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

**CRM-M No.54158 of 2024  
Date of Decision: 24.04.2025  
Reserved on: 20.03.2025**

Vishav Bhooshan Sood

... Petitioner

Versus

State of Punjab and another

... Respondents

**CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. R.S. Rai, Senior Advocate with  
Mr. Anurag Arora, Advocate,  
for the petitioner.

Ms. Himani Arora, AAG, Punjab,  
for the respondent No.1-State.

Mr. Tanvir S.Attariwala, Advocate,  
for respondent No.2.

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**MANISHA BATRA, J.**

1. The instant petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short "BNSS") seeking quashing of FIR No.275 dated 30.10.2022 registered at Police Station Division 5, District Police Commissionerate Ludhiana under Sections 341, 342, 347 and 506 read with Section 34 of IPC, challan report filed under Section 173 of Cr.P.C. as well as the order dated 09.07.2024 passed by the Additional Chief Judicial Magistrate, Ludhiana, whereby

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the cancellation report submitted by the police had been rejected and the subsequent proceedings having emanated therefrom.

2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a statement recorded by respondent No.2-Vineet Goyal on 30.10.2022, alleging therein that he had purchased a Farm house at Sarabha Nagar, Ludhiana in the year 2018. The sale deed was registered in the name of his wife and himself. The present petitioner owned a plot adjoining to the property so purchased by his wife and himself. He had been pressurizing the respondent No.2 to purchase the same by asking for exaggarated sale consideration amount. In the morning of 06.10.2022, the respondent No.2 had gone to District Court, Ludhiana. At about 12:30 PM, when he came out of the Court premises and was passing through the backside gate of the Court, the petitioner along with two unknown persons intercepted him, forcibly made him sit in an Innova car and told him to give a sum of Rs.2 crores and otherwise threatened to take possession of the property of the respondent No.2. The respondent No.2 requested the petitioner and his companions to give him sometime to make discussion with his family members and then while extending threats to kidnap his children, the petitioner threw him outside his car at some distance. While alleging that the incident had been witnessed by his maternal uncle Ravi Goyal and that he was scared of visiting his own property, he prayed for taking action in the matter.

3. After registration of FIR, investigation proceedings were initiated. After conducting thorough investigation in the matter, a

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cancellation report had been prepared by the investigating agency which was presented before the Court of jurisdictional Magistrate/Additional Chief Judicial Magistrate, Ludhiana. He passed order dated 09.07.2024 and sent the matter back to the concerned SHO for conducting further investigation by observing that the complainant was not satisfied with the investigation conducted. After passing of the impugned order dated 09.07.2024, the respondent No.2 filed a representation before the police authorities making request to conduct inquiry on his previous representation. A report was then prepared by Additional Deputy Commissioner of Police (Operation) Ludhiana. The relevant part of this report reads as under:-

*“Due to grudge between both the parties regarding plot, it would not be appropriate to decide at this stage that whether the incident was occurred or not. Therefore it would be appropriate to take decision by the Hon’ble court in this regard on the basis of evidences. Therefore after preparing report the same has been sent to the Hon’ble Commissioner of Police, Ludhiana to present challan of the case in Hon’ble court. After getting legal opinion of DA Legal, Ludhiana by the Hon’ble Commissioner of Police, Ludhiana and while agreeing with the said legal opinion, directed on 30.08.2024 to present challan of the case in the Hon’ble court. The verification of investigation of the case has been conducted and no verification of investigation of case is pending. As per the investigation conducted so far, evidence found on case file, statements of witnesses, after preparing challan under section 173 of Cr.PC against accused of the case namely Vishav Bhushan Sood, the same is being presented in the Hon’ble Court, the trial of the case be held and during trial, the witnesses placed in column No.6 will gave their witness, who may be called through summons.”*

4. It is submitted in the petition that the petitioner was granted dealership of Indian Oil Corporation Limited in the year 1985 and started

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running a gas agency of Indian Oil under the name and style of M/s Cookwell Gas Service on the property bearing No.4054/1-A which is measuring 63.1/4 square yard and forms part of land comprised in Khasra No.337/1 Khata No.8/8 situated in the abadi of Sarabha Nagar, Ludhiana. He had purchased this property vide two registered sale deeds in the year 1996 and 1997 respectively from the original owners. It is submitted that the respondent No.2 purchased 620.5 square yards of area comprised in the same Khasra No.337/1 in the year 2019. The land so purchased by him adjoins/abuts the property of the petitioner from three sides. The respondent No.2 intended to construct a commercial complex over the property so purchased but was not able to do so because of the property of the petitioner and, therefore, he started pressurizing the petitioner to sell his property and on petitioner's declining to do so, he tried to even demolish the same. The petitioner had lodged complaints with the police authorities but since his grievance could not be redressed, he was constrained to file two different civil suits one of which is pending. The respondent No.2 was restrained from demolishing his property. The respondent No.2 and his agents violated the status quo order dated 17.06.2024 passed in one of the above mentioned civil suit qua which a contempt proceedings were also initiated.

5. The petitioner further alleged that the respondent No.2 kept on harassing him and made seepage into the foundation of the property of the petitioner to cause damage to the same and to pressurize the petitioner to sell the same. The petitioner got registered an FIR No.151 dated 07.07.2020 registered under Sections 447 read with Section 511, 427 and 506 read with

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Section 34 of IPC at Police Station Division No.5, Police Commissionerate Ludhiana against the respondent No.2 and his agents. The respondent No.2 is facing trial in the abovementioned FIR. In order to harass him, the respondent No.2 got an FIR bearing No.275 dated 30.10.2022 (the impugned FIR) registered against him. It is submitted that after conducting thorough investigation in the matter, a cancellation report had been prepared in the said FIR. However, the learned Additional Chief Judicial Magistrate did not accept the same and passed order for conducting further investigation in pursuance of which a challan report has been filed on 31.08.2024.

6. It is argued by learned counsel for the petitioner that the impugned FIR, the order dated 09.07.2024 passed by the Additional Chief Judicial Magistrate, Ludhiana rejecting the cancellation report and the challan report dated 31.08.2024 are liable to be set aside due to the reason that there is delay of 24 days in lodging of FIR No.275. Infact the police had conducted thorough investigation in the matter and had submitted a detailed cancellation report giving the grounds for cancellation. The call detail records of the cell phones of the petitioner as well as of respondent No.2 had been collected which showed that neither the petitioner nor the respondent No.2 were present outside the Court premises Ludhiana at 12:30 PM on 06.10.2022 and their locatioin were shown to be at different places. The allegations that the petitioner had pushed the complainant in an Innova car, were also found to be false since the investigation revealed that the petitioner had gone to the Court on 06.10.2022 on scooter of his employee and had come back by scooter and his Innova car was lying parked inside his

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house throughout the day. The presence of the respondent No.2 in the Court premises was established only till 10:45 PM and thereafter, his location was shown to be in the area of Bus Stand, Ludhiana and not outside the Court premises. The ingredients for commission of offences punishable under Sections 341, 342, 347 and 506 of IPC have not been established at all.

7. It is further argued by learned counsel for the petitioner that while passing the impugned order dated 09.07.2024, the learned Additional Chief Judicial Magistrate totally ignored the fact that no ground for conducting further investigation had been made out. This order lacks any reason and hence is liable to be set aside. It is further argued that the challan report dated 31.08.2024 as submitted by the investigating agency is also liable to be quashed as no plausible reason for submission of challan against the petitioner has been made out and it has been filed only by observing that it would be appropriate for the concerned Court to take decision on the basis of evidence which does not amount to conducting of any further investigation. The FIR has been lodged to abuse the process of law and to harass the petitioner. There are no chances of his conviction. With these broad submissions, it is urged that the impugned FIR, the order dated 09.07.2024 and the challan report dated 31.08.2024 are liable to be set aside.

8. Status report has been filed by the respondent No.1-State. It is submitted that a cancellation report had been prepared after conducting investigation in the matter and on the basis of order dated 09.07.2024 and after receipt of a fresh complaint filed by the respondent No.2, a report dated 31.08.2024 had been prepared by the police authorities. Learned Assistant

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Advocate General, Punjab has argued that since both the parties are having grudges against each other qua a plot, therefore, the police authorities have left it to the concerned Court to take decision on the basis of the evidence produced on record.

9. Reply has been filed by the respondent No.2. It is submitted therein and it is argued by learned counsel for the respondent No.2 that no ground for quashing the FIR, impugned order dated 09.07.2024 and the report dated 31.08.2024 is made out. It is submitted that after conducting further investigation, presentation of challan has been recommended by the Additional Deputy Commissioner of Police, Ludhiana by observing that merely from tower location it cannot be concluded that the respondent No.2 was present at a particular spot or not at the time of occurrence. It is submitted that there is no illegality in the impugned order dated 09.07.2024 since infact the cancellation report as filed by the police authorities at the first instance was not correct as thorough and proper investigation had not been conducted in the matter. The investigating agency had blindly relied upon self serving CCTV footage provided by the petitioner and no efforts were made to collect independent evidence. It is further argued that the powers under Section 528 of BNSS are to be exercised in exceptional circumstances while dealing with a question for quashing of FIR and no such exceptional circumstance has been made out. With these broad submissions, it is urged that the petition does not deserve to be allowed.

10. Rival contentions as raised by the parties have been heard and given due consideration.

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11. The petitioner has sought quashing of FIR No.275 registered against him on complaint of respondent No.2, the order dated 09.07.2024 passed by the Additional Chief Judicial Magistrate, Ludhiana whereby while rejecting the report filed by the police seeking cancellation of the abovementioned FIR, further investigation was ordered as well as the challan report subsequently filed by the police. At the very outset, this Court would deal with the question as to power of the jurisdictional Magistrate to order further investigation. In **Vinay Tyagi v. Irshad Ali @ Deepak and others**, (2013) 5 SCC 762, the Hon'ble Supreme Court dealt with wide range of issues relating to powers of the High Court under Section 482 Cr.P.C. (*which is pari materia with Section 528 of BNSS*) as well as also the powers of the Magistrate under Section 173 Cr.P.C.; and different vistas of the processes on conducting "fresh investigation" and/or "further investigation". It was observed that once a report under Section 173(2) of the Code has been filed, it can only be cancelled, proceeded further or case closed by the Court of competent jurisdiction and that too in accordance with law. The trial Court on considering the entire record has three options. Firstly, it may accept the application of accused for discharge. Secondly, it may direct that the trial may proceed further in accordance with law and thirdly, if it is dissatisfied on any important aspect of investigation already conducted and in its considered opinion, it is just proper and necessary in the interest of justice to direct further investigation, it may do so. However, the power to direct further investigation is a significant power which has to be exercised sparingly in exceptional cases to achieve the ends of justice.

12. Reference can then be made to **Vinubhai Haribhai Malaviya**

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**and others v. State of Gujarat and another**, (2019) 17 SCC 1, wherein the Hon'ble Supreme Court explicated on the theory and philosophy related with the aim of investigation and inquiry as also on the wide range of the powers of police and the Magistrate as regard investigation and further investigation, inter alia, by observing that it is clear that a fair trial must kick off only after an investigation is itself fair and just. The ultimate aim of all investigation and inquiry, whether by the police or by the Magistrate, is to ensure that those who have actually committed a crime, are correctly booked and those who have not, are not arraigned to stand trial. That this is the minimal procedural requirement i.e. the fundamental requirement of Article 21 of the Constitution of India, cannot be doubted. It was observed that it is the hovering omnipresence of Article 21 over the Code of Criminal Procedure that must need the interpretation of all provisions of Cr.P.C., so as to ensure that Article 21 is followed both in letter and in spirit. It was also observed that the powers of the Magistrate are very wide and it is this judicial authority that must be satisfied that a proper investigation by the police must take place. To ensure that a "proper investigation" takes place in the sense of a fair and just investigation by the police - which such Magistrate is to supervise, Article 21 of the Constitution of India mandates that all powers necessary, which may also be incidental or implied, are available to the Magistrate to ensure a proper investigation which, without doubt, would include the ordering of further investigation after a report is received by him under Section 173(2); and which power would continue to enure in such Magistrate at all the stages of the criminal proceedings until the trial itself

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commences.

13. In view of the above discussed proposition of law, it is clear that a Magistrate is competent to order further investigation of the matter after receipt of a report under Section 173(8) of Cr.P.C. whether it is a report recommending cancellation of FIR or otherwise. However, simultaneously it cannot be ignored that the Magistrate can exercise the powers for directing further investigation only in exceptional and extraordinary circumstances when there is a serious defect or deficiency in the investigation which is likely to result in miscarriage of justice and there is no other way to remedy such deficiency or defect in primary investigation, and when it becomes an obligation on the Court/Magistrate to direct further investigation for advancing the cause of justice or to prevent the miscarriage of justice.

14. On a bare perusal of the order dated 09.07.2024, it is revealed that the same had been passed by the learned Additional Chief Judicial Magistrate by observing that since the complainant was not satisfied with the cancellation report, therefore, the matter was being sent for further investigation. It is apparent that the learned Additional Chief Judicial Magistrate did not apply her judicious mind as no observation whatsoever had been given that there was any serious defect or deficiency in the investigation conducted by the investigating agency which was likely to result in miscarriage of justice or she was not satisfied with any important aspect of investigation already conducted. As such, in the considered opinion of this Court, the impugned order dated 09.07.2024 is not sustainable in the eyes of law and is liable to be set aside. It is ordered

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accordingly.

15. Before delving on the question as to whether the FIR is liable to be quashed or not, it will be profitable to look into the scope and ambit of the Court's power under Section 528 of BNSS (*which is pari materia with Section 482 of Cr.P.C.*) as spelt out in several judicial pronouncements of Hon'ble Supreme Court as well as different High Courts. The well settled proposition of law is that in exercise of inherent powers under Section 482 of the Code, the High Court is not expected to analyze all the facts, which are to be placed before the High Court. The power conferred under this section is very specific and to secure the ends of justice or to prevent the abuse of process of Court or to make any such orders as may be necessary to give effect to any order under the Code, such power can be exercised to prevent abuse of process of Court. The Hon'ble Supreme Court has drawn up some guidelines in some categories of cases by way of illustration to circumscribe the exercise of inherent power under Section 482 of Cr.P.C. to prevent abuse of process of any Court or to secure the ends of the justice or to give effect to an order of the Court. A celebrated pronouncement on this point is the case cited as **State of Haryana v. Bhajan Lal**, 1992 SUPP (1) SCC 335, wherein several guidelines have been laid down. Some of them, which are relevant for the purpose of disposal of the present petition, are reproduced as under:

“(a) 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;

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- (b) 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;
- (c) 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;
- (d) 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;
- (e) 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;
- (f) 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;
- (g) 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.

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16. Reference can further be made to **Gian Singh v. State of Punjab**, 2012(10) SCC 303, wherein it was observed by Hon'ble Supreme Court that power of the High Court in quashing a criminal complaint or an FIR, in exercise of its inherent jurisdiction, is distinct and different from the power given to a criminal Court for compounding the offences under Section 320 of the Code. This inherent power is of wide plenitude with no statutory limitation but it has come in existence in accordance with guidelines engrafted in such power viz: (i) to secure the ends of justice, (ii) to prevent abuse of process of the Court.

17. Reference can also be made to **Onkar Nath Mishra and others v. State (NCT of Delhi) and another**, 2008 (1) RCR (Criminal) 336 and **Devendra and others v. State of U.P. and another**, 2009 (7) Scale 613, wherein it was observed that when the allegations made in the FIR or the evidence collected during investigation, do not satisfy the ingredients of offences, the superior Courts would not encourage harassment of a person in a criminal case for nothing.

18. Keeping in view the afore discussed position of law, it has to be seen as to whether the FIR as against the petitioner is liable to be quashed or not? The petitioner has been booked for commission of offences punishable under Sections 341, 342, 347 and 506 read with Section 34 of IPC. Section 339 of IPC defines offence of wrongful restraint whereas Section 341 of IPC provides for punishment for offence of wrongful restraint. Section 340 of IPC defines wrongful confinement whereas Section 342 of IPC provides punishment for wrongful confinement and Section 347 of IPC provides punishment for wrongful confinement to extort property or to constrain to

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illegal act. The essential ingredients for commission of offence under Section 339 of IPC are:-

- (i) Voluntary obstruction of a person.
- (ii) The obstruction must be such as to prevent the person from proceeding in any direction in which he has a right to proceed.

19. The essential ingredients for commission of offence of wrongful confinement as defined under Section 340 of IPC are wrongful prevention of a person from proceeding beyond certain circumscribing limits. “Wrongful confinement” reflects total suspension of liberty beyond certain prescribed limits. It is explicit from the above that to constitute offences punishable under Sections 341 and 342 of IPC, there should be voluntary obstruction of a person so as to prevent such person from proceeding in any direction in which he has a right to proceed and his wrongful confinement by preventing him from proceeding beyond certain circumscribing limit. The allegations as levelled in the FIR against the petitioner are that on 06.10.2022, he had wrongfully restrained and confined the respondent No.2 when he was passing through the backside gate of the Court building of District Court, Ludhiana by forcibly making him sit in an Innova car and pressurizing him to purchase the property of the petitioner on the exaggerated price with threat to otherwise kidnap his children.

20. Now it is to be considered as to whether the ingredients for commission of the aforementioned offences as well as offence punishable under Section 347 of IPC which includes the offence of wrongful

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confinement punishable under Section 342 of IPC as well, have been attracted in view of the allegations levelled in the FIR. As already discussed, the investigating agency had conducted thorough investigation in the matter and had filed a cancellation report to the effect that the allegations as levelled in the FIR were not established as against the petitioner. After passing of impugned order dated 09.07.2024 by learned Additional Chief Judicial Magistrate, the police authorities filed challan on 31.08.2024. However, it is very much apparent from the challan report, the relevant portion of which has been reproduced in para No.3 of this order that no fresh material was collected to arrive at a conclusion that the petitioner has committed the offences alleged against him. Rather the challan report says that the police/investigating agency left it to the trial Court to decide as to whether alleged incident had taken place or not? The investigating agency in the cancellation report submitted by it had made reference to the fact that the call detail records of the petitioner as well as respondent No.2 had been collected which revealed that the petitioner had remained present inside the Court premises of Ludhiana District Courts on that very date for the purpose of attending hearing of some case till 3:30 PM and the location of his phone did not show his presence at the place from where the alleged occurrence had taken place. Similarly, the location of cell phone of the respondent No.2 did not show him to be around the premises of District Court, Ludhiana after 10:45 AM. Even the location of cell phone of the witness Ravi Goyal also was not found to be there. That apart, several other improbable and unnatural circumstances had also been noticed. The fact that civil as well as

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criminal litigation was pending between the parties was taken into consideration. It is also revealed from the record that two years prior to lodging of FIR No.275, the petitioner had got lodged an FIR against the respondent No.2 on the allegations that he was making attempt to take possession of his property in an illegal manner. Since no defect or deficiency was noticed or pointed out by the learned Magistrate in investigation which was likley to result in miscarriage of justice to prevent which further investigation was required and since the challan report subsequently filed does not show collection of fresh evidence and the matter was reported to the police 24 days after the alleged incident, and since as per the cancellation report, locations of cell phone of respondent No.2 was of different place at the relevant time and not place of occurrence, as such, the material collected by investigating agency does not show that there was any wrongful restraint or confinement of the respondent No.2 by the petitioner and that was for the purpose of extorting any property or constraining to do any illegal act because as per the allegations, the petitioner had asked the respondent No.2 to purchase his property which interestingly was already a subject matter of civil litigatioin initiated by none other than the petitioner himself who sought restraining of the respondent No.2 from interfering in his possession over the same property. As such, it cannot be believed by any dint of imagination that the petitioner had pressurized the respondent No.2 to purchase the same property qua which he was fighting to tooth and nail and had also lodged an FIR bearing No.151. As such, the ingredients for commission of offences punishable under Sections 341, 342 and 347 of IPC

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are not established at all.

21. So far as the offence under Section 506 of IPC is concerned, for the purpose of this Section, it is required to be shown that the accused had threatened the victim with injury to his/her person, reputation or property; that he did so with intent to cause alarm to the victim and that he did so to cause the complainant to perform any act which he/she was not legally bound to do. The gist of offence under Section 506 of IPC is the effect, which the threat is intended to have upon the mind of the person so threatened. It is necessary that the threat given is real and the person giving the threat means it. The threat should be a real and not just a mere word when the person uttering it does exactly mean what he says. Empty threats do not mean that any case under Section 506 of IPC is made out. An offence under this section by spoken words cannot be made out unless it is proved that these words were uttered with specific intention. In the instant case, the allegations as levelled in the FIR on the face of record do not make out any case for commission of offence punishable under Section 506 of IPC since there is nothing on record to show that any alarm was caused to the complainant by the petitioner by the alleged threats so extended and that the petitioner had in fact threatened him with intent to cause alarm. Accordingly, the ingredients for commission of offence under Section 506 of IPC have also not been established.

22. It is noteworthy that the challan has been presented in the case on conclusion of investigation. However, the powers under Section 528 of BNSS can be exercised at any stage and the well settled proposition of law is

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that the Court while exercising its jurisdiction under this provision need not restrict itself only to the stage of the case but is empowered to take into account overall circumstances leading to initiation/ registration of the case as well as material collected in the course of investigation as observed in **Mahmood Ali and others v. State of Uttar Pradesh and others**, AIR (2023) Supreme Court, 3709. It is also well settled that the High Court should not hesitate to exercise its jurisdiction under Section 482 of the Cr.P.C. (now Section 528 of BNSS) that saves the inherent power of the High Court, as it serves a salutary purpose viz a person should not undergo harassment of litigation for a number of years, when no criminal offence is made out. It is one thing to say that a case has been made out for trial and criminal proceedings should not be quashed, but another thing to say that a person must undergo a criminal trial despite the fact that no offence has been made out in the complaint. As such, this Court has no hesitation to hold that it is competent to exercise jurisdiction at this stage also.

23. As a fallout and consequence of the above stated legal analysis, it is held that instant one is a fit case for exercising inherent powers of this Court under Section 528 of BNSS to do real and substantial justice as continuation of criminal proceedings against the petitioner would certainly be an abuse of process and these proceedings cannot be taken recourse to as a weapon of harassment. The allegations made in the FIR, even if considered to be uncontroverted do not disclose commission of offences under Sections 341, 342, 347 and 506 read with Section 34 of IPC and there are bleak chances of conviction of the petitioner. Accordingly, the petition succeeds and is hereby allowed. Consequently, the FIR No.275 dated 30.10.2022

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registered at Police Station Division 5, District Police Commissionerate Ludhiana under Sections 341, 342, 347 and 506 read with Section 34 of IPC and the proceedings arising out of the same are hereby quashed.

**24.04.2025**

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**(MANISHA BATRA)  
JUDGE**

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No