

2025 LiveLaw (SC) 737

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
VIKRAM NATH; J., SANDEEP MEHTA; J.
JULY 23, 2025.

CRIMINAL APPEAL NO(S). OF 2025 (Arising out of SLP (Crl.) No (s). 12715 of 2022)
M.C. RAVIKUMAR versus D.S. VELMURUGAN & ORS.

Code of Criminal Procedure, 1973 - Section 482 - Quashing of FIR – Held, second quashing petition on grounds available earlier not maintainable - Principle of constructive res judicata applies to quashing petition under section 482 CrPC - The failure to raise a pertinent ground/plea which was tangibly available at the time of adjudication of the first quashing petition cannot grant a right to file a subsequent quashing petition as it would amount to seeking review on pre-existing material - There is no straight jacket formula that a second quashing petition under Section 482 CrPC is not maintainable, but its maintainability depends on the facts and circumstances of each case - However, the onus to show a change in circumstances warranting entertainment of a subsequent quashing petition is on the person filing it - If successive quashing petitions are allowed then that would enable abuse of process - Set aside order passed by High Court allowing second quashing petition and restored complaint - Appeal dismissed. [Bhisham Lal Verma v. State of U.P., [2023 LiveLaw \(SC\) 935](#); Paras 11-13]

Code of Criminal Procedure, 1973 - Section 362 – Review -Held, High Court in its inherent jurisdiction cannot invoke to override the bar of review under Section 362 CrPC - High Courts, while exercising their inherent jurisdiction under Section 482 CrPC, cannot override a specific bar laid down by other provisions of CrPC - The inherent power of the High Court to make orders as it deems fit to prevent abuse of the process of the Court or to secure the ends of justice should be exercised having regard to the situation prevailing at the particular point of time and restrictions imposed by section 362 CrPC. [Relied on: *Simrikhia v. Dolley Mukherjee and Chhabi Mukherjee and Anr.* (1990) 2 SCC 437; Paras 14, 15, 16, 17]

For Petitioner(s): Mr. R. Venkataraman, Adv. Mr. Apoorva Singhal, AOR Mr. Tanuj Agarwal, Adv. Mr. Md. Ashfaq, Adv.

For Respondent(s): Mr. M. Yogesh Kanna, Adv. Mr. S. Prabu Ramasubramanian, Adv. Mr. Raghunatha Sethupathy B, AOR Mr. Manoj Kumar A., Adv. Mr. Vinayaga Vignesh I, Adv. Mr. Vasu Kalra, Adv.

J U D G M E N T

Mehta, J.

- 1.** Heard.
- 2.** Leave granted.
- 3.** The instant appeal has been filed against final judgment and order dated 13th September, 2022¹ passed by the High Court of Judicature at Madras² in quashing petition³ filed by the respondents herein⁴. *Vide* the impugned order, the High Court allowed the

¹ Hereinafter, referred to as “impugned order”.

² Hereinafter, referred to as “High Court”.

³ Criminal Original Petition No. 16241 of 2022.

⁴ Hereinafter, referred to as “accused-respondents”.

quashing petition and quashed the criminal complaint⁵ filed by the appellant herein⁶ against the accused-respondents for the offences punishable under Sections 193, 406, 418, 420, 423, 468, 469 read with 34 and 120 of Indian Penal Code, 1860⁷ before the learned IX Metropolitan Judicial Magistrate, Saidapet, Chennai.

Factual Background: -

4. Facts in nutshell, relevant and essential for disposal of the appeal are noted hereinbelow.

4.1. The complainant has been engaged in travels and finance business for several years. During 2005-2008, the complainant entered into some loan transactions with the accused-respondents who were engaged in the business of money lending. To secure the said loan transactions, the complainant gave the original deeds of several of his properties situated at Thanjavur and Chennai to the accused-respondents. An agreement of sale came to be executed between C. Natrajan (respondent No. 2) and the complainant in respect of a flat⁸ and a portion of plot⁹ situated at Adyar, Chennai on 25th April, 2008.

4.2. Thereafter, on 23rd May, 2008, a tripartite agreement came to be executed between the complainant, one R.R. Vasudevan and D.S. Velmurugan (respondent no. 1). Under the said agreement, R.R. Vasudevan paid Rs. 79,00,000/- to respondent No. 1, which was actually payable to the complainant. Thereafter, the complainant cleared of the remaining outstanding amount pertaining to the loan transactions totaling Rs. 1,65,98,000/- and having made such payment, he requested the accused-respondents to return the original deeds given as security against the loan amount. Since the accused-respondents failed to respond to the aforesaid request, the complainant was constrained to issue legal notice dated 30th August, 2011 to them, seeking return of the original documents.

4.3. It is alleged that after the receipt of the aforesaid notice, respondent No. 1 executed a sham sale deed in respect of the complainant's property situated at Thanjavur, which was given as security against the loan amount. On coming to know of the said fraudulent transaction, the complainant filed a complaint on 22nd November, 2011 with the Crime Branch, Chennai after procuring orders of the High Court. The said complaint came to be registered as Crime No. 193 of 2012. The police filed closure report in the said case and the same was accepted by Chief Metropolitan Magistrate, Egmore, Chennai *vide* order dated 23rd September, 2013. The revision petition¹⁰ filed by the complainant was dismissed by the High Court *vide* order dated 24th October, 2013 and the special leave petition¹¹ against the said order of the High Court was dismissed by this Court *vide* order dated 7th January, 2015, with an observation that in the event, the complainant chose to pursue appropriate remedies, the observations of the High Court may not prejudice the same. In pursuance of the said order of this Court, the complainant filed yet another Criminal Complaint No. 41 of 2015 before Judicial Magistrate No. 1, Thanjavur against respondent No. 1 and the co-accused persons. However, the quashing petition¹² filed by

⁵ Criminal Complaint No. 1828 of 2019.

⁶ Hereinafter, referred to as "complainant" or "appellant-complainant."

⁷ For short "IPC".

⁸ Flat No. 10 having plinth area of 935 sq. ft., First Floor, 2nd Main Road, Rams Flat, Adyar, Gandhi Nagar, Chennai.

⁹ 3/87 undivided share of land measuring larger extent of 4 Grounds and 895 sq. ft. under Survey No. 42 Part, Block No. 36, Kottur Village, Plot No. 126 Part, situated at Old Door No. 83, 2nd Main Road, Gandhi Nagar, Adyar, Chennai.

¹⁰ Criminal Revision Case (MD) No. 1305 of 2013.

¹¹ Special Leave Petition (Crl.) No. 1042 of 2014.

¹² Criminal Original Petition (MD) Nos. 13228 of 2015 and 19634 of 2016.

respondent No. 1 and other co-accused persons seeking quashing of Criminal Complaint No. 41 of 2015 was allowed by the High Court *vide* order dated 9th March, 2020.

4.4. In the meantime, one P. Jothikumar¹³ filed Civil Suit No. 79 of 2018 before the High Court seeking a money decree to the tune of Rs. 1,24,62,000/- in respect of the amount allegedly loaned by him to the complainant. The said suit was filed by exhibiting the original documents of the flat, which as per the complainant were actually handed over to the accused-respondents as security.

4.5. Being aggrieved, the complainant preferred Criminal Complaint No. 1828 of 2019 before the IX Metropolitan Judicial Magistrate, Saidapet, Chennai against the accused-respondents and P. Jothikumar (accused No. 4) for the offences punishable under Sections 193, 406, 418, 420, 423, 468, 469 read with 34 and 120 of IPC. In the said complaint, summons came to be issued against all the accused persons *vide* order dated 27th April, 2019.

4.6. The accused-respondents filed the first quashing petition¹⁴ before the High Court seeking the quashing of the aforesaid complaint. The said petition came to be dismissed by the High Court *vide* speaking order dated 22nd December, 2021. The accused-respondents after waiting for 6 months preferred a second quashing petition¹⁵ before the High Court seeking the quashing of the very same complaint i.e., Criminal Complaint No. 1828 of 2019.

4.7. The High Court *vide* final judgment and order dated 13th September, 2022 allowed the second quashing petition and quashed entire proceedings of Criminal Complaint No. 1828 of 2019 filed by the appellant-complainant. The said order of High Court is the subject matter of challenge in this appeal by special leave.

Submissions on behalf of the appellant-complainant: -

5. Learned counsel appearing on behalf of the appellant-complainant, vehemently and fervently argued that the High Court fell in grave error while allowing the second quashing petition filed by the accused-respondents which was based on the very same grounds/pleas which were taken in the first quashing petition. He urged that there was no change in circumstances and there existed no new ground for entertaining the second quashing petition.

6. Learned counsel urged that the impugned order tantamounts to review of the previous order passed by a co-ordinate bench of the High Court which is impermissible in view of the bar prescribed under Section 362 of Code of Criminal Procedure, 1973¹⁶ (Corresponding to Section 403 of Bhartiya Nagarik Suraksha Sanhita, 2023¹⁷). He contended that the High Court, while exercising its inherent jurisdiction under Section 482 CrPC (Corresponding to Section 528 BNSS) cannot be allowed to review an earlier order as the same is expressly barred by Section 362 CrPC.

On these grounds, learned counsel appearing on behalf of the appellant-complainant implored this Court to accept the appeal and set aside the impugned order passed by the High Court.

¹³ Accused No. 4 in Criminal Complaint No. 1828 of 2019.

¹⁴ Criminal Original Petition No. 14186 of 2019.

¹⁵ *Supra* Note 3.

¹⁶ For short "CrPC".

¹⁷ For short "BNSS".

Submissions on behalf of the accused respondents: -

7. *Per contra*, learned counsel appearing on behalf of the accused-respondents vehemently and fervently opposed the submissions advanced by the learned counsel for the complainant. He urged that the High Court has rightly quashed the criminal complaint initiated by the complainant by adverting to the fact that there existed change in circumstances since a similar complaint filed by the complainant in respect of property situated at Thanjavur already stands quashed. He urged that the present case is a classic example of abuse of criminal machinery by the complainant.

8. Learned counsel argued that the impugned order passed by the High Court does not amount to review of the order passed by the co-ordinate bench in the first quashing petition, since the second quashing petition was filed raising different grounds/pleas which were not effectively raised in the first quashing petition. He urged that the High Court has the power to exercise its inherent jurisdiction at any stage of criminal proceedings in order to prevent abuse of law and manifest injustice and exercise of such power cannot be termed to be in violation of the provisions of Section 362 CrPC.

9. He lastly urged that the *inter se* dispute between the parties is purely civil in nature and the admitted allegations can in no circumstance give rise to criminal prosecution. The criminal proceedings have been initiated against the accused-respondents with the sole intent of harassing them.

On these grounds, learned counsel appearing on behalf of accused-respondents urged that the order passed by the High Court is unassailable in law as well as facts and implored the Court to dismiss the appeal.

Discussion and Analysis: -

10. We have heard the submissions advanced at the bar and have gone through the impugned order and material placed on record.

11. The short question that arises for our consideration is “Whether a second quashing petition under Section 482 CrPC would be maintainable on the grounds/pleas that were available to be raised even at the time of filing/decision of the first quashing petition?”

12. At the outset, we may like to note that the submission advanced by the learned counsel for the accused-respondents that the second quashing petition came to be filed based on new grounds/pleas, is not tenable on the face of it. From the bare perusal of the record, it is evident that the second quashing petition raised no such grounds/pleas which were unavailable to the accused-respondents at the time of adjudication of the first quashing petition. The failure of the accused respondents to raise a pertinent ground/plea which was tangibly available to them at the time of adjudication of the first quashing petition can in no circumstance grant a right to the said accused persons to file a subsequent quashing petition as it would amount to seeking review on pre-existing material.

13. This Court in catena of judgments has held that it is not open to an accused person to raise one plea after the other, by repeatedly invoking the inherent jurisdiction of the High Court under Section 482 CrPC, though all such pleas were very much available to him even at the first instance. We may hasten to add that there is no sweeping rule to the effect that a second quashing petition under Section 482 CrPC is not maintainable and its maintainability will depend on the facts and circumstances of each case. However, the onus to show that there arose a change in circumstances warranting entertainment of a subsequent quashing petition would be on the person filing the said petition. In this regard,

we may gainfully refer to the observations made by this Court in the case of **Bhisham Lal Verma v. State of UP & Anr.**¹⁸, which are extracted below for ready reference:-

“11. Though it is clear that there can be no blanket rule that a second petition under Section 482 Cr.P.C. would not lie in any situation and it would depend upon the facts and circumstances of the individual case, it is not open to a person aggrieved to raise one plea after the other, by invoking the jurisdiction of the High Court under Section 482 Cr.P.C., though all such pleas were very much available even at the first instance. Permitting the filing of successive petitions under Section 482 Cr.P.C. ignoring this principle would enable an ingenious accused to effectively stall the proceedings against him to suit his own interest and convenience, by filing one petition after another under Section 482 Cr.P.C., irrespective of when the cause therefor arose. Such abuse of process cannot be permitted.”

(Emphasis Supplied)

14. Furthermore, we are of the opinion that the order passed by the High Court in the second quashing petition amounted to review (plain and simple) of the earlier order passed by the co-ordinate bench of the High Court in the first quashing petition, since there was admittedly no change in circumstances and no new grounds/pleas became available to the accused-respondents, after passing of the order of dismissal in the first quashing petition. The order passed by the High Court is in gross disregard to all tenets of law as Section 362 CrPC expressly bars review of a judgment or final order disposing of a case except to correct some clerical or arithmetical error.

15. This Court has time and again held that the High Courts while exercising their inherent jurisdiction under Section 482 CrPC cannot override a specific bar laid down by other provisions of CrPC, i.e., to say that the High Court is not empowered to review its own decision under the purported exercise of its inherent powers. To fortify the aforesaid conclusion, we may gainfully refer to the observations made by this Court in the case of **Simrikhia v. Dolley Mukherjee and Chhabi Mukherjee and Anr.**¹⁹, the relevant portions whereof are quoted below for ease of reference:

“6. In *Superintendent & Remembrancer of Legal Affairs v. Mohan Singh*, (1975) 3 SCC 706, this Court held that Section 561A preserves the inherent power of the High Court to make such orders as it deems fit to prevent abuse of the process of the Court or to secure the ends of justice and the High Court must therefore exercise its inherent powers having regard to the situation prevailing at the particular point of time when its inherent jurisdiction is sought to be invoked. In that case the facts and circumstances obtaining at the time of the subsequent application were clearly different from what they were at the time of the earlier application. The question as to the scope and ambit of the inherent power of the High Court vis-a-vis an earlier order made by it was, therefore, not concluded by this decision.

7. The inherent jurisdiction of the High Court cannot be invoked to override bar of review u/s 362. It is clearly stated in *Sooraj Devi v. Pyare Lal*, (1981) 1 SCC 50 that the inherent power of the Court cannot be exercised for doing that which is specifically prohibited by the Code. The law is therefore clear that the inherent power cannot be exercised for doing that which cannot be done on account of the bar under other provisions of the Code. The court is not empowered to review its own decision under the purported exercise of inherent power. We find that the impugned order in this case is in effect one reviewing the earlier order on a reconsideration of the same materials. The High Court has grievously erred in doing so. Even on merits, we do not find any compelling reasons to quash the proceedings at that stage.” (Emphasis supplied)

¹⁸ 2023 SCC OnLine SC 1399.

¹⁹ (1990) 2 SCC 437.

16. In the instant case, the quashing by the High Court of a similar complaint, i.e., Criminal Complaint No. 41 of 2015 filed by the complainant against the accused-respondents in respect of properties situated at Thanjavur *vide* order dated 9th March, 2020 was an event that happened well before the dismissal of the first quashing petition under Section 482 CrPC and the said ground/plea was manifestly available to the accused-respondents while seeking adjudication of the first quashing petition. That being the situation, the accused-respondents were not at liberty to invoke the inherent jurisdiction of the High Court raising the aforesaid ground/plea at a later point of time by filing the second quashing petition.

17. As an upshot of the above discussion, we have no hesitation in holding that the impugned order passed by the High Court is unjustified on the face of the record and cannot be affirmed. Hence, the impugned order dated 13th September, 2022 passed by the High Court in Criminal Original Petition No. 16241 of 2022 is quashed and set aside. As a result, thereof, the Criminal Complaint No. 1828 of 2019 filed by the appellant-complainant against the accused-respondents is restored to the file of the learned IX Metropolitan Judicial Magistrate, Saidapet, Chennai.

18. Needless to say, that all the defences available to the accused-respondents shall remain open to be raised before the appropriate forum at the proper stage without being prejudiced by this order or the orders passed by the High Court.

19. Accordingly, the appeal succeeds and is hereby allowed.

20. Pending application(s), if any, shall stand disposed of.

© All Rights Reserved @LiveLaw Media Pvt. Ltd.

*Disclaimer: Always check with the original copy of judgment from the Court website. Access it [here](#)