

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr.MMO No.558 of 2025****Reserved on: 22.05.2026****Decided on: 16.06.2026**

██████████	VersusPetitioner
State of Himachal Pradesh and Others	Respondents

*Coram:**Hon'ble Mr. Justice Sandeep Sharma, Judge.**Whether approved for reporting? Yes.*

For the Petitioner: Mr. M.M.S. Bedi, Senior Advocate (through video conferencing), with Mr. Surender Sharma, Advocate.

For the Respondents: Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocates General, with Mr. Ravi Chauhan and Mr. Anish Banshtu, Deputy Advocates General, for State.

Ms. Shalini Thakur, Advocate, for respondent No.2

Mr. Rahul Jaswal, Advocate, for respondent No.3.

Sandeep Sharma, J.

By way of instant petition filed under Section 528 of the BNSS, 2023, prayer has been made on behalf of the petitioner for quashing of FIR No.53 dated 14.05.2025, registered at Police Station Gagret, District Una, Himachal Pradesh, under Sections 376, 506 and 34 of the Indian Penal Code, as well as consequential proceedings pending in the competent Court of law.

2. Quintessential facts, as emerge from the pleadings adduced on record by the respective parties are that FIR sought to be quashed came to

be lodged at the behest of respondent No.2 (**hereinafter, 'complainant'**), who alleged that while she was working in a private factory at Chandigarh, she came in the contact of respondent No.3, namely Ajay Chaudhry, who subsequently started harassing and maltreating her. Though complainant reported the matter to the Police authorities, but no action was taken, however, subsequently, she came to know that she was being harassed and maltreated by respondent No.3 at the instance of petitioner, who is residing at a Temple/Darbar, situate at village Amboa, District Una, Himachal Pradesh, and claims himself to be a Baba. Complainant alleged that when she was about 16 years of age and was facing health problems, her mother took her to the petitioner, who gave her something to drink, whereupon she became unconscious. Complainant alleged that petitioner took her to a private room and tried to sexually assault her. She further alleged that upon regaining consciousness, she felt that the petitioner had done something wrong with her. She alleged that since petitioner is a very influential person having considerable money and resources, he assured her parents that he would not do anything to the complainant in future. Complainant further alleged that petitioner wanted to kill her, but matter was compromised with the petitioner on the intervention of Gram Panchayat, which imposed fine upon the petitioner. Complainant further alleged that petitioner has a large number of devotees, including girls and women and these devotees pressurized her to enter into compromise. While alleging that petitioner is a *dhongi baba*, she alleged that he is doing

unlawful and illegal acts with many girls and women against their wishes. She alleged that regarding afore, she made complaints to Police so many times, but no action was taken. She alleged that Police, under the influence of petitioner, threatened and compelled her to compromise the matter with petitioner. She alleged that respondent No.3 again and again compelled her for marriage, which proposal of him was agreed by her, but subsequently she came to know that respondent No.3 has connived with petitioner. However, respondent No.3 kept on telling her that he has no relations with petitioner and petitioner does not cure any disease, rather seduce girls. She alleged that one day respondent No.3 went to Mukerian, Punjab and hired a room, where he made her to drink something, as a result thereof, she became unconscious. She alleged that when she regained consciousness, she found that she was sexually assaulted by respondent No.3. Complaint alleged that though respondent No.3 had assured to solemnize marriage with her, but now he does not talk. She alleged that matter was also brought to the notice of the parents of respondent No.3, before whom, respondent No.3 refused to recognize her. She alleged that since respondent No.3 destroyed her life, in connivance with petitioner, appropriate action in accordance with law be taken against petitioner as well as respondent No.3.

3. In FIR, sought to be quashed, she also made mention about her previous complaints made to Deputy Commissioner, Una, dated 24.11.2022, which was further sent to Superintendent of Police, Una, for

necessary action. Superintendent of Police, Una, sent the complaint to SDPO, Haroli, to lodge zero FIR No.04 of 2023, dated 15.05.2023, under Sections 376/506 of IPC. Complaint alleged that despite there being disclosure of cognizable offence, afore Police officer only filed Kalandra under Sections 107 and 150 of Cr.P.C. against petitioner. Beside afore complaints, complainant also lodged complaint with CM Office as well as to this High Court. This High Court, on administrative side, directed DLSA, Una, to enquire into the matter. On the basis of aforesaid complaint, FIR, sought to be quashed, came to be lodged and investigation was conducted. Zero FIR No.04 of 2023, dated 15.05.2023, was referred to Police Station Mukerian, for the reason that alleged rape upon complainant was committed at Mukerian, Punjab. Police officials of Mukerian at Punjab attempted to find out the place, pointed out by the complainant, where she was allegedly raped, but no such place was found. Police also got the medical of the complainant conducted at CHC Daulatpur, wherein Doctor concerned opined "likely to have possible sexual intercourse in past". Beside above, Police also got the statement of the complainant recorded under Section 183 of BNSS in the Court of learned Additional Chief Judicial Magistrate, Amb, wherein she, while stating that respondent No.3 sexually assaulted her against her wishes, at the instance of petitioner, also alleged that petitioner had also attempted to sexually assault her in the year 2016, but she succeeded in fleeing from there. In the aforesaid background, FIR,

sought to be quashed, came to be instituted against the petitioner as well as respondent No.3.

4. There are certain material facts, which also need to be taken note of, that prior to lodging of FIR, sought to be quashed, petitioner besides making several complaints to Police authorities, wherein inquiry was conducted against petitioner and he was given clean chit, complainant also made complaint dated 24.11.2022 to Deputy Commissioner, Una, which was further sent to Superintendent of Police, Una, for necessary action. As has been taken note hereinabove, Superintendent of Police, Una, sent the same to SDPO, Haroli, who proceeded to lodge zero FIR No.04 of 2023, dated 15.05.2023, under Sections 376/506 of IPC. However, in afore case, no further action could be taken for the reason that complainant was unable to substantiate her allegation of rape against respondent No.3. Though she had alleged that respondent No.3 sexually assaulted her against her wishes at a hotel namely 'Paris Hotel' at Mukerian, Punjab, but no such hotel was found in Mukerian, Punjab. Subsequently, complainant stated that since name of the hotel was written in Punjabi language, she was unable to read the same. In the afore background, Police presented Kalandra under Sections 107 and 150 of Cr.P.C. against the petitioner. Beside afore proceedings, complainant also filed a complaint under Section 156(3) of Cr.P.C. in the Court of learned Additional Chief Judicial Magistrate, Kangra at Dharamshala, but before same could be taken to its

logical end, Police proceeded to lodge FIR, sought to be quashed, on the basis of communication sent by DLSA, Una.

5. I have heard learned counsel representing the parties and gone through the records of the case.

6. Precisely, the grouse of the petitioner, as has been highlighted in the grounds of petition and further canvassed by Mr. M.M.S Bedi, learned Senior Counsel representing the petitioner, duly assisted by Mr. Surender Sharma, Advocate, is that the FIR, sought to be quashed, is a sheer abuse of the process of law and the same has been purposely lodged by complainant to humiliate and defame the petitioner, who, besides being a respectable member of the society, is revered by a large number of devotees, who visit Darbar Baba Hari Shah, situate at village Amboa, Tehsil Ghanari, District Una, Himachal Pradesh.

7. While making this Court peruse pleadings as well as documents annexed with the petition, Mr. Bedi, learned Senior Counsel representing the petitioner, vehemently argued that repeatedly allegations levelled by complainant came to be investigated by Police authorities, but nothing was found against the petitioner, but yet, complainant, with a view to wreak vengeance, had been filing frivolous complaints against him. While referring to the alleged incident of 2016, Mr. Bedi, learned Senior Counsel representing the petitioner, submitted that the complainant was brought to *Darbar* for treatment, but on that day, complainant, who otherwise suffers from mental disease, created ruckus and caused damage to the property of

Darbar. As a result thereof, many devotees of petitioner became angry and slapped complainant. However, subsequently petitioner, being head of the *Darbar*, apologised and matter was compromised with the intervention of Gram Panchayat. While making this Court peruse, FIR, sought to be quashed, Mr. Bedi, learned Senior Counsel representing the petitioner, vehemently argued that no case much less Sections 376 and 506 of IPC is made out against the petitioner, because bare perusal of statement made by complainant under Section 183 of BNSS nowhere suggests that she was sexually assaulted by the petitioner, rather her precise allegation is that respondent No.3 sexually assaulted her against her wishes at the instance of petitioner. Mr. Bedi, learned Senior Counsel representing the petitioner, further submitted that aforesaid allegation of her is totally frivolous and false for the reason that while getting zero FIR No.04 of 2023, dated 15.05.2023, under Sections 376/506 of IPC, lodged, no such allegation ever came to be levelled, rather in afore FIR, she alleged that respondent No.3 sexually assaulted her against her wishes in 'Paris Hotel' at Mukerian, Punjab, but such allegation of her was found false, as she was unable to recognize the place, because no hotel in the name 'Paris Hotel' was found, situated at Mukerian, Punjab. Mr. Bedi, learned Senior Counsel representing the petitioner, further submitted that though there is no truth in the allegation of alleged incident of attempt to rape in the year 2016, but no explanation, worth credence, ever came to be rendered on record, qua inordinate delay in lodging the FIR. He submitted that for the first time,

allegation of attempt to rape came to be alleged against the petitioner in the year 2023, which fact itself creates serious doubts with regard to correctness of story put forth by the complainant. While making this Court peruse contents of the FIR, Mr. Bedi further argued that same are verbatim same, as contained in the complaint before the learned Additional Chief Judicial Magistrate under Section 156(3) Cr.P.C. He submitted that once complaint under Section 156(3) Cr.P.C. was pending adjudication before the learned Additional Chief Judicial Magistrate, Amb, and in afore proceedings, report of the Police was called by the Court concerned, there was no occasion, if any, for Police to lodge FIR, sought to be quashed, that too at the instance of DLSA, Una. Mr. Bedi further submitted that zero FIR No.04 of 2023, dated 15.05.2023, under Sections 376/506 of IPC, never came to be taken to its logical end, rather, Police, without completing investigation in afore case, proceeded to lodge another FIR on same and similar grounds, which is not permissible under law. Mr. Bedi submitted that since complainant, at one point of time, was slapped by the devotees of the petitioner, on account of her having caused damage to the property of *Darbar* as well as reputation of petitioner, she, solely with a view to wreak vengeance and cause harassment and damage to reputation of the petitioner, proceeded to lodge FIR, sought to be quashed. Mr. Bedi further submitted that since for the reasons set out in the grounds of petition, criminal prosecution launched against the petitioner at the behest of complainant is bound to fail, no fruitful purpose would be served by putting

the petitioner to ordeal of protracted trial, which is otherwise bound to fail. He submitted that for last one decade, petitioner, who is a respectable member of the society, is continuously suffering for no fault of him and as such, this Court, while exercising power under Section 528 of BNSS, may quash the FIR qua the petitioner.

8. To the contrary, Mr. Rajan Kahol, learned Additional Advocate General, while justifying the impugned action of Police in lodging FIR, sought to be quashed, vehemently argued that bare statement of complainant is sufficient to lodge FIR against the petitioner under Sections 376, 506 and 34 of the IPC. He submitted that since complainant has specifically alleged that in the year 2016, an attempt was made by petitioner to sexually assault her and thereafter, respondent No.3 also sexually assaulted her against her wishes at the instance of petitioner, no illegality can be said to have been committed by Police in lodging FIR, sought to be quashed. He submitted that proceedings initiated under Section 156(3) Cr.P.C. at the behest of complainant were rightly closed, after lodging of FIR against petitioner. He submitted that since very purpose and object of filing complaint under Section 156(3) Cr.P.C. was to lodge FIR against the petitioner, coupled with the fact that Police, on the basis of inquiry conducted by DLSA, Una, had already lodged FIR, learned Additional Chief Judicial Magistrate, Amb, rightly closed the proceedings under section 156(3) Cr.P.C. He further submitted that repeated complaints made by the complainant itself suggest that no justice was being imparted

to her, despite her being sexually assaulted by petitioner and respondent No.3, who are influential persons, having large following in the area. He submitted that since at the time of alleged incident in the year 2016, complainant was minor, coupled with the fact that petitioner and respondent No.3 had been constantly threatening her to not disclose such facts to anyone, delay, if any, in lodging FIR, may not be fatal to the case of the prosecution. Lastly, Mr. Kahol, learned Additional Advocate General, submitted that Police, after having completed investigation, have already presented Challan in the competent Court of law and now learned trial Court shall proceed to decide the case on the basis of pleadings as well as evidence collected on record by the prosecution and as such, this is not a fit case where this Court, while exercising power under Section 528 of BNSS, may proceed to quash the proceedings.

9. Ms. Shalini Thakur, learned counsel representing the respondent No.2/complainant, also adopted the arguments raised by learned Additional Advocate General. While referring to the judgment passed by the Hon'ble Apex Court in **M/s Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra**, AIR 2021 SC 1918, Ms. Thakur vehemently argued that power under Section 482 of Cr.P.C. (now Section 528 of BNSS) to quash FIR can only be exercised in rarest of rare cases. She submitted that since bare statement of complainant suggests that she has been repeatedly wronged by petitioner as well as respondent No.3, coupled with the fact that it has also come in the investigation of the Police that in the

year 2016, complainant was attempted to be raped by petitioner, prayer made on behalf of the petitioner for quashing of FIR deserves outright rejection.

10. I have heard learned counsel for the parties and perused material available on record.

11. Before ascertaining the genuineness and correctness of the submissions and counter submissions having been made by the learned counsel for the parties *vis-à-vis* prayer made in the instant petitions, this Court deems it necessary to discuss/elaborate the scope and competence of this Court to quash the criminal proceedings while exercising power under Section 482 of Cr.P.C.

12. A three-Judge Bench of the Hon'ble Apex Court in case titled **State of Karnataka v. L. Muniswamy and others, 1977 (2) SCC 699**, held that High Court, while exercising power under Section 482 Cr.PC is entitled to quash the proceedings, if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed.

13. Subsequently, in case titled **State of Haryana and others v. Bhajan Lal and others, 1992 Supp (1) SCC 335**, the Hon'ble Apex Court, while elaborately discussing the scope and competence of High Court to quash criminal proceedings under Section 482 Cr.PC laid down certain principles governing the jurisdiction of High Court to exercise its power. After passing of aforesaid judgment, issue with regard to exercise of power

under Section 482 Cr.PC, again came to be considered by the Hon'ble Apex Court in Criminal Appeal No.577 of 2017 (arising out of SLP (CrL.) No. 287 of 2017) titled Vineet Kumar and Ors. v. State of U.P. and Anr., wherein it has been held that saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose i.e. court proceedings ought not be permitted to degenerate into a weapon of harassment or persecution.

14. In ***Amish Devgan vs Union of India and Ors***, (2021) 1 SCC 1, the Hon'ble Apex Court held as under:

“(vii) Conclusion and relief

116. At this stage and before recording our final conclusion, we would like to refer to decision of this Court in Pirthi Chand [State of H.P. v. Pirthi Chand, (1996) 2 SCC 37 : 1996 SCC (Cri) 210] wherein it has been held : (SCC pp. 44-45, paras 12-13)

“12. It is thus settled law that the exercise of inherent power of the High Court is an exceptional one. Great care should be taken by the High Court before embarking to scrutinise the FIR/charge-sheet/complaint. In deciding whether the case is rarest of rare cases to scuttle the prosecution in its inception, it first has to get into the grip of the matter whether the allegations constitute the offence. It must be remembered that FIR is only an initiation to move the machinery and to investigate into cognizable offence. After the investigation is conducted (sic concluded) and the charge-sheet is laid, the prosecution produces the statements of the witnesses recorded under Section 161 of the Code in support of the charge-sheet. At that stage it is not the function of the court to weigh the pros and cons of the prosecution case or to consider necessity of strict compliance with the provisions which are considered mandatory and effect of its non-compliance. It would be done after the trial is concluded. The court has to prima facie consider from the averments in the charge-sheet and the statements of witnesses on the record in support thereof whether court could take cognizance of the offence on that evidence and proceed further

with the trial. If it reaches a conclusion that no cognizable offence is made out, no further act could be done except to quash the charge-sheet. But only in exceptional cases i.e. in rarest of rare cases of mala fide initiation of the proceedings to wreak private vengeance issue of process under Criminal Procedure Code is availed of. A reading of a [Vide Corrigendum dated 20-3-1996 issued from Residential Office of Hon'ble Mr Justice K. Ramaswamy.] complaint or FIR itself does not disclose at all any cognizable offence — the court may embark upon the consideration thereof and exercise the power.”

15. In the case of ***Kaptan Singh vs State of Uttar Pradesh and Ors., (2021) 9 SCC 35***, the Supreme Court held as under :

“9.1. At the outset, it is required to be noted that in the present case the High Court in exercise of powers under Section 482 CrPC has quashed the criminal proceedings for the offences under Sections 147, 148, 149, 406, 329 and 386 IPC. It is required to be noted that when the High Court in exercise of powers under Section 482 CrPC quashed the criminal proceedings, by the time the investigating officer after recording the statement of the witnesses, statement of the complainant and collecting the evidence from the incident place and after taking statement of the independent witnesses and even statement of the accused persons, has filed the charge-sheet before the learned Magistrate for the offences under Sections 147, 148, 149, 406, 329 and 386 IPC and even the learned Magistrate also took the cognizance. From the impugned judgment and order [Radhey Shyam Gupta v. State of U.P., 2020 SCC OnLine All 914] passed by the High Court, it does not appear that the High Court took into consideration the material collected during the investigation/inquiry and even the statements recorded. If the petition under Section 482 CrPC was at the stage of FIR in that case the allegations in the FIR/complaint only are required to be considered and whether a cognizable offence is disclosed or not is required to be considered. However, thereafter when the statements are recorded, evidence is collected and the charge-sheet is filed after conclusion of the investigation/inquiry the matter stands on different footing and the Court is required to consider the material/evidence collected during the investigation. Even at this stage also, as observed and held by this Court in a catena of decisions, the High Court is not required to go into

the merits of the allegations and/or enter into the merits of the case as if the High Court is exercising the appellate jurisdiction and/or conducting the trial. As held by this Court in Dineshbhai Chandubhai Patel [Dineshbhai Chandubhai Patel v. State of Gujarat, (2018) 3 SCC 104 : (2018) 1 SCC (Cri) 683] in order to examine as to whether factual contents of FIR disclose any cognizable offence or not, the High Court cannot act like the investigating agency nor can exercise the powers like an appellate court. It is further observed and held that that question is required to be examined keeping in view, the contents of FIR and prima facie material, if any, requiring no proof. At such stage, the High Court cannot appreciate evidence nor can it draw its own inferences from contents of FIR and material relied on. It is further observed it is more so, when the material relied on is disputed. It is further observed that in such a situation, it becomes the job of the investigating authority at such stage to probe and then of the court to examine questions once the charge-sheet is filed along with such material as to how far and to what extent reliance can be placed on such material.

12. Therefore, the High Court has grossly erred in quashing the criminal proceedings by entering into the merits of the allegations as if the High Court was exercising the appellate jurisdiction and/or conducting the trial. The High Court has exceeded its jurisdiction in quashing the criminal proceedings in exercise of powers under Section 482 CrPC.”

16. Recently, Hon'ble Apex Court in **Abhishek Singh vs Ajay Kumar and Ors.**, (2025) SCC OnLine SC 1313, reiterated that:

“9. The scope of the Court's power to quash and set aside proceedings is well-settled to warrant any restatement. While the arguments advanced have the potential to raise many issues for consideration, we must first satisfy ourselves as to the propriety of the exercise of such power by the High Court. The task of the High Court, when called upon to adjudicate an application seeking to quash the proceedings, is to see whether, prima facie, an offence is made out or not. It is not to examine whether the charges may hold up in the Court. In doing so, the area of action is circumscribed. In *Rajeev Kourav v. Baisahab*, it was held:

“8. It is no more res integra that exercise of power under Section 482 CrPC to quash a criminal proceeding is only when an allegation made in the FIR or the charge-sheet constitutes the ingredients of the offence/offences alleged. Interference by the High Court under Section 482 CrPC is to prevent the abuse of process of any court or otherwise to secure the ends of justice. It is settled law that the evidence produced by the accused in his defence cannot be looked into by the court, except in very exceptional circumstances, at the initial stage of the criminal proceedings. It is trite law that the High Court cannot embark upon the appreciation of evidence while considering the petition filed under Section 482 CrPC for quashing criminal proceedings. It is clear from the law laid down by this Court that if a prima facie case is made out disclosing the ingredients of the offence alleged against the accused, the Court cannot quash a criminal proceeding.” 15. In that view of the matter, we hold that the High Court had improperly quashed the proceedings initiated by the appellant. It stands clarified that we have not expressed any opinion on the matter, and the guilt or innocence of the respondents has to be established in the trial, in accordance with the law. The proceedings out of the subject FIR, mentioned in paragraph 2 are revived and restored to the file of the concerned Court.”

17. Reliance is also placed upon judgments passed by the Hon'ble Apex Court in ***Prashant Bharti Vs. State (NCT of Delhi), (2013) 9 SCC 293, Rajiv Thapar and Others Vs. Madan Lal Kapoor, (2013) 3 SCC 330, Anand Kumar Mohatta and Anr. v. State (Government of NCT of Delhi) Department of Home and Anr, AIR 2019 SC 210 and Pramod Suryabhan Pawar v. The State of Maharashtra and Anr, (2019) 9 SCC 608.***

18. Now being guided by the aforesaid proposition of law laid down by the Hon'ble Apex Court, this Court would make an endeavour to examine

and consider the prayer made in the instant petition vis-à-vis factual matrix of the case.

19. In nutshell case of the petitioner is that he has been falsely implicated in the case, because allegation, if any, of rape is against respondent No.3, who is stated to be follower of petitioner. Admittedly, in the case at hand, zero FIR No.04 of 2023, dated 15.05.2023, under Sections 376/506 of IPC, was lodged at the instance of complainant, wherein she alleged that respondent No.3, in whose contact she came, while she was working in private factory in Chandigarh, sexually assaulted her on the pretext of marriage. She alleged that above named person took her to Paris Hotel at Mukerian, Punjab and sexually assaulted her against her wishes. She alleged that though respondent No.3 had been repeatedly telling her that he would solemnise marriage with her, but now he has changed his telephone number and has also refused to recognise her. Police conducted investigation in afore FIR and admittedly, complainant was taken to Mukerian, Punjab, for identification of place, where allegedly, she was sexually assaulted respondent No.3. No hotel in the name of 'Paris Hotel' was found in Mukerian, Punjab, whereafter complainant claimed that name of hotel was written in Punjabi language and as such, she was unable to read the same.

20. In another proceedings initiated at the behest of complainant, Kalandra under Sections 107 and 150 of Cr.P.C. was filed against the petitioner, which complainant had already informed to Deputy

Commissioner, Una, and Deputy Commissioner, Una, had forwarded the inquiry to Superintendent of Police, Una, however, nothing was found against the petitioner. Once nothing was found against petitioner in afore complaints, complainant filed complaint under section 156(3) Cr.P.C. in the Court of learned Additional Chief Judicial Magistrate, Amb, for registration of FIR against petitioner, but before same could be taken to its logical end, she also sent online complaint to CM helpline on 24.12.2023 as well as to this Court. This Court, on administrative side, directed DLSA to look into the matter. Before complaint under Section 156(3) Cr.P.C. could be taken to its logical end, Police lodged FIR, sought to be quashed, whereafter, learned Additional Chief Judicial Magistrate, Amb, proceeded to close the proceedings under Section 156(3) Cr.P.C.

21. If the allegations contained in the FIR, sought to be quashed, are read in its entirety, these are nothing, but reproduction of averments of complaint filed under Section 156(3) Cr.P.C. in the competent Court of law. Complaint starts with introduction of complainant with respondent No.3, who allegedly started harassing and maltreating her and thereafter proposed to marry her. Complainant agreed to marriage proposal of respondent No.3 and thereafter accompanied him to hotel namely 'Paris Hotel' in Mukerian, Punjab, where she was allegedly sexually assaulted against her wishes. Since, subsequently, respondent No.3 refused to marry her, she lodged a complaint to Deputy Commissioner, Una, District Una dated 24.11.2022, on the basis of which zero FIR No.04 of 2023, dated

15.05.2023, under Sections 376/506 of IPC, came to be lodged against respondent No.3. However, as has been taken note hereinabove, no truth was found in the aforesaid FIR. It is only in the second FIR, which is sought to be quashed, complainant introduced another story of her being harassed and maltreated by petitioner. She alleged that in the year 2016, she had gone to *Darbar* along with her mother for treatment, where allegedly, petitioner, who is Baba, made her to drink something in water and thereafter, attempted to rape her. Afore incident had allegedly happened in the year 2016, but same came to be disclosed to the Police for the first time in the year 2023, through FIR, sought to be quashed. Prior to lodging of FIR, though complaints were made against the petitioner by the complainant, but those were filed for the reason that no truth was found in the same. After more than seven years of alleged incident of attempt to rape, complainant, for the first time, claimed through the FIR, sought to be quashed, that respondent No.3 raped her at 'Paris Hotel' in Mukerian, Punjab, at the instance of petitioner. If the contents of the FIR are read in its entirety, on one hand, complainant alleged that respondent No.3 had been telling her that she need not be afraid of petitioner, who is not a good man and he will protect her from him and on the other hand, she, of her own, joined the company of respondent No.3 and thereafter, allegedly went to 'Paris Hotel' at Mukerian, Punjab, where she was sexually assaulted.

22. While getting zero FIR No.04 of 2023, dated 15.05.2023, under Sections 376/506 of IPC, lodged, no allegation of rape ever came to be

levelled against the petitioner, but suddenly in the year 2023, she alleged that respondent No.3 sexually assaulted her against her wishes at the instance of petitioner, who also at one point of time, i.e. in the year 2016, had attempted to commit rape upon her. Quashing of FIR No.53 dated 14.05.2025, has been primarily sought on the ground of; (i) delay in lodging of FIR; (ii) repeated exoneration of petitioner, in previous inquiries conducted by Police, and; (iii) no second FIR could have been registered against the petitioner, in the wake of lodging of zero FIR No.04 of 2023, dated 15.05.2023, under Sections 376/506 of IPC, wherein similar allegations came to be levelled against petitioner as well as respondent No.3. Besides above, it is also the case of the petitioner that once complaint under Section 156(3) Cr.P.C. was pending against the petitioner, there was no occasion, if any, for Police to lodge FIR, that too at the instance of DLSA, Una, which was otherwise directed by this Court, on administrative side, to enquire into the matter.

23. If the contents of FIR, sought to be quashed, are read in its entirety, it does not disclose any case much less under Section 376 of IPC against the petitioner. Though at the time of lodging of FIR, it came to be alleged at the behest of complainant that in the year 2016, while she had gone to petitioner's *Darbar* for treatment, she was subjected to sexual intercourse under the influence of some intoxication, but in her statement recorded under Section 183 of BNSS before the learned Magistrate, she changed her version and simply stated that though petitioner, after her

having made consume some medicine in water, attempted to sexually assault her, but she ran away. Undoubtedly, version of the complainant recorded under Section 183 of BNSS would get precedence over version, if any, of her in her initial statement recorded under Section 154 Cr.P.C., on the basis of which, FIR came to be lodged. Otherwise also, contents of FIR, which is a replica of complaint filed under Section 156(3) of Cr.P.C., suggest that she was firstly harassed and maltreated by respondent No.3, but later on, complainant accepted his marriage proposal and thereafter, on the pretext of marriage, respondent No.3 subjected her to sexual assault against her wishes. However, such incident could not be verified for the reason that place, wherein complainant was allegedly sexually assaulted, was not found.

24. Material available on record reveals that in year 2016, complainant was taken to *Darbar* for treatment, but since she had no faith, if any, in petitioner, who is otherwise revered by large number of followers as *Baba*, she created ruckus and attempted to cause damage to the property of *Darbar*. Being agitated with the uncalled for behavior of complainant, some of the devotees of petitioner slapped her and thereafter complaint was lodged by the mother of the complainant, however, dispute was resolved with the intervention of Gram Panchayat, as is evident from proceedings of the Gram Panchayat. Though Ms. Shalini Thakur, learned counsel representing the complainant, attempted to argue that bare perusal of compromise, taken place before the Gram Panchayat, reveals that

petitioner admitted his guilt, but such plea of her deserves outright rejection for the reason that bare perusal of compromise, placed on record, reveals that petitioner, while tendering apologies for the act of his followers, also apologized for foul language used against the mother of complainant, but he never admitted alleged factum of his having attempted to sexually assault the complainant. Though matter was settled before the Gram Panchayat, as detailed hereinabove, but yet complainant filed complaint to Deputy Commissioner, Una, on 24.11.2022, who further referred the matter to Superintendent of Police, Una, and ultimately, zero FIR No.04 of 2023, dated 15.05.2023, under Sections 376/506 of IPC, was lodged. In afore FIR, no allegation ever came to be levelled against the petitioner, rather entire allegation was against respondent No.3. However, on account of non-identification of place, where complainant was allegedly sexually assaulted, proceedings in afore FIR could not be taken to its logical end.

25. Since besides lodging of afore complaints, complainant had sent letters to CM office as well as to this Court, and she had also filed complaint under Section 156(3) Cr.P.C., FIR, sought to be quashed, came to be lodged, wherein allegations, as were contained in the private complaint under Section 156(3) Cr.P.C., came to be reproduced. In afore FIR, for the first time, allegation of sexual assault came to be reported against the petitioner. Though main allegation in afore FIR is that respondent No.3 sexually assaulted complainant at the instance of

petitioner, but complainant, while doing so, also made reference of year 2016, as taken note hereinabove.

26. Question which needs to be considered at this stage is that **“whether mere allegation that respondent No.3 sexually assaulted complainant at the instance of petitioner is sufficient to invoke Section 376 IPC against the petitioner or not?”**

27. If the entire FIR, sought to be quashed, is perused carefully, no specific reason and incident had been given, from which it can be inferred that respondent No.3 sexually assaulted complainant at the instance of petitioner. Mere fact that respondent No.3 was a follower of petitioner cannot be a ground to conclude that he sexually assaulted complainant at the instance of petitioner. As far as incident of the year 2016, wherein allegedly petitioner had attempted to sexually assault the complainant, is concerned, this Court is persuaded to agree with Mr. Bedi, learned Senior Counsel representing the petitioner, that there is no explanation that why aforesaid incident, if it had happened, was not reported in the initial complaint lodged by the complainant, on the basis of which zero FIR No.04 of 2023, dated 15.05.2023, under Sections 376/506 of IPC, came to be lodged against respondent No.3. Moreover, in her statement recorded under Section 183 of BNSS, she changed her stance and claimed that while she was taken for treatment by her parents to the petitioner’s *Darbar*, petitioner made her to consume some medicine in water, whereafter she became

unconscious and petitioner attempted to sexually assault her, however, she succeeded in fleeing from the spot.

28. At this stage, it is apt to take note of another incident, which had happened on the same day, i.e. alleged ruckus created by complainant in *Darbar*, whereafter allegedly petitioner used foul language against the mother of complainant. Some of the followers of the petitioner slapped complainant and ultimately dispute landed before the Gram Panchayat. It is not in dispute that in *Darbar*, petitioner resides with his family and at the time of alleged incident, large number of people were present, but no independent witness has been associated by the Police to prove afore allegation of the complainant. Though it has been claimed at the behest of complainant that since at the relevant time, she was minor, she was unable to report the matter to the Police, however, there is no explanation that why mother of the complainant, who was also present on the spot, failed to lodge complaint qua aforesaid alleged incident. Though it is claimed that at the time of alleged incident, complainant was 16 years old, however, documents placed on record, i.e. Aadhaar card of complainant, clearly reveals that her date of birth is 24.12.1995, meaning thereby, she was 19 years old in the year 2016.

29. By now it is well-settled that in following circumstances, Court, while exercising power under Section 482 Cr.P.C. (now Section 528 of BNSS) can proceed to quash the FIR to secure the ends of justice and can interfere in the proceedings relating to cognizable offence, such as:

- “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 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 F.I.R. 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 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) Where allegations in the complaint did constitute a cognizable offence justifying registration of a case and investigation there on and did not fall in any of the categories of cases enumerated above, calling for exercise of extraordinary powers or inherent powers, quashing of FIR was not justified.”

30. Having scanned allegations contained in FIR No.53, dated 14.05.2025, registered at Police Station Gagret, under Sections 376, 506 and 34 IPC, which is sought to be quashed, this Court has no hesitation to conclude that same is nothing, but an abuse of process of law and is liable to be set aside. Alleged allegations of rape and threats against the petitioner pertain to the period nine years prior to the date of lodging of FIR and there is no plausible explanation rendered on record qua delay in lodging of FIR. Investigating agency ought not have straightaway proceeded to lodge FIR, rather, in terms of judgment passed by the Hon'ble Apex Court in **Lalita Kumari vs. Government of UP and Others**, (2014) 2 SCC 1, ought to have conducted preliminary inquiry. Hon'ble Apex Court in *Lalita Kumari* (supra) held that no FIR can be registered directly, without a preliminary inquiry, in few special categories of cases. One of the categories as explained in the afore case is that when there is a delay of more than three months after the incident, a preliminary inquiry is required to be conducted. However, in the instant case, FIR has been registered without appreciating the vague contents of complaint, which otherwise appear to be wrong on the face of it. Had Police, in terms of mandate contained in *Lalita Kumari* (supra), attempted to make a preliminary inquiry, probably, FIR, sought to be quashed, would not have come into existence.

31. Bare reading of the contents of FIR, even if are taken on its face value, would not constitute any offence much less punishable under Section 376 of IPC. The petitioner is not alleged to have committed rape

upon the complainant, but allegations are against respondent No.3. Allegation against petitioner is that rape was committed upon the complainant at the instance of petitioner, which does not fall in the definition of abetment as in Section 107 of IPC, (equivalent to Section 45 of BNS). An act of abetment is said to be made when any instigation, conspiracy or act of aiding is attributed to the accused. However, bare reading of FIR does not show any attribution of instigation, aiding and conspiracy against the petitioner. Though there is a delay of 9 years, but even if the allegations are presumed to be correct, there is no allegation of rape. Section 164-A of Cr.P.C. requires a medical examination of victim by a government medical practitioner to secure corroborative evidence immediately after the occurrence. Objective of medical evidence and recovery of clothes, etc. is vitiated if 9 years are permitted to be elapsed after incident. There is also doubt with regard to age of the complainant, who though claimed herself to be of 16 years old at the time of alleged incident in the year 2016, but as has been taken note hereinabove, Aadhar card placed on record reveals that she was more than 19 years of age, at the time of alleged incident.

32. There is another aspect of the matter that in enquiry report under Section 116(3) Cr.P.C. dated 16.04.2023 under Section 107/150 (Annexure P-13), complainant in one occurrence had damaged the articles of faith and religious books, therefore she was slapped about 12-13 years back. Since complainant does not have faith in the petitioner, coupled with

the fact that at the time of alleged incident, she was slapped and her mother was humiliated, possibility of lodging FIR to wreak vengeance, which is otherwise sufficient ground to quash the FIR cannot be ruled out. Moreover, there is no explanation that why during the pendency of complaint under Section 156(3) Cr.P.C., Police proceeded to lodge FIR at the instance of DLSA, which has otherwise no jurisdiction to forward a signed statement of complainant for lodging the FIR under Section 154 Cr.P.C., rather Superintendent of Police, Una, was required to submit a report under Section 175(4) on 29.05.2025 on the contents of application filed under Section 156(3) Cr.P.C., but interestingly FIR was recorded at the instance of Secretary, Legal Service Authority, under the instructions of Hon'ble Administrative Judge, as recorded in the complaint and FIR (Annexures P-14 and P-15 respectively).

33. Unfortunately, the issue gains significance for the reason that prior to lodging complaint with DLSA as well as online CM helpline, matter was being investigated by Police by lodging zero FIR No.04 of 2023, dated 15.05.2023, under Sections 376/506 of IPC, however, investigation in afore case could not be completed for the reason that complainant was unable to substantiate her allegation by identifying the place of occurrence, rather place indicated by her was not found, whereafter she claimed that she was unable to read the name of the hotel, as it was written in Punjabi language.

34. Leaving everything aside, if the contents of the FIR are read in its entirety, this Court is persuaded to agree with learned Senior Counsel

representing the petitioner that it does not make any sense, rather, attempt has been made by complainant to mix a number of events, which otherwise may not be of much relevance, as far as direct allegation of rape is levelled against the petitioner. Hon'ble Apex Court in case titled as **T.T. Antony Vs. State of Kerala and Others, (2001) 6 SCC 181**, held that there can be no second FIR and no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or same occurrence giving rise to one or more cognizable offence. Relevant Para of judgment passed in *T.T. Antony* reads as under:

“20. From the above discussion it follows that under the scheme of the provisions of Sections 154, 155, 156, 157, 162, 169, 170 and 173 CrPC only the earliest or the first information in regard to the commission of a cognizable offence satisfies the requirements of Section 154 CrPC. Thus there can be no second FIR and consequently there can be no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or the same occurrence or incident giving rise to one or more cognizable offences. On receipt of information about a cognizable offence or an incident giving rise to a cognizable offence or offences and on entering the FIR in the station house diary, the officer in charge of a police station has to investigate not merely the cognizable offence reported in the FIR but also other connected offences found to have been committed in the course of the same transaction or the same occurrence and file one or more reports as provided in Section 173 CrPC.”

35. Having scanned the entire material adduced on record, *vis-à-vis* prayer made in the instant petition, this Court is persuaded to agree with learned Senior Counsel appearing for the petitioner, that no case much less under Sections 376, 506 and 34 of the Indian Penal Code is made out

against the petitioner and as such, this Court, while exercising power under Section 528 of BNSS may proceed to quash the FIR against the petitioner, because continuance thereof would be sheer abuse of process of law. Since case of prosecution is bound to fail in all probabilities, no fruitful purpose would be served in case prosecution against the petitioner is permitted to sustain, rather in that situation, petitioner would be unnecessary subjected to ordeal of facing the protracted trial, which otherwise is bound to fail.

36. Consequently, in view of detailed discussion made hereinabove and law taken into consideration, present petition is allowed. FIR No.53 dated 14.05.2025, registered at Police Station Gagret, District Una, Himachal Pradesh, under Sections 376, 506 and 34 of the Indian Penal Code, is quashed and set aside qua the petitioner.

The present petition is allowed and disposed of in the aforesaid terms. Pending application(s), if any, also stands disposed of.

June 16, 2026

Rajeev Raturi

**(Sandeep Sharma),
Judge**