

CRM-M-49148-2025 (O & M)

2025:PHHC:122713



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(130)

CRM-M-49148-2025 (O & M)

Reserved on: 04.09.2025

Date of Pronouncement:09.09.2025

Sunil Kumar

..... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. A.S. Lamba, Advocate, for the petitioner.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 528 of BNSS, 2023 (corresponding Section 482 Cr.P.C.) is for quashing of FIR No.491 dated 18.07.2024 under Sections 318(4), 351(2) & 3(5) of BNS, 2023 registered at Police Station HTM Hisar, District Hisar (Annexure P-1) alongwith all consequential proceedings including Final Report under Section 197 of BNSS, 2023 (Section 173 Cr.P.C.) dated 19.10.2024 wherein during the investigation Sections 111(2)(b), 308(2), 338, 336(3), 340, 238(b), 215 and Section 61 of the BNS, 2023 and Sections 7, 7A, 8 and 13 of the Prevention of Corruption Act, 1988 have also been added (Annexure P-2).

2. The brief facts of the case are that an FIR No. 0491 dated 18.07.2024 under Sections 3(5), 318(4) and 351(2) of BNS, 2023 came to be registered at the instance of Satbir Singh Saharan and reads as under:-



That the complainant is a law abiding citizen and he is retired from the Air Force. 2) That complainant and his daughter had taken shares in the Vikas Marg Welfare Society, Mirzapur Chowk, Hisar, in lieu of which, the society has transferred Plots No.35 and 36. 3) That neither the complainant and his daughter have raised any four wall on the above mentioned plots nor any kind of boundary wall. By taking advantage of this, the above mentioned accused started illegally interfering in the shares/plots of complainant and his daughter with intention to take illegal possession. Upon which, complainant talked to above mentioned accused several times for not Interfering by doing illegal occupation on said plots, but above mentioned accused did not give any satisfactory answer and started negotiating with the complainant by stating that if he wants to save his property, so in lieu of which, half of the share/plot will have to be given to said accused, otherwise the complainant and his daughter do whatever they want, as the said accused will take said property in their possession. The above accused also said that they have prepared documents and false assessments related to the above-mentioned plots. Therefore, the complainant cannot cause any harm to the above-mentioned accused. The above accused also indirectly threatened the complainant that if the complainant and his daughter tried to use any kind of force, the consequences would not be good because the above accused have good relations with some police officers as the accused pay huge amount of money on monthly basis to police



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officers. 4. That above mentioned accused are criminal type of persons. Many criminal cases are pending against them. Above mentioned accused persons have illegally taken possession on properties of many people in the city and they use to extort huge amount of money from everyone in the name of leaving the possession. In this way, above mentioned accused persons have acquired illegal property worth crores of rupees. It is necessary to conduct an impartial enquiry on the said matter. Above mentioned accused are openly claiming that they have connivance with senior police officers and senior officers have also stake in other properties occupied by the accused. 5) That above mentioned accused, apart from forcefully taking illegal possession on properties of innocent and weak people, they are also involved in other illegal activities like liquor smuggling and other drugs etc. 6. That above mentioned accused persons in connivance with each other and in collaboration with different government departments used to prepare false documents of properties of innocent people like assessment etc. Just few days ago, news was published in the newspaper in this regard that false documents of properties in Hisar worth about Rs.15 lakh have been prepared in connivance with some officials of the Municipal Corporation, Hisar, enquiry on which is going on. 7) That accused are directly and indirectly stating complainant and his daughter that if the complainant and his daughter try to come to plots, the consequences would not be good. Therefore, the complainant Is now left with no other option except to take legal action. 8) That while accused persons are carrying out illegal interference on the above mentioned property, they carry



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dangerous dogs with them, so that complainant and his daughter do not go to the above mentioned property and if complainant and his daughter come to the above mentioned property, they attack them and could cause physical harm. Therefore, it is respectfully prayed before you that legal action may kindly be taken by lodging FIR for the respective offences against above mentioned accused for interfering in the shares/plots of complainant and his daughter, for threatening the complainant to face dire consequences, if the applicant tries to restrain them from interfering into the said land, he should be ready to face dire consequences and for demanding half of the share/plot in-lieu of not interfering in the share/plots of the complainant and his daughter and further, said accused persons are demanding half share in said property in lieu of not committing criminal trespass and for demanding extortion. Thanking you. Dated 18.07.2024.

3. The petitioner is not named in the FIR. During the course of the investigation, he was nominated as an accused. On the culmination of the investigation, the final report under Section 193 BNSS came to be submitted against the accused-petitioner alongwith the other accused. A copy of the final report under Section 193 BNSS is attached as Annexure P-2 to the present petition. The relevant extract of the final report containing the allegations against the petitioner is as under:-

8. On 23.07.2024 itself, the accused named in the case Ram Avtar and Surjeet were arrested as per rules after investigation and interrogation after having sufficient evidence against the



accused and were kept in the lock-up of Special Staff, Hisar. During the formal interrogation of the accused named in the case, Ram Avtar and Surjeet, the name of accused Sunil Kumar came up, and after investigation accused Sunil Kumar was arrested on the night of 24.07.2024 as per rules and was kept in the lock-up of Special Staff, Hisar.

9. On 24.07.2024, the accused Ram Avtar, Surjeet and Sunil Kumar were taken out of the lockup and thoroughly questioned. Upon thorough questioning, the accused got their disclosure recorded, which were written separately. The accused and witnesses signed the disclosure. The accused Ram Avtar, Surjeet and Sunil Kumar got recorded in their disclosure that whenever we used to occupy a plot illegally, we used to force the plot holder to sell the plot at a low price by threatening him, on which Section 308 (2) BNS was invoked in the case.

10. On 24.07.2024, in reference to notice issued to SDO OP Sector 1-4, Dakshin Haryana Bijli Vitran Nigam Office Hisar under Section 94 BNSS dated 22.07.2024, Consumer Clerk Dinesh DHBVNL Hisar provided certified copies of the complete documents applied by the applicant for electricity meter serial number 96790543. On inspection of these, 2 page application form, accused Sunil son of Ram Kishan, Gali No 5, Vinod Nagar, Hisar, was found the holder of allotment card of The Vikas Marg Welfare Society Registration Number 896 Plot 38-39 and date of issue was 21.11.1994 and copy of Aadhaar card, total 4 page, were taken in police possession.

11. On 24.07.2024 itself, a notice under Section 94 BNSS was given to obtain a certified copy of the allotment card of plot number 38-39 by reaching the office of The Vikas Welfare Society. On this notice, the President Devendra Singh Panihar wrote that plot number 38-39 is not allotted in the name of Sunil Kumar. The card of the above mentioned plot holder Sunil



Kumar of plot number 38-39 has not been issued by our society office. Therefore, Section 338, 336 (3) 340 (2) BNS was invented in the case.

12. On 24.07.2024, accused Ram Avtar, Surjeet and Sunil were produced in court and 4-day police custody was obtained. Special staff reached Hisar and got them locked up. On 25.07.2024, the accused were taken out of the lockup and further interrogation was done on which accused Ram Avtar, Surjeet and Sunil got their disclosure registered again and accused Ram Avtar and Surjeet mentioned in their disclosure that Deputy Superintendent of Police Pradeep Yadav is also a member of the gang. Accused Ram Avtar and Sunil Kumar signed their disclosure and witnesses also signed and Surjeet refused to sign his disclosure, Section 215 BNS was invoked in the case. After interrogation, the accused were sent to lock up.

13. On 25.07.2024, the Incharge Special Staff received information that Mukesh, the accused named in the case, had sent his men to destroy evidence by demolishing the illegal construction of the plots occupied by The Vikas Marg Society with the help of JCB. On this information, Deputy Inspector Inder Singh 1315 along with his staff reached the spot where the wall of the illegal construction had already been demolished by the JCB, on which the statements of the person present, Pawan Kumar and the JCB driver were recorded. Pawan Kumar recorded in his statement that he had brought the JCB on the instructions of Mukesh Gujjar's brother Jai Singh, resident of Dhani Qutubpur, and had made a video of the time of breaking the wall and sent it to Jai Singh. I did not know that this is disputed land. Accused Mukesh named in the case has conspired with accused Jai Singh to destroy evidence by demolishing the illegal construction on the occupied plot, hence Section 238 BNS was invoked in this case.

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16 On 26.07.2024 itself, as per disclosure of accused Sunil Kumar, fake agreement of plot no. 38-39 was recovered from accused Sanjeev Kumar, which was taken into police possession through Memo. The accused and the witness signed on the Memo. The statements of witnesses were recorded.

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19 On 28.07.2024, the original owner of plot no. 38-39, which were occupied by Sunil Kumar, Mehar Chand, husband of deceased Indu Kumari, produced the death certificate of his wife and a certified copy of the allotment card of plot no. 37-38, which were taken in police possession. The witness signed on the Memo. The statements of witnesses was recorded.

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22. On 29.07.2024, the accused Ram Avtar, Sunil, Surjeet were taken out of the lockup and further interrogation was done on which the accused got their statements recorded that Deputy Superintendent of Police Pradeep Yadav is also a member of our gang. On which the accused and the witnesses signed. The accused Ram Avtar, Sunil, Surjeet were produced in the court and taken on 2-day police remand and the special staff reached Hisar and got the accused locked up in the lockup. Statements of witnesses were recorded.

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27. On 03.08.2024 itself, witness Pawan son of Satbir resident of village Satrod Klan district Hisar came to Special Staff Hisar and presented 3 pen drives branded EVM 16 GB and affidavit



of statement to SIT member ASI Surendra Singh 1213/Hisar. On observing all the three pen drives, it was found that the wall of plot no. 29-30 of Vikas Marg Welfare Society, Mirzapur Chowk, Hisar was broken by means of a JCB and the JCB was seen standing there. The three pen drives branded EVM 16 GB were prepared in separate bundles and were all stamped with seal SK/3. The bundles and the affidavit were taken to the police as evidence through memo. On which the witness put their signatures. The statements were recorded.

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39. On dated 30.08.2024 DDA Narendra Hooda, Office of Superintendent of Police, Hisar, after studying the circumstances of the case, gave his opinion that "After thorough perusal of the report of SIT Head my legal opinion point wise is as follows (1) Misuse of Govt position by accused comes under prevention of Corruption act and can be prosecuted. (2) The accused can be prosecuted u/s 7 & 13 of P.C. Act. (3) The provision of P.C. Act shall be extended to other co-accused who have influence him. Sec. 7A & 8 of P.C. Act is applicable on other accused. (4) As per sec. 19 of P.C. Act sanction from competent authority is mandatory to prosecute any public official. On the opinion of DDA Sahab, Sections 7,7A, 13, 8 P.C. Act were invented in the case.

4. It is the aforementioned FIR (Annexure P-1), Final report (Annexure P-2) and all consequential proceedings arising therefrom that have been sought to be quashed in the present petition.

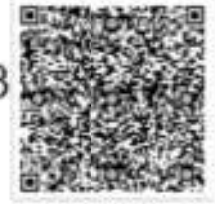


5. The learned counsel for the petitioner contends that the petitioner has been falsely implicated on the basis of conjectures and surmises without any evidence whatsoever. He has not been named in the FIR. The FIR (Annexure P-1) and the report under Section 193 BNSS (Annexure P-2) do not disclose any evidence qua him. The allegations in the report under Section 193 BNSS that he alongwith the co-accused Sanjeev got prepared a forged agreement to sell and got an electricity connection for the plots No.38-39 has not been established. In fact, he is a *bona fide* purchaser for consideration from Sanjeev. The registration of the society in question had lapsed. Therefore, the petitioner was well within his rights to purchase the plots in question. He, therefore, contends that the FIR (Annexure P-1), final report (Annexure P-2) and the consequential proceedings arising therefrom qua him ought to be quashed.

6. I have heard the learned counsel for the petitioner.

7. The parameters of quashing of an FIR have been laid down in the judgment of '***State of Haryana & Ors. v. Bhajan Lal & Ors., (1992) Supp (1) SCC 335***' and the same are reproduced as under:-

“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 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.

(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."



8. The Hon’ble Supreme Court in various judgments has held that disputed questions of fact and the defence of an accused cannot be considered to quash an FIR and/or the report under Section 193 of BNSS. Such disputed questions of fact and the defence of an accused can only be adjudicated upon during the course of the Trial. The relevant judgments in this regard are as under:-

In ‘*Maksud Saiyed versus State of Gujarat & Ors. 2007(4) RCR(Criminal) 406*’, the Hon’ble Supreme Court held as under:-

6. The jurisdiction of the High Court to quash a FIR in exercise of its jurisdiction under Section 482 of the Code of Criminal Procedure is well known. The court may not enter into determination of a disputed question of fact at that stage. It may, however, take note of the allegations made in the complaint petition vis-a-vis the conduct of the parties. It is not disputed that the bank had filed an original application before the Debts Recovery Tribunal, Ahmedabad. A civil suit was filed at Vadodara in the year 2003. In the prospectus issued, it was stated :

"Sr. No.	Suit details	Date of Filing	Name of the party	Branch	Amount claimed (Rs. in lacs)
4	DRT, A 'bad 28.3.03	M/s. Nagami Nicotine Pvt. Ltd.	A.R.B. A'bad	993.74	The case is filed against the Bank for non-submission of export bills and non-releasing of the sanctioned limits. We have taken plea that since the borrower is not clearing the dues of the Bank, Bank has not released the export bills as per procedure of UCPDC rules."



In '**Koppiseti Subbharao @ Subramaniam versus State of A.P. 2009(2) RCR(Criminal) 860**', the Hon'ble Supreme Court held as under:-

25. The High Court was justified in holding that disputed questions of fact are involved and the application under section 482 of Code has been rightly rejected. We do not find any scope for interference with the order of the High Court. However, we make it clear that we have not expressed any opinion on the merits of the case.

In '**Ashfaq Ahmed Qurereshi and another vesus Namrata Chopra and others 2014(1) RCR(Criminal) 528**', the Hon'ble Supreme Court held as under:-

4. There is sufficient evidence on record to show that the property belonged not only to the respondent Nos. 1 & 2, but they were the owners alongwith respondent Nos. 3 and 4. The respondent No. 3 has died and respondent No. 4 has been deleted from the array of parties by this court earlier. There is ample evidence on record that the permission had been sought and obtained from Municipal Corporation of Bhopal for raising the construction of a Club House and the land in dispute had been shown as vacant land for parking. It is too late for the respondent Nos. 1 & 2 to say that the respondent Nos. 3 and 4 might have forged their signatures for the reason that it is not their case in the counter affidavit or even before the High Court that they had ever raised any objection or filed any complaint before the police or any competent court for forging their signatures by someone else on the said application. More so, there are disputes regarding partition and demarcation of shares between the respective parties. The sale deeds are also on record that their shares have been sold not only by



respondent Nos. 3 & 4 but also by respondent Nos. 1 & 2 subsequently and there is no land available today. No explanation could be furnished by Mr. Prashant Kumar appearing for respondent nos. 1 & 2 as to why this fact had not been brought to the notice of the court.

5. As the case raises a large number of disputed questions of fact, we are of the considered opinion that there was no occasion for the High Court to allow the petition under Section 482 Cr.P.C. and quash the criminal proceedings qua the said respondents.

In ‘Rishipal Singh versus State of U.P. and another 2014(3)

RCR(Criminal) 637’, the Hon’ble Supreme Court held as under:-

11. This Court in Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. and Others, 2000(2) RCR (Criminal) 122 : 2000 (3) SCC 269, has discussed at length about the scope and ambit while exercising power under Section 482 Cr.P.C. and how cautious and careful the approach of the Courts should be. We deem it apt to extract the relevant portion from that judgement, which reads:

"Exercise of jurisdiction under inherent power as envisaged in section 482 of the Code to have the complaint or the charge sheet quashed is an exception rather than rule and the case for quashing at the initial stage must have to be treated as rarest of rare so as not to scuttle the prosecution with the lodgement of First Information Report. The ball is set to roll and thenceforth the law takes it's own course and the investigation ensures in accordance with the provisions of law. The jurisdiction as such is rather limited and restricted and it's undue expansion is neither practicable nor warranted. In the event, however, the Court on a perusal of the complaint comes to a conclusion that the allegations levelled in the complaint or charge sheet on the fact of it does not constitute or disclose any offence alleged, there ought not to be any hesitation to rise up to the expectation of the people and deal with the situations as



is required under the law. Frustrated litigants ought not to be indulged to give vent to their vindictiveness through a legal process and such an investigation ought not to be allowed to be continued since the same is opposed to the concept of justice, which is paramount".

12. *This Court in plethora of judgments has laid down the guidelines with regard to exercise of jurisdiction by the Courts under Section 482 Cr.P.C. In State of Haryana v. Bhajan Lal, 1991(1) RCR (Criminal) 383 : 1992 Supp(1) SCC 335, this Court has listed the categories of cases when the power under Section 482 can be exercised by the Court. These principles or the guidelines were reiterated by this Court in (1) Central Bureau of Investigation v. Duncans Agro Industries Ltd., 1996(3) RCR (Criminal) 60 : 1996 (5) SCC 592; (2) Rajesh Bajaj v. State NCT of Delhi, 1999(2) RCR (Criminal) 160 : 1999 (3) SCC 259 and; (3) Zandu Pharmaceuticals Works Ltd. v. Mohd. Sharaful Haque & Anr., 2004(4) RCR (Criminal) 937 : (2005) 1 SCC 122. This Court in Zandu Pharmaceuticals Ltd., observed that:*

"The power under section 482 of the Code should be used sparingly and with to prevent abuse of process of Court, but not to stifle legitimate prosecution. There can be no two opinions on this, but if it appears to the trained judicial mind that continuation of a prosecution would lead to abuse of process of Court, the power under section 482 of the Code must be exercised and proceedings must be quashed". Also see Om Prakash and Ors. v. State of Jharkhand, 2012(4) RCR (Criminal) 662 : 2012(5) Recent Apex Judgments (R.A.J.) 127 : 2012 (12) SCC 72.

What emerges from the above judgments is that when a prosecution at the initial stage is asked to be quashed, the tests to be applied by the Court is as to whether the uncontroverted allegations as made in the complaint prima facie establish the case. The Courts have to see whether the continuation of the complaint amounts to abuse of process of law and whether



continuation of the criminal proceeding results in miscarriage of justice or when the Court comes to a conclusion that quashing these proceedings would otherwise serve the ends of justice, then the Court can exercise the power under Section 482 Cr.P.C. While exercising the power under the provision, the Courts have to only look at the uncontroverted allegation in the complaint whether prima facie discloses an offence or not, but it should not convert itself to that of a trial Court and dwell into the disputed questions of fact.

In ‘Tilly Gifford versus Michael Floyd Eshwar & Anr. 2018(1)

RCR (Criminal) 350’, the Hon’ble Supreme Court held as under:-

4. A perusal of the order of the High Court released on 21.05.2015 would indicate that the High Court has gone far beyond the contours of its power and jurisdiction under Section 482 Cr.P.C., 1973 to quash a criminal proceeding, the extent of such jurisdiction having been dealt with by this Court in numerous pronouncements over the last half century. Time and again, it has been emphasised by this Court that the power under Section 482 Cr.P.C., 1973 would not permit the High Court to go into disputed questions of fact or to appreciate the defence of the accused. The power to interdict a criminal proceeding at the stage of investigation is even more rare. Broadly speaking, a criminal investigation, unless tainted by clear mala fides, should not be foreclosed by a Court of Law.

In ‘Ravi Karumabaiah versus State and Anr. 2015(37)

RCR(Criminal) 751’, the Delhi High Court held as under:-

19. As alleged by the petitioner, there are disputed questions of facts which can be considered by learned Trial Court during trial. The petitioner will get the liberty to defend his case, but at



this stage the trial cannot be stopped by quashing the proceedings, as sought by petitioner. Moreover, the petitioner has failed to establish any illegality or perversity in the orders passed by learned Trial Court as well as learned Revisional Court. Therefore, I am not inclined to exercise inherent powers under Section 482 Cr P C of this Court.

9. A perusal of the aforesaid judgment would show that an FIR and all subsequent proceedings arising therefrom can be quashed where a bare perusal of the FIR and the uncontroverted allegations do not constitute an offence or where the allegations levelled are completely absurd and improbable on the face of it. The defence of the accused and disputed questions of fact cannot be examined in proceedings under the 482 Cr.P.C. (528 of BNSS, 2023)

10. A perusal of the FIR (Annexure P-1) and the report under Section 193 BNSS (Annexure P-2) would *prima facie* establish that the petitioner was holding an Allotment card for Plots No.38-39. However, as per the statement under Section 161 Cr.P.C. (Section 180 of BNSS, 2023) of Mehar Chand (Annexure P-4), Plot No.37-38 had been allotted to his wife. It has been found during investigation that the allotment in the name of the petitioner was not issued by the Society's office. The petitioner had obtained an electricity connection based on forged documents. The defence of the petitioner that he is a *bona fide* purchaser for consideration or that the plot was allocated to him as the original Society ceased to be in existence are matters of his defence and cannot be examined in a petition under Section 528 BNSS (482 Cr.P.C.). He seems to be the part of a land mafia which

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includes senior police officials as well and provisions of the Prevention of Corruption Act have also been invoked. Therefore, a bare perusal of the report under Section 193 BNS, 2023 cannot lead to the conclusion that the uncontroverted allegations levelled in the said report do not reveal the commission of any offence by the petitioner.

11. The upshot of the aforementioned discussion is that as an offence stands *prima facie* established from the report under Section 193 BNS (173 Cr.P.C.) (Annexure P-2), the question of quashing of FIR No.491 dated 18.07.2024 under Sections 318(4), 351(2) & 3(5) of BNS, 2023 registered at Police Station HTM Hisar, District Hisar (Annexure P-1) alongwith all consequential proceedings including Final Report under Section 197 of BNSS, 2023 (Section 173 Cr.P.C.) dated 19.10.2024 wherein during the investigation Sections 111(2)(b), 308(2), 338, 336(3), 340, 238(b), 215 and Section 61 of the BNS, 2023 and Sections 7, 7A, 8 and 13 of the Prevention of Corruption Act, 1988 (Annexure P-2) does not arise.

12. Therefore, the present petition stands dismissed.

13. The pending application(s), if any, shall stand disposed of accordingly.

September 09, 2025
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No