

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

\*\*\*\*

**CRM-M-39874-2025 (O&M)**

**Date of Decision: 29.07.2025**

\*\*\*\*

Sukhjit Kaur

... Petitioner

VS.

State of Punjab & Anr.

... Respondents

\*\*\*\*

**CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL**

\*\*\*\*

Present: Mr. Himmat Singh Sidhu, Advocate for the petitioner

\*\*\*\*

**Sandeep Moudgil, J. (Oral)**

(1). This petition under Section 528 BNSS has been filed by the petitioner with a prayer to quash the FIR No.13 dated 02.04.2021 (Annexure P1) under Sections 420/465/467/471/120-B IPC registered at PS Mehal Kalan, District Barnala along with challan under Section 173 CrPC dated 24.12.2022 (Annexure P2) as well as the order dated 13.05.2025 (Annexure P3) passed by trial court whereby charges have been framed and all consequential proceedings arising therefrom.

(2). The crux of this case is the dispute over Harbans Singh' Will and the legitimacy of Charanjit Kaur's marriage to him. The marriage certificate submitted by Charanjit Kaur is found to be fake, casting doubt on her claim. There are two death certificates with different wives' names: Harbans Kaur and Charanjit Kaur. The Will divides property among his children and daughter-in-law Gurmit Kaur. The case involves allegations of fraud and criminal history against Charanjit Kaur and Satnam Singh in regard to determination of validity of Harbans Singh's Will, the legitimacy of Charanjit Kaur's marriage, and the rightful beneficiaries of his estate with multiple parties claiming rights to Harbans Singh's property.

(3). Having heard learned counsel for the parties, as can be seen that proceedings before the trial court has commenced and is underway. So much so, the allegations leveled in the present case are essentially factual than legal, inasmuch as only the trial court is vested with the requisite jurisdiction to determine the factual disputes in accordance with the principles of law and appreciation of evidence. Ultimately, the allegation of Charanjit Kaur's preparing forged marriage certificate in order to obtain financial gain and grab property of Harbans Singh thereby committing the offence of fraud and forgery are essentially a matter of trial the fate of which hinges on the evidence presented and the applicable laws governing inheritance and marriage which is determinable only by the trial court and not before this Court.

(4). The Hon'ble Supreme Court in the case of **"State of Haryana v. Bhajan Lal," 1992 Supp (1) SCC 335**, has held that FIRs can only be quashed in the rarest of rare cases where the allegations do not disclose any offence even if taken at face value. Similarly, in the case of **"Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra," (2021) 6 SCC 116**, the Apex Court cautioned that where a prima facie case is made out, criminal proceedings should not be scuttled prematurely. Additionally inherent powers for quashing the proceedings at the initial stage can be exercised only when the allegations made in the complaint or the first information report do not prima facie disclose the commission of a cognizable offence or the allegations are so absurd and inherently improper making out a clear case of false implication. It is permissible for a civil suit and a criminal case to proceed at the same time. This is particularly relevant when the same set of facts gives rise to both civil and criminal liabilities. This principle is well established by the apex court

judgement rendered in the case of “P Swaroopa Rani vs. M Hari Narayana (2008) 5 SCC 765”.

(5). This Court is also conscious of the fact that the Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence:-

*“i) Courts would not thwart any investigation into the cognizable offences;*

*ii) It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on;*

*iii) The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the `rarest of rare cases (not to be confused with the formation in the context of death penalty).*

*iv) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;*

*v) Criminal proceedings ought not to be scuttled at the initial stage;*

*vi) Quashing of a complaint/FIR should be an exception rather than an ordinary rule;*

*vii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere;*

*viii) The functions of the judiciary and the police are complementary, not overlapping;*

*ix) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;*

*x) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;*

*xi) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported.”*

(6). Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR and should only see whether prima facie offence is made out at that stage or not. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure.

*“i) The power under section 482 Cr.P.C., 1973 is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the court;*

*ii) However, at the same time, the court, if it thinks fit, regard being to the parameters of quashing and the self restraint imposed by law, more particularly the parameter laid down by Apex Court in the case of “**State Of Haryana And Ors vs Ch. Bhajan Lal And Ors**” AIR 1992 SUPREME COURT 604 has the jurisdiction to quash the FIR/complaint;*

*iii) When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under section 482 Cr.P.C., 1973 only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR;*

*iv) The aforesaid parameters would be applicable and/or the aforesaid aspects are required to be considered by the High Court while passing an interim order in a quashing petition in exercise of powers under section 482 Cr.P.C., 1973 and/or under Article 226 of the Constitution of India.”*

(7). The consequences of scuttling the criminal process at a pre-trial stage can be grave and irreparable. Quashing proceedings at preliminary stages will result in finality without the parties having had an opportunity to adduce evidence and the consequence then is that the proper forum i.e., the trial Court is ousted from weighing the material evidence. If this is allowed, the accused may be given an un-merited advantage in the criminal process. Based upon a prima facie impression, an element of criminality cannot entirely be ruled out here subject to the determination by the trial Court. Therefore, when the proceedings are at a nascent stage, scuttling of the criminal process is not merited.

(8). The exercise of power under Section 528 BNSS is an exception and not the rule and the acceptability of materials to fasten culpability is a matter of trial. The inherent power should not be exercised to stifle a legitimate prosecution and when FIR discloses commission of an offence, interference with FIR at threshold is to be in very exceptional circumstances.

(9). No case is made out to quash the FIR at this stage when the proceedings before the trial court have commenced and moreso, when disputed questions of facts are involved.

(10). Dismissed.

(11). Anything stated hereinabove, shall have no bearing on the merits of the case before the trial court.

29.07.2025

*V.Vishal*

*1. Whether speaking/reasoned?*

*2. Whether reportable?*

**(Sandeep Moudgil)**  
**Judge**

*Yes/No*

*Yes/No*