

2025 LiveLaw (SC) 968

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

SANJAY KAROL; J., NONGMEIKAPAM KOTISWAR SINGH; J.

Special Leave Petition (Crl.) No. 3361 OF 2025; September 22, 2025

SURENDRA KHAWSE *versus* STATE OF MADHYA PRADESH & ANR.

Code of Criminal Procedure, 1973 - Section 482 - Bhartiya Nagrik Suraksha Sanhita, 2023 (BNSS) - Section 528 - Quashing of FIR - FIR alleging rape on the pretext of marriage quashed - where the complaint appeared to be a vindictive act following administrative proceedings against the complainant – Supreme Court reiterates that inherent powers under Section 528 BNSS (Section 482 CrPC) should be invoked to prevent abuse of process of law - Supreme Court noted that FIR was lodged 4 months after the alleged incident and after the issuance of the show-cause notice to the complainant - The sequence of events and timing suggested the complainant was an afterthought and instrument of vengeance, not a *bona fide* prosecution - Held that once ulterior motive is apparent, the Court must go beyond the formal averments of the FIR and examine attending circumstances to detect *mala fides* - Held that FIR and subsequent charge-sheet were manifestly attended with *mala fides* and constituted abuse of process - Appeal allowed. [Relied on: *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335; *Mohd. Wajid v. State of U.P.*, [2023 LiveLaw \(SC\) 624](#); Paras 12- 15]

[Arising out of impugned final judgment and order dated 27-01-2025 in MCRC No.48079/2023 passed by the High Court of Madhya Pradesh Principal Seat at Jabalpur]

For Petitioner(s): Ms. Niti Richhariya, AOR

For Respondent(s): Mr. D. S. Parmar, A.A.G. Mr. Bhupendra Pratap Singh, D.A.G. Ms. Mrinal Gopal Elker, AOR Mr. Saurabh Singh, Adv. Mr. Aditya Chaudhary, Adv.

J U D G M E N T

SANJAY KAROL J,

Leave Granted.

2. Under challenge in this appeal is a judgment and order dated 27th January 2025 passed in Misc. Criminal Case No.48079 of 2023 by the High Court of Madhya Pradesh at Jabalpur, titled analogously where the High Court has refused to exercise its powers under Section 528 of Bhartiya Nagrik Suraksha Sanhita, 2023¹ seeking quashing of the First Information Report² and the chargesheet³

3. The brief facts leading to the impugned judgment are that the complainant, Respondent No.2 herein was a Computer Operator employed at Suhagi Municipal Corporation where the appellant-accused was working as Assistant Revenue Inspector and in the course of regular interactions they became friendly with one another and such friendship eventually progressed further. It is important to note here that the complainant at an earlier point in time was married and had also begotten a son from the wedlock. This friendship and eventual physical intimacy turned sour which led to the instant proceedings.

¹ For short 'BNSS 2023'

² For short 'FIR'

² Dated 07th August 2023, P.S. Adhartaal bearing no.0934/2023 under Sections 376 and 376 (2)(n)IPC

³ Dated 20th October 2023

4. The allegation levelled by the complainant against the Appellant-accused is that when the latter proposed the possibility of taking their friendship further, she had clearly stated that she was married and had a son to which he agreed or in other words, the implications of which he understood and also said that they would, at one point in future, be joined in matrimony. It is then alleged that on 15th March 2023 the Appellant-accused called the complainant to his residence after office hours and forced intimate relations with her. When she resisted/refused he assured her of marriage and asked her not to worry. This situation continued till 10th April 2023. A few days thereafter, upon being asked as to why they are yet to get married, the complainant alleges that the Appellant-accused refused and asked her to marry someone else. Terming this to be rape on pretext of marriage, the complainant filed the subject FIR.

5. Certain other facts are also required to be taken note of. The relationship having soured, the Appellant-accused filed a complaint under Section 155 Cr.PC⁴ on 24th April 2023 before P.S. Adhartaal District-Jabalpur alleging that the complainant with whom he does not want any relationship or dealing, repeatedly threatened him saying that she would kill herself and even on the day of filing of the said complaint, she came to his residence asking him to speak with her, hurled abuses and also consumed rat poison. Subsequently, the Appellant-accused also lodged a complaint with the Municipal Commissioner, Jabalpur dated 05th July 2023 detailing the alleged harassment by the complainant to the effect of false implication in cases and stating that if the harassment continues, he will be forced to commit suicide. A similar complaint was also submitted to the Divisional Officer, Nagar Nigam.

6. As a consequence of the said representation, the complainant was issued a show cause notice dated 6th July 2023 where she was asked to rectify her behaviour and submit a clarification against the allegations within a period of 24 hours. It was stated therein that should she not furnish such a clarification, she would be relieved of employment. The Appellant-accused also submitted a representation to the Superintendent of Police, Jabalpur, in similar terms as the representations referred to in the preceding paragraph.

7. It is to be noted that the FIR and chargesheet which are the subject matter of the instant proceedings, are developments subsequent to the representations made by the Appellant-accused.

8. The Appellant-accused filed a petition under Section 482, Cr.PC for quashing of the FIR on 13th October 2023. The police completed its investigation and presented chargesheet for trial, as already noted *supra*.

9. In terms of the impugned judgement dated 27th January 2025, the High Court refused to quash the FIR and charge sheet observing:

“5. At this stage, it cannot be said that there was false promise or not. It will be matter of evidence before the trial Court to decide the same. It will be too early to quash FIR on the said pretext.

6. Petition is dismissed.”

10. It is in this background that the present case has travelled up to this Court. We have heard the learned senior counsel, Mr. Mrigendra Singh, assisted by Ms. Niti Richhariya, learned Advocate-on-Record for the Appellant-accused and Mr. Bhupendra Pratap Singh, learned Deputy Advocate General for the State, assisted by Ms. Mrinal Gopal Elker, learned Advocate on Record.

⁴ Code of Criminal Procedure 1973

11. Section 528 of the BNSS, 2023 reads: -

“528. Saving of inherent powers of High Court.—Nothing in this Sanhita shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Sanhita, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”

12. The exercise of the powers under Section 482, Cr.PC which corresponds to Section 528, BNSS have been repeatedly detailed in various judgments. We need not do so once more. Suffice it to refer to what is arguably the most famous judgment i.e., **State of Haryana v. Bhajan Lal**⁵ and its recent reiteration in **M. Srikanth v. State of Telangana**⁶, and **Balaji Traders v. State of U.P.**⁷.

13. As apparent from the record, the Appellant-accused and the complainant had been colleagues for the past 5 years and it is somewhere during this time that their relationship progressed. We notice once again that the Appellant-accused had initiated legal processes/administrative processes against the complainant much prior to the subject FIR being lodged. These included a show-cause notice issued by the employer regarding her continued acrimonious behaviour against the Appellant-accused, with the ultimatum that should she not respond to the notice with the requisite clarification, she would be relieved of her employment. It is only thereafter that the subject FIR was lodged. Further, the same was lodged four months after the alleged incident of forced sexual intercourse with the complainant. If the description of the offence is taken at face value, right at the first instance, the complainant was not willing and was persuaded to engage in relations on the assurance of eventual marriage between the parties. When she enquired as to when the same would take place, a few days later, allegedly the Appellant-accused refused and asked her to marry someone else. That would be the first occasion when, having realized that she had been taken advantage of the complainant should have taken the requisite action. Even if that was not done so, the fact that the subject FIR was only lodged after the issuance of show-cause notice, which obviously has large real-world implications insofar as the complainant is concerned, leaves open a gaping possibility that the same was lodged as an afterthought and was a vehicle for vengeance for the impending consequences described above.

14. One of the factors mentioned in **Bhajan Lal** (*supra*) justifying the quashing of criminal proceedings is when the same is initiated in pursuance of ulterior motives. It reads as under:

“(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.”

Reference to **Mohd. Wajid v. State of U.P.**⁸, would also be appropriate. It was held:

“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.

⁵ 1992 Supp (1) 335

⁶ (2019) 10 SCC 373

⁷ 2025 SCC OnLine SC 1314

⁸ (2023) 20 SCC 219

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...”

(emphasis supplied)

15. In view of the above discussion, we are of the view that the FIR and the chargesheet against the Appellant-accused ought to be quashed. The appeal is allowed in the aforesaid terms. The judgment and order passed by the High Court of Madhya Pradesh with particulars as mentioned in paragraph 2, is set aside.

Pending application(s), if any, shall stand closed.

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