

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr.MMO No.754 of 2024****Date of Decision: 27.02.2026**

Dalip Singh Thakur

.....Petitioner

Versus

State of H.P. & another

... Respondents

Coram:**Hon'ble Mr. Justice Sandeep Sharma, Judge.**Whether approved for reporting? ¹ Yes.

For the Petitioner: Mr. S.D. Gill, Advocate.**For the Respondents:** Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocate Generals with Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General.

Sandeep Sharma, Judge(oral):

Through, instant petition filed under Section 482 Cr.P.C, prayer has been made on behalf of the petitioner for quashing of FIR No.306 of 2016, dated 12.12.2016, under Sections 467, 468, 471, 201, 120-B of IPC and Section 196 of Motor Vehicles Act, registered at police Station, Sadar, District Mandi, Himachal Pradesh as well as consequent proceedings, if any, pending adjudication in the Court of learned Chief Judicial Magistrate, Mandi, District Mandi, Himachal Pradesh in Cr. Case No.357 of 2017, qua the petitioner.

2. Precisely, the facts of the case, as emerge from the pleadings adduced on record by the respective parties, are that on

¹ Whether the reporters of the local papers may be allowed to see the judgment?

12.12.2016, ASI Ram Lal, In-charge of CI-cum- Narcotic Cell, received information from the intelligence source that a red-brown tipper bearing registration No. HP-62-3727 appears to be stolen, as its Chassis number had allegedly been tampered with and was fake. After having received aforesaid information, police official, named hereinabove, visited the spot and found the afore tipper bearing registration No. HP-62-3727 parked on the roadside. The person sitting inside the tipper identified himself as Rahul @ Neelmani son of Sh. Pratap Singh, R/o village and post office Talyahar. Aforesaid person produced tipper's registration certificate i.e. R.C and as per the same, actual owner of the vehicle was found to be Sh. Kulveer Singh son of Sh. Tule Ram. Upon checking, the Chassis number matched with the RC, but the engine number and chassis number were allegedly found to be tampered with. On inquiry, Investigating Officer found that owner had either tampered with the tipper and prepared fake documents or had purchased a stolen tipper and prepared fake documents and as such, registered the FIR, as detailed hereinabove.

3. During investigation, it transpired that fake documents were prepared for the registration of tipper by present petitioner, who at the relevant time was functioning as a Notary Public. It is alleged that petitioner assisted the main accused namely, Jagdish Thakur, in converting the vehicle bearing registration No. HP-62-3727 tipper

2009 model to a 2014 model. Though, petitioner herein was not originally named in the FIR, but at the time of filing challan, he was arrayed as an accused. In aforesaid background, petitioner has approached this Court in the instant proceedings for quashing of the FIR as well as consequent proceedings pending in the competent Court of law.

4. Pursuant to notice issued in the instant proceedings, respondent-State has filed reply, wherein the facts, as noticed hereinabove, have not been disputed, rather stand admitted. It has been averred at the behest of the respondent that offence committed by the petitioner is serious in nature and he cannot escape the consequences of the offence allegedly committed by him by filing present petition.

5. Precisely, the grouse of the petitioner, as has been highlighted in the petition and further canvassed by Mr. S.D.Gill, learned counsel representing the petitioner, is that the petitioner has been falsely implicated in the present case. Mr. Gill, submitted that petitioner, being a Notary Public, is entitled to the protection given under Section 13 of the Notaries Act. He submitted that affidavit, if any, allegedly prepared for registration of the vehicle, as detailed hereinabove, was prepared by the petitioner, being a Notary Public, and at the relevant time, executant was duly identified by the attesting witness. While referring to Section 13 of the Notaries Act, learned

counsel for the petitioner submitted that no criminal proceedings could have been initiated against the petitioner in the absence of a specific complaint in writing made by an officer authorized by the Central or the State Government. In support of his aforesaid arguments, he relied upon the judgment passed by this Court in **Dalip Singh Thakur vs. State of H.P., 2024 SCC Online HP 233**.

6. Per contra, Mr. Vishal Panwar, learned Additional Advocate General, while praying for dismissal of the petition at hand, argued that petitioner has committed a serious crime and as such, does not deserve any leniency. He submitted that petitioner never entered the agreement/affidavit in the register, which itself suggests that the petitioner had not acted in a bona fide manner. He submitted that whether the petitioner had connived with the main accused or he had no knowledge of false affidavit, admitted to be prepared at the behest of main accused, is a question to be decided by the trial Court in totality of evidence collected on record by the prosecution, but certainly this is not a fit case where this Court exercising power under Section 482 Cr.P.C.(Section 528 of Bharatiya Nagarik Suraksha Sanhita), for quashing the FIR as well as consequent proceedings.

7. I have heard learned counsel for the parties and have gone through the record carefully.

8. Before ascertaining the correctness and genuineness of the aforesaid submissions and counter submissions made on behalf

of learned counsel representing the parties, this Court deems it necessary to discuss /elaborate the scope and competence of this Court to quash the FIR as well as criminal proceedings, while exercising power under Section 482 Cr.P.C.

9. The law relating to quashing of criminal cases was explained by the Hon'ble Supreme Court in **B.N. John v. State of U.P., 2025 SCC OnLine SC 7** as under:-

"7. As far as the quashing of criminal cases is concerned, it is now more or less well settled as regards the principles to be applied by the court. In this regard, one may refer to the decision of this Court in State of Haryana v. Ch. Bhajan Lal, 1992 Supp (1) SCC 335, wherein this Court has summarised some of the principles under which FIR/complaints/criminal cases could be quashed in the following words:

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(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 concerned Act (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 concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(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 a private and personal grudge.” (emphasis added)

8. Of the aforesaid criteria, clause no. (1), (4) and (6) would be of relevance to us in this case.

In clause (1) it has been mentioned that 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, then the FIR or the complaint can be quashed.

As per clause (4), where the allegations in the FIR do not constitute a cognizable offence but constitute only a noncognizable offence, no investigation is permitted by a police officer without an order dated by the Magistrate as contemplated under Section 155 (2) of the CrPC, and in such a situation, the FIR can be quashed.

Similarly, as provided under clause (6), if there is an express legal bar engrafted in any of the provisions of the CrPC or the concerned Act under which the criminal proceedings are instituted, such proceedings can be quashed.”

10. This position was reiterated in *Ajay Malik v. State of Uttarakhand*, 2025 SCC OnLine SC 185, wherein it was observed:

“8. It is well established that a High Court, in exercising its extraordinary powers under Section 482 of the CrPC, may issue orders to prevent the abuse of court processes or to secure the ends of justice. These inherent powers are neither controlled nor limited by any other statutory provision. However, given the broad and profound nature of this authority, the High Court must exercise it sparingly. The conditions for invoking such powers are embedded within Section 482 of the CrPC itself, allowing the High Court to act only in cases of clear abuse of process or where intervention is essential to uphold the ends of justice.

9. It is in this backdrop that this Court, over the course of several decades, has laid down the principles and guidelines that High Courts must follow before quashing criminal proceedings at the threshold, thereby pre-empting the Prosecution from building its case before the Trial Court. The grounds for quashing, inter alia, contemplate the following situations : (i) the criminal complaint has been filed with mala fides; (ii) the FIR represents an abuse of the legal process; (iii) no prima facie offence is made out; (iv) the dispute is civil in nature; (v.) the complaint contains vague and omnibus allegations; and (vi) the parties are willing to settle and

compound the dispute amicably (**State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335**).”

10. It is apparent from the aforesaid exposition of law that power under Section 482 Cr.P.C can be exercised where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (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 concerned Act, providing efficacious redress for the grievance of the aggrieved party.

11. Now being guided by the aforesaid proposition of law laid down by the Hon’ble Apex Court, this Court would make an endeavor to examine and consider the prayer made in the instant petition vis-à-vis factual matrix of the case.

12. In nutshell, the case of the petitioner, as has been projected before this Court, is that no criminal proceedings could have been initiated against him in the absence of a written complaint, if any made by an authorized officer of the Central or State Government, in terms of Section 13 of Notaries Act.

13. Section 13 of the Notaries Act, reads as under:-

Cognizance of offence.—(1) *No court shall take cognizance of any offence committed by a notary in the exercise or purported exercise of his functions under this Act save upon complaint in writing made by an officer authorized by the Central Government or a State Government by general or special order in this behalf.*

(2) No Magistrate other than a Presidency Magistrate or a Magistrate of the first class shall try an offence punishable under this Act.

14. Careful perusal of aforesaid provision of law clearly reveals that the Court is barred from taking cognizance of any offence committed by a Notary in the exercise of his function under the Act, except upon a complaint made by an officer authorized by the Central or the State Government. It is not in dispute that petitioner had attested the affidavit in exercise of the functions conferred upon him under the Notaries Act, therefore, the provision of Section 13 of the Notaries Act will apply to the present case.

15. A Co-ordinate Bench of this Court in case tilted **Jagdish Kumar Negi vs. State of Himachal Pradesh and another**, Cr.MMO No.1069 of 2024, decided on 14th July, 2025, has held that in the absence of a written complaint made by an Officer authorized by the Central Government or State Government, no criminal prosecution can be launched against the Notary Public for acts performed by him in discharge of his functions under the Notaries Act. The relevant paras of the aforesaid judgment are as under:-

“14. It is apparent from the bare perusal of the Section that the Court is barred from taking cognizance of any offence committed by a Notary in the exercise of his function under this Act except upon a complaint made by an officer authorised by the Central or the State Government. It is undisputed that the petitioner had attested the agreement in the exercise of the functions conferred upon him under the

Notaries Act; therefore, the provision of Section 13 of the Notaries Act will apply to the present case. It was laid down by Bombay High Court in **Chandmal Motilal Bora v. State of Maharashtra, 2003 SCC OnLineBom 762: (2004) 2 Mah LJ 41: (2004) 106 (2) Bom LR 521: (2005) 1 Bom CR (Cri) 823**, that when any allegation is made against the notary touching the official purpose, the Criminal Court cannot take the cognizance except upon the complaint made in writing. It was observed:

“10. Therefore, if any allegation is made against a Notary which touches the official performance as a notary, the Criminal Court is forbidden from taking cognisance unless the complaint in writing is made by an officer authorised by the Central Government or State Government by general or special order in this behalf. Therefore, whenever an official act of a Notary comes into the picture, it becomes the duty of the criminal Court to see whether the allegations are directly concerned with his official duty or the performance which he has to do as indicated in section 8 of the Notaries Act. The Court, which has been requested to take cognisance of the complaint, has to apply its judicial mind and see whether the act which is the subject matter of the complaint is the official act of a Notary or it is an act which is beyond his official performance. Suppose if the notary is alleged to have committed an offence by his act directly in his personal capacity, then there is no need for sanction, because, the said act is not connected with his official performance, like an allegation showing that the notary committed he murder or Notary assaulted a person for the purposes of causing simple hurt, grievous hurt etc. If the allegations show that by an act which is not in accordance with the provisions of the Notaries Act, the notary has been alleged to have committed an offence, there is no need to have a sanction to the complaint in writing of an officer as contemplated by provisions of section 13 of the Notaries Act. But if the act alleged is touching his official performance, the Court has to be on guard when it has been requested to take cognisance of the allegations against the Notary.

11. If such protection is not granted to the Notary, he would be involved, implicated and roped in in a

number of offences, because a number of documents are being notarised before him in his Notarial register. Some documents may be purporting to be for the offence of cheating, blackmailing or an offence of commercial transactions. He would be involved in a number of offences concerned with the disposal of property, transfer of the property, sale of the property, and exchange of property. He would also be coming into the picture as an accused in a number of offences connected with a number of commercial crimes. A Notary is not supposed to know each and every person before him for the purpose of notifying a document in his Notarial register. He is not supposed to know the truth behind the documents brought before him for entries. He is generally introduced to parties by persons who happen to be persons of his acquaintance. Such a person may be an advocate, a clerk of the advocates, or some persons who are connected with him by his profession as a Notary or by his profession generally as a lawyer. If such protection is not granted to a notary, it would be very difficult for him to work as a notary and members of the public at large would be facing a number of difficulties at every step. With this object, section 13 has been enacted by the Legislature with foresight.

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14. As a special feature of a legitimate precaution which the notary should have, a lawyer should have, while performing his duty as Notary or lawyer, by his profession as such, by his work as such, by his function as such, he is likely to be in near proximity of a probable accused or an accused. In the performance of his duty as such, he is likely to do some act, as requested by such person, maybe as a client or a person who has come to notarising a document. The advocate or a notary will have to do such an act as requested by that person. At that stage, he may not be known as to what would be the consequences of the document which he has prepared or notarised. Would it be proper to permit such an advocate or a notary to be roped in, in the prosecution, which would be initiated against such a person in the future proximity. The reasonable answer would be "no". If such protection is not granted to such persons, it would be very difficult for them to perform the acts contemplated by the profession of a lawyer or the functions contemplated to be done by a notary. A Criminal Court has to take into consideration the cognisance of such special

features if they are indicated by the prosecution or by the complaint of which the criminal Court is requested to take cognisance. The Criminal Court has to consider this aspect if an application is made to exonerate such an accused, who happens to be a professional or performing an official duty. When such a request is made, even at the initial stage and if there is a case to act accordingly, the Criminal Court should not be shy in entertaining such an application and even allow it if such an application deserves to be allowed. Exactly that has been contemplated, in the judgment of the Supreme Court in **Madhavrao Scindia's case (supra)**.

15. A similar view was taken by the Gujarat High Court in **Ashokbhai Rameshchandra Ghantivala v. State of Gujarat, 2009 SCC OnLine Guj 2203**, wherein it was observed:

8. Heard the learned advocates for the parties. Having regard to the submissions advanced by the learned advocates for the parties, this court is of the view that it is not necessary to enter into the merits of the allegations made in the chargesheet or the F.I.R., as the same could have a bearing on the outcome of the proceedings emanating from the F.I.R. However, examining the main contention raised by the learned advocate for the petitioner namely, that in view of the provisions of Section 13 of the Act, the court could not have taken cognizance of the complaint except as provided under the said provision, it would be necessary to refer to the provisions of Section 13 of the Act which reads as under:

“13. Cognizance of offence. - (1) No Court shall take cognizance of any offence committed by a notary in the exercise or purported exercise of his functions under this Act save upon complaint in writing made by an officer authorised by the Central Government or a State Government by general or special order in this behalf.

(2) No Magistrate other than a Presidency Magistrate or a Magistrate of the first class shall try an offence punishable under this Act.”

A plain reading of Section 13 makes it clear that a complaint against a notary in exercise or purported exercise of his functions under the Act has to be made in writing by an officer authorised by the Central Government or the concerned State Government by general or special order in this behalf. Unless a complaint is made in the manner

prescribed, no Court is empowered to take cognisance of the offence. This view finds support from the objects and reasons behind the said provision, which reads thus:

“The Committee consider that protection should be given to notaries in respect of cognisance of offences. They think that protection should be given only to notaries who commit an offence, acting or purporting to act in the discharge of their functions under this Act. This clause has been inserted with this object.”

From the objections and reasons, it is apparent that even if an offence is committed by a notary while acting or purporting to act in the discharge of his functions under the Act, a complaint can be lodged only as provided under Section 13 of the Act. Thus, any offence committed by a notary acting or purporting to act in the discharge of his functions under the Act would fall within the ambit of the Section, and a Court can take cognisance of such offence only if the complaint is made in the manner laid down in the Section.

16. Kerala High Court also held similarly in **P.C. Jeeva v. State of Kerala, 2022 SCC OnLine Ker 8294**, as under:

7. From the perusal of the aforesaid provision, it is evident that a special procedure has been contemplated by virtue of the said provision and it provides that the cognizance of any offence committed by a Notary in exercise or purported exercise of his function under the Notaries Act can be instituted only upon a complaint in writing made by an officer authorized by the Central Government in this behalf. The crucial aspect to be noticed in this regard is that Section 13 of the Act is made applicable to any offence committed by a Notary in the exercise or purported exercise of his functions under this Act. It is evident that irrespective of the question that the offence which is a subject matter is committed under the provisions of the Notaries Act or any other enactment, procedure as contemplated under Section 13 has to be followed while taking cognisance of an offence against a Notary Public. The aforesaid question came up for consideration before this Court in *Jyolsana VP. v. State of Kerala* [2020 (6) KHC 334]. In paragraph 11 of the said judgment, this Court made the following observations:

“11. As discussed above, it is quite impossible for a Notary to know the genuineness of the document produced before him for attestation. The Notary is not supposed to know each and every person before him

for the purpose of notifying a document in his Notarial Register. He is generally introduced to parties by persons who happen to be persons of his acquaintance. If such protection is not granted to a Notary, it would be very difficult for him to work as a notary and members of the public at large would be facing a number of difficulties at every step. With this object, S. 13 has been enacted by the Legislature as a safeguard.”

8. Thus, from the above, it is evident that the stipulation contained under Section 13 is a mandatory provision as far as the offence alleged to have been committed by a Notary Public in exercise or purported exercise of his function is concerned. It is also clear that no court can take cognisance of such offences unless the procedure contemplated under Section 13 of the Notaries Act, 1952, is followed. In this case, it is evident that the proceedings have been instituted and cognisance thereon was taken on the basis of a police report, which is not the procedure as contemplated under Section 13 of the Act. In such circumstances, as the procedure which is mandatorily required to be followed under Section 13 of the Act is not complied with, the prosecution now ongoing against the petitioner is vitiated. In such circumstances, I find some force in the contentions put forward by the learned counsel for the petitioner.

17. Karnataka High Court also held similarly in **Praveen Kumar Adyapady and Ors. vs. State of Karnataka and Ors.** (11.04.2022 - KARHC) MANU/KA/2178/2022 as under:

6. Upon hearing and perusal of records, which reveal that accused No. 1 got married to the victim girl and the daughter of this complainant-respondent No. 2, defactocomplainant, by producing the affidavit before the Arya Samaj before accused Nos. 7 and 9 and married the victim girl, stating that the victim girl was major and had attained the age of majority by manipulating the date of birth of the victim girl as 25.09.1999, even though her actual date of birth was 25.09.2000. Admittedly, these two petitioners were advocates/notaries, and they have given a declaration in an affidavit filed by the parties. After looking at the documents produced by the parties, of course, while discharging the duty they have signed and given declarations in the document produced by the parties but it cannot be said, that these petitioners had

intentionally colluded with the other accused persons and signed agreement of declaration for helping the accused No. 1 by manipulating the age of the victim. That apart, as per Section 13 of the Notaries Act, there is a bar for taking cognisance by the Court for offences committed by the advocate and notary. Under the said Notaries Act, they have to obtain the permission of the Central Government or State Government for filing the charge sheet and taking cognisance. Admittedly, the petitioners are said to be Notaries of the Central Government. Such being the case, as per Section 13 of the Notaries Act, the sanction is necessary or permission is necessary before filing a High Court of H.P charge sheet and taking cognizance against this petitioner but no such permissions were obtained or produced by the Investigation Officer along with the charge sheet and also not mentioned anything about obtaining of the sanction in the charge sheet. Such being the case, conducting criminal proceedings against these petitioners/accused Nos. 8 and 10 requires to be quashed.”

16. Admittedly, there is nothing to suggest that any complaint was ever made by an authorized officer with regard to alleged wrongful attestation of the affidavit in question by the petitioner, being a Notary Public. It is also admitted case of the respondent-State that, at first instance, petitioner was not named in the FIR, sought to be quashed, rather during investigation, police found complicity of petitioner in the case, but even at that stage, the matter was not reported to the competent authority, enabling it to take appropriate steps for prosecution of the Notary Public for his having allegedly contravened the provisions contained in the Notaries Act. Since Section 13 of the Notaries Act specifically provided that no prosecution can be launched against the Notary Public without there being a complaint made by an officer authorized by the State or

Central Government, no case can be permitted to continue against the petitioner. The continuation of the criminal proceedings in the absence of complaint by the competent authority would be impermissible in law.

17. In view of the reasons stated hereinabove, the case qua the petitioner is bound to fail in all probabilities, therefore, no fruitful purpose would be served by permitting the criminal prosecution of the petitioner.

18. Consequently, in view of the aforesaid discussion as well as law laid down by the Hon'ble Apex Court (supra), FIR No. No.306 of 2016, dated 12.12.2016, under Sections 467, 468, 471, 201, 120-B of IPC and Section 196 of Motor Vehicles Act, registered at police Station, Sadar, District Mandi, Himachal Pradesh as well as consequent proceedings, if any, pending adjudication in the Court of learned Chief Judicial Magistrate, Mandi, District Mandi, Himachal Pradesh in Cr. Case No.357 of 2017, are quashed and set aside qua the petitioner.

19. The petition stands disposed of in the aforesaid terms, alongwith all pending applications.

**(Sandeep Sharma),
Judge**

February 27,2026
(shankar)