

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

**BEFORE
HON'BLE SHRI JUSTICE VIVEK JAIN**

WRIT PETITION No. 127 of 2018

ROOPANSH KHATRI AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WITH

MISC. CRIMINAL CASE No. 17182 of 2018

ROOPANSH KHATRI

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

*Shri Ashok Lalwani- Senior Advocate with Abhishek Singh-
Advocate for petitioner.*

Shri Lokesh Jain Government Advocate for respondents No. 1 and 2.

*Shri Prakash Upadhyay Senior Advocate With Jalaj Dwivedi Advocate
for the respondents No. 3 to 5.*

Shri Gulab Chand Sohane, Advocate for the respondent No. 6.

(O R D E R)

(Reserved on : 06/02/2025)

(Pronounced on : 05/06/2025)

These two petitions have been filed arising out of FIR and consequential proceedings against the petitioners in crime No. 60/2017 registered at Police Station Gora Bazar, Jabalpur under Sections 279, 337 IPC wherein charge-sheet has subsequently been filed under Sections 279, 337, 338 IPC against petitioner No.1.

2. In W.P. No. 127/2018 which is filed by Roopansh Khatri and Sahil Khatri respectively as petitioners No. 1 and 2, prayer has been made to constitute a Special Investigation Team or pass an order for some high power special agency to investigate into the manipulations made in the said FIR and consequential investigation only for facilitating claim of compensation by the complainant i.e. respondent No. 5 Rishabh Jain in connivance of the police officials i.e. respondents No. 3 and 4. A further prayer is made to take departmental action against the respondents No. 3 to 5 and prosecute respondent No. 3 to 6 or to pass any other order to meet the ends of justice.

3. In M.Cr.C. No. 17182/2018 which is filed by Roopansh Khatri as sole petitioner, prayer has been made to quash the charge sheet arising out of the aforesaid crime which has resulted into criminal case R.T. No. 4854/2017 before the Judicial Magistrate First Class, Jabalpur.

4. For the purpose of this common order, reference to parties and documents is taken from W.P. No. 127/2018, unless expressly mentioned otherwise.

5. Learned counsel for the petitioner has argued that the present petitioners are real brothers. Petitioner No. 2 is owner of the motor-cycle having registration No. MP20-MV-8612 model CBR Honda. It is their case that petitioners belong to affluent family and own good property in Jabalpur City. There is a racket going on in Jabalpur to implicate persons having good

financial means and having vehicles of their ownership, in false motor accident claims case only so as to extract compensation either from the vehicle owners or from the insurance company. It is the case of the petitioners that they have been made victims of the racket going on between the claimants and police officials to lodge false FIRs, conduct biased investigation and implicate vehicles in non-existent road traffic accidents so that insurance amount can be got extracted from the Insurance Company or from the vehicle owner and in this racket vehicle of the petitioner No. 2 also got involved and they have been falsely implicated in this case. It is further argued that care is taken in such cases to make out weak cases which is not sustained in criminal trial but some police record will be made out so as to extract compensation from the Insurance Company by filing claim case before the Claims Tribunal. In this manner the innocent vehicle owners who have no role in the accident case nor their vehicles are actually involved, but still they are being made to face criminal trial though they will be ultimately acquitted but they are having to unnecessarily face creation of a criminal record against them only so as to facilitate certain unscrupulous persons to claim fabricated motor accident claim compensation in connivance with the police officials to lodge such false FIRs. These persons like petitioners also have to face unwarranted prosecution for years together.

6. Learned counsel for the petitioners has vehemently argued that in this case the entire FIR and investigation is fabricated and farce. The incident is said to have taken place on 26.03.2017 at about 6:00 PM when the motor cycle driven by the complainant Rishabh Jain dashed with motor cycle driven by the petitioner No. 1 and owned by the petitioner No. 2. It is contended that for a long period nothing took place though the incident is alleged to have taken place on 26.3.2017 at Dumna Road going towards Jabalpur Airport near Nehra Company. For the first time, a Dehati Nalish was registered on

19.06.2017 at police station Ranjhi, District Jabalpur though the area does not fall into jurisdiction of the Police Station Ranjhi but falls in the jurisdiction of the Police Station Gora Bazar. It is contended that entire FIR is based on concocted story of an accident taking place almost three months prior to registration of very first Dehati Nalsi which was on 19.06.2017, otherwise there was no occasion for some other police Station to have lodged Dehati Nalishonce the area where the accident took place fell in the jurisdiction of Gora Bazar Police Station and such registration of Dehati Nalish by some other police station at “zero” could have been justified only if there was some urgency in registering the FIR but in the present case it is not so as almost three months had elapsed.

7. It is further argued that only with a view to explain the delay of three months in registration of FIR, a story has been cooked up by the Police Authorities that the complainant had approached the Superintendent of Police Jabalpur on 31.03.2017 itself and that he was running from here and there but no police station was listening to his plea. It is further contended that from the very contents of Dehati Nalish, it is evident that the complainant states that the accident took place on 26.03.2017 and in the very same night he took treatment in Metro Hospital but no treatment papers of Metro Hospital are there. Only one paper of medical report stated to be issued by one Dr. Shirish Naik of Jamdar Hospital Jabalpur is on record, which too has been produced by the complainant to the Police Authorities and is dated 05.05.2017. It has not been seized by the Police Authority from the said Hospital and the said prescription mentions that there is a five week old doubtful crack in right Scophoid bone (wrist bone near thumb) and the said prescription mentions that there is a healed crack. It is contended that neither the statement of Dr. Shirish Naik has been recorded under Section 161 Cr.P.C. nor any record from the said hospital has been seized by the Police and only on presentation

of one prescription by the complainant, the FIR has been lodged and charge-sheet has been presented. It is contended that this prescription cannot be said to be a material only on the basis of which the petitioner No. 1 can be prosecuted under Section 337 and 338 IPC because the report is not of any Radiologist but is only one Dr. Shirish Naik who is MS in Orthopedics and he also in the prescription says that there is a five week old doubtful crack. If indeed there was any fracture sustained by the complainant on 26.03.2017 and he states to have taken treatment in Metro Hospital then no treatment papers of Metro Hospital of 26.03.2017 are there and if there was any carelessness by Metro Hospital Authorities either in not carrying out X-ray despite there being fracture or not detecting fracture from the X-ray, then complainant never took any action against the Metro Hospital and it is clear that only to claim accident claim compensation that this entire story has been cooked up. Only because the complainant never sustained any fracture, therefore, an improbable story has been cooked up that he sustained fracture five weeks ago and even the doctor recording prescription on 5.5.2017 mentioned that it is a doubtful crack which seems to be old healed crack, which is only a possibility and not definite diagnosis.

8. By heavily criticizing the action of the Police Authorities in registering Dehati Nalish at Police Station Ranjhi, though the alleged accident took place within the jurisdiction of the Police Station Gora Bazar, it is argued that the respondents have filed reply in the writ petition which is contrary to their own record because in the reply it has been brought out that the complainant had been approaching various police stations as the jurisdiction of accident place was not clear to the police authorities and then he approached the Superintendent of Police, Jabalpur who directed the Police Station Gohalpur to take steps and in these turn of events, the matter came to Police Station Ranjhi which registered Dehati Nalish and then was forwarded to Police

Station Gora Bazar for registering the actual FIR. It is argued that no documents connected the entire story which are available on record and this story is only a story based on fabricated documents prepared later on to fill the gap of this almost three months period.

9. On these assertions and relying on judgment of the Hon'ble Apex Court in the case of *Safiq Ahmad v. ICICI Lombard General Insurance Co. Ltd., (2021) 18 SCC 813*, it is contended that the Hon'ble Supreme Court has come down heavily on fake compensation petitions to seek motor accident claims and the menace of false/fraud claim petitions to claim fraudulent compensation has become rampant and in the matter of which urgent steps need to be taken. It is further contended that the necessary steps to carry out investigation as per Section 2(h) of the Code of criminal procedure 1973 have not been carried out and reliance is placed on the Judgment in the case of *State of M.P. v. Mubarak Ali, AIR 1959 SC 707*. It is further argued that the FIR and consequential case can be quashed in view of the judgment of *Hon'ble Supreme Court in the case of Prashant Bharti v. State (NCT of Delhi), (2013) 9 SCC 293*. By placing reliance on the judgment of the Hon'ble Supreme Court in the case of *Navinchandra N. Majithia v. State of Meghalaya, (2000) 8 SCC 323: AIR 2000 SC 3275*. It is contended that privately funded police investigation is in itself vitiated and illegal and deserves to be quashed as it is motivated and not impartial.

10. Per contra, it is vehemently argued by learned counsel for the respondents that the police authorities have taken proper steps in the matter and as the FIR disclosed cognizable offence, the same was registered. It is argued by the counsel for the respondent No. 6-Insurance Company that no interference deserves to be caused in the matter because merely by registration of FIR it cannot be deemed that a person would be arrested and even his personal appearance can be dispensed with by the Magistrate and

therefore, it cannot be said that he would be put to any adversity by the FIR and consequential trial, and he can always prove his innocence in the trial if he is innocent and since the onus is on the prosecution to prove the guilt he can be acquitted if he is innocent and establishes so in trial. Reliance is placed on the judgment of Hon'ble Supreme Court in the case of ***TGN Kumar vs State Of Kerala & Ors. AIR 2011 SC 708.***

11. Learned counsel for the respondents No. 1 and 2 (State), for respondents No. 3 & 4 (Police Officials impleaded by name) and respondent No. 5 (complainant) have also vehemently opposed the writ petition and contended that the petitioners only wants to come out of the consequential action which is being undertaken by the Police as he is involved in road traffic accident in which the respondent No. 5 sustained fracture. It is contended that the police authorities were under obligation to lodge the FIR once the information disclosing cognizable offence was given to the police authorities. It is contended that the accident indeed took place on 26.03.2017 and the respondent No. 5 kept on wandering here and there but could not get any justice from any authority. He thereafter approached the S.P. Jabalpur who on 01.04.2017 directed the police Station Gohalpur to take steps in the matter and in due course of time the matter came to be brought to cognizance of Police Station Ranjhi which registered Dehati Nalish on 19.06.2017 and then the FIR was lodged at Police Station Gora Bazar where the actual place of accident falls. It is contended that the place of accident was such that there was a confusion in the jurisdiction of three different Police Stations i.e. Gora Bazar, Ranjhi and Civil Lines and therefore, complainant was wandering here and there and only when the jurisdiction of the police station was ascertained then the FIR was lodged by the Police Station Gora Bazar. It is contended that the allegations made by the petitioners are baseless because the police officials have fairly and impartially carried out their duties and obligations

under the law. By referring to document written by the petitioner No. 2 himself it is contended that the petitioner No. 2 who is owner of the vehicle has admitted the guilt of petitioner No. 1 so also involvement of the vehicle in the accident and therefore, nothing further can be argued by the petitioners looking to the letter dated 25.07.2017 given by the petitioner No. 2 to the Police Authorities.

12. It is contended that the delay in registering the FIR took place only because of confusion in the matter of jurisdiction of the police station concerned and hence, there was delay. In the FIR the complainant has submitted that since he was having severe pain in his right wrist, therefore, he was examined in Jamdar Hospital on 05.05.2017 and was receiving treatment there. Therefore, no fabrication or malafide intention can be fixed on the police authorities and also the investigation proceedings were done as per law. Therefore, no case for interference is made out in the present matter. A separate reply has been filed by the respondent No. 3 who was SHO of Police Station Gora Bazar at the relevant time who has only adopted the averments and contentions made by the State Government in its reply.

13. The respondent No. 4 has also filed a separate reply and has adopted the averments made by the State Government in its reply and has further contended in the reply that the complainant was wandering here and there and after directions of Superintendent of Police, Jabalpur the Police Station Gohalpur received the complaint of the respondent No. 5 and after preliminary investigation, Dehati Nalish was registered by Police Station Ranjhi on 19.06.2017 which was sent to police Station Gora Bazar on 20.06.2017 which ultimately lodged the actual FIR. Initially the case was registered under Section 279 and 337 IPC and when the complainant submitted the X-ray report an additional charge under Section 338 of IPC was included.

14. Interestingly, in the reply filed by the State Government to the writ petition it is contended that the X-ray report was submitted by the respondent No. 5 on 03.01.2017 which is even prior to the alleged date of incident i.e. 26.03.2017. No application for amendment in the reply has been filed nor any other date was suggested by the counsel for the State during the course of the arguments and not even any oral assertion was made that this date mentioned is erroneous and some other dates be read in its place.

15. Heard.

16. In the present case, the accident is stated to have taken place on 26.03.2017 at near Nehra Company, on Dumna Road leading towards Jabalpur Airport. For the first time a Dehati Nalish was registered at Police Station Ranjhi on 19.06.2017 though the spot does not fall admittedly within the limits of Police Station Ranjhi. The spot admittedly is located within limits of Police Station Gorabazar. The Dehati Nalish mentions the contents that the complainant resides at Damoh Naka, Gohalpur, Jabalpur and on 26.03.2017 he was returning from Dumna Airport with his friend Anand Pathak and driving the motorcycle of his friend Anand Pathak and Anand Pathak was driving motorcycle of the complainant. When they reached near Nehra Company, then a 20 to 25 year old boy driving Honda CVR motorcycle with registration No.MP-20/MW-8612 dashed into the motorcycle of the complainant and the complainant fell down resulting in abrasions on forehead, right wrist and right waist. His motorcycle was also damaged. The other friends helped him out and called Lalu Prasad, another friend. The accused who dashed the motorcycle did not get any injury and he fled from the place. Then Anand Pathak took the complainant to home and complainant also took treatment at Metro Hospital. He reported the incident to S.P. Office on 31.03.2017 and when he felt pain in the wrist, then he consulted Jamdar Hospital on 05.05.2017 and is under treatment. This Dehati

Nalish was registered by Assistant Sub Inspector, Ravindra Singh of Police Station Ranjhi, Jabalpur. On the basis of this Dehati Nalish, FIR was lodged by Police Station Gorabazar with the assertion that Dehati Nalish has been received from Police Station Ranjhi to the jurisdictional Police Station, i.e. Gorabazar and therefore, the FIR is being lodged under Sections 279, 337 of I.P.C. containing the averments made in the Dehati Nalish.

17. The respondents have tried to justify the delay in lodging of the FIR on the ground that the spot of the accident was such that there was confusion amongst three Police Stations, i.e. whether it falls in Police Station Gorabazar or Civil Lines or Ranjhi and the complaint was being made to wander from here to there. In para 6 & 8 of the reply filed by the State Government following pleadings are made:-

“6. Even on merits, the instant petition is liable to be rejected by this Hon’ble Court. It is submitted that admittedly the accident was occurred on 26.03.2017 near Nehra Company (Dumna Airport to Jabalpur City Road). The respondent No.5 on the said date approached the Dumna Police Chouki for registration of the case. The police officials sent the ‘respondent No. 5 to Police Station Ranjhi and the Police station Ranjhi sent applicant/respondent No. 5 to Civil Lines Police Station. It is submitted that since, the jurisdiction of the Police Station regarding the place where accident took place was in dispute and therefore initially the complaint of the respondent No. 5 by any police station. Subsequently the respondent No. 5 approached Superintendent of Police Jabalpur on 01.04.2017. The Superintendent of Police forwarded the complaint of the respondent No. 5 to Police Station Gohalpur. After preliminary inquiry on 19.06.2017, a Dehati Nalishi was registered under Section 279 and 337 of IPC, however, the case was transferred to Police Station Gora Bazar on 20.06.2017 and thereafter the I.O. i.e. the respondent No. 4 in direction of the

respondent No.3 started the investigation of the case. During the investigation, the petitioner No. 2 was served by a notice under Section 133 of Motor Vehicle Act. On 25.08.2017, the petitioner No. 2 in reply to the notice admitted that his Motor Cycle bearing No. M.P. 20 MW-8612 was driven by his younger brother petitioner No. 1 on 26.03.2017 and the accident occurred because of him.

8. It is submitted by the answering respondents that on 03.01.2017, the respondent No. 5 submitted medical report and X-ray report of Jamdar Hospital wherein it was mentioned that there is a fracture in the wrist of the respondent No. 5 and accordingly Section 338 of IPC was included matter. Subsequently on 26.08.2017 after concluding the investigation, the Challan was prepared which was duly submitted before the Competent Court on 01.09.2017. The matter is now fixed from framing of charge on 24.07.2018.”

18. The State has taken the plea that the complaint was being sent from here to there. If that is taken to be, then it is clear that complainant on 31.03.2017 came to know that he is being sent from here to there by different police stations and he eventually reached the S.P. on that date.

19. It is really surprising that the S.P. sent him to Police Station Gohalpur. Gohalpur is not one of three police stations among which there was confusion, because undisputedly looking to geography of Jabalpur city Gohalpur is in a totally different place and there could have been no confusion that the place of accident would fall in Gohalpur Police Station. It is surprising to note that the Superintendent of Police Jabalpur did not know that under which police station area spot of accident falls and if he was under any confusion then he could have directed any Additional Superintendent of Police or Deputy Superintendent of Police under him to enquire and fix the jurisdiction of spot of accident. However, he did not chose to do any of these

things, but instead chose to send the complainant to a totally different police station, which shows that the Superintendent of Police, Jabalpur, if he endorsed the letter dated 31.3.2017 on 01.4.2017, had no knowledge of his duties as Superintendent of Police, because if this letter is indeed submitted to the S.P. on 31.03.2017 and he indeed sent the complainant to a totally different and unconnected Police Station, without instructing any of his subordinates to fix the jurisdiction of the police station, then it is evident that there cannot any better example of a totally negligent, careless and incompetent officer holding the post of Superintendent of Police, Jabalpur.

20. In the fairness of things the State should have come out with specific information that what punitive or disciplinary action has been taken against the then Superintendent of Police, Jabalpur for sending the complainant to a totally different Police Station, which was not one amongst the three police stations out of which confusion had arisen.

21. Interestingly, the State Government did not choose to file copy of the letter dated 31.03.2017 written by the complainant, which is said to be forwarded by the S.P., Jabalpur to Police Station Gohalpur. When this Court called for the case diary, then the said letter was found as part of the case diary, which is a photocopy of that letter and photocopy has been made carefully in such a manner that all the margins are cut. No signature of Superintendent of Police is there on this letter. It is bearing a stamp of inward of S.P. Office having Number 1804 dated 01.04.2017 and is a handwritten letter. At right top corner of it, in Hindi the word Gohalpur has been written, which was stated by learned Govt. Advocate to be written by the then S.P. Jabalpur and indicates that Police Station Gohalpur has been instructed to take further steps in the matter. The said letter in the situation it finds place in the case diary is as under :-

जो में,

पुलिस अधीक्षक जबलपुर

जो हल ४८

(6)



विषय → पुलिस के असमर्पन की सूचना और सहयोग के लिए निवेदन।

कमल पुलिस अधीक्षक

महोदय,

मैं आस्थापना जैन ९/० भार. के. जैन

पता :- C 16/17 कुचैनी परिसर दमोडनाका, मेरी शिकायत यह है की दिनांक 26-3-17 को एयरपोर्ट से लौटते स्म एक लड़के ने तेज़ CBR गाड़ी से मोड़ पर लगाने से आकर टक्कर मार दी जिससे मुझे गंभीर चोट लगी वाहन Splendour # क्षतिग्रस्त हो गया है। इस हादसे की रिपोर्ट करवाने के लिए दुमना चौकी पहुचने पर बताया गया कि रांझी थाने जाना पड़ेगा, रांझी थाने से मिलेला नाई थाने भेजा और हर जगह यह # बताया गया कि वह जगह जहाँ हादसा हुआ था (Nehru Company, Shiv Mandir) उस तीन थानों की सीमा में जहाँ आता और किस थाने में आता है उसका पता नहीं है।

मेरी गाड़ी का नम्बर - MP 20 ME 0913 [Splendour]

टोकर मारकर भागने वाले का नम्बर - MP 20 MW 8612 [Honda CBR]

कृपया सहायता करें।

धन्यवाद

आभासी

आस्थापना जैन

H. C. गुप्ता वागरी
आवृत्ति के अनुसार
प्रतिकृति से प्रसारित

C-2067

30/3/17

Date

21-3-20

22. This letter indicates that the complaint went to three police stations, i.e. Dumna Chouki (within Police Station Gorabazar), Ranjhi and Civil Lines. As already noted above, this letter does not bear any signature of the S.P.

Jabalpur or any police official in the manner it is found in the diary. The photocopy has been taken very carefully in a manner that all the margins have been cut on which signatures might have been there. As also noted above, it is handwritten letter stated to be scribed by the complainant and inward Number is 1804 dated 01.04.2017. Even the said inward number does not bear any initial of the inward clerk. If it was indeed a genuine letter, then it would have found place in the reply, but it is not so, but has been placed before this Court only as a part of case diary. This Court during the course of hearing of this writ petition has passed strict orders on 10.01.2018 and 30.10.2023, which are as under:-

“Dated : 10-01-2018

Shri Ashok Lalwani, learned counsel for the petitioners.

Shri Vishal Dhagat, learned Government Advocate for the respondents/State.

Learned G.A. for the respondents/State is directed to take instructions as to how the charge sheet has been filed in the present case arising out of an order of Motor Accident without there being any MLC.

Let the matter be listed in the week commencing 22.01.2018.

Dated : 30-10-2023

Shri Ashok Lalwani - Advocate for the petitioners.

Shri Saurabh Soni - Panel Lawyer for the respondent No. 1 /State.

Ms. Amrit Kaur - Advocate for respondent No.3.

Shri Harshwardhan Singh Rajput - Advocate for the respondent No.5.

Shri Gulab Singh Suhane - Advocate for respondent No. 6.

This petition is pending since 2018.

Ms. Amrit Kaur, Advocate prays for time to file reply on behalf of respondent No. 3.

Subject to payment of cost of Rs. 10,000/- to be recovered from the respondent No. 3 Sub Inspector and to be deposited in the High Court Legal Service Committee, two weeks' time is granted to file

reply failing which respondent No. 3 shall remain personally present on the next date of hearing.

At this stage, learned counsel for the respondent No. 3 submits that it is her fault, however she is not able to explain that how it is her fault that reply is not filed on behalf of respondent No. 3.

The Vakalatnama of respondent No. 6 is available then that of Respondent No. 4 and for the respondents No. 1 and 2 but there is no Vakalatnam on behalf of respondent No. 3. Even cause list reflects name of Shri Bramhaatt Singh, Shri Abhishek Dubey, Shri Ankit Singh Sishodiya, Ravindranath Chaturvedi and Siddharth Narula as counsel for respondent No. 3. The contention that default yet is not made out from the record.

Let cost be deposited and reply be filed within two weeks as directed earlier.

In the mid of the arguments, Ms. Amrit Kaur, Advocate seeks time when it is pointed out that how police authorities have manipulated and managed the records, she sought time to argue the matter without there being any pleadings when she asked to file return and she cannot be permitted to argue on behalf of Respondent No. 3 who happens to be main kingpin of manipulation without filing written statements.

Right to file return on behalf of the respondent No. 5 is closed.

List the case on 23.11.2023."

23. Even in MCRC 17182/2018, while issuing notice on 01.8.2018, this Court had passed the following order :-

"Shri Ashok Lalwani, counsel for the applicant.

Shri S.D. Khan, Govt. Advocate for the respondent/State.

Learned Govt. Advocate for the State has submitted that the OIC has informed him that prescription showing the bony injury of Jamdar Hospital have been received from the complainant and enclosed in the challan/charge sheet. No seizure memo is prepared. However, there is no procedure in this regard.

Heard on I.A. No.6974/2018, an application for stay.

The applicant demonstrates that the complainant/respondent No.3 lodged an FIR on 20.6.2017 at Police Station, Gorabazar registered as Crime No.60/2017 for offence under Sections 279, 337 of the IPC.

The complainant after the accident received primary medical treatment. He suffered the injuries on his right wrist and an abrasion

on his palm. Subsequently, the complainant went to Jamdar Hospital for treatment on 5.5.2017. The report of Jamdar Hospital show that there were a healed fracture on scaphoid (Rt) and a healed crack. Report of Jamdar Hospital was submitted by the complainant to the police. Police without making any seizure memo and without verification from the hospital has enclosed the same in the challan. Considering the same, charge sheet has been filed under Section 279, 337 and 338 of the IPC before the JMFC, Jabalpur and RT No.4854/2017 has been registered.

Let notice be issued to the respondent No.3 on payment of P.F. within six working days by ordinary as well as RAD mode, returnable within four weeks.

Till the next date of hearing, it is directed that the proceedings of R.T. No.4854/2017 be stayed.

List after four weeks”

24. It appears that to get over such orders, this letters and letter dated 01.6.2017 have been inserted in the case diary, which are neither part of the reply filed before this Court nor part of the charge sheet/challan.

25. Another letter dated 01.06.2017 is placed in the case diary, which is stated to be sent by Police Station Ghamapur to S.P. Jabalpur in reference to letter of S.P. No.1804/2017 dated 30.05.2017. As already noted above, 1801 is the inward number of the letter dated 31.03.2017 in S.P. Office. However, the letter dated 01.06.2017 written by Police Station Ghamapur refers to some letter of S.P. bearing No.1804/2017 dated 30.05.2017. The letter dated 30.05.2017 is neither part of the case diary nor part of the reply nor part of the challan. It is evident that inward number of letter dated 31.03.2017 has been borrowed, some imaginary date has been written and then a new letter has been created by Police Station Ghamapur indicating forwarding complaint to Police Station Ranjhi so as to fill up the gap that when the S.P. had directed Police Station Gohalpur to look into the matter, then in what manner the complaint came to Police Station Ranjhi. This letter dated 01.06.2017 is as under:-

कार्यालय पुलिस थाना घमापुर जिला जबलपुर (म.प्र.)

ईमेल नंबर 162jabalpur@gmail.com.in फोन नंबर 0761-2676162

क/196/17

दिनांक 01/06/17

प्रति,

श्रीमान पुलिस अधीक्षक महोदय
जिला जबलपुर

विषय:- आवेदक ऋषभ जैन की शिकायत जॉय के संबंध में ।।

संदर्भ:- पु.अ./जबल/शिका/1804/17 दिनांक 30/05/17 ।

महोदय,

निवेदन है कि श्रीमान के कार्यालय से प्राप्त शिकायत पत्र का विधिवत अवलोकन किया गया आवेदक द्वारा लेख किया गया घटना स्थल का पता नेहरा कंपनी शिव मंदिर थाना रांझी के अर्तगत आता है यूनियन सिटी से लेकर एयरपोर्ट हुमना तक थाना घमापुर के क्षेत्रान्तर्गत नहीं आता है।

अतः आवेदन पत्र कि जॉय थाना रांझी से कराये जाने कि सादर विनय है ।

प्रतिवेदन सादर प्रेषित है ।

आज्ञा मुहरी
रांझी
01-06-2017

आज्ञा मुहरी
आज्ञा मुहरी
1-6-17

श्री. Ravinder
गो.म.प. के अधिकारी के
को.प. के अधिकारी के
1-6-17

26. This letter of Police Station Ghamapur is a totally new thing and it is something totally alien to the entire controversy, because it is neither out of the three police stations among which confusion was there, nor the police station to which the complainant is stated to have been sent by the S.P. It is a fifth police station jumping in the fray and seems that this letter is having concocted letter number and date of some non-existent letter S.P. Office

Jabalpur, these particulars in the “*Sandarbh*” (reference) contained in this letter seems to have been fabricated only to fill the missing link that how the complaint of the complainant went to Police Station Ranjhi and to fill up the gap up to 19.06.2017.

27. From the aforesaid facts it is clear to this Court from perusal of the case diary, charge sheet and replies that the letter dated 01.06.2017 is a letter having fabricated number and date of some non-existent letter of S.P. Office Jabalpur and letter dated 31.03.2017 is also a totally fabricated letter as the police has taken great pains to insert such a photo copy in the case diary that will not show any signature.

28. The aforesaid facts reveal a very sinister attempt on the part of the police authorities in firstly doing wrong and then trying to cover up the wrong.

29. If indeed the letter dated 31.03.2017 was true, then there was no reason why the Inspector General of Police or the DGP would not have taken any action against the S.P. Jabalpur for sending the complainant to a different police station situated in different direction of the City. If this letter was correct, then there was no reason that why the Police Station Gohalpur had not made any daily diary entry or not prepared Dehati Nalish. If Police Station Gohalpur was indeed instructed by the S.P. Jabalpur, then it should have at least made an entry in daily diary and forwarded the matter to the correct Police Station under intimation to the S.P. or could have prepared Dehati Nalish, conducted preliminary enquiry and then forwarded to the correct Police Station. However, not a single letter or documentation of Police Station Gohalpur is on record. How the complaint came in Police Station Ghamapur is suspicious and only gives to conclusion that since the then SHO of Police Station Ghamapur was agreeable to sign on this letter containing fabricated letter number and date of some non-existent letter of

S.P. Office, Jabalpur, that the letter dated 01.06.2017 of Police Station Ghamapur was got signed and inserted in the case diary.

30. It is further important to note here that if indeed, the complainant had approached the correct Police Station Gorabazar also between 26.03.2017 till 31.03.2017, then the S.P. was under obligation to take action against SHO of that Police Station for not taking cognizance of complainant's complaint, but curiously, he decided to dispatch the complainant to a totally different police station.

31. In Dehati Nalish also an attempt was made to fill up the gap of time since 26.3.2017, but no reference was made to letter of Police Station Ghamapur and only reference is made to some letter submitted before S.P. Jabalpur on 31.03.2017, which has already been considered in detail above in this order.

32. Coming to the so called X-ray report, it is only a prescription signed by one Dr. Shirish Naik at Jamdar Hospital. No money receipt is attached with the said prescription of deposit of money for consultation or for X-ray. The State admits in the reply that the said report was submitted by the complainant himself on 03.01.2017. The date seems to be wrong, but there is admission that this report was submitted by the complainant himself and not seized by the police. There is no seizure memo available either in the case diary or attached to the charge sheet. This is a simple prescription and not even the medical certificate, because a medical certificate is required to be issued by a registered medical practitioner in accordance with clause 1.3.3 of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002. Clause 1.3.3 is as under:-

“1.3.3 A Registered medical practitioner shall maintain a Register of Medical Certificates giving full details of certificates issued. When issuing a medical certificate he / she shall always enter the identification marks of the patient and keep a copy of the certificate. He / She shall not omit to record the signature and/or

thumb mark, address and at least one identification mark of the patient on the medical certificates or report. The medical certificate shall be prepared as in Appendix 2.”

33. The prescription is signed by one Dr. Shirish Naik, who is not an Radiologist. One cover page of X-ray report is available in the case diary bearing the name of Rishabh Jain as the patient having age 35 years and undergone skiagram of right wrist. The name of Radiologist is mentioned as Dr. Gopala Pole (MBBS, MD). It is really fishy that once the cover page of X-ray report mentions the name of Radiologist, then no actual X-ray report prepared by that person is on record, but only prescription of an orthopedic doctor is on record, which mentions five weeks old doubtful fracture of right scaphoid and nothing else.

34. It is really curious to note that even no case diary statements of Dr. Shirish Naik or Dr. Gopala Pole have been recorded. The prescription does not fall in the meaning of medical certificate as per Clause 1.3.3, which could be verified from the record of the same medical practitioner, nor case diary statements of the Doctors were taken and not even any Radiologist's report is on record, then how the police authorities have come to conclusion and charge sheeted the accused under Section 338 IPC is really fishy and speaks volumes about the bad intention of the police authorities in the matter. It is evident to this Court that police authorities any how wanted a FIR under cognizable offences to be lodged and charge-sheet to be presented so that some police record of some accident can be created to facilitate motor accident claim case and that was all which was intended by the police authorities.

35. This Court has also gone through the case diary statements of Rishabh Jain (complainant), Akshansh Pathak (somewhere mentioned as Akash Pathak) who is stated to be his friend and was present at the time of accident, so also Lalu Prasad, who was called by the complainant after accident took

place and all of them have stated about the complainant firstly being taken to Metro Hospital. However, no document of treatment of Metro Hospital is on record. The medical record of Metro Hospital should have been first thing, which was to be seized by the police if it had wanted to fill up the gap. The police did not choose to either visit the Metro Hospital nor called for their records, but simply believed the prescription of orthopedic doctor mentioning a doubtful five weeks old fracture. If there was any carelessness by Metro Hospital Authorities either in not carrying out X-ray despite there being fracture or not detecting fracture from the X-ray, then complainant never took any action against the Metro Hospital and it is clear that only to claim accident claim compensation that this entire story has been cooked up.

36. A mechanical damage report is also part of the challan signed by two witnesses and the investigating officer on 22.06.2017 mentioning that there is damage to footrest, shocker, leg guard, gear and both the tyres of the motorcycle. This mechanical damage report is not signed by any mechanical examiner or lost assessor or valuer. It cannot be believed that a person did not get his motorcycle repaired for three months after the accident. Even no photographs of the damaged motorcycle are part of the case diary. Therefore, it is evident that this has also been prepared by the Investigating Officer only to facilitate claim of compensation by the complainant and nothing else.

37. Faced with all these facts during the course of arguments, learned counsel for the respondents made an argument in desperation mentioning that the petitioner No.2 has admitted the involvement of vehicle and guilt of petitioner No.1 by writing a letter, which is part of the charge-sheet and is available at page 21 of the writ petition, which is as under:-

“वाहन मालिक का पत्र

दिनांक 25/8/17

प्रति,

श्रीमान् थाना प्रभारी महोदय,
थाना गोराबाजार
जिला जबलपुर (म.प्र)

विषय:— मो.सा.क्र. एम.पी.20 एम.डब्लू 8612 वाहन चालक एवं मालिक के संबंध में जानकारी देने बावत्।

महोदय,

निवेदन है कि मैं सलिल खत्री पिता अनिल खत्री निवासी साउथ सिविल लाईन ब्लॉक नं. 32 थाना सिविल लाईन का निवासी हूँ यह कि दिनांक 26.08.2017 को शाम 6 बजे नेहरा कंपनी शिव मंदिर के सामने मेरा मोटर सायकल से एक मो. सा. चालक एकसीडेंट हो गया था घटना दिनांक को मो.सा. मेरा छोटा भाई रूपांश खत्री चला रहा था उक्त मोटर साईकल का मैं स्वयं वाहन मालिक हूँ जिसकी जानकारी सही एवं सत्य दे रहा हूँ।

आवेदक
सलिल खत्री पिता अनिल खत्री
निवासी ब्लॉक नं. 32,
साउथ सिविल लाईन
थाना सिविल लाईन''

38. The said letter was stated vehemently to be an admission of guilt by the petitioner No.2. However, the FIR is against the petitioner No.1, who was allegedly driving the vehicle and even this letter signed by the petitioner No.2 is in response to a notice under Section 133 Motor Vehicle Act issued by the Police Station, when he has been called to the police station along with driver and documents of the vehicle.

39. As per Section 133 of the Motor Vehicle Act, it is the duty of the owner of vehicle to give information regarding the name and address and license held by the Driver or Conductor, which is in his possession or could be ascertained by him. Section 133 of the Motor Vehicle Act is under:-

“133. Duty of owner of motor vehicle to give information. - The owner of a motor vehicle, the driver or conductor of which is accused of any offence under this Act shall, on the demand of any police officer authorised in this behalf by the State Government, give all information regarding the name and address of, and the licence held by, the driver or conductor which is in his possession or could be ascertained by him.”

40. The notice sent by the police authorities under Section 133 of the Motor Vehicle Act was as under:-

“कार्यालय थाना प्रभारी थाना गोराबाजार जिला जबलपुर म.प्र.

क्र.Q/17

दिनांक 19.08.17

नोटिस
(धारा 133 MV Act)

प्रति,

सलिल खत्री पिता अनिल खत्री
म.नं. 32 आर.टी.ओ ऑफिस के सामने
साउथ सिविल लाईन थाना सिविल लाइन जबलपुर म.प्र.

आपको जरिये नोटिस सूचित किया जाता है कि दिनांक 26.03.17 के शाम 06.20 बजे प्रार्थी ऋषभ जैन पिता राजेन्द्र कुमार जैन निवासी दमोह नाका गोहलपुर को आपके मोटरसायकल क्र. एम.पी. 20 एम डब्ल्यू 8612 के चालक द्वारा नेहरा कंपनी शिव मंदिर के पास प्रार्थी को टक्कर मारकर चोट पहुँचाया था।

अतः आप यह बतावें कि उक्त घटना दिनांक को वाहन का चालक कौन था। एवं दिनांक 23.08.17 के ठीक 10.00 बजे मय वाहन चालक एवं वाहन के दस्तावेज के थाना उपस्थित आवें।

थाना प्रभारी
थाना गोराबाजार”

41. The Police Station in-charge did not limit his query to the scope of Section 133, but he went ahead and physically called the vehicle owner as well as physically called the driver to the police station, which is not the scope of Section 133. It is evident to this Court that the Station House Officer grossly abused his powers and misused the provisions of Section 133 Motor Vehicle Act and physically called the vehicle owner and driver to the police station. Thus, this notice is not a notice under Section 133 Motor Vehicle Act, but is a pressure tactics to pressurize the vehicle owner and if under such pressure tactics the vehicle owner has written the letter while sitting in the police station, then it cannot be said to be admission of guilt of driver. At best it can be said to be admission of petitioner No.1 driving vehicle on 26.03.2017 and nothing else. How petitioner No.2, who was not present at the time of incident can admit occurrence of accident involving petitioner No.1, who was alleged to be driving the vehicle.

42. The menace of false motor accident cases is writ large in the society and the Hon’ble Supreme Court in the case of *Safiq Ahmed (supra)* has

recognized the requirement of curbing the menace of filing false claim petitions and also taken cognizance of number of fictional accidents and false petitions and impleadment of names and addresses of fake persons in actual accidents or actual persons in fake accidents.

43. As per Clause 815 of Police Regulations, there is a specific provision for examination of wounded persons and it is obligatory for the police to obtain the consent of a person having sustained injuries and being sent to the nearest hospital. The Constable must take the injured person to hospital with report to the police prosecutor, who will send the necessary requisition to the civil surgeon for examination of injured person. Clause 815 of M.P. Police Regulations is as under :-

***“815. Wounded persons - Examination of -** Complainants and others wounded or injured during the commission of an offence should, as a rule, and provided their consent is obtained, be conveyed as soon as possible to the nearest hospital, together with a requisition in the prescribed form for their examination. When an injured person is sent to headquarters for examination by the civil surgeon, the requisition form should, if possible, be filled up in English. If there is nobody at the police station capable of writing English, the constable who takes the injured person to hospital will report to the Police Prosecutor who will send the necessary requisition for examination to the civil surgeon. If an injured person is unconscious and incapable of giving a consent, and there is no relation present empowered to give a consent on his behalf, the investigating officer will forward the injured person to hospital if he considers this course is essential in his own interests as affording the only chance of saving his life. Such a person should not, however, be forwarded to hospital if it is apparent that the journey will precipitate his death.”*

44. If indeed the complainant was wounded on 26.03.2017 and sustained fracture and after unsuccessfully approaching three different police stations, ultimately reached the S.P. on 31.03.2017, then what action was taken by the S.P. in terms of Clause 815 and if he did not take any action then what action should be taken against the S.P. for violating clause 815 is something, which was required to be contemplated by the Senior Officers of the police force.

45. Since no action was taken, then it only leads to one conclusion that the letter dated 31.03.2017 never existed, because if it ever existed, then it was obligatory for the senior officers of the police, to have taken action under for violation of Clause 815 of Police Regulation against the then S.P.

46. So far as the alleged letter written by petitioner No.1 dated 25.08.2017 and it was projected to be admission of guilt, the same has already been dealt with by this Court above. However, one more aspect may need to be considered. This letter is obviously not a confession of the accused, who is the petitioner No.1. Confession given to police authority is obviously not admissible in evidence as per Sections 25 and 26 of the Indian Evidence Act 1872. Even if it was a disclosure statement under Section 27 of Indian Evidence Act, even then a disclosure statement in itself has no evidentiary value, except only that part of the statement made by the accused, which distinctly relates to discovery of some fact as a consequence of information disclosed by the accused under Section 27. Recently, a three Judge Bench of the Hon'ble Supreme Court had the occasion to consider the Sections 25 to 27 of the Indian Evidence Act in the following manner in the case of **Randeep Singh v. State of Haryana, 2024 SCC OnLine SC 3383**, which reads as under:-

“15. Sections 25 to 27 of the Evidence Act read thus:

“25. Confession to police-officer not to be proved.— No confession made to a police-officer, shall be proved as against a person accused of any offence.

26. Confession by accused while in custody of police not to be proved against him.— No confession made by any person whilst he is in the custody of a police-officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person.

Explanation.—In this section “Magistrate” does not include the head of a village discharging magisterial functions in the Presidency of Fort St. George or elsewhere, unless such headman is a Magistrate exercising the powers of a Magistrate under the Code of Criminal Procedure, 1882 (10 of 1882).

27. How much of information received from accused may be proved.— Provided that, when any fact is deposed to as discovered

inconsequence of information received from a person accused of any offence, in the custody of a police-officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.”

16. A perusal of the deposition of PW-27, which we have quoted above, shows that he attempted to prove the confessions allegedly made by the accused to a police officer when they were in Police custody. There is a complete prohibition on even proving such confessions. The learned Trial Judge has completely lost sight of Sections 25 and 26 of the Evidence Act and has allowed PW-27 to prove the confessions allegedly made by the accused while they were in police custody. PW-27 stated that the appellant “suffered disclosure statement at Exhibits ‘P55’ and ‘P56’ respectively”. Obviously, he is referring to disclosure of the information under Section 27 of the Evidence Act. The law on disclosure under Section 27 is well settled right from the classic decision of the Privy Council in the case of *Pulukuri Kotayya v. King-Emperor*². In the case of *K. Chinnaswamy Reddy v. State of A.P.*³, this Court relied upon the decision of the Privy Council and in paragraph 9 held thus:

“9. Let us then turn to the question whether the statement of the appellant to the effect that “he had hidden them (the ornaments)” and “would point out the place” where they were, is wholly admissible in evidence under Section 27 or only that part of it is admissible where he stated that he would point out the place but not that part where he stated that he had hidden the ornaments. The Sessions Judge in this connection relied on *Pulukuri Kotayya v. King-Emperor* [(1946-47) 74 IA 65] where a part of the statement leading to the recovery of a knife in a murder case was held inadmissible by the Judicial Committee. In that case the Judicial Committee considered Section 27 of the Indian Evidence Act, which is in these terms:

“Provided that, when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.”

This section is an exception to Sections 25 and 26, which prohibit the proof of a confession made to a police officer or a confession made while a person is in police custody, unless it is made in immediate presence of a Magistrate. Section 27 allows that part of the statement made by the accused to the police “whether it amounts to a confession or not” which relates distinctly to the fact thereby discovered to be proved. Thus even a confessional statement before the police which distinctly relates to the discovery of a fact may be proved under Section 27. The Judicial Com-

mittee had in that case to consider how much of the information given by the accused to the police would be admissible under Section 27 and laid stress on the words “so much of such information...as relates distinctly to the fact thereby discovered” in that connection. It held that the extent of the information admissible must depend on the exact nature of the fact discovered to which such information is required to relate. It was further pointed out that “the fact discovered embraces the place from which the object is produced and the knowledge of the accused as to this, and the information given must relate distinctly to this fact”. It was further observed that—

“Information as to past user, or the past history of the object produced is not related to its discovery in the setting in which it is discovered.”

This was exemplified further by the Judicial Committee by observing—

“Information supplied by a person in custody that ‘I will produce a knife concealed in the roof of my house’ leads to the discovery of the fact that a knife is concealed in the house of the informant to his knowledge, and if the knife is proved to have been used in the commission of the offence, the fact discovered is very relevant. If however to the statement the words be added ‘with which I stabbed A’, these words are inadmissible since they do not relate to the discovery of the knife in the house of the informant.”

(emphasis added)

Section 27 is an exception to Sections 25 and 26. It permits certain parts of the statement made by the accused to a police officer while in custody to be proved. Under Section 27, only that part of the statement made by the accused is admissible, which distinctly relates to the discovery. It becomes admissible when a fact is discovered as a consequence of the information received from the accused. What is admissible is only such information furnished by the accused as relates distinctly to the facts thereby discovered. No other part is admissible. By Exhibits ‘P55’ and ‘P56’, it is alleged that the accused showed the places where the deceased was abducted, where he was murdered and where his body was thrown. In this case, even the inadmissible part of the statement under Section 27 of the Evidence Act has been incorporated in the examination-in-chief of PW-27. The learned trial judge should not have recorded an inadmissible confession in the deposition. A confessional statement made by the accused to a police officer while in custody is not admissible in the evidence except to the extent to which Section 27 is applicable. If such inadmissible confessions are made part of the depositions of the prosecution

witnesses, then there is every possibility that the Trial Courts may get influenced by it.”

47. A confession made by owner of the vehicle, admitting guilt of the Driver, that too after the police abusing the powers under Section 133 of the Motor Vehicle Act and calling the owner and driver physically to the police station by applying pressure tactics, cannot be said to be disclosure of the accused under Section 27, because no further discovery of any fact took place. Even the police have not recorded it as disclosure statement under Section 27 of the Indian Evidence Act.

48. In the case of *Neeharika Infrastructure (P) Ltd. v. State of Maharashtra, (2021) 19 SCC 401*, the Hon’ble Supreme Court had the occasion to consider the entire law relating to jurisdiction of the High Court under Section 482 Cr.P.C./Article 226 of the Constitution of India and laid down the following para meters:-

“10. While considering the aforesaid issue, law on the exercise of powers by the High Court under Section 482CrPC and/or under Article 226 of the Constitution of India to quash the FIR/complaint and the parameters for exercise of such powers and scope and ambit of the power by the High Court under Section 482CrPC and/or under Article 226 of the Constitution of India are required to be referred to as the very parameters which are required to be applied while quashing the FIR will also be applicable while granting interim stay/protection.

10.1. The first case on the point which is required to be noticed is the decision of this Court in R.P. Kapur [R.P. Kapur v. State of Punjab, 1960 SCC OnLine SC 21 : AIR 1960 SC 866] . While dealing with the inherent powers of the High Court under Section 561-A of the earlier Code (which is in pari materia with Section 482 of the Code), it is observed and held that the inherent powers of the High Court under Section 561 of the earlier Code cannot be exercised in regard to the matters specifically covered by the other provisions of the Code; the inherent jurisdiction of the High Court can be exercised to quash proceedings in a proper case either to prevent the abuse of the process of any court or otherwise to secure the ends of justice; ordinarily criminal proceedings instituted against an accused person must be tried under the provisions of the Code, and the High Court would be reluctant to interfere with the said proceedings at an interlocutory

stage. After observing this, thereafter this Court then carved out some exceptions to the abovestated rule, which are as under : (AIR p. 866)

“(i) Where it manifestly appears that there is a legal bar against the institution or continuance of the criminal proceeding in respect of the offence alleged. Absence of the requisite sanction may, for instance, furnish cases under this category.

(ii) Where the allegations in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged; in such cases no question of appreciating evidence arises; it is a matter merely of looking at the complaint or the first information report to decide whether the offence alleged is disclosed or not.

(iii) Where the allegations made against the accused person do constitute an offence alleged but there is either no legal evidence adduced in support of the case or the evidence adduced clearly or manifestly fails to prove the charge. In dealing with this class of cases it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is manifestly and clearly inconsistent with the accusation made and cases where there is legal evidence which on its appreciation may or may not support the accusation in question. In exercising its jurisdiction under Section 561-A the High Court would not embark upon an enquiry as to whether the evidence in question is reliable or not. That is the function of the trial Magistrate, and ordinarily it would not be open to any party to invoke the High Court's inherent jurisdiction and contend that on a reasonable appreciation of the evidence the accusation made against the accused would not be sustained.”

(emphasis supplied)

10.2. In *Kurukshetra University [Kurukshetra University v. State of Haryana, (1977) 4 SCC 451 : 1977 SCC (Cri) 613]*, this Court observed and held that inherent powers under Section 482CrPC do not confer an arbitrary jurisdiction on the High Court to act according to whim or caprice; that statutory power has to be exercised sparingly with circumspection and in the rarest of rare cases. In the case before this Court, the High Court quashed the first information report filed by the Kurukshetra University through Warden and that too without issuing notice to the University, in exercise of inherent powers under Section 482CrPC. This Court noticed and observed that the High Court was not justified in quashing the FIR when the police had not even commenced investigation into the complaint filed by the Warden of the University and no proceedings were at all pending before any Court in pursuance of the FIR.

10.3. Then comes the celebrated decision of this Court in *Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426]*. In the said decision, this Court considered in detail

the scope of the High Court powers under Section 482CrPC and/or Article 226 of the Constitution of India to quash the FIR and referred to several judicial precedents and held that the High Court should not embark upon an inquiry into the merits and demerits of the allegations and quash the proceedings without allowing the investigating agency to complete its task. At the same time, this Court identified the following cases in which FIR/complaint can be quashed:

“102. (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fides 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.”

49. Thereafter, the Hon’ble Supreme Court reached to conclusion in para 33 of the aforesaid judgment by considering the nature of jurisdiction of the High Court under Section 482 Cr.P.C./Article 226 of the Constitution of India.

50. In the present case, it is a case of there being no legal evidence against the present petitioner to continue with the impugned charge sheet. On the other hand, it is a case of gross misuse of powers by the police, which is nothing but a grossly oppressive action by the police authority in the present case, which has had the effect of putting the petitioners to give prejudice by involving them into a non-existent case having no legal evidence.

51. It is not the case where the matter is at the investigation stage, but even charge sheet has been filed after completion of investigation and no other legal evidence remains to be collected by the police.

52. Therefore, in the opinion of this Court, it is a fit case to quash the FIR registered against the present applicant so also the consequential proceedings arising therefrom, which is the prayer made in M.Cr.C. No.17182/2018. Therefore, the FIR and consequential proceedings stand **quashed**.

53. So far as writ petition is concerned, this Court has given detailed reasoning and findings in the matter of abuse of powers by the different police authorities and the manner in which the letter dated 01.06.2017 and 31.03.2017 seem to have been created.

54. Let the Director General of Police cause a preliminary enquiry, either himself or through a competent authority under him, into the matter to find out whether the activities of various police officials in this entire matter lead to any criminal offence or misconduct on their part. If any misconduct is found on the part of the police officials, then they would be proceeded against departmentally by the police authorities. In case any criminal offence is found to be committed, then the law shall be allowed to take its own course.

55. Let the decision in this regard be taken by the Director General of Police within a period of two months from today and outcome be also communicated to the petitioners, failing which the petitioners shall be entitled to institute contempt proceedings against the Director General of Police. If

the petitioners are aggrieved by the decision so taken by the D.G.P., they would be at liberty to renew their prayer so far W.P. No.127/2018 is concerned by resorting to fresh proceedings as permissible under law, to the extent of seeking disciplinary and punitive action against the police officials.

56. With the aforesaid directions, both the petitions are **allowed**.

(VIVEK JAIN)
JUDGE

MISHRA/rj