr.P.C., the Hon'ble Supreme Court having held the arrest and the incarceration to be totally illegal and void has awarded a sum of Rs.5 Lakh towards compensation to the petitioners to be paid by the State.

36. For the sake of convenience, relevant observations of the Hon'ble Supreme Court in the case of ***Rini Johar (supra***) are reproduced below:-

> ***23.*** *In such a situation, we are inclined to think that the dignity of the petitioners, a doctor and a practising advocate has been seriously jeopardised. Dignity, as has been held in Charu Khurana v. Union of India [Charu Khurana v. Union of India, (2015) 1 SCC 192 : (2015) 1 SCC (L&S) 161] , is the quintessential quality of a personality, for it is a highly cherished value. It is also clear that liberty of the petitioner was curtailed in violation of law.* ***The freedom of an individual has its sanctity. When the individual liberty is curtailed in an unlawful manner, the victim is likely to feel more anguished, agonised, shaken, perturbed, disillusioned and emotionally torn. It is an assault on his/her identity. The said identity is sacrosanct under the Constitution. Therefore, for curtailment of liberty, requisite norms are to be followed. Fidelity to statutory safeguards instil faith of the collective in the system. It does not require wisdom of a seer to visualise that for some invisible reason, an attempt has been made to corrode the procedural safeguards which are meant to sustain the sanguinity of liberty.*** *The investigating agency, as it seems, has put its sense of accountability to law on the ventilator. The two ladies have been arrested without following the procedure and put in the compartment of a train without being produced before the local Magistrate from Pune to Bhopal. One need not be Argus-eyed to perceive the same. Its visibility is as clear as the cloudless noon day. It would not be erroneous to say that the enthusiastic investigating agency had totally forgotten the golden words of Benjamin Disraeli:*
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> > ***"****I repeat ... that all power is a trust—that we are accountable for its exercise—that, from the people and for the people, all springs and all must exist."*

24. We are compelled to say so as liberty which is basically the splendour of beauty of life and bliss of growth, cannot be allowed to be frozen in such a contrived winter. That would tantamount to comatosing of liberty which is the strongest pillar of democracy.

25. *Having held thus, we shall proceed to the facet of grant of compensation. The officers of the State had played with the liberty of the petitioners and, in a way, experimented with it. Law does not countenance such kind of experiments as that causes trauma and pain. In Mehmood Nayyar Azam v. State of Chhattisgarh [Mehmood Nayyar Azam v. State of Chhattisgarh, (2012) 8 SCC 1 : (2012) 4 SCC (Civ) 34 : (2012) 3 SCC (Cri) 733 : (2012) 2 SCC (L&S) 449] , while dealing with the harassment in custody, deliberating on the concept of harassment, the Court stated thus : (SCC pp. 12-13, para 22)*

> *"22. At this juncture, it becomes absolutely necessary to appreciate what is meant by the term "harassment". In P. Ramanatha Aiyar's Law Lexicon, 2nd Edn., the term "harass" has been defined thus:*
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> *'Harass.—"Injure" and "injury" are words having numerous and comprehensive popular meanings, as well as having a legal import. A line may be drawn between these words and the word "harass", excluding the latter from being comprehended within the word "injure" or "injury". The synonyms of "harass" are : to weary, tire, perplex, distress, tease, vex, molest, trouble, disturb. They all have relation to mental annoyance, and a troubling of the spirit.'*
>
> *The term "harassment" in its connotative expanse includes torment and vexation. The term "torture" also engulfs the concept of torment. The word "torture" in its denotative concept includes mental and psychological harassment. The accused in custody can be put under tremendous psychological pressure by cruel, inhuman and degrading treatment."*

26. In the said case, emphasising on dignity, it has been observed : (Mehmood Nayyar case [Mehmood Nayyar Azam v. State of Chhattisgarh, (2012) 8 SCC 1 : (2012) 4 SCC (Civ) 34 : (2012) 3 SCC (Cri) 733 : (2012) 2 SCC (L&S) 449] , SCC p. 15, para 36)

"36. … The majesty of law protects the dignity of a citizen in a society governed by law. It cannot be forgotten that the welfare State is governed by the rule of law which has paramountcy. It has been said by Edward Biggon 'the laws of a nation form the most instructive portion of its history'. *The Constitution as the organic law of the land has unfolded itself in a manifold manner like a living organism in the various decisions of the court about the rights of a person under Article 21 of the Constitution of India. When citizenry rights are sometimes dashed against and pushed back by the members of City Halls, there has to be a rebound and when the rebound takes place, Article 21 of the Constitution springs up to action as a protector."*

27. In the case at hand, there has been violation of Article 21 and the petitioners were compelled to face humiliation. *They have been treated with an attitude of insensibility. Not only there are violation of guidelines issued in D.K. Basu [D.K. Basu v. State of W.B., (1997) 1 SCC 416 : 1997 SCC (Cri) 92] ,* ***there are also flagrant violation of mandate of law enshrined under Section 41 and Section 41-A CrPC. The investigating officers in no circumstances can flout the law with brazen proclivity.*** *In such a situation,*

the public law remedy which has been postulated in Nilabati Behera [Nilabati Behera v. State of Orissa, (1993) 2 SCC 746 : 1993 SCC (Cri) 527] , Sube Singh v. State of Haryana [Sube Singh v. State of Haryana, (2006) 3 SCC 178 : (2006) 2 SCC (Cri) 54] , Hardeep Singh v. State of M.P. [Hardeep Singh v. State of M.P., (2012) 1 SCC 748 : (2012) 1 SCC (Cri) 684] , comes into play. The constitutional courts taking note of suffering and humiliation are entitled to grant compensation. That has been regarded as a redeeming feature. In the case at hand, taking into consideration the totality of facts and circumstances, we think it appropriate to grant a sum of Rs 5,00,000 (Rupees five lakhs only) towards compensation to each of the petitioners to be paid by the State of M.P. within three months hence. It will be open to the State to proceed against the erring officials, if so advised."

(Emphasis by the Court)

37. Instant case is also on similar footing inasmuch as, after the FIR had been lodged on 13.09.2025, the petitioner No.1 was arrested on 18.09.2025 and the statement of the victim was recorded under Section 183 of the B.N.S.S., 2023 on 19.09.2025 totally falsifying the FIR yet the respondents authorities did not deem it fit to take any corrective action for release of the petitioner No.1 and he continues to languish in jail since a period of one and a half months and is still in jail, as fairly stated by the learned G.A. on the basis of instructions given by the investigating officer who is present in the Court. This thus compels this Court to award exemplary cost of Rs.75,000/- on the State of Uttar Pradesh, of which Rs.50,000/- would be paid to the petitioner No.1 within a period of four weeks from the date of receipt of a certified copy of this order and remaining Rs.25,000/- would be deposited with the Legal Aid Services of this Court within the aforesaid period of time. It will be open to the State to proceed against the erring official(s) including the respondent No.4.

38. Keeping in view the aforesaid discussion, the writ petition is ***allowed*** with costs as aforesaid. Impugned FIR dated 13.9.2025 lodged by opposite party no.4 as case crime no.0239 of 2025 at police station - Matera, District Bahraich, under Sections 140 (1), 316(2), 317(2) of B.N.S. and Section 3(1)(5) of the Act, 2021 is quashed. Consequences to follow. Petitioner no.1 shall immediately be released if not wanted in any other case.

39. The Court records the fair assistance rendered by Dr. V.K. Singh, learned Government Advocate and Shri G.D. Bhatt, learned Additional Government Advocate.

40. The records are returned back.

(Mrs. Babita Rani,J.) (Abdul Moin,J.)

October 30, 2025
Manish/Prateek