

2025 LiveLaw (SC) 875

IN THE SUPREME COURT OF INDIA

Petition(s) for Special Leave to Appeal (Cri.) No.13424/2025

PRADNYA PRANJAL KULKARNI *versus* STATE OF MAHARASHTRA & ANR.

Constitution of India - Article 226, 227 - Bharatiya Nagarik Suraksha Sanhita, 2023 - Section 528 - Quashing of FIR / Chargesheet - Jurisdiction of High Court – Held, Article 226 cannot be invoked to quash chargesheet if cognizance has been taken, remedy is available under Section 528 - FIRs or chargesheets may be quashed under Article 226 before cognizance is taken but once cognizance is taken, the remedy lies under Section 528 BNSS, to challenge both FIR/Chargesheet and even the cognizance order - The High Court did have the jurisdiction under Section 528 of the BNSS to consider the petitioner's grievance for quashing the FIR, chargesheet and any cognizance order - High Court misunderstood the ruling in *Neeta Singh v State of U.P. 2024* - Order of High Court was set aside. [Paras 7-10]

[Arising out of impugned final judgment and order dated 01-07-2025 in WP No.4394/2024 passed by the High Court of Judicature at Bombay]

For Petitioner(s): Mr. Kisalaya Shukla, AOR Mr. Satyam Pandey, Adv. Mr. Sandeep Kumar Dwivedi, Adv. Mr. Krishna Kant Shukla, Adv. Mr. Awadhesh Kumar, Adv.

ORDER

1. A writ petition¹ under Article 226 of the Constitution of India, 1950² as well as under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023³, was presented by the petitioner before the High Court of Judicature at Bombay⁴. In such writ petition, she sought quashing of a First Information Report⁵ under Sections 420, 406 and 409 read with Section 34 of Indian Penal Code, 1860 registered with M.I.D.C. Police Station, Solapur, dated 12th September, 2024, bearing C.R. No.648 of 2024. The same has been disposed of by a Division Bench of the Bombay High Court by an order dated 1st July, 2025. The reasons assigned by the High Court read as follows:

“2) Learned A.P.P. on instructions from A.P.I. Ms. Radhika Kendre attached to M.I.D.C Police Station, Solapur, submitted that, during the pendency of present petition, the police have completed investigation and filed chargesheet before the trial Court on 14th May 2025.

3) In view of the ratio laid down by the Hon'ble Supreme Court in the case of *Neeta Singh & Ors. Vs. The State of Uttar Pradesh & Ors., Special Leave to Appeal (Cri.) No. 13578/2024, Dated 15/10/2024*, present Petition for quashing of F.I.R., after filing of chargesheet has become infructuous.

4) In view of the above and by reserving the remedy of filing an Application for discharge before the trial Court in favour of the Petitioner, Petition is disposed off.”

2. We have heard learned counsel appearing for the petitioner. He has placed before us the “Sitting List” of Judges of the Bombay High Court, effective from 9th June, 2025, circulated by the Registry. It appears therefrom that the Division Bench which disposed of the writ petition by the impugned order had the jurisdiction to hear, *inter alia*, the following matters:

3. “For admission, hearing, order matters and applications therein:

¹ Criminal Writ Petition No.4394 of 2024

² Constitution

³ BNSS

⁴ Bombay High Court

⁵ FIR

(A) All Criminal Writ Petitions and Applications for **quashing** of FIRs, C.R., Charge Sheet and challenging order directing investigation under Section 156(3) of the Cr. PC / 175(3) of BNSS **from the year 2023 onwards.**"

(bold in original)

4. According to learned counsel for the petitioner, since the Division Bench had the jurisdiction to hear criminal writ petitions seeking quashing of FIRs, C.R. and Charge-Sheet under the BNSS and having regard to the fact that mere filing of a chargesheet under Section 193, BNSS does not render a writ petition seeking quashing of an FIR infructuous, the order impugned is unsustainable in law.

5. The order in **Neeta Singh** (supra), relied on by the Bombay High Court, incidentally was passed by us. Since a question has been raised as to whether the ratio of the decision in **Neeta Singh** (supra) has correctly been applied by the Bombay High Court while disposing of the writ petition of the petitioner, the need has arisen to clarify the point.

6. There is a distinct factual dissimilarity between the writ petition presented before the High Court of Judicature at Allahabad⁶ from which the special leave petition in **Neeta Singh** (supra) arose and the present writ petition, out of which this special leave petition arises.

7. The writ petition in **Neeta Singh** (supra) was only under Article 226 of the Constitution, as evident from the first sentence of the relevant order. Moreover, a bare reading of paragraph 8 thereof reveals that the relevant Bench's jurisdiction under Article 227 of the Constitution or Section 482 of the Code of Criminal Procedure, 1973⁷ had not been invoked. Further still, the last sentence of the first paragraph records that cognisance of the offence had been taken by the relevant criminal court. It is in such circumstances that we had the occasion to uphold the order under challenge of the Allahabad High Court, whereby the writ petition only under Article 226 of the Constitution was held to have become infructuous by reason of subsequent events, relying on several authoritative pronouncements of this Court including Constitution Bench decisions.

8. However, from the preamble of the writ petition filed by the petitioner before the Bombay High Court, it is evident that the same sought to invoke the twin jurisdiction under Article 226 of the Constitution and Section 528 of the BNSS for having the FIR quashed. It is true that the police report (charge-sheet) had been filed on 14th May, 2025 upon completion of investigation of the FIR, but whether or not cognizance had been taken by the jurisdictional magistrate is not too clear from the impugned order extracted above. So long cognisance of the offence is not taken, a writ or order to quash the FIR/charge-sheet could be issued under Article 226; however, once a judicial order of taking cognisance intervenes, the power under Article 226 though not available to be exercised, power under Section 528, BNSS was available to be exercised to quash not only the FIR/charge-sheet but also the order taking cognisance, provided the same is placed on record along with the requisite pleadings to assail the same and a strong case for such quashing is set up. Significantly, it was reasoned by us in **Neeta Singh** (supra) that a judicial order not being amenable to challenge before a high court under Article 226 of the Constitution and there being no prayer either under Article 227 thereof or Section 482, Cr. PC, the Allahabad High Court was right in holding the writ petition under Article 226 to have been rendered infructuous.

⁶ Allahabad High Court

⁷ Cr. PC

9. However, in the present case, certainly the Division Bench could have examined the grievance of the petitioner for quashing of the FIR together with the charge-sheet following it, as well as the cognisance taking order, if any, since its jurisdiction under Section 528 of the BNSS was also invoked and the relief claimed could have been suitably moulded subject, of course, to the requisite satisfaction of the court that an order of quashing is warranted on facts and in the circumstances. We have no hesitation to hold that the Division Bench did have the jurisdiction to pass such an order as per the “Sitting List”.

10. Therefore, in our considered opinion, the Division Bench of the Bombay High Court misread **Neeta Singh** (supra), inadvertently omitted to notice the factual dissimilarity as indicated above and consequently, misapplied the ratio of such decision to spurn the challenge laid by the petitioner resulting in a failure of justice.

11. For the reasons aforesaid, the order impugned stands set aside. The special leave petition is disposed of at the admission stage, even without notice to the respondents, by ordering a remand.

12. The writ petition of the petitioner shall stand revived for being considered afresh by the roster bench of the Bombay High Court, in accordance with law.

13. Connected applications, if any, stand closed.

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