



CRM-M-14264-2025 (O&M) and CRM-M-11380-2025 (O&M)

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

CRM-M-14264-2025 (O&M)

Date of Decision:-30.09.2025

Sukhwinder Singh

.....Petitioner

Versus

State of Punjab & Another

.....Respondents

CRM-M-11380-2025(O&M)

Kulwinder Singh

.....Petitioner

Versus

State of Punjab & Another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. Keshav Pratap Singh, Advocate for the petitioners.

Mr. Amandeep Singh Samra, AAG, Punjab.

ALOK JAIN, J.

1. The present set of two petitions have been filed seeking quashing of the FIR No. 81 dated 26.09.2024, under Sections 64, 316(2), 318(4), 61(2) of Bharatiya Nyaya Sanhita, 2023 (hereinafter referred to as BNS), registered at Police Station Garhdiwal, District Hoshiarpur, Punjab.



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2. Both the Petitions arise out of the same FIR No. 81, dated 26.09.2024, therefore on the request of the learned counsel for the petitioners they are taken up together. The brief facts of the case which led to the filing of the present FIR and as narrated by learned counsel are as under:

2.1 On 20.06.2024, a written complaint was submitted to the SSP Hoshiarpur, wherein the Complainant alleged that during the period of ongoing matrimonial discord of complainant with her husband, in the year 2021, she came into acquaintance with Sukhwinder (herein after referred to as Petitioner No. 1), who is a doctor by profession. Petitioner No. 1 represented himself as a divorcee and expressed his intention to marry the complainant. He further undertook complete responsibility for sending her daughter to abroad. Relying upon the false assurances of marriage, both also developed physical relations. Subsequently, at the time of sending complainant's daughter abroad, the petitioner no. 1 induced the complainant to take loan and assured the complainant that he would repay the instalments of entire loan amount. Whereupon, the complainant availed a loan of Rs. 13 lakhs from HDFC bank, Rs. 9 Lakhs loan from COP Bank and Rs. 7 Lakhs cash after pledging her gold. It was alleged by the complainant that out of the said loan amount Rs. 9 Lakhs were transferred in the bank account of Kulwinder Singh (herein after referred to as Petitioner No. 2), who is the brother of Petitioner No. 1.

2.2 Subsequently, when the complainant demanded repayment of the loan amount, petitioner no. 1 began to evade his liability by making excuses regarding financial constraints. The complainant further alleged that the petitioner no. 1 continued



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to engage in physical relations with the complainant solely on the basis of false promises of marriage. However, upon the repeated requests and demands by the complainant to return the money, Petitioner No. 1 blocked her and had solemnized marriage with another women.

2.3 Following which a complaint was lodged by the complainant but due to the intervention of DSP, the matter was compromised and certain cheques and affidavits were got prepared, however, the petitioner no. 1 refused to honour the settlement terms and again a complaint was moved by complainant, making specific allegations against the concerned SHO who under the influence of a local MLA failed to initiate legal action against the petitioner no. 1, even when the complainant was allegedly threatened at gunpoint by petitioner no. 1.

3. Learned counsel for the petitioners submitted that the complainant, who is serving in the Punjab Police, has concocted the entire story with the intent to extract money from the petitioners, which is evident from the fact that vague allegations have been levelled without mentioning any specific date, time, or place. Learned counsel further pointed out that, earlier also, a complaint dated 26.04.2024 was filed by the complainant on similar allegations, which was found to be false. Thereafter, on 03.06.2024, the complainant, accompanied by some notorious persons, came to the clinic of petitioner No.1, misbehaved with him, and caused damage to the clinic, which was also captured in the CCTV footage. The said incident was duly reported by the petitioner No.1 on 04.06.2024 to the police authority,



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and a subsequent representation dated 18.06.2024 was also submitted, but no action has been taken by the authorities till date.

4. Learned counsel vehemently submitted that the present complaint is nothing but a counter blast to the above-mentioned complaint filed by the petitioner No.1. Learned counsel while emphasizing on the content of the both the complaints moved by the complainant submits that earlier, the complainant alleged that she has been cheated for the amount of ₹20 Lakhs while in the subsequent complaint amount is stated to be ₹28 Lakhs, which *prima facie* shows material contradictions in the statements of the complainant.

5. Learned counsel for the petitioners submitted that as no action was taken on the complaint dated 04.06.2024 made by petitioner no 1, due to the influence of complainant, who is serving in the police department of the same district, the petitioner No.1 was earlier compelled to approach this Hon'ble High Court. It was only pursuant to the order dated 27.07.2024 passed by this Hon'ble Court in CRWP- 6895-2024 that an FIR came to be registered against the complainant.

6. Learned counsel for the petitioners has further pointed out that, so far as the money transaction is concerned, petitioner No. 1 had taken a friendly loan of ₹13 lakhs from the complainant, which already stands repaid, as is evident from Bank Statement (Annexure P-6) appended with the present petition. Learned counsel in addition to above has submitted



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that Petitioner No. 2 has been falsely implicated in the present case. It is submitted that, at the request of Petitioner No. 1, an amount of ₹6,68,000/- was deposited in the account of Petitioner No. 2, which was duly repaid to the complainant.

7. Learned Counsel for the petitioner vehemently argued that the respondent-complainant is already married and having two children therefore she could not be said to be acting under any pretext of false promise to marriage and as such the matter is squarely covered by the judgment of the Hon'ble Supreme Court in the case of ***Vinod Gupta v. State of Madhya Pradesh 2024 (2) RCR(Criminal) 175*** wherein the FIR was quashed on the ground that the complainant was already married. The relevant extract of the judgment relied upon by the counsel for the petitioner is reproduced as under:

“9. Similar issue was considered by this Court in Naim Ahamed's case (supra) on almost identical facts where the prosecutrix herself was already a married woman having three children. The complaint of alleged rape on false promise of marriage was made five years after they had started having relations. She even got pregnant from the loins of the accused. Therein she got divorce from her existing marriage much after the relations between the parties started. This Court found that there cannot be any stretch of imagination that the prosecutrix had given her consent for sexual relationship under



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misconception. The accused was not held to be guilty. Relevant paragraph 21 thereof is extracted below:

"21. In the instant case, the prosecutrix who herself was a married woman having three children, could not be said to have acted under the alleged false promise given by the appellant or under the misconception of fact while giving the consent to have sexual relationship with the appellant. Undisputedly, she continued to have such relationship with him at least for about five years till she gave complaint in the year 2015. Even if the allegations made by her in her deposition before the court, are taken on their face value, then also to construe such allegations as 'rape' by the appellant, would be stretching the case too far. The prosecutrix being a married woman and the mother of three children was matured and intelligent enough to understand the significance and the consequences of the moral or immoral quality of act she was consenting to. Even otherwise, if her entire conduct during the course of such relationship with the accused, is closely seen, it appears that she had betrayed her husband and three children by having relationship with the accused, for whom she had developed liking for him. She had gone to stay with him during the subsistence of her marriage with her husband, to live a better life with the accused. Till the time she was impregnated



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by the accused in the year 2011, and she gave birth to a male child through the loin of the accused, she did not have any complaint against the accused of he having given false promise to marry her or having cheated her. She also visited the native place of the accused in the year 2012 and came to know that he was a married man having children also, still she continued to live with the accused at another premises without any grievance. She even obtained divorce from her husband by mutual consent in 2014, leaving her three children with her husband. It was only in the year 2015 when some disputes must have taken place between them, that she filed the present complaint. The accused in his further statement recorded under section 313 of Cr.P.C., 1973 had stated that she had filed the complaint as he refused to fulfill her demand to pay her huge amount. Thus, having regard to the facts and circumstances of the case, it could not be said by any stretch of imagination that the prosecutrix had given her consent for the sexual relationship with the appellant under the misconception of fact, so as to hold the appellant guilty of having committed rape within the meaning of Section 375 of IPC."

8. *Per contra*, learned State counsel has vehemently opposed the grant of any relief to the petitioner and has submitted that the *mens rea* to commit the crime was writ large and supported by cogent evidence.



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Learned Counsel further submitted that in pursuance to the receipt of the complaint made by the complainant, the SSP, Hoshiarpur, sought detailed inquiry report of the matter from the SP Operation, Hoshiarpur, upon which, the allegations levelled by the complainant against the petitioner and others in the aforesaid application are found to be correct. The SP Operation, Hoshiarpur, also found that Petitioner No. 1-Sukhwinder Singh and brother of Petitioner No. 2-Kulwinder Singh, from the very inception with planned manner, in connivance with the petitioner and his nephew Gaurav Toora developed physical relations with the complainant, sexually exploited the complainant and got transferred ₹23,53,908/- in the bank accounts of Petitioner No. 2 and Gaurav Toora, from the complainant/respondent No.2 after getting advanced bank loan to the complainant and also grabbed gold ornaments weighing 3 ½ tola of the complainant. The entire inquiry was reviewed by the higher officials and consequently the SSP, Hoshiarpur, directed the SHO, P.S. Garhdiwala, District Hoshiarpur to register and to investigate the case, resulting which, FIR No.81 dated 26.09.2024 U/s 64, 316 (2), 318(4) of BNS was registered against the Sukhwinder Singh, Kulwinder Singh and Gaurav Toora.

9. Learned State counsel further submits that the co-accused Gaurav Toora was later found to be innocent after the detailed inquiry conducted upon the application filed by his father dated 29.10.2024. Learned State Counsel submits that the challan have been presented in the case and the trial has commenced.



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10. Heard Learned Counsel for the petitioner as well a State and perused the record.

11. It is admitted fact that there were certain monetary transactions between the petitioners and the complainant, which although contended by petitioners to be a friendly loan and also stated to have already been repaid. To substantiate the argument, reliance has been placed on bank statements. However, the allegations in the FIR are not merely confined to financial transactions. There are serious allegations of sexual assault on false pretext of marriage, inducing the complainant to take loans amounting to nearly ₹28 lakhs, execution of a compromise which was later dishonoured, and threats allegedly extended at gunpoint, which cannot be brushed aside at this preliminary stage.

12. The argument raised by the petitioners that the complainant has concocted the entire case with the intention to extort money does not hold much weight at this stage, as the over stated or altering of the figures of the loan amount in the complaints, or inconsistent version of the complainant, are matter of trial which requires appreciation of evidence.

13. Moreover, the reliance placed upon by the learned counsel for the petitioners on the judgment of *Vinod Gupta v. State of Madhya Pradesh, 2024 (2) RCR (Criminal) 175*, is also not applicable, for the reason that in the above mentioned case, the prosecutrix admitted that she was married with the accused, while subsisting the previous marriage



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and resided together as husband and wife, however accused later on refused to solemnize court marriage, also there were material contradictions in the stand taken by the complainant in the FIR and Section 164 Cr.P.C statement, which prima-facie shows the consent of the complainant leading to the quashing of the FIR. However, in the present case, the allegations are not only confined to a false promise of marriage but extend to financial inducement, misappropriation of large sums of money, and breach of trust.

14. Nonetheless, the argument of the learned counsel that the complainant is a serving police official and wields undue influence does not, by itself, justify quashing, for the reason that such issue, as to the fairness in investigation cannot be adjudicated upon at this stage.

15. The law on quashing of proceedings is well settled by the Hon'ble Supreme Court. In ***Central Bureau of Investigation v. Aryan Singh, 2023 (18) SCC 399***, the Hon'ble Supreme Court held that the High Court, at the stage of quashing, cannot conduct a mini trial or test the sufficiency of evidence. The relevant extract of the judgment is reproduced as under:

“4.1 From the impugned common judgment and order passed by the High Court, it appears that the High Court has dealt with the proceedings before it, as if, the High Court was conducting a mini trial and/or the High Court was considering the applications against the judgment and order passed by the



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learned Trial Court on conclusion of trial. As per the cardinal principle of law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the powers under Section 482 Cr.P.C., 1973 the Court is not required to conduct the mini trial. The High Court in the common impugned judgment and order has observed that the charges against the accused are not proved. This is not the stage where the prosecution / investigating agency is/are required to prove the charges. The charges are required to be proved during the trial on the basis of the evidence led by the prosecution / investigating agency. Therefore, the High Court has materially erred in going in detail in the allegations and the material collected during the course of the investigation against the accused, at this stage. At the stage of discharge and/or while exercising the powers under Section 482 Cr.P.C., 1973 the Court has a very limited jurisdiction and is required to consider "whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not".

4.2 One another reason pointed by the High Court is that the initiation of the criminal proceedings / proceedings is malicious. At this stage, it is required to be noted that the investigation was handed over to the CBI pursuant to the



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directions issued by the High Court. That thereafter, on conclusion of the investigation, the accused persons have been charge-sheeted. Therefore, the High Court has erred in observing at this stage that the initiation of the criminal proceedings / proceedings is malicious. Whether the criminal proceedings was/were malicious or not, is not required to be considered at this stage. The same is required to be considered at the conclusion of the trial. In any case, at this stage, what is required to be considered is a prima facie case and the material collected during the course of the investigation, which warranted the accused to be tried.”

16. Similarly, in ***Pradeep Kumar Kesarwani v. State of Uttar Pradesh & Anr., 2025 (4) RCR (Criminal) 119***, the Hon’ble Supreme Court laid down a four-step test for quashing, the relevant finding is reproduced as under:

“20. The following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.:-

(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?



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(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal -proceedings, in exercise of power vested in it under Section 482 of the Cr.P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the



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accused. [(See: Rajiv Thapar & O᳚ v. Madan Lal Kapoor (Criminal Appeal No. 174 of 2013)]”

In the present case, the above parameters do not meet for the reasons as detailed in the paragraphs hereinafter.

17. The material relied upon by the petitioners, i.e. bank statements, is not of unimpeachable quality so as to negate the allegations, rather, it clearly demonstrates that the petitioner had taken the money from the complainant and, hence the complaint has some element of truth, though subject to the principles of law of evidence. At best, the arguments raised by the counsel for the petitioner constitutes a defence which can be considered only during trial, by leading cogent and admissible evidences. At this stage, this Court is only required to examine whether there is a prima facie case warranting trial or not.

18. Accordingly, keeping in the view the facts and circumstances of the case, as well as the settled principle of law, this Court does not find it to be a fit case to exercise the inherent powers under Section 482 Cr.P.C. The allegations against the petitioners are grave and supported by preliminary inquiry. The petitioners always have a right to lead evidences and to rebut and test the veracity of the evidence, so brought in during trial. Therefore, this Court must refrain itself from exercising inherent power by conducting a mini trial in a quashing proceeding, where the prima facie ingredients of offence are duly met.



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19. In light of the above, the present petitions are dismissed. However, the petitioners shall be at liberty to raise all permissible defences before the trial Court, which shall be considered on their own merits and in accordance with law.

20. Pending application(s), if any, stands dispose of.

21. Photocopy of this order be placed on the file of another connected case.

September 30, 2025

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Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No

**(ALOK JAIN)
JUDGE**