



CRM-M-67182-2025 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CRM-M-67182-2025 (O&M)

Reserved on : 06.08.2026

Pronounced on : 14.09.2026

ASI Kuldeep

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by : Mr. Sushil Sheoran, Advocate for the petitioner.

Mr. Ramender Singh Chauhan, AAG Haryana.

SURYA PARTAP SINGH, J.

This is a petition, under Section 528 of 'Bharatiya Nagarik Suraksha Sanhita, 2023', hereinafter being referred to as 'BNSS' only. The extraordinary jurisdiction, vested in this Court by virtue of abovementioned provision, has been invoked for quashing of complaint bearing No.COMI-45-2025 titled as 'Sh. Mayank Gupta, JMIC, Charkhi Dadri V/s ASI Kuldeep'.

2. In nut-shell, the facts emerging from record are that a truck bearing registration No.CH01-TB-5008 loaded with stone slates, met with an accident on National Highway 152-D, within the jurisdiction of Police Station Bond Kalan. The abovementioned accident took place when the abovementioned truck dashed into a stationary vehicle and driver of the

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abovementioned truck, bearing registration No.CH01-TB-5008, namely 'Ram Kumar Sahu', died on the spot. With regard to abovementioned accident, FIR No.47 dated 02.04.2024 was registered in Police Station Bond Kalan.

3. During the course of investigation of abovementioned case, the truck bearing registration No.CH01-TB-5008 was seized by the Investigating Officer along with loaded stone slates. For the release of stone slates, an application was filed by the owner of abovementioned goods, namely 'Jatin', in the Court of learned Judicial Magistrate First Class Charkhi Dadri. The abovementioned Court issued a direction for the release of abovementioned goods. With regard to above, vide despatch No.189 dated 18.04.2024, a written order was communicated to the police station, and in compliance of abovementioned order, on furnishing of requisite bonds, the goods were released in favour of above-named owner.

4. Subsequent thereto, i.e. on 24.04.2024, another order was received in Police Station Charkhi Dadri, bearing despatch No.200 dated 24.04.2024. By virtue of abovementioned order, a direction was given to the SHO concerned to release the vehicle in question. However, there was no signature of the Presiding Officer of the Court, on the abovementioned order. In fact, in place of signatures, word 'Sd/-' was mentioned. During the course of investigation, the accused could not be traced and the investigation could not reach to a logical end. In the abovesaid circumstances, an untrace report was submitted before the learned Jurisdiction Magistrate.



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5. While dealing with the abovementioned untrace report, the Court of learned Jurisdiction Magistrate, vide order dated 17.08.2024, recorded that 'EHC Sumer Sumer' Belt No.169, Store Keeper (*Malkhana Mohrer*), Police Station Bond Kalan had appeared before the Court and submitted some disturbing facts. As recorded in the abovementioned order, a written complaint was also submitted in the Court, revealing therein that without any order of the Court the truck bearing registration No.CH01-TB-5008 had been released on superdari in illegal manner.

6. In the backdrop of abovementioned information, in the order dated 17.08.2024, the learned Judicial Magistrate First Class Charkhi Dadri recorded following observations:-

'This court is surprised by said facts and deems it appropriate to direct the SHO Police Station, City Dadri for carrying out detailed investigation in accordance with the provisions of Bharatiya Nagarik Suraksha Sanhita, 2023 by treating the application given by EHC Sumer Singh to this Court as a complaint and basis for registration of appropriate proceedings with due intimation to this court. He is further directed to submit weekly status reports to this court. Copy of complaint given by EHC Sumer Singh is attached for information and necessary action. Now, to come up on 23rd August 2024 for compliance.'

In response to abovementioned order, the FIR No.238 dated 18.09.2024 was lodged in Police Station Charkhi Dadri.

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7. Since the matter pertained to the proceedings of the Court, i.e. creating of false order with regard to release of truck, the Court monitored the investigation. During the course of monitoring, repeated directions were issued on various occasions, sometimes in the case pertaining to FIR No.47 dated 02.04.2024 Police Station Bond Kalan and sometimes in the case of FIR No.238 dated 18.09.2024 Police Station Charkhi Dadri. However, fed up with the inaction on the part of Investigating Officer in the case pertaining to FIR No.238 dated 18.09.2024 Police Station Charkhi Dadri, on 02.07.2025 a complaint was submitted by the learned Judicial Magistrate First Class Charkhi Dadri in the Court of learned Chief Judicial Magistrate Charkhi Dadri. The abovementioned complaint is reproduced as under:-

‘That ASI Kuldeep, Police Station City Dadri, has remained as the Investigating Officer in FIR bearing No.238 dated 18.09.2024 registered as P.S. City Dadri, District Charkhi Dadri. The said FIR pertains to serious allegations of fraud, cheating and forgery committed by some public officials pertaining to documents of this Court including a judicial order. Vide order dated 10.10.2024, one last opportunity: was granted to the Investigating Officer for carrying fruitful investigation as the matter was pending, since long and the gravity of the allegations were also serious. However, after 10.10.2024 despite multiple opportunities on 18.10.2024, 20.11.2024, 26.11.2024, 16.12.2024, 03.01.2025, 18.01.2025, 19.02.2025, 01.03.2025; 28.03.2025, 19.04.2025, 22.04.2025, 29.04.2025, no effective investigation has been carried by the investigating officer ASI Kuldeep.

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On 29.04.2025, a judicial order was passed against him and 20 days were granted to him for completing the investigation and for filing final police report in the said FIR. However, ASI Kuldeep in the most cavalier manner had failed to even appear before the Court on 23.05.2025 and accordingly, Court notices were issued to the Superintendent of Police, Charkhi Dadri and Deputy Commissioner, Charkhi Dadri. Today, ASI Kuldeep has appeared and has again narrated the same casual attitude by stating that required documents have not been obtained by him.

The conduct of ASI Kuldeep is deplorable as he has knowingly failed to obey the direction of law in which he has to conduct himself, and has also failed to obey the manner in which he has to conduct investigation to the pre-judice of those effected by the allegations in the said FIR. He has even failed to produce the final police report at a time when he was legally bound to do so. This Court is of the considered view that the Investigating Officer ASI Kuldeep has prima facie committed all the said offences. Accordingly, the present complaint in writing is sent to your good-self by the Court of the undersigned.

Shri Kamal Sharma, Reader of the Court is authorized to prosecute this complaint being subordinate of the Presiding officer of the Court of undersigned. Reader of the Court is at liberty to seek the permanent exemption from personal appearance from your goodself Court being a public servant.

The undersigned Will not be able to required to deposed before the Court of your goodself for the purpose of evidence or otherwise in view of the immunity conferred upon me under Section 127 of the Bharatiya Sakshya Adhiniyam, 2023.

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Therefore, it is submitted that your good self may kindly take cognizance of offence under Section 198, 199(b) and 210 of BNS, 2023 against the accused and to summon & try him for said offence.'

8. A list of witnesses and the list of documents were also annexed with the abovementioned complaint. The abovementioned list consisted of two witnesses and 14 documents. Once the abovementioned complaint was received in the Court of learned Chief Judicial Magistrate Charkhi Dadri, it was made over to Court of another Judicial Magistrate First Class Charkhi Dadri. On 29.08.2025, a detailed order was passed and the petitioner was summoned to face trial for the commission of offence punishable under Sections 198, 199(b) & 210 of Bharatiya Nyaya Sanhita, 2023.

9. Aggrieved of the abovementioned order, the petitioner, who has been summoned as an accused, preferred the present petition.

10. Heard.

11. It has been contended by learned counsel for the petitioner that the petitioner is a public servant, who had been discharging his public duties in a *bona fide* manner, and that in a grossly illegal manner, the learned Judicial Magistrate First Class Charkhi Dadri passed the summoning order and summoned the petitioner to face trial for the commission of offence punishable under Sections 198, 199(b) & 210 of BNS.

12. With regard to above, threefold objections have been raised by learned counsel for the petitioner. Firstly, the absence of sanction before

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taking cognizance against the petitioner, who is a public servant, and the alleged act was done by him while discharging his duty as such; secondly, the Court, which took cognizance, had no jurisdiction to entertain the complaint; and thirdly, on the basis of allegations contained in the complaint, any *prima facie* case for summoning of petitioner to face trial for the commission of offence punishable under Sections 198, 199(b) & 210 of BNS was not made out. The learned counsel for the petitioner in support of his arguments has referred to the principles of law propounded by the Hon'ble Supreme Court of India in the cases of 'Suneeti Toteja V/s State of U.P. & Anr.' Special Leave Petition (Crl.) No.6898 of 2023 and 'G.C. Manjunath & Ors. V/s Seetaram' Criminal Appeal No.1759 of 2025.

13. The learned State Counsel has controverted the abovementioned arguments. According to learned State Counsel, the instant case is a very serious case, wherein there are allegations with regard to illegal fabrication of Court order, on the basis of which a truck involved in the commission of offence was got released by its owner. As per learned State Counsel, since fraud was played by forging the order of the Court, it was incumbent upon the petitioner to deal with the abovementioned case with utmost seriousness and urgency, but the facts itself show that the Investigating Officer had conducted the investigation in a very negligent and casual manner, and for almost ten months, i.e. from the date of registration of FIR on 18.09.2024 till 02.07.2025, when the complaint was forwarded by



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the Court of learned Judicial Magistrate First Class, no significant progress in the investigation had taken place.

14. According to learned State Counsel, the facts in itself speaks in volumes about the *mala fide* intentions of the petitioner, who despite being a responsible public servant, failed to act in accordance with the statutory provisions. As per learned State Counsel, the petitioner has been prosecuted for the commission of offence punishable under Section 199 of BNS and for taking cognizance for the abovementioned offence, there is no requirement of sanction under Section 218 of BNSS.

15. I have given my due consideration to the abovementioned arguments.

16. The record has been perused carefully.

17. In my considered opinion, in view of abovementioned factual situation of the present case and the abovementioned arguments, following are the points, which need determination in the present case:-

- (I) Whether there is requirement of sanction before taking cognizance against the petitioner, who is a public servant, and was discharging his duty as such;
- (II) Whether the Court, which took cognizance, had no jurisdiction to entertain the complaint; and
- (III) Whether on the basis of allegations contained in the complaint, any *prima facie* case for summoning of petitioner to face trial for the commission of offence punishable under Sections 198, 199(b) & 210 of BNS was not made out.



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POINT NO.I

18. As far as this point of determination is concerned, the sole plea raised by learned counsel for the petitioner is that the petitioner was a public servant, and that the alleged illegal act, for which the petitioner is being prosecuted, was part and parcel of his official duty and therefore, without sanction, as prescribed under Section 218 of BNSS, cognizance against the petitioner could not have been taken.

19. With regard to above, the learned counsel for the petitioner has referred to Section 218 of BNSS, which prescribes that:-

‘When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction save as otherwise provided in the Lokpal and Lokayuktas Act, 2013-

(a) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government;

(b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government.’

20. In addition to above, the learned counsel for the petitioner has also referred to the principles of law propounded by the Hon’ble Supreme

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Court of India in the case of ‘Suneeti Toteja’ (*supra*). In the abovementioned case, an employee of Bureau of Indian Standard (BIS) was prosecuted for the commission of offence punishable under Sections 354, 509, 120B, 192, 197, 204, 218, 218, 202, 468, 471 and 506 of IPC. In the abovementioned case, charge-sheet against the appellant was filed on the premise that request for sanction under Section 197 of CrPC was sought, but the same was not granted within the stipulated time and therefore, sanction for the prosecution was deemed to have been received. In the abovementioned case, the Hon’ble Supreme Court of India observed that cognizance against the appellant was barred.

21. Similar situation has been dealt with by the Hon’ble Supreme Court of India in the case of ‘G.C. Manjunath’ (*supra*). In the abovementioned case, several police officers were prosecuted for illegal activity. In the abovementioned case, the Hon’ble Supreme Court of India propounded that if actions attributed to the accused persons emanate from the discharge of their official duties, specifically in connection with the investigation of criminal cases pending against the complainant, previous sanction prescribed under Section 197 of CrPC is required.

22. The Hon’ble Supreme Court of India, in the abovementioned case, also observed that a mere excess or overreach in the performance of official duty does not, by itself, disentitle a public servant from the statutory protection mandated by law. According to the Hon’ble Supreme Court of India, the safeguard of obtaining prior sanction from the competent



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authority, as envisaged under Section 197 of the CrPC and Section 170 of the Police Act cannot be rendered nugatory, merely because the acts alleged may have exceeded the strict bounds of official duty. Considering the abovementioned facts and circumstances pertaining to abovementioned case, the Hon'ble Supreme Court of India quashed the abovementioned order.

23. As far as the factual matrix of the present case is concerned, at the outset, it is pertinent to mention here that in the case of 'G.C. Manjunath' (*supra*), the prosecution of public servant was for the commission of offence punishable under Section 326, 358, 500, 501, 502, 506(b) read with Section 34 of IPC, and in the case of 'Suneeti Toteja' (*supra*), it was for the commission of offence punishable under Sections 354, 509, 120B, 192, 197, 204, 218, 218, 202, 468, 471 and 506 of IPC. However, the facts of the present case are altogether different from the facts of the abovementioned two cases.

24. In the present case, cognizance for the commission of offence punishable under Section 198, 199(b) and 210 of BNS has been taken against the petitioner. With regard to sanction for the commission of offence punishable under Section 199 of BNS, proviso to Section 218 of BNSS prescribes that '*provided also that no sanction shall be required in case of a public servant accused of any offence alleged to have been committed under Section 64, Section 65, Section 66, Section 68, Section 69, Section 70, Section 71, Section 74, Section 75, Section 76, Section 77, Section 78,*

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Section 79, Section 143, Section 199 or Section 200 of the Bharatiya Nyaya Sanhita, 2023'.

25. In view of abovementioned bare provisions enshrined in BNSS, it is apparent that for the commission of offence under Section 199 of BNS, previous sanction of the concerned authority is not required. In view of abovementioned distinguishing factors, it is hereby observed that the principles of law laid down in the case of 'Suneeti Toteja' and 'G.C. Manjunath' (*supra*), are not applicable to the facts and circumstances of the present case. Thus, it is hereby observed that on the basis of abovesaid plea, any ground for quashing of order/complaint is not made out. The point of determination No.1 is therefore, answered accordingly, i.e. against the petitioner.

POINT NO.II

26. As far as this point of determination is concerned, the question with regard to territorial jurisdiction of the Court has been raised in the present case. Qua abovementioned territorial jurisdiction, it is pertinent to mention here that the complaint was submitted by the learned Judicial Magistrate First Class Charkhi Dadri and the learned Chief Judicial Magistrate Charkhi Dadri made over the abovementioned complaint to another Judicial Magistrate, who took the cognizance. Since as per notification, every Judicial Magistrate enjoys territorial jurisdiction over the entire District, in my considered opinion, on the ground of lack of territorial jurisdiction, the impugned order cannot be held to be illegal. In fact the

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impugned order is not an order passed by the Court of learned Judicial Magistrate First Class lacking territorial jurisdiction. Thus, it is hereby held that on this ground also, the impugned order cannot be set aside/quashed. Hence, the point of determination No.2 is hereby answered, against the petitioner.

POINT NO.III

27. As far as this point of determination is concerned, the plea was raised by learned counsel for the petitioner that before registration of FIR, enquiry was conducted and the Superintendent of Police Charkhi Dadri himself observed that the petitioner had been discharging his duty diligently, in accordance with the statutory provisions, and that no laxity, whatsoever, was committed by him. According to learned counsel for the petitioner, once the senior most police officer of the District, who was also the punishing authority of the petitioner, himself observed that no laxity, whatsoever, was committed by the petitioner, the prosecution of petitioner on the same ground is not sustainable.

28. With regard to abovementioned plea of the learned counsel for the petitioner, it is relevant to mention here that the question as to whether the petitioner had been performing his duty *bona fide* and diligent manner or not, in accordance with statutory provision or not, is a matter which can be determined at the time of adjudication of trial only. At this stage, merely on the basis of bare allegations of the petitioner, that he had not committed any fault, the summoning order cannot be quashed.

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29. The trial in the present case is still at initial stage, and therefore, the principles of law laid down by the Hon'ble Supreme Court in the cases of 'Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and Others' 2021 SCC OnlineSC 315, 'State of Haryana Vs. Ch. Bhajan Lal', 1991(1) RCR 383, 'Sadiq B. Hanchinmani Vs. State of Karnataka', Criminal Appeal No.4728 of 2025, 'M/s Balaji Traders Vs. The State of U.P. & Anr.' 2025(3) RCR (Criminal) 175, and 'Muskan Vs. Ishaan Khan (Sataniya)', are applicable to the present case.

30. With regard to scope and indulgence of this Court for exercising extraordinary jurisdiction, the guiding principles, have been laid down by the Hon'ble Supreme Court of India in the case of 'Neeharika Infrastructure Pvt. Ltd.' (*supra*). Those guidelines prescribe that:

- “a) The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the ‘rarest of rare cases (not to be confused with the formation in the context of death penalty).
- b) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;
- c) Criminal proceedings ought not to be scuttled at the initial stage;
- d) Quashing of a complaint/FIR should be an exception rather than an ordinary rule;
- e) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial

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process should not interfere at the stage of investigation of offences;

- f) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;
- g) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the court; and
- h) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of ‘R.P. Kapur v. State of Punjab’ and ‘State of Haryana Vs. Ch. Bhajan Lal’, 1991(1) RCR 383, has the jurisdiction to quash the FIR/complaint.’

31. In addition to above, in the case of ‘Ch. Bhajan Lal’ (*supra*), the Hon’ble Supreme Court of India after reviewing large number of cases on the question of quashing of FIR has laid down that the FIR can be quashed in the following circumstances:-

- a) 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.
- b) Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. 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.

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- c) 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.
- d) Where the allegations made in the F.I.R. 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.
- e) 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.
- f) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

32. Similarly in the case of ‘Sadiq B. Hanchinmani’ (*supra*), the Hon’ble Supreme Court of India has ruled that police investigation should be allowed to proceed unless exceptional circumstances warrant intervention. According to Hon’ble Supreme Court of India the High Court should not interfere with the investigation when allegations in FIR disclose cognizable offences.

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33. In the case of ‘M/s Balaji Traders’ (*supra*), the Hon’ble Supreme Court of India has ruled that jurisdiction of quashing of FIR should be exercised sparingly in the ‘rarest of rare cases’. As per Hon’ble Supreme Court of India allegations in FIR or complaint must be taken at face value and accepted in their entirety to assess whether they disclose a cognizable offence.

34. In the case of ‘Muskan’ (*supra*), the Hon’ble Supreme Court of India held that the Court should not conduct a mini-trial at the stage of quashing and that quashing of FIR should be an exception and exercised sparingly in rarest of rare cases. The Hon’ble Supreme Court of India has further held that Courts cannot embark upon an enquiry as to the reliability or genuineness of allegations made in the FIR/complaint.

35. In view of abovementioned principles of law and the factual matrix of the present case, in my considered opinion, on this ground also, the impugned order cannot be set aside. Hence, point of determination No.3, too, is hereby answered, accordingly, i.e. against the petitioner.

CONCLUSION

36. In view of finding recorded on the point of determination No.I to III, it is hereby observed that no ground for quashing of complaint and impugned order is made out, and that the present petition is devoid of merits.

37. As a sequel to abovementioned observations, it is hereby held that the present petition is devoid of merits and deserves dismissal. The same is hereby ***dismissed***, accordingly.



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38. It is however clarified that any observation recorded in this judgment shall not be construed as an expression on the merits of the case, and the petitioner shall be at liberty to take all the pleas, related to factual aspect of this case, during the course of trial, before the learned trial Court.

39. Pending miscellaneous application(s), if any, stand(s) disposed of, accordingly.

(SURYA PARTAP SINGH)
JUDGE

14.09.2026
Gaurav Thakur

Whether speaking / reasoned	Yes
Whether Reportable	Yes