

the Magistrate is evaluating whether to proceed against un chargesheeted individuals or not.

29. The Apex Court expressed its view in the case of **M.S. Ahlawat v. State of Haryana And Anr.8** that a fair hearing for the complainant or informant is essential in criminal proceedings especially the Magistrate is deciding on reports excluding certain individuals from prosecution.

30. From the aforesaid judgements, it is established that while the Magistrate has discretion in accepting or rejecting the police report, the informant or complainant must generally be given an opportunity to be heard, especially if the Magistrate is inclined to accept a report that exonerates some individuals.

31. After going through the aforesaid provisions of the Code of Criminal Procedure and various decisions, this Court is of the opinion that issuance of notice to informant giving opportunity to him to address the Magistrate with respect to non-charge-sheeted persons would prolong the matter causing unnecessary delay and whereas ample opportunity is there for the informant to place evidence and materials on record during course of trial, on the basis of which they can be arrayed as accused persons under the provisions of Section 319 Cr.P.C., no prejudice is caused to the informant when the Magistrate has only issued notice to the charge-sheeted persons as in the present case. The right of the informant is not in any way affected in case if the Magistrate has taken cognizance only against charge-sheeted persons without issuing notice to the informant with respect to the persons who are named in the FIR but have not been charge-sheeted.

32. This Court feels that the stage of Section 319 of Cr.P.C., has not yet been reached in the present case. The order impugned vide which cognizance has been taken against the charge-sheeted persons is in exercise of powers under Section 190(1)(b) of Cr.P.C. and at this stage it is not fatal to the powers of the Magistrate to take cognizance of offence and issue process against those who have not been arrayed as accused persons by the police while filing the charge sheet. The aforesaid has also been held in the case of **India Carat P. Ltd. Vs. State of Karnataka & Anr.9**.

33. Having considered the submissions advanced by learned counsel for the parties, facts of the case and material brought on record in view of the discussion as referred to herein above, and keeping the settled proposition of law on the issue, I am of the view that no interference is called for in the present matter. The instant application under Section 482 Cr.P.C. stands **dismissed**.

34. The Court would like to appreciate the hard work put in by Ms. Shreya Shukla, Research Associate, who has drawn attention to detail and the same shows in her work of providing legal assistance in this matter.

(2025) 3 ILRA 154

ORIGINAL JURISDICTION

CRIMINAL SIDE

DATED: ALLAHABAD 28.03.2025

BEFORE

THE HON'BLE SAMIT GOPAL, J.

Application U/S 482 No. 28882 of 2024

**Mukul Kumar Jain & Anr.
Versus**

C.B.I.

...Applicants

...Opposite Party

Counsel for the Applicants:

Shiv Sagar Singh

Counsel for the Opposite Party:

Sanjay Kr. Yadav

Criminal Law-The Code of Criminal Procedure, 1973-Section 482-

Law protects those who respect it and abide by it. A person flagrantly violating law cannot be equated with a person following the process of law. A person avoiding the process of law cannot be let to ventilate his grievance as per his choice for selective stages as per his sweet will--- The accused-applicants never joined the investigation which concluded in filing of a charge sheet against them as an absconder and again they are absconding from the trial court despite knowledge of the proceedings and thus are not entitled to invoke the inherent powers of this Court for seeking quashing of proceedings-- - total non cooperation of the applicants in the investigation, vagueness of the pleadings, the conduct of the applicants in not joining the investigation and not co-operating therein due to which charge sheet was submitted against them as absconders, intentional efforts to avoid the courts orders as would appear from the order of the revisional court and the fact that charge sheet is not being challenged on its merits coupled with the fact that the order of taking cognizance dated 01.3.2024 being challenged in a revision which stood dismissed on its merits, no ground for interference is called for. **(Para 20 & 21)**

Petition dismissed. (E-15)

(Delivered by Hon'ble Samit Gopal, J.)

1. On 03.01.2025 the following order was passed by this Court:-

"1. List revised.

2. Heard Sri Mayank Kumar Jain, Advocate holding brief of Sri Shiv Sagar Singh, learned counsel for the applicants who appears in the present matter as well as in the connected matter and Sri Gyan Prakash, learned Senior

Counsel assisted by Sri Sanjay Kumar Yadav, learned counsel for C.B.I. in both the matters.

3. The present application is connected with Application U/S 482 Cr.P.C. No. 11034 of 2024 (Mukul Jain And Another vs. Central Bureau Of Investigation) in compliance of order dated 27.09.2024.

4. Records show that the present matter has been listed today in the Additional Cause List / Unlisted List-I under the "Hon'ble Supreme Court Order (Expedited) case". The matter along with connected matter has been listed today on the direction of Hon'ble the Chief Justice dated 02.01.2025 directing the matter to be listed today.

5. On the matter being taken up in the revised list, learned counsel for the applicants submits that the matter be adjourned for a week to enable him to prepare it for arguments.

6. The records further show that the Apex Court in the Misc. Application Diary No. 59714 of 2024 in Special Leave Petition (Criminal) No. 12964 of 2024 (Mukul Kumar Jain vs. Central Bureau of Investigation) has vide order dated 20.12.2024 directed that the present matter be placed before Hon'ble the Chief Justice for fixing a date in the opening week of January, 2025 with a further request to the learned Presiding Judge of the Bench to take up the matter expeditiously.

7. Today, on the matter being taken up, the learned counsel for the applicants seeks adjournment on the ground of preparation for arguments. He is reminded of the order dated 20.12.2024 of the Apex Court passed on his application.

8. Learned counsel for the applicant submits that the both matters be listed on 16.01.2025 to enable him to argue them.

9. Prayer is allowed.

10. The present matter along with connected matter be listed on 16.01.2025."

2. Subsequently on 16.01.2025 the following order was passed by this Court:-

"1. The present matter is connected with Crl. Misc. 482 No. 11034 of 2024 (Mukul Jain and another Vs. Central Bureau of Investigation), the record of which goes to show that the same has been finally disposed of vide order dated 6.8.2024 passed by a Co-ordinate Bench of this Court.

2. In the present matter an order has been passed by the Apex Court on 20.12.2024 directing the matter to be placed before Hon'ble the Chief Justice for fixing a date in the opening week of January, 2025 with the further request to the learned Presiding Judge of the Bench to take up the matter expeditiously. The matter was thus placed before this Bench on 3.1.2025 on which date learned counsel for the applicants prayed for an adjournment for a week to enable him to prepare the matter for arguments. The following order was passed by this Bench on the said date:-

"1. List revised.

2. Heard Sri Mayank Kumar Jain, Advocate holding brief of Sri Shiv Sagar Singh, learned counsel for the applicants who appears in the present matter as well as in the connected matter and Sri Gyan Prakash, learned Senior Counsel assisted by Sri Sanjay Kumar Yadav, learned counsel for C.B.I. in both the matters.

3. The present application is connected with Application U/S 482 Cr.P.C. No. 11034 of 2024 (Mukul Jain And Another vs. Central Bureau Of

Investigation) in compliance of order dated 27.09.2024.

4. Records show that the present matter has been listed today in the Additional Cause List / Unlisted List-I under the "Hon'ble Supreme Court Order (Expedited) case". The matter along with connected matter has been listed today on the direction of Hon'ble the Chief Justice dated 02.01.2025 directing the matter to be listed today.

5. On the matter being taken up in the revised list, learned counsel for the applicants submits that the matter be adjourned for a week to enable him to prepare it for arguments.

6. The records further show that the Apex Court in the Misc. Application Diary No. 59714 of 2024 in Special Leave Petition (Criminal) No. 12964 of 2024 (Mukul Kumar Jain vs. Central Bureau of Investigation) has vide order dated 20.12.2024 directed that the present matter be placed before Hon'ble the Chief Justice for fixing a date in the opening week of January, 2025 with a further request to the learned Presiding Judge of the Bench to take up the matter expeditiously.

7. Today, on the matter being taken up, the learned counsel for the applicants seeks adjournment on the ground of preparation for arguments. He is reminded of the order dated 20.12.2024 of the Apex Court passed on his application.

8. Learned counsel for the applicant submits that the both matters be listed on 16.01.2025 to enable him to argue them.

9. Prayer is allowed.

10. The present matter along with connected matter be listed on 16.01.2025."

3. Today the matter has been taken up on mention being made on behalf of the applicant. Shri Manish Gupta and Shri Shiv Sagar Singh, Advocates appear

for the applicant and Sri Gyan Prakash, learned Senior Advocate/ Additional Solicitor General of India assisted by Shri Sanjay Kumar Yadav, Advocate appear for the Respondent, Central Bureau of Investigation.

4. Learned counsel for the C.B.I. submits that after the order of the Apex Court and on 3.1.2025 he has been served with a third supplementary affidavit dated 3.1.2025 for which he may be granted three weeks' time to file a counter affidavit/response.

5. The record also show that although an adjournment was prayed on 3.1.2025 for preparing the matter for arguments on behalf of the applicant but a third supplementary affidavit is seen to have been filed on the said date.

6. The prayer of learned counsel for the Respondent C.B.I. is allowed.

7. Three weeks' time is granted to file a counter affidavit/response to the third supplementary affidavit dated 3.1.2025. Applicants will have two weeks thereafter to file rejoinder/response to the same, if any.

8. Let the matter be listed on 20.2.2025. The office shall ensure that the matter is listed under the heading of cases expedited by the Supreme Court on the next date."

3. On 20.2.2025 the following order was passed:-

"1. List revised.

2. Sri Manish Gupta, Advocate holding brief of Sri Shiv Sagar Singh, learned counsel for the applicant and Sri Sanjay Kumar Yadav, learned counsel for C.B.I. are present.

3. Learned counsel for C.B.I. submits that the matter is to be argued by Sri Gyan Prakash, learned Senior Advocate

/ Deputy Solicitor General of India who had although come to Court but has gone back since there is wedding of his daughter scheduled for tomorrow. He prays for an adjournment in the matter for a weeks.

4. Learned counsel for the applicant fairly does not object to the same but submits that in compliance of the order dated 16.01.2025 no response / counter affidavit has been served on him by the C.B.I.

5. In view of the request for adjournment made by learned counsel for C.B.I., the matter is adjourned for today.

6. Let the matter be listed on 27.02.2025."

4. On 27.20.2025 the following order was passed by this Court:-

"1. List revised.

2. Sri Manish Gupta, Advocate holding brief of Sri Shiv Sagar Singh and Sri Shiv Sagar Singh, learned counsels for the applicants and Sri Sumit Kesarwani, Advocate holding brief of Sri Sanjay Kumar Yadav, learned counsel for C.B.I. are present.

3. Learned counsel for the C.B.I. has served a copy of counter affidavit to learned counsel for the applicants today in Court. The same be filed / uploaded on the portal by learned counsel for the C.B.I. within 48 hours.

4. Learned counsels for the applicants submit that they do not propose to file any rejoinder affidavit to the counter affidavit of the C.B.I.

5. Learned counsel for C.B.I. submits that the matter is to be argued by Sri Gyan Prakash, learned Senior Advocate / Deputy Solicitor General of India, who has not come to Court since he is unwell.

6. The records show that on the last occasion adjournment was sought on

behalf of Sri Gyan Prakash on personal ground. Today also adjournment is being sought on his request on the ground of his being unwell.

7. As a last opportunity, the matter is adjourned for today.

8. Let the matter be listed on 06.03.2025.

9. The matter is being adjourned on the understanding that it will not be adjourned on the next date.”

5. The order of the Apex Court dated 20.12.2024 passed in Miscellaneous Application Diary No(s).59714/2024 is extracted herein below:-

“1. The application under Section 482 of the Code of Criminal Procedure, 1973 bearing No.28882/2024, filed by the applicant-petitioners seeking urgent interim relief, is pending before the High Court of Judicature at Allahabad. Since the matter was not being listed for hearing notwithstanding the urgency pleaded on behalf of the applicant-petitioners, they approached this Court through SLP (Crl.) No.12964/2024. The said petition was, however, not pressed on merits, with liberty to move the High Court for expeditious disposal of the above-mentioned application-cum-petition.

2. The instant miscellaneous application has been filed in the disposed of special leave petition, inter alia, pointing out that the matter was listed before the High Court on 23.10.2024, but it was adjourned without any effective hearing to 18.12.2024. It is stated that no hearing could take place on 18.12.2024 also, and the matter has been adjourned to January, 2025 without fixing any date. In this backdrop, the applicant-petitioners seek appropriate direction.

3. Having heard Dr. Abhishek Manu Singhvi, learned senior counsel for the applicant-petitioners, and keeping in view the fact that the application under Section 482 bearing No.28882/2024 is still pending before the High Court, we dispose of this miscellaneous application with a direction to the Registrar General of the Allahabad High Court to put up this order before Hon'ble Chief Justice of the High Court and obtain appropriate administrative order with a date for hearing fixed in the opening week of January, 2025, with a further request to the learned Presiding Judge of the bench to take up the matter expeditiously.

4. It is clarified that we have not expressed any opinion on the merits of the case.

5. The Miscellaneous Application is, accordingly, disposed of.

6. All pending applications, if any, also stand disposed of.”

6. The present Criminal Misc. Application U/S 482 Cr.P.C. has been filed by the applicants Mukul Kumar Jain/applicant no. 1 and Priyanka Jain/applicant no. 2 before this Court with the following prayers:-

“It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to set-aside/quash the cognizance order dated 01.03.2024 passed by the Ld. Special Judicial Magistrate, CBI Court, Ghaziabad in Case No. 06/2024 and all consequential proceedings arising out of the Charge-sheet dated 30.12.2023 in FIR bearing no. RC0072022A0001 dated 11.03.2022 u/s 120-B, 420, 467, 468 and 471 I.P.C. r/w Sec 13(2) r/w 13(1)(d) of the PC Act, 1988 registered at P.S. ACB Dehradun, Uttarakhand titled as “Central

Bureau of Investigation vs. Mukul Jain & another.

That further pass any order that no coercive action shall be taken against the Applicant/s in the FIR bearing no. RC0072022AA0001, dated 11.03.2022 u/s 120-B, 420, 467, 468 and 471 IPC r/w Sec 13(2) r/w 13(1)(d) of the PC Act, 1988 registered at P.S. ACB Dehradun, Uttarakhand and any other consequential proceedings till the pendency of the instant application and further stay all the proceedings arising out of the instant FIR dated 11.03.2022 till the final disposal of the instant application.”

7. The facts of the case are that a First Information Report was lodged on 11.3.2022 as F.I.R. No. RC0072022A0001 of 2022, Police Station ACB Dehradun, District Dehradun, under Sections 120B r/w sections 420, 467, 468, 471 I.P.C., Sections 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988, by Mr. Asheesh Agarwal, Branch Manager, Bank of India, Meerut Branch, Anand Bhawan, Kothi No. 346, Khair Nagar, Meerut, U.P. against Mukul Jain, Mrs. Priyanka Jain, M/s Mahaveer Fording Pvt. Ltd. Meerut, M/s Ashray Enterprises (Guarantor) through its Proprietor Smt. Priyanka Jain and unknown public servant(s) & private person(s) with the allegations that M/s Mahaveer Forging Pvt. Ltd., Meerut was availing credit facilities to the tune of Rs.742.00 Lacs from Syndicate Bank, Defense Colony Branch, Meerut. The said loans were taken over by the Bank of India, Meerut Branch on 17.3.2011 with enhanced credit facilities Term Loan (T.L.) of Rs.3 Crore and Cash Credit (CC) limit of Rs. 13 Crore. Thus on 17.03.2011, the total credit facility amounting to Rs. 1732.17 Lakh were sanctioned by Bank of India to M/s Mahaveer Forgings Pvt. Ltd. The borrower

company has created Equitable mortgage of eight properties. As per the terms and conditions, borrower company was required to change the land use of Agricultural land to Non-agricultural land within 30 days period after first disbursement. The accused borrower in respect of three properties situated at Village Bhuwa, Pargana Hastinapur, Tehsil Mawana submitted three fake and forged orders under Section 143 of Uttar Pradesh Zamindari Abolition and Land Reform Act with the bank related to change of land use. Further Mukul Jain and Smt. Priyanka Jain had consented for cancellation of sale deed related to the mortgaged property situated at Village Kashi Pargana & District Meerut comprising of two sale deeds number 2872 and number 2874, without any permission and intimation to the bank. Accordingly the court concerned at Meerut cancelled the sale deeds vide order 11.02.2015 which resulted in the bank being deprived of its security. The Directors of the company removed the plant and machinery which were hypothecated/charged to the bank without informing the bank and thereby deprived the bank of the security. It is further alleged that Foreign Bills of Rs.250 lacs purchased by the Bank remained unpaid. The company could not advise the status of overseas consignment sent by it. The Foreign Bills submitted by the company turned out to be fake and no amount could be recovered by the bank. The account of the company thus turned into NPA on 15.09.2014 causing wrongful loss to the tune of Rs. 21,10,49,257.12 and declared fraud on 25.06.2020.

8. Subsequent to lodging of the F.I.R. the matter was investigated by the respondent/C.B.I. and a charge sheet no. 05 of 2023 dated 30.12.2023 was submitted with the following details:-

Sl. No .	Name of Accused	Acts and Sections	Status of accused person(s)
1.	Sh. Mukul Jain	U/s 120B r/w 420, 468, 471 IPC and substantive offence thereof.	Absconding.
2.	Smt. Priyanka Jain	U/s 120B r/w 420, 468, 471 IPC and substantive offence thereof.	Absconding.
3.	M/s Mahaveer Forgings Pvt. Ltd. Through its director Sh. Mukul Jain & Smt. Priyanka Jain	U/s 120B r/w 420, 468, 471 IPC and substantive offence thereof.	Pvt. Ltd. Company.
4.	Sh. Akashdeep Singhal	U/s 120B r/w 420 IPC	Private Person.
5.	Sh. Nimit Singhal	U/s 120B r/w 420 IPC	----
6.	Sh. Vipin Kumar Jain	U/s 120B r/w 420 IPC	-----
7.	Sh. Vikas	U/s 120B r/w 420 IPC	Pvt. Person.
8.	Sh. Mohan	U/s 120B r/w 420	Untraceable (Pvt.

	Kumar	IPC	Person).
9.	Sh. Ajay Sharma	U/s 120B r/w 420 IPC	-----
10.	Sh. Devendra Sharma	U/s 120B r/w 420 IPC	Untraceable (Pvt. Person).
11.	Smt. Usha Gupta	U/s 120B r/w 420 IPC.	---
12.	Sh. Pankaj Kumar	U/s 120B r/w 420 IPC	----

9. On the said charge sheet the court of Special Judicial Magistrate (CBI), Ghaziabad vide order dated 03.01.2024 directed the matter to be listed for arguments for cognizance. Subsequently vide order dated 01.03.2024 the court of Special Judicial Magistrate (CBI), Ghaziabad took cognizance upon the said charge sheet and summoned the accused persons.

10. It appears from the records that Anticipatory Bail Applications were filed by the applicants and the same were deferred by Special Judicial Magistrate (CBI), Ghaziabad vide order dated 14.3.2024 on certain defects in the said anticipatory bail applications. Aggrieved by the said orders dated 14.3.2024 an Application U/S 482 No. 11034 of 2024 (Mukul Jain and another vs. Central Bureau of Investigation) was filed before this Court which was disposed of vide order dated 06.8.2024 passed by a co-ordinate Bench of this Court keeping it open for the applicants to raise their objections before the court concerned on the date fixed regarding jurisdiction to decide the anticipatory bail application filed by the applicants and the court concerned was directed that before

deciding the application for anticipatory bail filed by the applicants on merits, it shall first answer this question and then proceed with the matter. The order passed therein is extracted herein below:-

“Heard Mr. Manish Gupta, Advocate along with Mr. Shiv Sagar Singh, the learned counsel for applicants and Mr. Gyan Prakash Srivastava, the learned Deputy Solicitor General of India assisted by Mr. Sanjay Kumar Yadav, the learned counsel representing C.B.I.

This application under Section 482 CrPC has been filed challenging the order dated 14.03.2024, passed by Special Judge, C.B.I. Court, Ghaziabad in Anticipatory Bail Application nos.1918 of 2024 and 1919 of 2024, whereby court below has deferred the hearing of anticipatory bail applications filed by applicants on the ground that there are certain defects in the applications for anticipatory bail filed by applicants.

Learned counsel for applicants contends that though first information report which was lodged against applicants was also under the Prevention of Corruption Act but, subsequently, C.B.I. has submitted the police report dated 30.12.2023 in terms of Section 173 (2) CrPC (charge-sheet), but the applicants have not been charge-sheeted under the Prevention of Corruption Act.

It is further contended by the learned counsel for applicants that during the pendency of anticipatory bail application filed by applicants, non-bailable warrants have been issued against applicants.

However, the Court finds from the record that subsequently, court below has passed an order dated 14.03.2024 whereby it has been observed that though applicants were repeatedly given

opportunity to remove the defect but it appears that they intentionally delaying the proceedings therefore it directed that one last opportunity is granted to the applicants to remove the defects and further submit affidavit regarding their whereabouts before court concerned. The above order dated 14.03.2024 has not been challenged in this application under Section 482 CrPC by moving an amendment application.

Considering the above and also the law laid down by the Apex Court in Srikant Upadhyay And Others Vs. State of Bihar And Another, 2024 SCC OnLine 282, no interim protection can be provided by this Court in favour of applicants, as non-bailable warrants have been issued against applicants by court below.

Considering the facts as noted herein-above, it is hereby directed that court below shall decide the application for anticipatory bail filed by applicants bearing nos.1918 of 2024 and 1919 of 2024 on the next date fixed in aforementioned applications for anticipatory bail. The anxiety expressed by the learned counsel for applicants is that the court hearing the application for anticipatory bail of applicants does not have jurisdiction to decide the anticipatory bail. Admittedly, the application for anticipatory bail was filed by applicants before the Sessions Judge, which has been transferred by the Sessions Judge to the Special Judge, C.B.I. Court. It is well settled that the Sessions Judge cannot try the jurisdiction of Special Judge, C.B.I. Court. However, it shall be open to the applicants to raise their objection before court below on the date fixed in the matter regarding the jurisdiction to decide the anticipatory bail application of applicants and the court below is directed that before deciding the application for anticipatory bail filed by applicants on

merits shall first answer this question and then proceed with the matter.

With the aforesaid direction/observation, this application stands disposed off finally.”

11. The Anticipatory Bail Application of the applicant no. 2/Priyanka Jain numbered as Anticipatory Bail Application No.690 of 2024, Registration No. 1919 of 2024, stood rejected by the court of In-charge, Special Judge (Anti-Corruption), C.B.I., Ghaziabad vide order dated 16.8.2024 on the ground that despite granting time to the accused Priyanka Jain to file her own affidavit in the same, no such affidavit has been filed and thus disposal of the said anticipatory bail application is not possible. The Supplementary Affidavit dated 22.10.2024 has been filed on behalf of the applicants bringing on records the order dated 16.8.2024 passed in the said Anticipatory Bail Application No.690 of 2024, Registration No. 1919 of 2024, Priyanka Jain vs. C.B.I. Although the perusal of the order dated 06.8.2024 passed in the 482 Cr.P.C. petition filed on behalf of the accused Mukul Jain and Smt. Priyanka Jain is concerned, the same goes to show that two Anticipatory Bail Applications numbered as Anticipatory Bail Application No. 1918 of 2024 and 1919 of 2024 were the subject matter therein, but the records of the present case and the documents as placed during arguments do not show the fate of the anticipatory bail application of the applicant no. 1/Mukul Kumar Jain as there is nothing on record to show as to what happened in the same.

12. At this point it would be relevant once again to reiterate the fact that Criminal Misc. Application U/S 482 No. 11034 of 2024 (Mukul Jain and another vs.

C.B.I.) was filed on behalf of both the applicants challenging the order dated 14.03.2024 passed in the said two anticipatory bail applications but the fate of the anticipatory bail application filed on behalf of the applicant no. 1/Mukul Kumar Jain is not disclosed. Further a 3rd Supplementary Affidavit dated 03.1.2025 has been filed on behalf of the applicants, perusal of which particularly its paragraph nos. 2, 3 and 4 would go to show that Red Corner Notice was initiated against the applicant by the Indian Authorities in furtherance to the non bailable warrants and a Blue Notice was issued for the present offence in pursuance of which the applicant was detained by the authorities in Dubai on 02.1.2025 and was taken into custody for a period of 15 days. Further para-4 of the same goes to show that request for extradition of the applicant in India has also been made by the Government. Even at this point of time, it is relevant to state that the said affidavit is vague inasmuch as it states that it has been filed on behalf of the applicants and the applicants in the present application u/s 482 Cr.P.C. are two accused being Mukul Kumar Jain and Smt. Priyanka Jain but paragraph nos. 2, 3 and 4 did not, in any manner in specific terms, clarify as to which of the applicant was detained and taken into custody. The same only refers to the accused as “the applicant”. Annexure No. SA-1 annexed to the same was perused from which it then transpires that the applicant no. 1 Mukul Kumar Jain was detained. Paragraph nos. 2, 3 and 4 are extracted herein below:-

“2. That during the pendency of the instant application u/s 482 CrPC which was preferred primarily on the ground that the Ld. Trial Court has exceeded its jurisdiction in trying the matter at hand

having no offence made out under the Prevention of Corruption Act, 1988, the Applicant was detained by the authorities in Dubai on 17.12.2024 and was taken into custody on 19.12.2024 for a period of 15 days.

3. That the primary reason cited by the authorities in Dubai for detention and further custody is the requirement of the Applicant by the Indian authorities under a Red Corner Notice initiated further to the NBW and the Blue Notice issued for the offence under consideration in the instant Application u/s Section 482 CrPC. Copy of the detention and custody notice/proceedings are annexed herewith and marked as Annexure SA-1 to the third Supplementary Affidavit.

4. That the Applicant has not committed any crime in Dubai and the detention in Dubai is only on the ground of the Red Corner Notice issued on the recommendation of the Respondent CBI for seeking the extradition of the Applicant in India.”

13. Further Annexure No. SA-2 of the said supplementary affidavit goes to show that the same is a judgement and order dated 06.11.2024 passed by the A.S.J./Special Judge, Special Court, Anti-Corruption, CBI, Court No. 3, Ghaziabad in Criminal Revision No. 217 of 2024, Mukul Kumar Jain and another vs. CBI, which was preferred against the order dated 01.3.2024 passed by the court of Special Magistrate, CBI, Ghaziabad in Criminal Case No. 06 of 2024, C.B.I. vs. Mukul Jain and others, which was decided and the said revision stood dismissed. A perusal of the said judgement and order goes to show that in its paragraph no. 2 that learned counsel for the C.B.I. was heard and the entire records including the precedents/circulars supplied by the parties were considered. It

further shows that no one appeared on behalf of the revisionist despite several opportunities. The court then proceeded to decide the revision on its merits on the basis of material available before it. The present application under Section 482 Cr.P.C. has thus been filed by the applicants before this Court with the aforesaid prayers.

14. At the very outset, learned counsel for the C.B.I. while placing paragraph nos. 7, 8 and 9 of the supplementary counter affidavit dated 26.2.2025 has submitted that the present application u/s 482 Cr.P.C. challenging the order of cognizance dated 01.03.2024 and all the consequential proceedings therein is not maintainable inasmuch as the applicants are not entitled to any relief as they neither joined the investigation nor co-operated in the investigation and have absconded till date. It is further submitted that the applicants did not appear before the trial court concerned despite issuance of non-bailable warrants against them. It is further submitted that Blue Notices have been issued against them. It is submitted that an Interpol Red Notice Control No. A-12804/11-2024 dated 05.11.2024 has been issued against the accused Mukul Kumar Jain and published by the Interpol Secretariat General at Lyon, for apprehension of accused Mr. Mukul Kumar Jain. Further it is submitted that the NCB, Abu Dhabi vide their E-mail dated 21.12.2024 has requested to send the Extradition Request of accused Mukul Kumar Jain through diplomatic channel and an Extradition request for extradition of Mukul Kumar Jain has been forwarded to the Ambassador, Embassy of India, Abu Dhabi by the Joint Secretary (CPV), Ministry of External Affairs, New Delhi on 03.02.2025 requesting to submit the

Extradition request to the concerned authorities in UAE. It is further submitted that Red Notice vide Control No. A-12809/11-2024 dated 05.11.2024 has been issued against the accused Priyanka and published by the Interpol Secretariat General at Lyon, for the apprehension of accused Priyanka Jain. The accused Priyanka Jain has been detained in Abu Dhabi on the basis of said Notice. Paragraph Nos. 7, 8 and 9 of the said affidavit are extracted herein below:-

“7. That it is pertinent to mention that the reason why the 3rd supplementary affidavit of the instant petition under section 482 Cr.P.C. is being sworn by deponent Sidhant Kumar Singh is because both the accused /applicants i.e. Mūkul Kumar Jain and Smt. Priyanka Jain are absconding after commission of cognizable offence. That the accused/applicants have neither joined the investigation nor cooperated in the investigation and therefore are not entitled to any relief. It is further submitted that pursuant to the investigation in F.I.R. RC0072022A0001, C.B.I. has filed a charge sheet against accused Mukul Kumar Jain and Smt. Priyanka Jain for commission of offences punishable u/s 120 B, r/w 420, 468 & 471 I.P.C. and substantive offences thereof. The accused applicants have neither joined the investigation nor cooperated in the investigation and have absconded. They did not appear before the Ld. Trial Court despite issuance of non-bailable warrants against them. It is further submitted that BLUE Notices have been issued against the accused/applicants. That an Interpol Red Notice Control No. A-12804/11-2024 dated 5th November, 2024 has been issued against the accused Mukul Kumar Jain and published by the INTERPOL Secretariat General at Lyon, for the apprehension of

accused Mr. Mukul Jain. On the basis of Red Notice Control No. A-12804/11-2024 dated 5th November, 2024, the accused Mukul Kumar Jain has been located in United Arab Emirates with Nationality (Republic of VANUATU). The NCB, Bahrain has intimated vide their E-mail dated 28 November 2024 about his presence in United Arab Emirates. A copy of the E-mail dated 28 November, 2024 is enclosed herewith and marked as Annexure SCA-1.

8. That, the pursuant to Interpol Red Notice Control No. A-12804/11-2024 dated 5th November, 2024, the accused Mukul Kumar Jain has been arrested in United Arab Emirates on 18.12.2024. The NCB, ABU DHABI vide their E-mail dated 23.12.2024 has requested to send the Extradition Request of accused Mukul Kumar Jain to UAE Central Authority (Ministry of Justice) through diplomatic channels. A copy of the said E-mail is enclosed herewith and marked as Annexure SCA-2.

9. That, the Extradition Request for extradition of accused Mukul Kumar Jain has been forwarded to the Ambassador, Embassy of India, Abu Dhabi by the Joint Secretary (CPV), Ministry of External Affairs, New Delhi on 03.02.2025 requesting to submit the Extradition request to the concerned authorities in UAE. It is further submitted that Red Notice vide Control No. A-12809/11-2024 dated 5th November, 2024 has been issued against the accused Priyanka Jain and published by the INTERPOL Secretariat General at Lyon, for the apprehension of accused Priyanka Jain. That based on Red Notice vide Control No, A-12809/11-2024 dated 5th November, 2024, accused Priyanka Jain has been detected in Abu Dhabi, UAE.”

15. Heard Sri Manish Gupta, Advocate, holding brief of Sri Shiv Sagar Singh and Sri Shiv Sagar Singh, learned

counsels for the applicants, Sri Gyan Prakash, learned Senior Advocate/Deputy Solicitor General of India, assisted by Sri Sanjay Kumar Yadav, learned counsel for the C.B.I./Opposite Party and perused the records.

16. Learned counsels for the applicants submitted that submission of charge sheet in the present matter is not being challenged but the only challenge is of jurisdiction in the matter and not on merits. He submits that their submissions are not at all touching the merits of the matter but only on the ground of jurisdiction.

17. Learned counsels for the applicants submitted as under:-

(1) The First Information Report is beyond jurisdiction as the same was lodged at Dehradun whereas the matter pertains to District Meerut.

(2) The present F.I.R. is the second F.I.R. as an application for lodging of F.I.R. was initially moved which was returned and then the present application was given which was registered.

(3) Cognizance and issuance of non-bailable warrants are beyond territorial jurisdiction.

(4) The order dated 06.8.2024 passed in Application U/S 482 No.11034 of 2024 by this Court has not been complied with by the Special Judge and an order dated 16.8.2024 has been passed.

(5) The judgement and order of the Additional Sessions Judge concerned dated 06.11.2024 dismissing the said revision is against the jurisdiction of the court.

(6) The present petition be allowed and prayers as prayed for by the applicants be granted.

18. Learned counsel for the C.B.I. submitted as under:-

(1) The prayer in the present petition is vague inasmuch as there is a challenge to the cognizance order and all the proceedings but the charge sheet is not being challenged and the only challenge of the order of cognizance on the basis of jurisdiction at this stage cannot be looked into.

(2) Even the judgement of the revisional court dated 06.11.2024 challenging the order dated 01.03.2024 which is also challenged herein is not under challenge.

(3) The order of cognizance merges with the judgement and order of the revisional court and thus the present petition u/s 482 Cr.P.C. is not maintainable.

(4) The present petition be dismissed.

19. After having heard learned counsels for the parties and perusing the records and looking to the facts of the matter as stated above, at the very outset, it is clear that the challenge in the present matter has been argued to be not on merits of the matter subsequent to filing of charge-sheet, cognizance and summoning on it but only on the ground of competence of the court concerned on the ground of jurisdiction. The arguments that the present F.I.R. is a second F.I.R. is fallacious inasmuch no previous F.I.R. on the present issue and subject matter has been lodged. The present F.I.R. is the first report on the issue and the matter. Further in so far as the jurisdiction of the revisional court is concerned, at the very inception it would be relevant to point out that the order taking cognizance dated 01.3.2024 which is also impugned herein, was under challenge therein and the said revision was dismissed.

The said dismissal was on merits and the judgement and order passed therein clearly mentions in it that despite repeated opportunities no one appeared on behalf of the revisionist and then the court proceeded to examine the matter on merits and passed the judgement and order therein. The court was seized with the said revision and it has decided the same on its merit as despite several opportunities no one appeared on behalf of the revisionist. The same is in consonance with the settled principles of law. In so far as non-compliance of the order dated 06.8.2024 passed in the said Application U/S 482 No.11034 of 2024 of the applicants is concerned, there is nothing on record to show that as to what happened in the anticipatory bail application of the applicant no. 1/Mukul Kumar Jain. The only disclosure is with regards to the anticipatory bail application filed by the applicant no. 2/Priyanka Jain which can be culled out from Annexure No. SA-1 as annexed in the said supplementary affidavit whereas in the paragraphs of the same, the pleading is vague and it refers to the applicant although the said 482 Cr.P.C. petition was filed by both the two applicants challenging the orders passed in their respective anticipatory bail applications. Learned counsels for the applicants have categorically clarified that they do not challenge the charge sheet on its merits but challenges the jurisdiction of the court concerned on the ground of its jurisdiction. Charge sheet in the matter has been submitted against the applicants as absconders. Paragraph-7 of the counter affidavit of the C.B.I. states that the applicants neither joined the investigation nor co-operated in the investigation and further they have also not obeyed the orders of the trial court concerned and then non bailable warrants have been issued against them. There is no rebuttal to the same since

learned counsel for the applicants had, on 27.2.2025, submitted that they did not propose to file any rejoinder affidavit to the counter affidavit of the C.B.I. The facts thus remains that the status of the applicants even during investigation was as absconder and they did not co-operate in the investigation and even not joined the investigation. After submission of charge-sheet and taking cognizance on it and summoning, they again failed to abide by the orders of the court concerned and then non bailable warrants were issued against them. It is not the case that the applicants were unaware of the present case and proceedings against them but from records it appears that they were well aware of the case and proceedings against them and even then they chose to abscond and not join the proceedings at any stage. Further it transpires from the Supplementary Affidavit dated 03.1.2025 filed on behalf of the applicants and paragraphs no. 7, 8 and 9 of the counter affidavit of the C.B.I. that the applicants are not even in the country and are outside the country.

20. Law protects those who respect it and abide by it. A person flagrantly violating law cannot be equated with a person following the process of law. A person avoiding the process of law cannot be let to ventilate his grievance as per his choice for selective stages as per his sweet will. The settled principle of law is that inherent powers are to be exercised sparingly and with circumspection and cannot be exercised in a routine manner, much less for the convenience of the accused. This Court is cognizant of the scope of Section 482 Cr.P.C. and the various pronouncements on the issue of inherent powers of a Court under Section 482 Cr.P.C. In a given matter, like the present one, the conduct of the accused-

applicants would acquire importance and this Court finds that both the accused-applicants never joined the investigation which concluded in filing of a charge sheet against them as an absconder and again they are absconding from the trial court despite knowledge of the proceedings and thus are not entitled to invoke the inherent powers of this Court for seeking quashing of proceedings. They cannot short circuit the legal system and provision and thus gain advantage.

21. In view of the said facts and total non cooperation of the applicants in the investigation, vagueness of the pleadings, the conduct of the applicants in not joining the investigation and not co-operating therein due to which charge sheet was submitted against them as absconders, intentional efforts to avoid the courts orders as would appear from the order of the revisional court and the fact that charge sheet is not being challenged on its merits coupled with the fact that the order of taking cognizance dated 01.3.2024 being challenged in a revision which stood dismissed on its merits, no ground for interference is called for.

22. The present Criminal Misc. Application U/S 482 Cr.P.C. is **dismissed**.

(2025) 3 ILRA 167

ORIGINAL JURISDICTION

CIVIL SIDE

DATED: ALLAHABAD 12.03.2025

BEFORE

**THE HON'BLE SAURABH SHYAM
SHAMSHERY, J.**

Writ A No. 368 of 2021

Amna Khatoon C/o Rajeeb Ahmad & Ors.

...Petitioners

Versus

A.M.U. & Anr.

...Respondents

Counsel for the Petitioners:

Sri Mohd. Aadil Siddiqui, Sri Tauseef Khan,
Sri Alibin Saif, Sri Zeeshan Khan

Counsel for the Respondents:

A.S.G.I., Sri Abrar Ahmad, Sri Tirath Raj
Shukla, Sri Shashank Shekhar Singh

Civil Law - Service Law - Appointment - Ambiguity in Advertisement - ambiguous expressions like "concerned/relevant/allied subject" - Aligarh Muslim University's recruitment to post of Assistant Professor (Chemistry) - AMU used ambiguous expressions like "*concerned/relevant/allied subject*" in the advertisement - Supreme Court in *Mohd. Sohrab Khan v. Aligarh Muslim University, (2009) 4 SCC 555* has very specifically directed that the University shall lay down the qualification necessary for filling up the post laying down exact essential qualification indicating allied subject and subject stream which is required to be mentioned for making application for filling up said post - Writ petition disposed of with direction to AMU to ensure future advertisements carry specific, unambiguous qualifications to avoid prejudice and exclusion of otherwise eligible candidates (Para 15, 18)

Allowed. (E-5)

(Delivered by Hon'ble Saurabh Shyam
Shamshery, J.)

1. Heard S/Sri Alibin Saif and Zeeshan Khan, learned advocates for petitioners, Sri Tirath Raj Shukla, learned advocate holding brief of Sri Shashank Shekhar Singh, learned counsel for respondent-Aligarh Muslim University (for short "A.M.U.").

2. Petitioners (Amna Khatoon, Dr. Mohd. Azfar Shaida and Dr. Syed Md.