

of hearing, calling the explanation of the applicant, but, it reveals from the impugned Judgment and Order dated 27-10-2015 that no such opportunity of hearing was given to the applicant.

28. Thus, I am of the considered opinion that the learned trial court while making the adverse remarks/direction against the applicant in the impugned Judgment and Order, has ignored the settled principle of law in the case of **Mohammad Naim(Supra) and Neeraj Garg(Supra)** and further, the purpose of the invocation of section 4 of the Act, 1989, has also been defeated, as the learned trial court without reaching to the conclusion that there is 'wilful negligence' in conducting the investigation, has made adverse remarks.

29. In view of the aforesaid submissions and discussions, this court finds merits, in the instant application and thus, the application under section 482 Cr.P.C. is hereby **allowed**.

30. Consequently, the adverse remarks in the Judgment and Order dated 27-10-2015, quoted in paragraph no. 8 of this order, is hereby set aside.

31. Consequences to follow.

32. Consigned to record.

(2025) 5 ILRA 286

ORIGINAL JURISDICTION

CRIMINAL SIDE

DATED: ALLAHABAD 20.05.2025

BEFORE

THE HON'BLE SANJAY KUMAR PACHORI, J.

Application U/S 528 BNSS No. 2582 of 2025

Raghvendra Singh ...Applicant
Versus
State of U.P. & Anr. ...Opposite Parties

Counsel for the Applicant:

Ravesh Kumar Singh

Counsel for the Opposite Parties:

G.A., Vipin Kumar Yadav

Private opposite party no. 2 is wife of the applicant- various matrimonial disputes are pending between the parties -as per medical report- five injuries are found on the body of the injured person/first informant-Inherent power must be utilised with the sole purpose of preventing the abuse of the process of the court or to otherwise serve the ends of justice- proper scrutiny of facts and circumstances of the case concerned is absolutely imperative.

Application dismissed. (E-9)

List of Cases cited:

1. St. of Har. & ors. Vs Bhajan Lal, 1992 Supp (1) SCC 335

2. Kurukshetra University Vs St. of Har., (1977) 4 SCC 451

3. B. S. Joshi Vs St. of Har., (2003) 4 SCC 675

4. Dhanalakshmi Vs R. Prasanna Kumar, 1990 Supp. SCC 686

5. Ganesh Narayan Hegde Vs S. Bangarappa, (1995) 4 SCC 41

6. Zandu Pharmaceutical Works Ltd. Vs Mohd. Sharaful Faque, (2005) 1 SCC 122

7. St. of W.B. Vs Swapan Kumar Guha, (1982) 1 SCC 561

8. Pepsi Foods Ltd. Vs Special Judicial Magistrate, (1998) 5 SCC 749

9. G. Sagar Suri Vs St. of U. P., (2000) 2 SCC 636 and Ajay Mitra Vs St. of M. P., (2003) 3 SCC 11]

10. Dhandlakshmi Vs R. Prasanna Kumar, 1990 Supp SCC 686

11. St. of Bihar Vs P. P. Sharma 1992 Supp (1) SCC 222

12. Rupan Deol Bajaj Vs Kanwar Pal Singh Gill, (1995) 6 SCC 194,

13. St. of Kerala Vs O.C. Kuttan (1999) 2 SCC 651

14. St. of U. P. Vs O. P. Sharma, (1996) 7 SCC 705

15. Rashmi Kumar Vs Mahesh Kumar Bhada, (1997) 2 SCC 397

16. Satvinder Kaur Vs St. (Govt. of NCT of Delhi), (1999) 8 SCC 728

17. Rajesh Bajaj v St. of NCT of Delhi, (1999) 3 SCC 259

18. St. of Karnataka Vs M. Devendrappa, (2002) 3 SCC 89]

19. Sanapareddy Maheedhar Seshagiri & another Vs St. of Andhra Pradesh & another, (2007) 13 SCC 165

(Delivered by Hon'ble Sanjay Kumar Pachori, J.)

1. The present application under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as "BNSS") has been filed for quashing the entire proceedings of Criminal Case No. 5371 of 2024 (State vs. Raghvendra Singh), arising out of Case Crime No. 145 of 2024, under Sections 115(2), 351 (3), 352, 110, 117(2) of Bharatiya Nyay Sanhita (BNS) (equivalent to Sections 323, 506, 504, 308, 325 of IPC), P.S. Civil Lines, District Etawah as well as cognizance/summoning order dated

22.10.2024, pending in the court of Chief Judicial Magistrate, Etawah.

2. Brief facts of the case are that the FIR dated 05.07.2024 has been lodged against the applicant and two other unknown persons alleging that marriage of first informant was solemnized with the present applicant on 11.03.2018 but due to some matrimonial disputes first informant is residing in her parental house. On 04.07.2024 she had gone to the civil court for doing pairavi in a case related to the maintenance and domestic violence, at the same time the present applicant threatened the first informant to withdraw all the cases. At about 2.00 P.M. on the same day the applicant and two other unknown persons came and abused the first informant and pulled her hair and committed marpeet with her. Due to this marpeet first informant became seriously injured and sustained injuries over the whole body including head. On her crying the applicant and other co-accused persons fled away from the place of incident by car.

2(i) After lodging of the FIR on 05.07.20224 at 23.11 hours, medical examination of the first informant has been conducted on 04.07.2024 at 2.44 P.M. (within 45 minutes of the incident), wherein injuries, which have been found are as under:

(a) Incised wound of 6.9 cm x 0.8 cm. over left parietal region of clear cut margin fresh bleeding present.

(b) Abraded contusion of 7.8 cm x 1.9 cm over anterior aspect of over hyoid bone, no bleeding present, red in colour and advised X-ray of neck.

(c) Abrasion of 4.8 cm x 3.9 cm over left lower back, no bleeding present.

(d) Abrasion of 5.8 cm x 2.1 cm over anterior aspect of right elbow from right knee joint, no bleeding present, red colour.

(e) Contusion of 4.2 cm x 3.6 cm over right side chest with breath difficulty. Reddish in colour KUO advised X-ray of chest.

2(ii) After completing the investigation charge sheet has been submitted against the applicant, and the learned Magistrate took cognizance on 22.10.2024, under Section 115(2), 351(3), 352, 110, 117 (2) BNS (equivalent Sections 323, 504, 506, 308, 325 IPC) against the applicant.

3. Learned counsel for the applicant submits that the opposite party no. 2 herself dispossessed the applicant and mother of the applicant from matrimonial house. In this regard one Complaint No. 47/12 of 2022 (Sonkali vs. Supriya and another), under Section 12 (1) of Protection of Women From Domestic Violence Act, 2005 has been filed against the first informant. The first informant lodged Case Crime No. 312 of 2024, under Sections 85, 115(2), 351(2) of B.N.S. (equivalent Sections 498-A, 323, 506 of IPC) and Section 3/4 of Dowry Prohibition Act on 07.11.2024. One Maintenance Case No. 31 of 2023 (Supriya Yadav vs. Raghvendra Singh), under Section 125 Cr.P.C. and one Complaint Case No. 13 of 2023, under Section 12 of Protection of Women from Domestic Violence have also been filed by the first informant against the applicant. It is further submitted that the offence punishable under Sections 110 and 117 of BNS (Section 308, 325 IPC) have been added during the investigation. It is further submitted that the applicant has been falsely implicated in the offence as alleged and without conducting fair investigation

charge sheet has been submitted under influence of father of the first informant, who is President of Teachers Union and close to the Ex-M.L.A., Bharthana, Etawah.

4. Learned A.G.A. as well as learned counsel for the private opposite party no. 2 have vehemently opposed the prayer of this application and submit that there is no illegality in the impugned order.

5. Before advertng to the facts of the case it is apposite to deal with the position of law with regard to inherent power under Section 482 of Cr.P.C. of High Court.

6. In **State of Haryana & Others v. Bhajan Lal, 1992 Supp (1) SCC 335**, the Supreme Court had dealt with the outlines of exercise of inherent powers of the High Court, and mention certain category of cases by way of illustration wherein the extraordinary power under Article 226 of the Constitution or inherent power under Section 482 of the Code could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice. It was also observed that it may not be possible to lay down any precise, clearly defined and inflexible guidelines or rigid formulae wherein such power should be exercised. It would be useful to mention the illustrations as follows; (SCC pp. 378-79, para 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 no 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 Act concerned (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 Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fides 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."

7. The inherent powers do not confer an arbitrary jurisdiction on the High Court to act according to whim or caprice. That statutory power has to be exercised

sparingly, with circumspection and in the rarest of rare cases. [Vide: **Kurukshetra University v. State of Haryana, (1977) 4 SCC 451**]. Inherent power must be utilised with the sole purpose of preventing the abuse of the process of the court or to otherwise serve the ends of justice. In exercise of inherent powers, proper scrutiny of facts and circumstances of the case concerned is absolutely imperative. [Vide: **B. S. Joshi v. State of Haryana, (2003) 4 SCC 675**]. The inherent power is to be exercised *ex debito justitiae*, to do real and substantial justice, for administration of which alone courts exist. Wherever any attempt is made to abuse that authority so as to produce injustice, the Court has power to prevent the abuse. It is, however, not necessary that at this stage there should be a meticulous analysis of the case before the trial to find out whether the case ends in conviction or acquittal. [Vide: **Dhanalakshmi v. R. Prasanna Kumar, 1990 Supp. SCC 686, Ganesh Narayan Hegde v. S. Bangarappa, (1995) 4 SCC 41 and Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Faque, (2005) 1 SCC 122**].

8. The power of quashing criminal proceedings has to be exercised very sparingly and with circumspection and that too in the rarest of rare cases and the Court cannot be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of allegations made in the FIR/complaint, unless the allegations are so patently absurd and inherently improbable so that no prudent person can ever reach such a conclusion.... The power of judicial review is discretionary, however, it must be exercised to prevent the miscarriage of justice and for correcting some grave errors and to ensure that esteem of administration of justice remains clean and pure.

However, there are no limits of power of the Court, but the more the power, the more due care and caution is to be exercised in invoking these powers. [Vide: **State of W.B. v. Swapan Kumar Guha, (1982) 1 SCC 561, Pepsi Foods Ltd. v. Special Judicial Magistrate, (1998) 5 SCC 749, G. Sagar Suri v. State of U. P., (2000) 2 SCC 636 and Ajay Mitra v. State of M. P., (2003) 3 SCC 11]**

9. The complaint/FIR has to be read as a whole. If it appears that on oath of the complainant or disclosed in the FIR that the ingredients of the offence or offences are disclosed and there is no material to show that the complaint/FIR is mala fide, frivolous or vexatious, in that event there would be no justification for interference by the High Court. When an information is lodged at the police station and an offence is registered, then the mala fides of the informant would be of secondary importance. It is the material collected during the investigation and evidence led in court which decides the fate of the accused person. The allegations of mala fides against the informant are of no consequence and cannot by themselves be the basis of quashing the proceeding. [Vide: **Dhandlakshmi v. R. Prasanna Kumar, 1990 Supp SCC 686, State of Bihar v. P. P. Sharma 1992 Supp (1) SCC 222, Rupan Deol Bajaj v. Kanwar Pal Singh Gill, (1995) 6 SCC 194, State of Kerala v. O.C. Kuttan (1999) 2 SCC 651, State of U. P. v. O. P. Sharma, (1996) 7 SCC 705, Rashmi Kumar v. Mahesh Kumar Bhada, (1997) 2 SCC 397, Satvinder Kaur v. State (Govt. of NCT of Delhi), (1999) 8 SCC 728, Rajesh Bajaj v State of NCT of Delhi, (1999) 3 SCC 259 and State of Karnataka v. M. Devendrappa, (2002) 3 SCC 89]**

10. In **Sanapareddy Maheedhar Seshagiri & another v. State of Andhra Pradesh & another, (2007) 13 SCC 165**, The Supreme Court has observed as under: (SCC, p. 180, para 31)

"31. A careful reading of the abovenoted judgments makes it clear that the High Court should be extremely cautious and slow to interfere with the investigation and/or trial of criminal cases and should not stall the investigation and/or prosecution except when it is convinced beyond any manner of doubt that FIR does not disclose commission of any offence or that the allegations contained in FIR do not constitute any cognizable offence or that the prosecution is barred by law or the High Court is convinced that it is necessary to interfere to prevent abuse of the process of the Court. In dealing with such cases, the High Court has to bear in mind that judicial intervention at the threshold of the legal process initiated against a person accused of committing offence is highly detrimental to the larger public and societal interest. The people and the society have a legitimate expectation that those committing offence is either against an individual or the society are expeditiously brought to trial and, if found guilty, adequately punished. Therefore, while deciding a petition filed for quashing FIR or complaint or restraining the competent authority from investigating the allegations contained in FIR or complaint or for stalling the trial of the case, the High Court should be extremely careful and circumspect. If the allegations contained in FIR or complaint disclose commission of some crime, then the High Court must keep its hands off and allow the investigating agency to complete the investigation without any fatter and also refrain from passing order which may impede the trial.

