

2025 LiveLaw (SC) 984

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

VIKRAM NATH; J., SANDEEP MEHTA; J.

SLP (Crl.) No (s). 2797-2798 of 2025; OCTOBER 08, 2025

STATE OF RAJASTHAN *versus* PARMESHWAR RAMLAL JOSHI AND OTHERS

Bharatiya Nagarika Suraksha Sanhita, 2023 (BNSS) - Section 528 - Inherent Power of High Court - Review/Recall of Own Order - Held that the inherent power of the High Court under Section 528 BNSS [Section 482 CrPC] cannot be invoked to review or recall its own judgment or order on merits, as the power of review is specifically barred under Section 403 BNSS [Section 362 CrPC], except for the purpose of correcting clerical or arithmetical errors - The inherent power cannot be exercised for doing that which is specifically prohibited by the Code - Held that High Court grievously erred in recalling/reviewing its reasoned order dated January 16, 2025, on the ground of an "inadvertent clerical mistake" when the subsequent application was, in effect, a prayer for review of the earlier order by acceding to the initial prayer for transfer of investigation, which the earlier order had consciously declined - The Supreme Court quashed the High Court's orders dated January 24, 2025 (recalling the earlier order) and February 4, 2025 (transferring investigation to CBI), as they were based on an erroneous premise of a clerical mistake and amounted to an impermissible review of a reasoned order passed under the inherent jurisdiction - **Appeal allowed. [Relied on *Simrikhia v. Dolley Mukherjee and Chhabi Mukherjee and Another* (1990) 2 SCC 437; Para 18, 20, 26-31]**

WITH SPECIAL LEAVE PETITION (CRL.) NO(S). 3308-3309 OF 2025, SPECIAL LEAVE PETITION (CRL.) NO(S). 3310-3311 OF 2025

[Arising out of impugned final judgment and order dated 04-02-2025 in SBCRMP No. 287/2025 24-01-2025 in SBCRLMP No. 287/2025 passed by the High Court of Judicature for Rajasthan at Jodhpur]

For Petitioner(s): Mr. Tushar Mehta, Solicitor General Mr. Shiv Mangal Sharma, A.A.G. Ms. Abhinandini Sharma, Adv. Ms. Saubhagya Sundriyal, Adv. Ms. Sonali Gaur, Adv. Ms. Nidhi Jaswal, AOR Mr. Mahindra Singh, Sr. Adv. Mr. Shoeb Alam, Sr. Adv. Mr. Rohit K. Singh, AOR Mr. Gaurav Khanna, Adv.

For Respondent(s): Mr. Brijender Chahar Ld, A.S.G. Mr. Mukesh Kumar Maroria, AOR Mr. Rajat Nair, Adv. Mr. Purnendu Bajpai, Adv. Reason: Mr. Chitvan Singhal, Adv. Mr. Ishaan Sharma, Adv. Mr. Mrinmay Bhattmewara, Adv. Mr. H.D. Thanvi, Adv. Mrs. Samprati Bhattmewara, Adv. Mr. Rajvir Singh Bhati, Adv. Mr. Amit Singh, Adv. Mr. Vivek Gupta, AOR Ms. Nidhi Jaswal, AOR Mr. Saurabh Rajpal, AOR Mr. Vinay Kumar Singh, Adv. Mr. Arpit Bamal, Adv.

J U D G M E N T

Mehta, J.

Criminal Appeal @ SLP(Crl.) No(s). 2797-2798 of 2025

1. Heard.
2. Leave granted.
3. The State of Rajasthan is in appeal before us for assailing the orders dated 24th January, 2025 and 4th February, 2025 passed by the learned Single Judge of the Rajasthan High Court at Jodhpur¹ in S.B. Criminal Misc. Application No. 60 of 2025 and S.B. Criminal Misc. (Pet.) No. 287 of 2025. *Vide* the first order, the High Court recalled its earlier order dated 16th January, 2025 passed in S.B. Criminal Misc. (Pet.) No. 287 of

¹ Hereinafter, being referred to as 'High Court'.

2025 and restored the said petition to its original number. *Vide* the second order, the High Court allowed S.B. Criminal Misc. (Pet.) No. 287 of 2025 and directed transfer of investigation in FIR No. 202 of 2024, P.S. Kareda, District Bhilwara, and FIR No. 234 of 2024, P.S. Kareda, District Bhilwara, Rajasthan filed by respondent No. 1-Parmeshwar Ramlal Joshi² to the Central Bureau of Investigation³.

4. Succinctly stated, the facts relevant and essential for disposal of the instant appeals are noted hereinbelow.

5. The respondent-complainant lodged a complaint in the Court of Judicial Magistrate, Mandal, District Bhilwara, Rajasthan, which was forwarded to the P.S., Kareda, District Bhilwara under Section 156(3) of Code of Criminal Procedure, 1973⁴ and as a consequence thereof, FIR No. 211 of 2023 came to be registered at the said police station for the offences punishable under Sections 406, 420, 384, 379 and 120-B of the Indian Penal Code, 1860⁵.

6. It was *inter alia* alleged in the FIR that the respondent-complainant had a business of granite mining, and a lease had been sanctioned in his favour by the Mineral Department in the year 2012 for mining of granite in village Raghunathpur, Tehsil Kareda, District Bhilwara. The complainant had been doing the business of mining of minerals in Raghunathpur in the name and style of M/s. Black Mount Granite Private Limited. He was the promoter and Director of the said company.

7. He procured another mining lease for granite mining in village Raghunathpur through lease number 67/12. In this lease, the business was being carried out in the name and style of M/s. Aravali Granimarmo Private Limited wherein the complainant was a Director, and the owners were Shyam Sundar Goyal and Chandrakant Shukla. These two owners demanded a sum of Rs. 10 crores from the complainant for registration of the company. Pursuant to the above transaction, 50% shares of the company were transferred by Shyam Sundar Goyal and Chandrakant Shukla to the complainant and his wife, Bhavya Joshi.

8. The owners, Shyam Sundar Goyal and Chandrakant Shukla sold the remaining shares to accused No. 4, Mr. Ramlal Jat, for a sum of Rs. 5 crores. The said Ramlal Jat, in turn, got the shares transferred to his relatives, Mona Chaudhary and Suresh Kumar. However, when the deal subsequently fell through, accused No. 4, Mr. Ramlal Jat, who was the Revenue Minister in the State Government, got annoyed and threatened the complainant that if he demanded any money for the transfer of shares, he would blow up the mines with dynamite, make the life of the complainant's family miserable, and ensure that the complainant would never be allowed to enter District Bhilwara again. The said accused also threatened that the Director General of Police and the Inspector General of Police were on his beck and call and that he would also take over the other mineral leases of the complainant being operated in the name and style of M/s. Black Mount Granite as well. On 17th June 2022, the labourers of the complainant were also threatened by accused Nos. 4 and 5 of getting them locked up in the police station. The minerals and equipment including the vehicles lying in the mining area were stolen. The CCTV cameras installed at the site along with the DVR were detached and taken away. The complainant conveyed the information of these incidents to the Director General of Police, Jaipur *via*

² Hereinafter being referred to as 'respondent-complainant' or 'complainant'.

³ For short, "CBI"

⁴ For short, 'CrPC'.

⁵ For short "IPC"

e-mail dated 18th June, 2022, but no action was forthcoming on his complaint. He also sent an information to the Superintendent of Police, Bhilwara and the SHO, P.S., Kareda by Registered AD post but to no avail. He personally went to P.S. Kareda to report the matter but was threatened with dire consequences.

9. Pursuant to completion of investigation in FIR No. 211 of 2023, police filed a negative report in the matter concluding that the allegations were not made out and the dispute appeared to be civil in nature. The respondent-complainant thereafter filed a protest petition against the negative report, which is currently pending adjudication.

10. During the pendency of the aforesaid protest petition, the respondent-complainant filed 2 more applications under Section 156(3) CrPC. The aforesaid applications were allowed and FIR No. 202 of 2024⁶ and FIR No. 234 of 2024⁷ came to be registered at P.S. Kareda, District Bhilwara, Rajasthan.

11. It seems that as per the complainant, investigation was not being carried out fairly pursuant to the registration of the aforesaid FIRs at P.S. Kareda, whereupon the complainant filed a writ petition being S.B. Criminal Writ Petition No. 2244 of 2024 dated 17th October, 2024 in the High Court wherein the following prayers were made: -

“PRAYER

It is, therefore, most respectfully prayed that this misc. petition may kindly be allowed and relief may be given as under:

1. That the investigation in FIR no. 202/2024 and FIR No. 234/2024 registered at P.S. Kareda, Bhilwara, Rajasthan may kindly be transferred from Local Police Station to Independent Investigating Agencies Namely Central Bureau of Investigation (CBI) or any other independent agency which is free from political influence.
2. That the Investigating Authorities may kindly be directed to carry out the investigation fairly and impartially.
3. That the Investigation Authorities may be directed to file chargesheet against the accused persons after considering all the material evidences produced by the petitioner.
4. That the accused persons may kindly be directed to not affect the investigation in the present FIR.”

12. It seems that the learned Single Judge was not persuaded to pass any positive direction in the aforesaid writ petition on which the learned counsel representing the complainant sought withdrawal of the writ petition which was dismissed as such *vide* order dated 23rd October, 2024. The aforesaid order is extracted below for the sake of ready reference: -

“Learned counsel for the petitioner seeks to withdraw this criminal writ petition.

Hence, this criminal writ petition is dismissed as withdrawn.”

13. The complainant again approached the High Court by filing a petition under Section 528 of Bharatiya Nagarika Suraksha Sanhita, 2023⁸ [Section 482 CrPC] being S.B. Criminal Misc. (Pet.) No. 287 of 2025. Almost similar prayers as were made in the criminal writ petition were also made in the aforesaid petition filed by the respondent-complainant, which are extracted below for sake of ready reference: -

⁶ Under Sections 420, 467, 468, 471, 425, 427, 217, 218, 34 and 120B of IPC.

⁷ Under Sections 303(2), 333, 305(a), and 60(a) of Bhartiya Nyaya Sanhita, 2023. [Sections 379, 452, 380 and 120B of IPC]

⁸ For short, “BNSS”

“PRAYER

It is, therefore, most respectfully prayed that this misc. petition may kindly be allowed and relief may be given as under:

1. That the investigation in FIR No. 202/2024 and FIR No. 234/2024 registered at P.S. Kareda, Bhilwara, Rajasthan may kindly be transferred from Local Police Station to Independent Investigating Agencies Namely Central Bureau of Investigation (CBI) or any other independent agency which is free from political influence.

2. That the Investigating Authorities may kindly be directed to carry out the investigation fairly and impartially.

3. That the Investigation Authorities may be directed to file charge sheet against the accused persons after considering all the material evidences produced by the petitioner.

4. That the accused persons may kindly be directed to the investigation in the present FIR.”

14. It is undisputed that the complainant did not even plead in this petition that there had been any change of circumstances pursuant to the dismissal of his earlier criminal writ petition by way of withdrawal. The aforesaid miscellaneous petition preferred by the complainant came to be disposed of by the learned Single Judge of the High Court *vide* order dated 16th January, 2025 which reads as below: -

“3. Seeking fair impartial and expeditious investigation is a fundamental right of a person, be he a complainant/victim or the accused. It is therefore directed that the petitioner shall submit a representation to the concerned Superintendent of Police along with all documents on which he places reliance. The concerned Superintendent of Police is expected to consider the averments made in the representation and shall instruct the Investigating Officer of this case to conduct fair and impartial investigation and submit the result of the investigation as expeditiously as possible.

4. Accordingly, the criminal misc. petition is disposed of.

5. The stay petition also stands disposed of.”

15. A bare reading of the aforesaid order would make it crystal clear that the High Court was not persuaded to accept the prayer of the respondent-complainant for transfer of investigation to the CBI or any other agency and simply a liberty was given to the respondent-complainant to approach the Superintendent of Police by way of a representation and the Superintendent of Police, in turn was advised to consider the representation and direct the investigating officer of the case to conduct fair and impartial investigation into the matter and submit the report thereof as expeditiously as possible.

16. There was no ambiguity or anomaly whatsoever in this order which granted a limited relief of making a representation to the respondent-complainant.

17. Very surprisingly, a miscellaneous application being S.B. Criminal Misc. Application No. 60 of 2025 seeking modification/correction came to be filed within a few days of the order dated 16th January, 2025 wherein, the following averments were made: -

“3. That it is pertinent to note that the present misc. petition has been filed praying therein to transfer the investigation to any independent bodies like CBI or transferring the investigation to the SOG as the accused persons are higher police officials and are also having political influence. Therefore, the same would suggest that a fair and impartial investigation cannot be held by the police officials who are subordinate to the accused persons.

4. That the petitioner has also relief of fair and impartial investigation in two matters i.e. FIR 202/2024 P.S. Kareda and FIR 234/2024 P.S. Kareda. However, the Hon’ble Court has only directed the respondent to Fairly Investigate in only one FIR.

5. That the matter was argued before the Hon'ble Court and the Ld. Court was pleased to consider the averments of the petitioner, however, when the order was passed the Hon'ble Court has not transferred the investigation to any independent agency.

6. That it is humbly submitted that the purpose of filing the misc. petition would vitiate if the relief as prayed is not granted to the petitioner.

PRAYER

It is, therefore, may most respectfully prayed that this application may kindly be allowed and the order dated 16.01.2025 may be modified and the prayer sought by the petitioner in the Misc. Petition may be granted as relief to the Petitioner.

Any other order favourable to the petitioner may also be passed."

18. The most material fact which can be discerned from the contents of the application is that the applicant did not make even a semblance of assertion that the order dated 16th January, 2025 suffered from any typographical error or inadvertent mistake. What was specifically pleaded in the application was that the High Court did not accede to the prayers made in the miscellaneous petition and thus, the Court should feel persuaded to direct modification in the order dated 16th January, 2025 and accede to the prayer of the complainant for transfer of investigation to the CBI. The learned Single Judge, proceeded to entertain the aforesaid S.B. Criminal Misc. Application No. 60 of 2025 and sought for the affidavit of the investigating officer. Accordingly, *vide* order dated 24th January, 2025, the High Court proceeded to recall the order dated 16th January, 2025 with the following observations: -

"2.1. Indeed, due to inadvertence, a clerical mistake has occurred in the order above. The Misc. Petition was though filed for issuance of directions to conduct investigation fairly and impartially but there was a prayer to transfer the investigation from the State police to any other independent agency like CBI. The prayer therein was made on serious aspersions of political influence and with the specific averment that the accused of this case has a close connection with the top notch Senior Police Officer and involvement of a former Cabinet Minister having influence over the area. The petitioner seems to be aggrieved by the conduct and manner of the present investigation and, therefore, he made a prayer to transfer the case to any other independent agency.

2.2. Due to heavy board on 16.01.2025, inadvertently, a clerical mistake occurred and this Misc Petition No.287/2025 was disposed of with a direction to the Superintendent of Police Bhilwara to ensure fair investigation. The outcome does not address the grievance raised by the petitioner in the main petition and he has been deprived of getting justice.

2.3. To err, is human but an (sic.) error committed due to inadvertence cannot be perpetuated. The Courts are meant to impart justice and not supposed to sticks to the processual intricacies and technicalities of the matter.

3. In this view of the matter, the instant Misc. Application is allowed and the order dated 16.01.2025 passed in SBCRLMP No.287/2025 is recalled. The Registry is directed to restore/reregister the Misc. Petition No.287/2025 to its original number and list the matter on 28.01.2025.

4. In the meantime, learned Public Prosecutor is directed to procure the latest factual report and respond on the petition."

19. After obtaining the affidavit of the investigating officer, the learned Single Judge, proceeded to pass the contentious impugned order dated 4th February, 2025 whereby the investigation of the FIRs came to be transferred to the CBI. It is amply clear that in passing the order dated 4th February, 2025 the High Court has virtually reviewed its own order dated 16th January, 2025 on the premise that the said order seemed to be a result of an inadvertent clerical mistake and that the same did not address the grievances raised by the respondent-complainant in the main petition.

20. *Ex-facie*, the reasons assigned by the High Court in the order dated 24th January, 2025, for recalling the order dated 16th January, 2025 are erroneous on the face of the record. There was neither any clerical mistake nor any inadvertent error in the order dated 16th January, 2025 which granted the limited relief of making a representation to the respondent-complainant. The complainant did not even plead in the miscellaneous application seeking clarification/modification that the order dated 16th January, 2025 was passed mistakenly or that the same suffered from some clerical error. He claimed for review of the earlier order, plain and simple.

21. Shri Tushar Mehta, learned Solicitor General appearing for the appellant-State assisted by Mr. Shiv Mangal Sharma A.A.G, vehemently and fervently contended that the impugned order is unsustainable in the eyes of law because the High Court has proceeded to review its earlier orders while exercising jurisdiction under Section 528 BNSS [Section 482 CrPC] which is impermissible. He urged that S.B. Criminal Writ Petition No. 2244 of 2024 and S.B. Criminal Misc. (Pet.) No. 287 of 2025 were filed with identical prayers and the High Court was not persuaded to accept the prayer made by the complainant on which, the writ petition was dismissed as withdrawn *vide* order dated 23rd October, 2024. Just a few days after such dismissal and without there being any change in circumstances, the miscellaneous petition under Section 528 BNSS [Section 482 CrPC] came to be filed with identical prayers which was also disposed of by a reasoned order dated 16th January, 2025. The said reasoned order had been recalled and reviewed by the High Court *vide* orders dated 24th January, 2025 and 4th February, 2025 respectively which are grossly illegal and without jurisdiction.

22. *Per contra*, Mr. Siddharth Dave, learned senior counsel representing the respondent-complainant, supported the impugned orders and urged that the complainant had raised serious issues regarding the unfairness of investigation. It was highlighted in the petitions that the investigation was being influenced by accused No. 4, Mr. Ramlal Jat, who was a Minister in the erstwhile Government. Furthermore, the Director General of Police and the Inspector General of Police were also showing keen interest to scuttle the genuine prosecution launched by the complainant who was compelled to approach the High Court for seeking justice. The dismissal of the writ petition would not preclude the complainant from approaching the High Court afresh because after such dismissal, *vide* order dated 23rd October, 2024, no steps were being taken by the investigating officer and a biased approach was being adopted to favour the accused persons and thus, the complainant had valid and strong grounds for invoking the inherent jurisdiction of the High Court by filing the S.B. Criminal Misc. (Pet.) No. 287 of 2025.

23. He urged that the High Court balanced the equities by recalling the order dated 16th January, 2025 and issuing a direction to the CBI for investigation of the grave crimes alleged in the FIRs. As per Mr. Dave, the said direction would not cause prejudice to any party because the CBI would be the only agency expected to conduct a fair and impartial investigation, in the peculiar facts of the case. He thus, urged that the order under challenge does not warrant any interference by this Court.

24. We have given our anxious consideration to the submissions advanced at bar and have gone through the material placed on record. We have also carefully perused the orders passed by the High Court. The written submissions filed by learned counsel for the respondent-complainant were also perused.

25. *Ex facie*, we are of the opinion that once S.B. Criminal Writ Petition No. 2244 of 2024 preferred by the complainant with identical prayers had been dismissed as withdrawn, without there being any liberty to approach the High Court again for seeking

self-same relief, the subsequent petition could not have been entertained under the garb of exercise of inherent jurisdiction under Section 528 BNSS [Section 482 CrPC]. The attempt so made was nothing but a change in the label of the petition with the substance being the same.

26. Law is well settled by a catena of decisions of this Court that a criminal Court has no power to recall or review its own judgment. The only permissible action is to correct or rectify clerical errors by virtue of Section 403 BNSS [Section 362 CrPC]. In this regard, we may gainfully refer to the decision of this Court in ***Simrikhia v. Dolley Mukherjee and Chhabi Mukherjee and Another***⁹, 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)

27. From a bare perusal of the order dated 16th January, 2025 it is crystal clear that the said order did not suffer from any clerical error so as to justify the invocation of jurisdiction by the High Court to recall or review the same. The observations made by the learned Single Judge in the recall order dated 24th January, 2025 that a clerical mistake occurred while passing the earlier order dated 16th January, 2025 is not borne out from the record because the said order was passed after considering the entirety of facts and circumstances prevailing on record. There was no apparent or manifest error what to say of clerical error in the said order which could justify the recalling or modification thereof.

28. As a matter of fact, we are of the opinion that once the writ petition being S.B. Criminal Writ Petition No. 2244 of 2024 filed by the complainant had been dismissed, another petition seeking the same relief, styling it to be a petition under Section 528 BNSS [Section 482 CrPC], could not have been entertained. The only remedy available to the complainant in such circumstances would be to assail the order dated 23rd October, 2024 as per law, if so desired.

29. As a result, the impugned orders dated 24th January, 2025 and 4th February, 2025 do not stand to scrutiny and are hereby quashed.

⁹ (1990) 2 SCC 437.

30. However, considering the gravity of allegations, the complainant is given liberty to take recourse to the suitable remedy for challenging the orders dated 23rd October, 2024 and 16th January, 2025 as per law, if so desired.

31. The appeals are allowed, accordingly.

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

SPECIAL LEAVE PETITION (CRL.) NO(S). 3308-3309 OF 2025

SPECIAL LEAVE PETITION (CRL.) NO(S). 33103311 OF 2025

33. In view of the order passed in Criminal Appeals @ SLP(Criminal) No(s). 2797-2798 of 2025, nothing survives for consideration of this Court in these special leave petitions which are dismissed as such.

34. 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](#)