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

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**CRM-M No.29061 of 2025
Date of Decision: 26.05.2025**

Vijay Kumar Jha ... Petitioner
Versus
State of Haryana and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Umesh Narang, Advocate,
for the petitioner.

Mr. Apoorv Garg, Sr. DAG, Haryana,
for the respondent-State.

Mr. Atul Gupta, Advocate and
Mr. A.K.Kansal, Advocate,
for respondent No.2.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short "BNSS") (which is pari materia with Section 482 of Cr.P.C.) seeking quashing of FIR No.127 dated 11.04.2025 registered under Sections 420, 468 and 471 of IPC at Police Station Urban Estate Hisar, District Hisar and all the proceedings having emanated therefrom.

2. Adumbrated facts as emanating from the record and relevant for the purpose of this petition are that the aforementioned FIR has been registered on the basis of a complaint lodged by complainant Rajender Kedia, proprietor of J.M. Steels alleging that his firm had been purchasing iron goods from the petitioner who is director of Nirav Metals

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Pvt. Ltd., on making advance payments. He had represented to the complainant that he also supplied goods to big steel companies and believing him, the complainant had made advance payments. Initially, the petitioner kept on sending goods in time thereby winning the trust of the complainant. In January 2022, he issued bills for sending 238.930 metric tons of goods through seven bills and E-Way bills. Even GST was also shown to be paid in these bills. The goods as shown in the said invoices were, however, not delivered to the complainant though in the meantime, the petitioner had collected a sum of Rs.2.5 crores from the complainant through bank transactions. The petitioner initially assured to supply the goods but thereafter started making excuses. By alleging that with an dishonest intention, the petitioner had issued false and fake invoices and E-Way bills with an intent to cheat the complainant and had caused loss to the tune of Rs.3.5 crores to him, the complainant prayed for taking action in the matter. After registration of FIR, investigation proceedings have been initiated and are underway.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. Infact, he was having business relations with the company of the complainant since long. In the year 2021, the complainant had asked the petitioner to be a connecting person for purchase of mild steel from one Anil Rai who had represented himself as a promoter and director of a company named as Orbit Eletromech India Pvt. Ltd. On insistence and pressure being exerted by the complainant, the petitioner had agreed to be a connecting person. On 17.01.2022, he had sent a letter to the

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abovesaid Anil Rai mentioning the terms and conditions for carrying on business with the firm of the complainant as well as with him. Those terms and conditions were not only accepted by Mr. Anil but by the complainant also. The business had started. Sometime thereafter, the complainant had started directly dealing with Mr. Anil Rai and without taking care of the fact that the goods shown in the invoices/E-Way bills issued during the period from 17.01.2022 to 24.01.2022 had not been received by the complainant, he continued placing orders directly to the abovesaid Mr. Anil Rai against the advice given by the petitioner. It was the abovesaid Anil Rai who committed fraud and had not sent the goods despite receipt of advance money through the petitioner. The petitioner even got registered an FIR against Anil Rai on 11.02.2022 at Police Station Amanaka District Raipur which is pending investigation. The amount of money paid as advance by the complainant had been duly transferred to the account of Anil Rai. The petitioner had offered his services to the complainant on the basis of business to business transaction in lieu of nominal service charges only. He neither had any intention to cheat the complainant nor the ingredients for commission of offence of cheating or forgery had been attracted against him.

4. It is further argued that the complainant had filed a complaint against him previously also. However, after conducting a detailed inquiry, the Superintendent of Police, Hisar had closed the same on 13.09.2023 and then the complaint which had led to filing of impugned FIR had been filed, by abusing the process of law. The complainant had even served a notice demanding payment under Insolvency and Bankruptcy Code, 2016

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demanding recovery of an amount of Rs.3,63,07,924.89 paise and had also approached NCLT Mumbai but his claim was rejected. The dispute between the parties is of civil nature which has been given a criminal colour. The ingredients for commission of offences punishable under Sections 420, 468 and 471 of IPC have not been attracted against the petitioner at all. He has been implicated in this case only because of the fact that being connecting person, the transaction of money was through his bank account as per the agreement. Once the complaint filed by the complainant had been ordered to be closed by the police authorities, this FIR could not be registered. The FIR has been registered in a mechanical manner in violation of law. It is, therefore, argued that the impugned FIR and the proceedings emanating therefrom are liable to be quashed.

5. Mr. Atul Gupta, Advocate and Mr. A.K.Kansal, Advocate have appeared on behalf of the respondent No.2 as they have advance notice of the petition. Mr. Apoorv Garg, Senior DAG, Haryana too has advance notice. It is argued by them that there are serious allegations against the petitioner. Detailed and thorough investigation is necessary regarding the transactions which had been conducted between the parties. The investigation is at premature stage as the petitioner has not joined the investigation. Matter is being fairly investigated by the investigating agency. This petition has been filed to hamper the investigation and it is wholly misconceived. The question of quashing of FIR at this nascent stage does not arise and thus it is stressed that the petition is liable to be dismissed at this stage.

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6. Rival submissions made by both the parties have been heard at length.

7. The petitioner has approached this Court by invoking the jurisdiction of this Court under Section 528 of BNSS for the purpose of seeking of quashing of FIR which has been registered against him on a complaint lodged by the respondent No.2. The well settled proposition of law is that except in exceptional circumstances where non-interference would result in miscarriage of justice, the Courts ought not to interfere at the stage of investigation of an offence as if the FIR is quashed at the very inception, the same thwarts legitimate investigation. Reliance in this context can be made to the observations made by Hon'ble Supreme Court in **Neeharika Infrastructure (P) Ltd. vs. State of Maharashtra**, (2021) 19 SCC 401, wherein after analyzing a catena of judicial precedents, it was observed that the police had statutory right and duty to investigate into cognizable offences under the relevant provisions of the Code of Criminal Procedure. The Courts should not thwart any investigation into cognizable offences. The criminal proceedings ought not to be scuttled at the initial stage. While examining a FIR/complaint, quashing of which is sought, the Court cannot embark upon an inquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint. It was also observed that 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. It was also observed as follows:-

“13.12. The first information report is not an encyclopaedia

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which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. 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. During or 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;

13.13. The power under [Section 482 Cr. P.C.](#) is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court;

13.14. However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the selfrestraint imposed by law, more particularly the parameters [laid down by this Court in the cases of R.P. Kapur \(supra\) and Bhajan Lal \(supra\)](#), has the jurisdiction to quash the FIR/complaint; and

13.15. When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under [Section 482 Cr. P.C.](#), only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR."

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8. Reference can also be made to **Somjeet Mallick v. State of Jharkhand and others**, 2024 (10) SCC 527, wherein the Hon'ble Supreme Court had observed that during judicial examination of a prayer for quashing of an FIR, the cognizance order, or subsequent proceedings, Courts must evaluate the allegations and material collected during investigation at face value so as to determine whether a prima facie case for investigation or proceeding against the accused, as the case may be is made out. The correctness of the allegations is not to be tested at this stage. The Court is also not required to ascertain at this stage as to which specific offence is committed. It is only after investigation, at the time of framing charge, when the material collected during investigation is before the Court, that the Court has to draw an opinion as to for commission of which offence, the accused should be tried.

9. Reliance can also be placed upon **Union of India v. Prakash P. Hinduja**, (2003) 6 SCC 195, wherein it was held that the Court should not interfere with investigation or during the course of investigation i.e. till the filing of a report under Section 173 of Cr.P.C. by exercise of inherent jurisdiction.

10. The proposition of law as laid down in the above cited cases shows that recourse to quashing of FIR has to be taken only in rarest of rare cases and when the investigation of a case is at its nascent stage, this power should be used sparingly. In the instant case, the investigation is at its initial stage. The petitioner has not joined the same so far. After conducting preliminary inquiry, an FIR has been registered since it appears prima facie

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that cognizable offences were committed by the petitioner. However, it cannot be ascertained at this stage as to whether the petitioner had any intention to dupe the complainant and cause wrongful loss to him by not fulfilling the obligations cast upon him or not? The FIR has also been lodged after a gap of about three years from the date when the offences alleged were committed. In the considered opinion of this Court, it would be premature to pronounce any conclusion based on given facts that the FIR does not deserve to be investigated. As per the discussion made above and in view of the principles as laid down by Hon'ble Apex Court in the above cited cases, this Court is of the opinion that no case for quashing of FIR has been made out at this stage. As such, no ground for allowing the petition is made out. As a consequence, the same is dismissed.

11. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

12. Needless to say that if no case for commission of subject offences is made out, the police authorities shall be at liberty to file appropriate report under Section 173 of Cr.P.C.

13. This order shall come into force from the time it is uploaded on this Court's official webpage.

(MANISHA BATRA)
JUDGE

26.05.2025
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Whether speaking/reasoned	Yes
Whether reportable	Yes