

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MMO No. 842 of 2023

Reserved on: 27.11.2025

Date of Decision: 1.1.2026.

Sarandeep Singh Likhare and another ...Petitioners

Versus

State of H.P. and another ...Respondents

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

*Whether approved for reporting?*¹ No.

For the Petitioners : M/s Ajay Sipahiya, Tarun Mehta and Gaurav Chaudhary, Advocates.

For Respondent No.1/State : Mr Ajit Sharma, Deputy Advocate General.

For Respondent No.2 : Mr Divya Raj Singh, Advocate.

Rakesh Kainthla, Judge:

The petitioners have filed the present petition for quashing of FIR No. 31 of 2023, dated 2.5.2023, registered at Police Station Dalhousie, District Chamba, HP, for the commission of an offence punishable under Section 451 read with Section 34 of the Indian Penal Code (IPC).

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Whether reporters of Local Papers may be allowed to see the judgment? Yes.

2. Brief facts, giving rise to the present petition, are that the informant/respondent No.2, Kuldeep Singh, made a complaint to the police that he is the tenant of the property known as Likhari house, located at Dalhousie. The rent agreement was duly registered with the Sub Registrar, Dalhousie, on 27.10.2021. Saranjeet Singh Likhari, his wife, Paramjeet Kaur Likhari, and one unknown person broke into the property of the informant on 28.4.2023 and tried to take its forcible possession by breaking open the locks. He had made a complaint on 24.4.2023, but no action was taken. Hence, it was prayed that action be taken against them.

3. The police registered the FIR and investigated the matter.

4. Being aggrieved by the registration of the FIR and the investigation, the petitioners have filed the present petition for quashing the FIR. It has been asserted that petitioner No.1/accused, Sardar Saranjeet Singh Likhari, had filed a civil suit for a declaration that the Will dated 1.4.1998, registered on 11.3.2019 in favour of one Jagdeesh Kaur Rihal, sister of the petitioner No.1/accused, stated to have been executed by Amolak

Singh Likhari (father of petitioner No.1/accused and Jagdeesh Kaur Rihal), was forged and fabricated. An interim injunction was granted by the learned Civil Judge, Dalhousie, on 19.4.2023. Jagdeesh Kaur Rihal leased out the property to the informant/respondent No.2. He hired Gurmukh Singh as caretaker of the property. The petitioners were entering Likhari House on 28.4.2023 when Gurmukh Singh stopped them. An altercation occurred. The police reached the spot. The medical examination of the accused/petitioner No.2 was conducted by the police, and one grievous injury, and two simple injuries were found on her body. FIR No. 30 of 2023, dated 1.5.2023 was registered against Gurmukh Singh regarding the incident. The informant lodged the present FIR as a counterblast to the FIR lodged by the petitioners/accused. The property belongs to the petitioners/accused, and they had obtained an injunction order from the Court. The ingredients of Section 451 of the IPC are not satisfied. Petitioner No.2 was not even present on the spot. The petitioners are senior citizens, and they could not use any criminal force against the informant or his caretaker. The petitioners are the citizens of Canada, and Jagdeesh Kaur Rihal got the mutation attested in her favour, taking advantage of the

petitioners' absence. The petitioners did not enter into the property with any criminal intent. The civil dispute is pending between the parties, and the criminal proceedings are not maintainable. The mutation was attested without serving any notice upon the petitioner No.1. The FIR was lodged on 2.5.2023 and is belated. The petitioners have also lodged the FIR on 1.5.2023 against Gurmukh Singh. Therefore, it was prayed that the present petition be allowed and the FIR be quashed.

5. The petition is opposed by respondent No.1/State by filing a reply making preliminary submissions regarding the lack of maintainability, and the existence of a *prima facie* case in the petitioners' favour. The contents of the petition were denied on merits; however, it was admitted that an FIR was registered against the petitioners. It was asserted that there is a land dispute between the petitioners and respondent No.2. The police received information on 28.4.2023 regarding some law-and-order disturbance near Hotel Geetanjali at Dalhousie. The police went to the spot and found petitioners No.1 and 2, and one Gurmukh Singh, present at Likhare's house. They revealed during interrogation that a minor altercation had taken place between them over the entry to the house. Subsequently, the medical

examination of the petitioner no. 2 was conducted, and a grievous injury was found on her person. The police registered FIR No.30 dated 1.5.2023. The informant also reported the matter regarding the taking of forcible possession on 2.5.2023, and the police registered FIR No.31 of 2023, dated 2.5.2023 based on this information. The police investigated the matter and found that a *prima facie* case was made out against the petitioners; hence, the police filed a charge sheet before the learned Trial Court.

6. I have heard M/s Ajay Sipahiya, Tarun Mehta and Gaurat Chaudhary, learned counsel for the petitioners, Mr Ajit Sharma, learned Deputy Advocate General, for respondent No.1-State and Mr Divya Raj Singh, learned counsel for respondent No.2/informant.

7. Mr Ajay Sipahiya, learned counsel for the petitioners, submitted that the petitioner No.1 had filed a civil suit against his sister for seeking a declaration that the Will propounded by her is forged. The respondent No.2/informant had beaten the petitioner No.1, and she sustained grievous injuries. The matter was reported to the police, and FIR No.30 was registered by the police. Respondent No.2 lodged the present FIR after the registration of

FIR No.30 as a counterblast. The allegations in the FIR are false. The complaint and the material collected by the police do not disclose the commission of any cognizable offence. A civil suit is pending between the parties. The criminal proceedings are an abuse of the process of the law. Hence, he prayed that the present petition be allowed and the FIR be ordered to be quashed. He has also filed the written arguments, which have been perused by me. He relied upon the following judgments in support of his submission: -

- (i) *Paramjeet Batra Vs. State of Uttrakhand (2013) 11 SCC 673;*
- (ii) *Salib @ Shalu @ Saleem Vs. State of U.P. 2023 INSC 687;*
- (iii) *Usha Chakraborty Vs. State of West Bengal 2023 LiveLaw (SC) 67;*
- (iv) *Naresh Kumar and another Vs. State of Karnataka and another 2024 INSC 196;*
- (v) *K. Bharathi Devi and another Vs. State of Telangana and another 2024INSC750;*
- (vi) *Rikhab Birani Vs. State of Uttar Pradesh 2025 INSC 512;*
- (vii) *Anukul Singh Vs. State of UP and another 2025 INSC 1153;*
- (viii) *Mala Choudhary Vs. State of Telangana 2025 LiveLaw (SC) 725;*

- (ix) *Shailesh Kumar Singh alias Shailesh R. Singh Vs. State of UP and others* 2025 *LiveLaw (SC)* 726;
- (x) *S.N. Vijayalakshmi & Ors. Vs. State of Karnataka & anr.* 2025 *LiveLaw (SC)* 758;
- (xi) *Anand Kumar Mohatta Vs. State (NCT of Delhi)* (2019) 11 *SCC* 706;
- (xii) *Charanjit Sharma and Anr. Vs. State of Punjab* 2023: *PHHC:145235*;
- (xiii) *Jaswant Singh Vs. State of Punjab and another* 2021 *SC LiveLaw 2021 SC 623*;
- (xiv) *M. Srikanth Vs. State of Telangana and another, Cr. Appeal Nos. 1587-1588 of 2019, decided on 21.10.2019*;
- (xv) *Radheyshyam and others Vs. State of Rajasthan and another, Criminal Appeal No. 3020 of 2024, decided on 22.7.2024*;
- (xvi) *Randheer Singh Vs. State of UP and others, Criminal Appeal Nos. 932 and 933 of 2021, decided on 2.9.2021; and*
- (xvii) *Syed Yaseer Ibrahim Vs. State of UP and another, Criminal Appeal No. 295 of 2022, decided on 28.2.2022.*

8. Mr Ajit Sharma, learned Deputy Advocate General for the respondent No.1-State, submitted that mere filing of the civil suit would not authorise the petitioners to trespass on the property in possession of the informant. The police have filed the

charge sheet before the learned Trial Court, and the learned Trial Court is seized of the matter. This Court should not exercise the extraordinary jurisdiction vested in it. Hence, he prayed that the present petition be dismissed.

9. Mr. Divya Raj Singh, learned counsel for respondent No.2, submitted that the informant was inducted as a tenant by a valid registered deed. Even if the civil suit of the petitioner no. 1 is decreed, he would have to accept the terms and conditions of the lease deed executed by Jagdeesh Kaur Rihal. The petitioners could not have trespassed into the possession of respondent No.2 even in the colour of their right. Therefore, he prayed that the present petition be dismissed.

10. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

11. The law relating to quashing of FIR 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 based on 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 non-cognizable 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.”

12. 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*)

13. The present petition is to be decided as per the parameters laid down by the Hon’ble Supreme Court.

14. Petitioner No.1 asserted that he had instituted a civil suit against his sister Jagdeesh Kaur Rihal for seeking a declaration regarding the invalidity of the Will, and an injunction order (Annexure P-2) was issued in his favour. The order dated 19.4.2023, passed by the learned Civil Judge, Dalhousie, merely restrains the respondent Jagdeesh Kaur Rihal from alienating the suit property. No order was passed authorising the petitioner, no. 1, to enter into the property. Thus, not much advantage can be derived from the institution of the suit and the issuance of the order.

15. It is an admitted case of the petitioner No.1 that he is residing in Canada. He had mentioned his address as a resident of Canada. He asserted in paragraph 11 of the present petition that the petitioners are non-resident Indians who have obtained citizenship of Canada and are residing in Canada. Jagdeesh Kaur Rihal got the mutation attestation in her favour, taking advantage of the petitioners' absence. Similar averment was made in the plaint (Annexure P-1) wherein it was mentioned in paragraph 12 that plaintiff Saranjeet Singh Likhari was residing in Canada since 1992 and was a Canadian citizen. Therefore, *prima facie*, the plea

taken by the petitioners that they are in possession of the property cannot be accepted.

16. The rent agreement (Annexure P-5) executed between Jagdeesh Kaur Rihal and Kuldeep Singh on 27.10.2021 shows that the property was leased to the informant for a period of ten years, subject to the terms and conditions agreed between the parties. This agreement shows that the possession was delivered to respondent No.2/informant Kuldeep Singh. Thus, *prima facie*, the averment that respondent No.2/informant is in possession of the property has to be accepted as correct.

17. The FIR specifically mentions that the petitioners broke into the property and tried to take forcible possession of the property by breaking open the locks. The police investigated the matter and filed the charge sheet before the Court, stating that the police had seized a broken lock, bolt and gate hook which corroborate the informant's version that an attempt was made to take forcible possession by breaking open the lock.

18. It was submitted that the ingredients of the commission of an offence punishable under Section 442 of the IPC are not satisfied because there was no intention to insult,

intimidate or annoy any person or to commit any offence. This submission cannot be accepted. The petitioners entered into the property in the informant's possession by breaking open the lock, which amounts to mischief. They would be aware of the fact that forcible entry by breaking open the locks would amount to mischief, and the necessary ingredients of the criminal trespass were satisfied. The petitioners were aware of the fact that they were not in possession; they had filed a civil suit seeking a declaration regarding the invalidity of the Will, the Court had only restrained Jagdeesh Kaur Rihal from alienating the property and had not authorised the petitioners to enter into the property. Therefore, *prima facie*, the petitioners had committed mischief by entering into the property, and the ingredients of the commission of an offence punishable under Sections 451 and 427 of the IPC are duly satisfied.

19. It was submitted that the dispute between the parties is civil in nature, which is evident from the fact that a civil suit is pending between the parties. This submission is not acceptable. The petitioner No.1 had filed a civil suit seeking a declaration regarding the invalidity of the Will, which is different from taking possession. The act of trespass had nothing to do with the civil

suit pending before the Court and was an independent wrong. Therefore, the submission that a civil suit is being given the colour of a criminal case cannot be accepted, and the judgments in *Param Jeet Batra* (supra), *Naresh Kumar* (supra), *Rikhav Birani* (supra), *Mala Chaudhary* (supra), *Charanjeet Sharma* (supra), *Jaswant Singh* (supra), *M. Shrikant* (supra) and *Radheshyam and others* (supra) will not apply to the present case.

20. It was submitted that the incident had occurred on 28.4.2023, whereas the matter was reported to the police on 2.5.2023. Hence, the FIR should be quashed because of the delay. This submission cannot be accepted. It was held in *Punit Beriwala v. State (NCT of Delhi)*, 2025 SCC OnLine SC 983, that the Court exercising jurisdiction under Section 482 of CrPC has to treat the allegations in the complaint as correct. It was observed:-

“29. It is settled law that the power of quashing of a complaint/FIR should be exercised sparingly with circumspection, and while exercising this power, the Court must believe the averments and allegations in the complaint to be true and correct. It has been repeatedly held that, save in exceptional cases where non-interference would result in a miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences. Extraordinary and inherent powers of the Court should not be used routinely according to its whims or caprice.”

21. It was submitted that there are variations in the statement recorded by the police and the FIR, which makes the prosecution's case suspect. This submission will not help the petitioners. This Court cannot conduct a mini-trial to determine the correctness or otherwise of the allegations made in the FIR. It was laid down in *Maneesha Yadav v. State of U.P.*, 2024 SCC OnLine SC 643, that the Court exercising inherent jurisdiction to quash the FIR cannot go into the truthfulness or otherwise of the allegations. It was observed: -

“13. As has already been observed hereinabove, the Court would not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint at the stage of quashing of the proceedings under Section 482 Cr. P.C. However, the allegations made in the FIR/complaint, if taken at their face value, must disclose the commission of an offence and make out a case against the accused. At the cost of repetition, in the present case, the allegations made in the FIR/complaint, even if taken at their face value, do not disclose the commission of an offence or make out a case against the accused. We are of the considered view that the present case would fall under Category-3 of the categories enumerated by this Court in the case of *Bhajan Lal (supra)*.

14. We may gainfully refer to the observations of this Court in the case of *Anand Kumar Mohatta v. State (NCT of Delhi), Department of Home* (2019) 11 SCC 706: 2018 INSC 1060:

“14. First, we would like to deal with the submission of the learned Senior Counsel for Respondent 2 that once the charge sheet is filed, the petition for

quashing of the FIR is untenable. We do not see any merit in this submission, keeping in mind the position of this Court in *Joseph Salvaraj A. v. State of Gujarat* [*Joseph Salvaraj A. v. State of Gujarat*, (2011) 7 SCC 59: (2011) 3 SCC (Cri) 23]. In *Joseph Salvaraj A. [Joseph Salvaraj A. v. State of Gujarat*, (2011) 7 SCC 59: (2011) 3 SCC (Cri) 23], this Court while deciding the question of whether the High Court could entertain the Section 482 petition for quashing of FIR when the charge-sheet was filed by the police during the pendency of the Section 482 petition, observed: (SCC p. 63, para 16)

“16. Thus, the general conspectus of the various sections under which the appellant is being charged and is to be prosecuted would show that the same is not made out even *prima facie* from the complainant's FIR. Even if the charge sheet had been filed, the learned Single Judge [*Joseph Salvaraj A. v. State of Gujarat*, 2007 SCC OnLine Guj 365] could have still examined whether the offences alleged to have been committed by the appellant were *prima facie* made out from the complainant's FIR, charge-sheet, documents, etc. or not.”

22. It was laid down by the Hon'ble Supreme Court in *Dharambeer Kumar Singh v. State of Jharkhand*, (2025) 1 SCC 392: 2024 SCC OnLine SC 1894 that the Court cannot conduct a mini-trial while exercising jurisdiction under section 482 of CrPC. It was observed on page 397:

“17. This Court, in a series of judgments, has held that while exercising inherent jurisdiction under Section 482 of the Criminal Procedure Code, 1973, the High Court is not supposed to hold a mini-trial. A profitable reference can be

made to the judgment in *CBI v. Aryan Singh* [CBI v. Aryan Singh, (2023) 18 SCC 399: 2023 SCC OnLine SC 379]. The relevant paragraph from the judgment is extracted hereunder: (SCC paras 6-7)

6. ... 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 482CrPC, the Court is not required to conduct the mini-trial. ...

7. ... At the stage of discharge and/or while exercising the powers under Section 482CrPC, the Court has 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'."

23. This position was reiterated in *Muskan v. Ishaan Khan (Sataniya)*, 2025 SCC OnLine SC 2355, wherein it was observed: -

22. On the aspect of the powers of the Courts under Section 482 of the Cr. P.C., it is settled that at the stage of quashing, the Court is not required to conduct a *mini-trial*. Thus, the jurisdiction under Section 482 of the Cr. P.C. with respect to quashing is somewhat limited as the Court has to only consider whether any sufficient material is available to proceed against the accused or not. If sufficient material is available, the power under Section 482 should not be exercised.

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27. We are of the view that the High Court has erred in law by embarking upon an enquiry with regard to the credibility or otherwise of the allegations in the complaints and the FIR. Normally, for quashing an FIR, it must be shown that there exists no *prima facie* case against the accused persons..."

24. Therefore, it is impermissible for this Court to conduct a mini-trial to determine whether the allegations in the FIR are correct or not.

25. It was submitted that the litigations are pending between the parties, and this Court should read between the lines. This submission will also not help the petitioners. Even if the FIR is read carefully, it discloses *prima facie* that the petitioners had trespassed into the property of the informant by committing mischief. Therefore, it is impermissible to quash the FIR by reading between the lines, and the judgment in *Salib* (supra) and *Usha Chakrabarti* (supra) will not apply to the present case.

26. It is undisputed that the police have filed the charge sheet before the Court, and the learned Trial Court is seized of the matter. It was laid down by the Hon'ble Supreme Court in *Iqbal v. State of U.P.*, (2023) 8 SCC 734: 2023 SCC OnLine SC 949 that when the charge sheet has been filed, the learned Trial Court should be left to appreciate the same. It was observed:

“At the same time, we also take notice of the fact that the investigation has been completed and the charge sheet is ready to be filed. Although the allegations levelled in the FIR do not inspire any confidence, particularly in the absence of any specific date, time, etc. of the alleged offences, we are of the view that the appellants should

prefer a discharge application before the trial court under Section 227 of the Code of Criminal Procedure (CrPC). We say so because even according to the State, the investigation is over and the charge sheet is ready to be filed before the competent court. In such circumstances, the trial court should be allowed to look into the materials which the investigating officer might have collected forming part of the charge sheet. If any such discharge application is filed, the trial court shall look into the materials and take a call whether any discharge case is made out or not.”

27. No other point was urged.
28. In view of the above, the present petition fails, and the same is dismissed.
29. The present petition stands disposed of, and so are the miscellaneous applications, if any.
30. The observations made herein before shall remain confined to the disposal of the petition and will have no bearing, whatsoever, on the merits of the case.

(Rakesh Kainthla)
Judge

1st January, 2026
(Chander)