

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CNR No: PHHC010478002022
2026:PHHC:123039



CRM-M-31718-2022 (O&M)

Jagmahendra and another...Petitioners

Versus

State of Haryana and another...Respondents

Sr. No.	Particulars	Details
1	The date when the judgment is reserved	01.09.2026
2	The date when the judgment is pronounced	03.09.2026
3	The date when the judgment is uploaded on the website	03.09.2026
4	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Sanjay Verma, Advocate
for the petitioners.

Mr. Apoorv Garg, Addl. A.G., Haryana.

Ms. Garima Thappa, Advocate (Legal Aid Counsel)
for respondent No. 2.

MANISHA BATRA, J.

1. The present petition has been filed by the petitioners under Section 482 Cr.P.C. for quashing of FIR No.83 dated 28.08.2021, registered under Sections 313, 323, 342, 376-D, 506, 376(2)(n) and 354-B of IPC at Police Station Women Police Station, Manesar, Gurugram, along with all consequential proceedings arising therefrom, qua the petitioners.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint submitted by respondent No.2/complainant 'P' (name withheld) alleging therein that she was married to Anuj Kumar on 07.03.2012 and a male child was born out of the said wedlock. One Gaurav, who was a friend of her husband, called her from Noida to Gurugram on the pretext of arranging a job for her. She further alleged that in the year 2017, Gaurav took her to a rented room and raped her and also made obscene videos and photographs of her. It was further alleged that by using those videos, Gaurav continued to blackmail and sexually exploit her. She became pregnant but Gaurav got her pregnancy terminated. It was further alleged that Gaurav again brought her to Gurugram and kept her at a rented house at village Bhangrola and continued to sexually exploit her. In the year 2018, when her husband came to meet her, Gaurav gave him beatings and threatened him to divorce the complainant and forget her. He also obtained signatures of the complainant and her husband on blank papers by representing that they had been divorced. The complainant further alleged that she became pregnant several times and Gaurav got her pregnancies terminated. In August 2020, when the complainant insisted upon marriage, Gaurav and his brother Ashu (petitioner No. 2) tried to kill her by pouring kerosene oil upon her. She was thereafter taken for treatment to Kailash Hospital. It was further alleged that on 21.07.2021, Gaurav and Ashu took her to Geeta Ghat Ashram, Shukartal, on the pretext of getting married but no marriage took place. Then, on 24.07.2021, Gaurav left her stating that he would convince his family members.

3. As per the further allegations, on 25.07.2021 Gaurav, along with his father Jagmahendra (petitioner No.1) and Ashu, took the complainant in a car to village Kakkepur, District Meerut, where she was confined in a room and her mobile phone was taken away. She alleged that she was beaten and that Gaurav and Ashu raped her. It was further alleged that petitioner Jagmahendra told her that Gaurav was already married and that she should forget him and leave quietly, otherwise she would be killed and even threatened her with being sold to a prostitution centre. She was thereafter left on the highway in the early morning.

4. After registration of the FIR, investigation was carried out by the police. During investigation, statements of the witnesses were recorded and a rough site plan of the place of occurrence was prepared. The complainant was medically examined at General Hospital, Gurugram, and her statement under Section 164 Cr.P.C. was also recorded before the learned Illaqa Magistrate, Gurugram. During the course of investigation, Sections 323, 354-B and 376(2)(n) IPC were also added. The petitioners and co-accused Gaurav were granted concession of bail.

5. During further investigation, the ultrasound report of the complainant was obtained, which showed a pregnancy of 16 weeks and 3 days. The statement of Dr. Poonam was also recorded, who confirmed the abortion of the complainant. Upon completion of investigation, the final report under Section 173(2) Cr.P.C. was presented before the learned Illaqa Magistrate, Gurugram, on 19.04.2022. Thereafter, charges were framed against the petitioners by the learned trial Court vide order dated 21.05.2022. However, vide order dated 13.12.2022, passed in this petition, proceedings

qua the present petitioners were stayed by this Court.

6. It is argued by learned counsel for the petitioners that they have been falsely implicated in the present case. It is argued that the alleged incident dated 25.07.2021 took place at village Kakkepur, District Meerut, and, therefore, the police authorities at Gurugram had no jurisdiction to register the FIR. It was further argued that the complainant had already approached the police authorities at Meerut and had also filed a complaint before the competent Court there but the allegations were not found to be substantiated. Learned counsel further referred to the enquiry report prepared by the police authorities at Meerut and argued that there was no corroborative material in support of the allegations made against the petitioners. It was also argued that a conversation between the complainant and the family members of the petitioners shows that she was demanding an amount of Rs.10 lakh and was threatening to implicate the entire family in a criminal case in case the amount was not paid. The said material clearly shows that the present FIR was lodged subsequently as a pressure tactic.

7. It is further argued that the allegation of rape in the FIR is specifically against Gaurav and Ashu. As regards petitioner No.1-Jagmahendra, there is no specific allegation that he himself committed rape. Learned counsel, therefore, argued that the ingredients of Section 376/376-D IPC are not made out against petitioner No.1 and that continuation of the proceedings against the petitioners would amount to abuse of the process of law. Hence, it is urged that the petition deserves to be allowed and the impugned FIR is liable to be quashed qua the petitioners.

8. On the other hands, learned State counsel, assisted by learned

counsel for respondent No.2, has opposed the petition. It is argued that the FIR discloses commission of serious cognizable offences and that the allegations cannot be examined by this Court by appreciating the evidence in exercise of jurisdiction under Section 482 Cr.P.C. It is further argued that during investigation statements of the witnesses were recorded, the place of occurrence was verified, the complainant was medically examined and her statement under Section 164 Cr.P.C. was recorded before the learned Magistrate. It is submitted that Sections 323, 354-B and 376(2)(n) IPC were subsequently added during investigation. The investigating agency found sufficient incriminating material against the petitioners and co-accused.

9. Learned counsel for respondent No.2 has submitted that her statement under Section 164 Cr.P.C. contains specific allegations regarding the occurrence. In the said statement also, the complainant stated that on 25.07.2021 she was taken to the house at Kakkepur, her mobile phone was taken away and she was confined there. She specifically stated that when she raised an alarm, Ashu and Gaurav came and both of them raped her. She also referred to the conduct of the father of Gaurav at the said place. Learned State counsel further submitted that the investigation culminated in presentation of the final report under Section 173(2) Cr.P.C. and charges have already been framed by the learned trial Court vide order dated 21.05.2022. The trial is pending. It was, therefore, argued that the pleas raised by the petitioners regarding the alleged previous complaint, enquiry report, conversation and the alleged demand of money are all matters of defence which cannot be adjudicated upon in the present proceedings. No case for quashing of the FIR has been made out. Hence, it is urged that the

petition is liable to be dismissed.

10. This Court has heard the rival submissions of learned counsel for the parties.

11. At the outset, it will be profitable to look into the scope and ambit of the Court's power under Section 482 Cr.P.C. (*which is pari materia with Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023*) as spelt out in several judicial pronouncements of Hon'ble Supreme Court as well as different High Courts. The well settled proposition of law is that in exercise of inherent powers under Section 482 Cr.P.C., the High Court is not expected to analyze all the facts, which are to be placed before the High Court. The power conferred under this section is very specific. To secure the ends of justice, to prevent the abuse of process of Court or to make any such orders as may be necessary to give effect to any order under the Code, such power can be exercised to prevent abuse of process of Court. The Hon'ble Supreme Court has drawn up some guidelines in some categories of cases by way of illustration to circumscribe the exercise of inherent power under Section 482 of Cr.P.C. to prevent abuse of process of any Court or to secure the ends of the justice or to give effect to an order of the Court. A celebrated pronouncement on this point is the case cited as ***State of Haryana Vs. Bhajan Lal : 1992 SUPP (1) SCC 335***, wherein Hon'ble Supreme Court had discussed different categories of cases wherein the power under Section 482 Cr.P.C. could be exercised either to prevent abuse of process of law or otherwise to secure the ends of justice, while observing that it might not be possible to lay down any precise, clearly defined, sufficiently channelized, inflexible guidelines or rigid formulae and to give an exhaustive list or

myriad kind of cases where such powers should be exercised. The following principles have been culled out:-

“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 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 private and personal grudge.”

12. The principles of law as laid down by Hon’ble Supreme Court in *Bhajan Lal*’s case (supra) have been followed in a catena of judgments. In *Paramjeet Batra vs. State of Uttarakhand, (2013) 11 SCC 673*, it was observed by Hon’ble Supreme Court that although the inherent powers of a High Court under Section 482 of the Code should be exercised sparingly and only for the purpose of preventing abuse of process of any Court or otherwise to secure ends of justice, yet, the High Court must not hesitate in quashing such criminal proceedings, where essential ingredients of the offence are not made out. In *Mahendra K.C. vs. State of Karnataka, (2022) 2 SCC 129: (2022) 1 SCC (Cri) 401*, Hon’ble Supreme Court observed that the test to be applied is whether the allegations in the complaint, as they stand, without adding or detracting from the complaint, prima facie establish the ingredients of the offence alleged. At this stage, the High Court cannot test the veracity of the allegations, nor, for that matter, can it proceed in the manner that a judge conducting a trial would, based on the evidence collected during the course of the trial. In *Priyanka Jaiswal vs. State of Jharkhand, 2024 SCC Online SC 685*, Hon’ble Supreme Court observed that the Court exercising extraordinary jurisdiction under Section 482 of Cr.P.C. cannot conduct a mini trial or enter into appreciation of evidence of a particular case. The following observations were made:

“13. We say so for reasons more than one. This Court in catena of Judgments has consistently held that at the time

of examining the prayer for quashing of the criminal proceedings, the court exercising extra-ordinary jurisdiction can neither undertake to conduct a mini trial nor enter into appreciation of evidence of a particular case. The correctness or otherwise of the allegations made in the complaint cannot be examined on the touchstone of the probable defence that the accused may raise to stave off the prosecution and any such misadventure by the Courts resulting in proceedings being quashed would be set aside. This Court in the case of Akhil Sharda¹ held to the following effect:

“28. Having gone through the impugned judgment and order passed by the High Court by which the High Court has set aside the criminal proceedings in exercise of powers under Section 482 Cr.P.C., it appears that the High Court has virtually conducted a mini trial, which as such is not permissible at this stage and while deciding the application under Section 482 Cr.P.C. As observed and held by this Court in a catena of decisions no mini trial can be conducted by the High Court in exercise of powers under Section 482 Cr.P.C. jurisdiction and at the stage of deciding the application under Section 482 Cr.P.C., the High Court cannot get into appreciation of evidence of the particular case being considered.”

13. Similar view was taken in ***Minakshi Yadav vs. State of Uttar Pradesh, 2024 SCC Online 643***, wherein Hon’ble Supreme Court observed that the Court would not be justified in embarking upon an inquiry as to the reliability and genuineness or otherwise of the allegations made in the FIR

or the complaint at the stage of quashing of the proceedings under Section 482 of Cr.P.C.

14. Reference can further be made to ***Gian Singh vs. State of Punjab, (2012) 10 SCC 303***, wherein Hon'ble Supreme Court observed that the power of the High Court in quashing a criminal complaint or an FIR, in exercise of its inherent jurisdiction, is distinct and different from the power given to a criminal court for compounding the offences under [Section 320](#) of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accordance with the guidelines engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court.

15. In ***Neeharika Infrastructure vs. State of Maharashtra : 2021 SCC OnLine SC 315***, the Apex Court observed that the Courts ought to be cautious in exercising powers under Section 482 of Cr.P.C. They do have power to quash. The test is whether or not the allegations in the FIR disclose the commission of a cognizable offence? The merits of the allegations are not to be entered into nor the power of the investigating agency to investigate into allegations involving the commission of a cognizable offence is to be trenched upon.

16. Similar position of law was reiterated by Hon'ble Supreme Court in ***Ajay Malik vs. State of Uttarakhand, 2025 SCC OnLine SC 185***, wherein it was observed as follows:

“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 preempting 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*)."

17. On applying the principles of law as laid down in aforecited authorities, it is revealed that the impugned FIR cannot be said to be one which, on its face, does not disclose commission of any offence. There are specific allegations regarding wrongful confinement, beating, threats and other acts against the petitioners. So far as petitioner No.2-Ashu is concerned, there is a direct allegation in the FIR that he, along with Gaurav, committed rape upon the complainant. The same allegation finds mention in her statement recorded under Section 164 Cr.P.C. Learned counsel for the

petitioners has placed considerable emphasis on the fact that the allegation of actual rape in the FIR is against Gaurav and Ashu and not against petitioner No.1-Jagmahendra. This Court finds that the submission cannot, at this stage, result in quashing of the entire proceedings against petitioner No.1. It is true that the FIR specifically attributes the act of rape to Gaurav and Ashu. However, the same FIR also alleges that Jagmahendra was present when the complainant was taken to the village, that she was confined there, that she was beaten and that he threatened her to forget Gaurav and leave the place, failing which she would be killed. Thus, the allegations against petitioner No.1 cannot be said to be wholly absent or inherently improbable. Section 376-D IPC deals with gang rape. The essence of the provision is not that each accused must necessarily have committed the physical act of rape himself. Where a woman is raped by persons acting as a group and in furtherance of their common intention, the liability under the provision can extend to a person who has participated in the commission of the offence in furtherance of such common intention. Hence, whether the role attributed to petitioner No.1 is sufficient to constitute participation in the offence under Section 376-D IPC and whether the ingredients of the other offences are ultimately established against him, are questions which would depend upon appreciation of the evidence to be led during trial. At this stage, this Court would not be justified in returning a finding regarding the ultimate guilt or otherwise of either of the petitioners.

18. There is another important aspect of the matter. Even assuming, for the sake of argument, that the submission of learned counsel regarding absence of a specific allegation of rape against petitioner No.1 is accepted,

the entire prosecution against him cannot be quashed on that ground alone. The FIR contains specific allegations of assault, wrongful confinement and criminal intimidation, besides other allegations and the investigating agency has collected material during investigation which led to submission of the final report against the petitioners. The allegations against petitioner No.1, therefore, cannot be treated as so wholly absurd or inherently improbable as to bring the case within the exceptional jurisdiction under Section 482 Cr.P.C.

19. The plea regarding territorial jurisdiction also does not persuade this Court to interfere at this stage. The respondents have relied upon Section 178 Cr.P.C. to submit that where an offence consists of acts done in different local areas, the case may be tried by a Court having jurisdiction over any of such local areas. Whether the entire set of allegations gives rise to a question of territorial jurisdiction and the precise place where each offence was committed are matters which can be appropriately considered by the competent Court. The mere fact that the incident dated 25.07.2021 is alleged to have taken place at Kakkepur, District Meerut, therefore, cannot by itself be made the basis for quashing the FIR.

20. The petitioners have also relied upon the earlier complaint filed before the police authorities and the enquiry report prepared at Meerut. They have further relied upon the alleged conversation in which a demand of Rs.10 lakh is attributed to the complainant. These documents raise disputed questions regarding the conduct of the parties and the credibility of the rival versions. The complainant, in her subsequent reply, has disputed the interpretation sought to be placed upon these documents and has maintained

that she was under pressure and was subsequently constrained to approach the Gurugram police. This Court cannot, in proceedings under Section 482 Cr.P.C., determine which of the rival versions is correct or whether the alleged conversation conclusively establishes a demand of money or false implication. Such an exercise would necessarily require appreciation of evidence and examination of the circumstances in which the conversation and the earlier complaints came into existence. The same is within the domain of the learned trial Court.

21. It is also not insignificant that the investigation has already been completed and the final report under Section 173(2) Cr.P.C. has been presented. The learned trial Court has thereafter framed charges against the petitioners vide order dated 21.05.2022. The prosecution is thus required to be tested on the evidence which would come on record during trial. This Court is conscious of the fact that the mere framing of charges by itself does not take away the jurisdiction of this Court under Section 482 Cr.P.C. However, once investigation has been completed, material has been collected, charges have been framed and the allegations in the FIR disclose prima facie commission of offences, interference would be justified only where continuation of the proceedings would clearly amount to abuse of the process of law. The present case does not fall in that category.

22. Learned counsel for the petitioners has also argued that the allegations relating to repeated rape on the pretext of marriage are primarily directed against Gaurav. Even this aspect cannot be examined in isolation from the other allegations forming part of the prosecution case. The question whether the individual acts attributed to each accused satisfy the ingredients

of the particular penal provisions is ultimately to be determined on the basis of the evidence led before the trial Court. At the stage of the present petition, this Court is not required to dissect the prosecution case offence-wise and accused-wise by undertaking an appreciation of evidence.

23. Keeping in view the discussion made above, this Court is of the considered opinion that no case for exercise of inherent powers by this Court is made out for quashing the impugned FIR. Accordingly, the petition is dismissed. The interim stay, granted by this Court vide order dated 13.12.2022, stands vacated. The learned trial Court shall proceed with the trial in accordance with law.

24. However, it is made clear that the observations made herein are only for the purposes of deciding the present petition and the same shall have no bearing on the merits of the case.

03.09.2026
Waseem R. Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No