



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MMO No.623 of 2025
Date of Decision: 17.03.2026

Thakar Singh Bharmouri

.....Petitioner

Versus

State of H.P. & Ors.

.....Respondents

Coram:

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting? ¹Yes.

For the petitioner: Mr. P.P. Chauhan, Ms. Shikha Rajta, Ms. Urvashi Rajta and Ms. Tara Devi, Advocates.

For the Respondents: Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocates General with Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General, for respondents No.1 to 3-State.

Mr. Vinod Chauhan, Advocate, for respondent No.4.

Sandeep Sharma, Judge(oral):

By way of instant petition filed under Section 528 of Bharatiya Nagrik Suraksha Sanhita, prayer has been made on behalf of the petitioner for setting aside and quashing of FIR No.110 of 2021, dated 30.10.2021, under Section 125 of the Representation of the People Act, 1951 and Section 504 of Indian Penal Code, registered at Police Station Bharmour, District Chamba, H.P., as well as

¹Whether the reporters of the local papers may be allowed to see the judgment?

consequent proceedings, if any, pending adjudication in the court of learned Chief Judicial Magistrate, District Chamba, Himachal Pradesh.

2. Precisely, the facts of the case, which may be relevant for proper adjudication of the case at hand, are that respondent No.4 (hereinafter to be referred to as 'complainant'), who is an office bearer of Bharatiya Janta Party, lodged a complaint through email with the Chief Electoral Officer, Shimla on 03.10.2021, alleging therein that petitioner, during an election speech, used abusive language against the Hon'ble Prime Minister of India, thereby violating the Model Code of Conduct and provisions of the Representation of the People Act, 1951 and Indian Penal Code. Complaint received by Chief Electoral Officer was further forwarded to the Police Station Bharmour, District Chamba, Himachal Pradesh, which taking cognizance of the contents of complaint proceeded to lodge FIR sought to be quashed.

3. Though challan stands filed in the competent court of law, but before same could be taken to its logical end, petitioner has approached this court in the instant proceedings for quashing and setting aside of FIR as well as consequent proceedings.

4. Precisely, the case of the petitioner, as has been highlighted in the petition and further canvassed by Mr. P.P. Chauhan, learned counsel representing the petitioner, is that no case

much less case under Section 125 of the Representation of the People Act and Section 504 of Indian Penal Code is made out against the petitioner. Mr. Chauhan, states that bare perusal of FIR sought to be quashed as well as Final Report filed under Section 173 Cr.P.C nowhere discloses specific description, if any, of abusive language, if any, hurled by the petitioner, rather complainant simply stated that during election rally, petitioner, who is a senior Congress leader, made absurd and uncalled for remarks against Hon'ble Prime Minister of India, which is otherwise not sufficient to constitute offence, if any, under Section 125 of the Representation of the People Act and Section 504 of Indian Penal Code.

5. To the contrary, Mr. Anish Banshtu, learned Deputy Advocate General for the respondent-State and Mr. Vinod Chauhan, learned counsel for the complainant, while praying for dismissal of the petition filed at the behest of the petitioner, vehemently argued that no illegality can be said to have been committed by the respondent-State by lodging FIR. They stated that petitioner not only hurled abuses but also made absurd and objectionable remarks against the Hon'ble Prime Minister of India. They stated that while using absurd language against Hon'ble Prime Minister of India, petitioner attempted to promote feelings of enmity or hatred between different classes of the citizens of India, as such, rightly came to be booked under Section

125 of the Representation of the People Act. They further stated that petitioner, with a view to disrupt elections and vitiate political atmosphere, intentionally insulted the Hon'ble Prime Minister of India and provoked workers of Bharatiya Janta Party, being fully aware that such actions were likely to cause public disorder, as such, he rightly came to be booked under Section 504 of Indian Penal Code. They stated that since charge is yet to be framed, arguments sought to be advanced in the instant proceedings can always be raised by the petitioner at the time of framing of charge, but way of filing present petition, an attempt has been made by the petitioner to prevent learned Court below from taking cognizance of the matter, which is otherwise not permissible under law.

6. I have heard learned counsel of the parties and gone through the record carefully.

7. 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 petition, 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.PC (now 528 of BNSS).

8. 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.

9. 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 case bearing 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.

10. The Hon'ble Apex Court in **Prashant Bharti v. State (NCT of Delhi)**, (2013) 9 SCC 293, relying upon its earlier judgment

titled as **Rajiv Thapar and Ors v. Madan Lal Kapoor**, (2013) 3 SCC 330, reiterated that High Court has inherent powers under Section 482 Cr.PC., to quash the proceedings against an accused, at the stage of issuing process, or at the stage of committal, or even at the stage of framing of charge, but such power must always be used with caution, care and circumspection. In the aforesaid judgment, the Hon'ble Apex Court concluded that while exercising its inherent jurisdiction under Section 482 of the Cr.PC, Court exercising such power must be fully satisfied that the material produced by the accused is such, that would lead to the conclusion, that his/their defence is based on sound, reasonable, and indubitable facts and the material adduced on record itself overrule the veracity of the allegations contained in the accusations levelled by the prosecution/complainant. Besides above, the Hon'ble Apex Court further held that material relied upon by the accused should be such, as would persuade a reasonable person to dismiss and condemn the actual basis of the accusations as false. In such a situation, the judicial conscience of the High Court would persuade it to exercise its power under Section 482 of the Cr.P.C. to quash such criminal proceedings, for that would prevent abuse of process of the court, and secure the ends of justice. In the aforesaid judgment titled as **Prashant Bharti v. State (NCT of Delhi)**, (2013) 9 SCC 293, the Hon'ble Apex Court has held as under:-

“22. The proposition of law, pertaining to quashing of criminal proceedings, initiated against an accused by a High Court under Section 482 of the Code of Criminal Procedure (hereinafter referred to as “the Cr.P.C.”) has been dealt with by this Court in *Rajiv Thapar & Ors. vs. Madan Lal Kapoor* wherein this Court inter alia held as under: (2013) 3 SCC 330, paras 29-30)

29. The issue being examined in the instant case is the jurisdiction of the High Court under Section 482 of the Cr.P.C., if it chooses to quash the initiation of the prosecution against an accused, at the stage of issuing process, or at the stage of committal, or even at the stage of framing of charges. These are all stages before the commencement of the actual trial. The same parameters would naturally be available for later stages as well. The power vested in the High Court under Section 482 of the Cr.P.C., at the stages referred to hereinabove, would have far reaching consequences, inasmuch as, it would negate the prosecution's/complainant's case without allowing the prosecution/complainant to lead evidence. Such a determination must always be rendered with caution, care and circumspection. To invoke its inherent jurisdiction under Section 482 of the Cr.P.C. the High Court has to be fully satisfied, that the material produced by the accused is such, that would lead to the conclusion, that his/their defence is based on sound, reasonable, and indubitable facts; the material produced is such, as would rule out and displace the assertions contained in the charges levelled against the accused; and the material produced is such, as would clearly reject and overrule the veracity of the allegations contained in the accusations levelled by the prosecution/complainant. It should be sufficient to rule out, reject and discard the accusations levelled by the

prosecution/complainant, without the necessity of recording any evidence. For this the material relied upon by the defence should not have been refuted, or alternatively, cannot be justifiably refuted, being material of sterling and impeccable quality. The material relied upon by the accused should be such, as would persuade a reasonable person to dismiss and condemn the actual basis of the accusations as false. In such a situation, the judicial conscience of the High Court would persuade it to exercise its power under Section 482 of the Cr.P.C. to quash such criminal proceedings, for that would prevent abuse of process of the court, and secure the ends of justice.

30. Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.:-

30.1 Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the material is of sterling and impeccable quality?

30.2 Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

30.3 Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

30.4 Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

30.5 If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal - proceedings, in exercise of power vested in it under Section 482 of the Cr.P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused."

11. It is quite apparent from the bare perusal of aforesaid judgments passed by the Hon'ble Apex Court from time to time that 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/her due to private and personal grudge, High Court while exercising power under Section 482 Cr.PC can proceed to quash the proceedings.

12. Recently, the Hon'ble Apex Court in case titled **Anand Kumar Mohatta and Anr. v. State (Government of NCT of Delhi) Department of Home and Anr**, AIR 2019 SC 210, has held that abuse of process caused by FIR stands aggravated if the FIR has taken the form of a charge sheet after investigation and as such, the abuse of law or miscarriage of justice can be rectified by the court while exercising power under Section 482 Cr.PC. The relevant paras of the judgment are as under:

16. Even otherwise it must be remembered that the provision invoked by the accused before the High Court is Section 482

Cr. P.C and that this Court is hearing an appeal from an order under Section 482 of Cr.P.C. Section 482 of Cr.P.C reads as follows:-

“482. Saving of inherent power of the High Court.- Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”

17. There is nothing in the words of this Section which restricts the exercise of the power of the Court to prevent the abuse of process of court or miscarriage of justice only to the stage of the FIR. It is settled principle of law that the High court can exercise jurisdiction under Section 482 of Cr.P.C even when the discharge application is pending with the trial court (G. Sagar Suri and Anr. V. State of U.P. and Others, (2000) 2 SCC 636 (para 7), Umesh Kumar v. State of Andhra Pradesh and Anr. (2013) 10 SCC 591 (para 20). Indeed, it would be a travesty to hold that proceedings initiated against a person can be interfered with at the stage of FIR but not if it has advanced, and the allegations have materialized into a charge sheet. On the contrary it could be said that the abuse of process caused by FIR stands aggravated if the FIR has taken the form of a charge sheet after investigation. The power is undoubtedly conferred to prevent abuse of process of power of any court.”

13. Recently, the Hon'ble Apex Court in case titled **Pramod Suryabhan Pawar v. The State of Maharashtra and Anr**, (2019) 9 SCC 608, has elaborated the scope of exercise of power under Section 482 Cr.PC, the relevant para whereof reads as under:-

“7. Section 482 is an overriding section which saves the inherent powers of the court to advance the cause of justice. Under

Section 482 the inherent jurisdiction of the court can be exercised (i) to give effect to an order under the CrPC; (ii) to prevent the abuse of the process of the court; and (iii) to otherwise secure the ends of justice. The powers of the court under Section 482 are wide and the court is vested with a significant amount of discretion to decide whether or not to exercise them. The court should be guarded in the use of its extraordinary jurisdiction to quash an FIR or criminal proceeding as it denies the prosecution the opportunity to establish its case through investigation and evidence. These principles have been consistently followed and re-iterated by this Court. In *Inder Mohan Goswami v State of Uttaranchal*⁵, this Court observed.

“23. This Court in a number of cases has laid down the scope and ambit of courts’ powers under Section 482 CrPC. Every High Court has inherent powers to act *ex debito justitiae* to do real and substantial justice, for the administration of which alone it exists, or to prevent abuse of the process of the court.

Inherent power under Section 482 CrPC can be exercised:

- (i) to give effect to an order under the Code;
- (ii) to prevent abuse of the process of the court, and
- (iii) to otherwise secure the ends of justice.

24. Inherent powers under Section 482 CrPC though wide have to be exercised sparingly, carefully and with great caution and only when exercise is justified by the tests specifically laid down in this section itself. Authority of the court exists for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the court, then the court would be justified in preventing injustice by invoking inherent powers in absence of specific provisions in the statute.”

8. Given the varied nature of cases that come before the High Courts, any strict test as to when the court’s extraordinary powers can be exercised is likely to tie the court’s hands in the

face of future injustices. This Court in *State of Haryana v Bhajan Lal*⁶ conducted a detailed study of the situations where the court may exercise its extraordinary jurisdiction and laid down a list of illustrative examples of where quashing may be appropriate. It is not necessary to discuss all the examples, but a few bear relevance to the present case. The court in *Bhajan Lal* noted that quashing may be appropriate where, (2007) 12 SCC 1 1992 Supp (1) SCC 335

“102. (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 FIR 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).

.....
 (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.”

In deciding whether to exercise its jurisdiction under Section 482, the Court does not adjudicate upon the veracity of the facts alleged or enter into an appreciation of competing evidence presented. The limited question is whether on the face of the FIR, the allegations constitute a cognizable offence. As this Court noted in *Dhruvaram Murlidhar Sonar v State of*

Maharashtra, 2018 SCC OnLine SC3100 (“Dhruvaram Sonar”)

:

“13. It is clear that for quashing proceedings, meticulous analysis of factum of taking cognizance of an offence by the Magistrate is not called for. Appreciation of evidence is also not permissible in exercise of inherent powers. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken, it is open to the High Court to quash the same in exercise of its inherent powers.”

14. Aforesaid law, clearly stipulates that court can exercise power under S.482 of the Code of Criminal Procedure, to quash criminal proceedings, in cases, 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.

15. Now being guided by the aforesaid proposition of law laid down by the Hon’ble Apex Court, this Court would make an endeavor to examine and consider the prayer made in the instant petition vis-à-vis factual matrix of the case.

16. In nutshell, case of the petitioner is that no case much less under Section 125 of the Representation of the People Act and 504 of Indian Penal Code is made out against the petitioner.

17. To ascertain the correctness of aforesaid plea set up at the behest of the petitioner, this Court, at first instance, deems it fit to take note of Section 125 of the Representation of the People Act and Section 504 of Indian Penal Code, which read as under:-

“125. Promoting enmity between classes in connection with election.—

Any person who in connection with an election under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different classes of the citizens of India shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Section 504 Intentional insult with intent to provoke breach of the peace.

Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

18. Careful perusal of Section 125 of the Representation of the People Act clearly reveals that any person person, who in connection with an election under aforesaid Act, promotes or attempts to promote feelings of enmity or hatred, between different classes of the citizens of India on the grounds of religion, race, caste, community or language, shall be punished with imprisonment for a term, which may extend to three years, or with fine, or with both.

19. Having carefully perused contents of FIR as well as Final report under Section 173 Cr.P.C, this Court is persuaded to agree with Mr. P.P. Chauhan, learned counsel for the petitioner, that no case

much less under Section 125 of the Representation of the People Act is made out against the petitioner. As per complainant, petitioner, during election rally, not only used abusive language against the Hon'ble Prime Minister, but also hurled abuses, however, no specific description, if any, with regard to absurd remarks allegedly used by the petitioner has been given in the final report under Section 173 Cr.P.C, rather Investigating Agency in its report submitted under Section 173 Cr.P.C has verbatim reproduced the contents of FIR.

20. To invoke Section 125 of the Representation of the People Act, it is incumbent upon the prosecution to prove that person sought to be charged with aforesaid provision of law attempted to promote feelings of enmity or hatred between different classes of citizens of India on the grounds of religion, race, caste, community or language. Moreover, in the instant case, there is no allegation that while using absurd language and hurling abuses at the Hon'ble Prime Minister of India, petitioner ever attempted to promote enmity or hatred between different classes of citizens of India on the grounds of religion, race, caste, community or language, rather he, during election rally, made certain utterances against the Hon'ble Prime Minister of India, which though can be said to be totally uncalled for, but may not be sufficient to constitute offence under Section 125 of the Representation of the People Act. No material worth credence has

been adduced on record suggestive of the fact that pursuant to use of absurd remarks and hurling of abuses by the petitioner, any feelings of enmity or hatred arose between different classes of citizens of India that too on the grounds of religion, race, caste, community or language.

21. Similarly, this Court finds that no case under Section 504 of Indian Penal Code is made out against the petitioner. As per aforesaid provision of law, whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Interestingly, the person, who was allegedly intentionally insulted by the petitioner, thereby being provoked to breach the public peace or commit any other offence, never came forward to lodge a complaint, rather complainant, being member of Bharatiya Janta Party, lodged the complaint, contents whereof, if read, are not specific, rather vague and evasive. Complainant simply stated that petitioner, during election rally, made uncalled for remarks against the Hon'ble Prime Minister and also hurled abuses, which action of the petitioner may not be sufficient to constitute offence punishable under Section 504 of Indian Penal Code. No material worth credence has

been adduced on record to suggest that petitioner intentionally insulted the Hon'ble Prime Minister that too with a view to provoke other persons to break public peace or commit any offence. In the case at hand, petitioner, while election speech, made certain comments against the Hon'ble Prime Minister, but there is no material to demonstrate that pursuant to aforesaid uncalled for speech given by the petitioner, there was any disruption of public peace.

22. Leaving everything aside, main ingredient to invoke Section 504 of Indian Penal Code is totally missing in the case at hand. No material worth credence has been adduced on record to suggest that petitioner intentionally, with a view to cause public disruption, hurled abuses and made uncalled for remarks against the Hon'ble Prime Minister.

23. This Court for the discussion made hereinabove in detail finds the case at hand to be a fit case, where power under Section 482 Cr.P.C. can be exercised to quash FIR as well as consequent proceedings, which is otherwise bound to fail for the reasons stated hereinabove. Continuation of proceedings pursuant to FIR sought to be quashed, would not only cause unnecessary harassment to the petitioner, but would also put him to ordeal of protracted trial, which is otherwise likely to culminate into his acquittal.

24. Consequently, in view of the detailed discussion made hereinabove as well as law taken into consideration, FIR No.110 of 2021, dated 30.10.2021, under Sections 125 of the Representation of the People Act, 1951 and 504 of Indian Penal Code, registered at Police Station Bharmour, District Chamba, H.P. as well as consequent proceedings, if any, pending adjudication in the competent court of law are quashed and set aside. Accused is acquitted of the charges framed against him.

25. The petition stands disposed of in the aforesaid terms, alongwith all pending applications.

**(Sandeep Sharma),
Judge**

March 17, 2026
(sunil)

High Court