**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**CrMMO No.1191 of 2023**
**Date of Decision: 14.7.2026**

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**Manik Kumar**

**.........Petitioner**

**Versus**

**State of Himachal Pradesh and Anr.**

**.......Respondents**

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

**For the Petitioner:** Mr. Neeraj Sharma, Senior Advocate with Mr. Ankit Dhiman, Mr. Hemant Thakur, Mr. Happy Thakur and Mr. Vidush Chauhan, Advocates.

**For the Respondent:** Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocates General and Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General.

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

Through instant petition filed under Section 482 of CrPC, prayer has been made by the petitioner for quashing of FIR No. 5 of 2020 dated 08.06.2020, registered at Police Station SV & ACB, Una, under Sections 39(1) and 39(2) of Himachal Pradesh Excise Act (in short the "Act"), along with consequent proceedings pending in the competent court of law.

**2.** Precisely, the facts of the case, as emerge from the pleadings as well as other material adduced on record by the respective parties, are that

FIR sought to be quashed in the instant proceedings came to be lodged at the behest of Sub-Inspector Jasbir Chand, State Vigilance and Anti-Corruption Bureau at Police Station State Vigilance, Una, alleging therein that a secret information was received that M/s A-One Enterprises and M/s Mars Bottlers were illegally transporting the liquor bottles of country brand i.e. Himachali Santra, from M/s Mars Bottlers to M/s A-One Enterprises, without possessing requisite license for transportation of liquor. Complainant also alleged that afore firms were transporting the bottles on the authority of one permit again and again and they were further transporting the liquor without holograms. On the basis of the information, two teams of officers and officials were constituted and the premises of both M/s A-One Enterprises and M/s Mars Bottlers were searched on the same day i.e. 08.06.2020. During course of search, though it was not found that the accused was involved in the illegal transport of liquor without valid license, but it was found that certain nips and bottles in possession of both the parties were without requisite holograms. Interestingly, after completion of investigation, police presented the challan in the competent court of law, but only made M/s Mars Bottlers as an accused, whereas M/s A-One Enterprises was not made an accused. Before FIR, sought to be quashed, could be taken to its logical end, petitioner Manik Kumar, who happens to be the proprietor of M/s Mars Bottlers, has approached this Court for quashing of the FIR.

**3.** Precisely, the case of the petitioner, as has been highlighted in the petition and further canvassed by Shri Neeraj Sharma, learned Senior Advocate, duly assisted by Mr. Hemant Thakur, Advocate, is that no case much less under Section 39 of the Act is made out against the petitioner because it is none of the case of the prosecution that the accused named in the FIR were involved in the illegal transport of liquor without valid license, rather precise allegation against them is that certain nips and bottles were without requisite holograms. He submitted that recovery of bottles, if any, without holograms constitutes an offense, if any, under Section 43 of the Act, which is otherwise compoundable. Mr. Sharma vehemently argued that repeatedly, the Excise Department apprised the Police Department that no case is made out against the petitioner under Section 39 of the Act, but yet police proceeded to present challan in the competent court of law under Sections 39(1) and 39(2) of the Act, which is otherwise bound to fail. Mr. Sharma, petitioner further invited attention of this Court to the judgment dated 24.03.2023 passed by a coordinate bench of this Court in **Cr.MMO No. 739 of 2022**, titled as **Sant Ram** v. **State of Himachal Pradesh**" to state that, on the basis of grounds raised in instant petition, FIR against co-accused namely Santram, who at the relevant time was working as

Excise Inspector in the factory premises stands quashed, as such, petitioner, who is the proprietor of M/s Mars Bottlers also deserves similar treatment.

**4.** Pursuant to notices issued in instant petition, respondent-State has filed reply, wherein facts, as have been noticed hereinabove, have been not disputed, rather stand admitted.

**5.** Shri Rajan Kahol, learned Additional Advocate General, vehemently argued that since certain nips and bottles in possession of M/s Mars Bottlers, were found without requisite holograms, no illegality can be said to have been committed by investigating agency while presenting challan in the competent court of law under Sections 39(1) and 39(2) of Act. While making this court peruse Section 39(1), Mr. Kahol argued that whoever, in contravention of any provisions of this Act or of the rules made thereunder or notification issued, or any order made, or of any license, permit or pass granted under this Act, produces, manufactures, possesses, imports, exports or transports any liquor or constructs or works any distillery or brewery or winery or warehouse or uses, keeps or has in his possession any material, still, utensil, implement or apparatus whatsoever, for the purpose of manufacturing or producing any liquor, shall be punishable for every such offence with imprisonment for a term which may extend to three years.

**6.** While specifically referring to Section 39(2) of the Act, Mr. Kahol, attempted to argue that whoever in contravention of any provision of Act sells any liquor or bottles any liquor or removes any liquor from any distillery, brewery, winery or warehouse or other place of storage established or licensed under this Act shall be punished with imprisonment for a term which may extend to three years. While fairly admitting factum of passing of judgment in **Santram's** case (supra), Mr. Kahol submitted that petitioner herein cannot claim any parity because role of Santram being Excise and Taxation Officer was totally different. He submitted that since license was issued in the name of petitioner, he is solely responsible for violation of any provision contained under the Act.

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

**8.** 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 Section 528 of BNSS).

**9.** 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.

**10.** 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.

**11.** 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."

**12.** 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."

**13.** 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."

**14.** 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.***

**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.** Admittedly, in the case at hand, there is no allegation that accused named in the FIR sought to be quashed were involved in the illegal transport of liquor without valid license, rather specific allegation against them is that certain nips and bottles in possession of both the parties were without requisite holograms, hence, this court is persuaded to agree with learned Senior counsel of petitioner that no case much under Sections 39(1) and 39(2) is made out against petitioner. At this stage, it would be apt to take note of Section 39 of Act, which reads as under:

> "39. **Penalty for unlawful production, manufacture, possession, import, export, transport, sale etc**.
>
> **(1)** Whoever, in contravention of any provisions of this Act, or of the rules made thereunder or notification issued, or any order made, or of any license, permit or pass granted under this Act –
>
> > (a)produces, manufactures, possesses, imports, exports or transports any liquor, or
> >
> > (b)constructs or works any distillery or brewery or winery or warehouse, or
> >
> > (c)uses, keeps or has in his possession any material, still, utensil, implement or apparatus whatsoever, for the purpose of manufacturing or producing any liquor,
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> shall be punishable for every such offence with imprisonment for a term which may extend to three years and with fine which may extend to two lakh rupees but shall not be less than five thousand rupees :
>
> Provided that in the case of an offence relating to the possession of-
>
> (i)a working still for manufacture of any liquor, the imprisonment shall not be less than three years and the fine shall not be less than one lakh rupees;
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> (ii)lahan, the imprisonment shall not be less than one year and the fine shall not be less than fifty thousand rupees;
>
> (iii)country liquor manufactured otherwise than in a licensed distillery or warehouse in Himachal Pradesh –
>
> > (a )in a quantity not exceeding seven-and-a-half litres, the imprisonment shall of be less than six months and the fine shall not be less than five thousand rupees; and

(b) in a quantity exceeding seven-and-a-half litres, the imprisonment shall not be less than one year and the fine shall not be less than ten thousand rupees;

(iv) foreign liquor other than, -

(a)manufactured in a licensed distillery or brewery or winery or warehouse in India; or

(b)imported into India on which custom duty is leviable under the Customs Tariff Act, 1975 or the Customs Act, 1962,

the imprisonment shall not be less than one year and the fine shall not be less than twenty thousand rupees :

Provided further that in the case of an offence relating to import, export or transport of –

(i)country liquor exceeding forty-five litres; or

(ii)foreign liquor exceeding forty-five litres; or

(iii)other spirits exceeding five litres,

such imprisonment shall not be less than three years and the fine shall not be less than one lakh rupees.

**(2)** Whoever, in contravention of any provisions of this Act or the rules made thereunder or notification issued, or any order made, or of any licence, permit or pass granted under this Act –

(i)possesses any unused and printed label, cork, capsule, or seal, or an imitation thereof; or

(ii)sells any liquor; or

(iii)bottles any liquor; or

(iv)removes any liquor from any distillery, brewery, winery or warehouse or other place of storage established or licensed under this Act; or

(v)adulterates any liquor by adding any substance with an intention to vary the prescribed strength or quality of such liquor,

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees.”

**17.** Having carefully perused the aforesaid provision of law, this court is not persuaded to agree with Shri Rajan Kahol, learned Additional Advocate General, that on account of omission, if any, on the part of the manufacturer to put holograms on the bottles of liquor, he or she can be charged under Sections 39(1) and 39 (2), rather for that purpose, a penalty could have been imposed under Section 43 of the Act, which reads as under:

> "43. **Penalty for certain acts by licensee or his servant** – Whoever, being the holder of a licence, permit or pass granted under this Act or being in the employ of such holder or acting on his behalf-
>
> (a) allows disorderly conduct or gaming or prostitution on , the licenced premises; or
>
> (b) fails wilfully to produce such license, perm it or pass on demand of any Excise Officers; or
>
> (c) in any case not provided for in section 39, wilfully contravenes any rules made under sections 80 or 81; or
>
> (d) wilfully does or omits to do anything in breach of any of the conditions of the license, permit or pass not otherwise provided for in this Act; or
>
> (e) reduces the strength of any liquor below the prescribed limit;
>
> shall be punishable with fine which may extend to fifty thousand rupees but shall not be less than five thousand rupees."

**18.** Interestingly, the department immediately after lodging of the FIR sent a communication to police authorities dated 21.10.2021, thereby informing that if some of the liquor bottles could not be affixed with holograms due to labor mistake/ human error, this contravention under Section 43 of the Act is compoundable under Section 66 of the Act by concerned Collector. Vide afore communication, the Department of Excise specifically requested police authorities to transfer the case to the Department of State Taxes and Excise so that it could be forwarded to Collector for compounding under the ibid Act, but, yet, police authorities proceeded to present the challan in competent court of law under Sections 39(1) and 39(2) of the Act.

**19.** There is another aspect of the matter that otherwise also, it is the duty of Excise and Taxation Officer deputed to a particular liquor factory to ensure the affixation of proper labels and holograms on each and every bottle. Moreover, this Court finds that about 811 boxes of country-made liquor of marka "Himachali Santra", which were seized from M/s A-One Enterprises L13, were found without holograms. Similarly out of 1226 boxes of liquor ready to dispatch at M/s Mars Bottlers's Plant Tahliwal, Tehsil Haroli, District Una, a total number of 4673 bottles were found not having holograms. Interestingly, M/s A-One Enterprises never came to be arraigned as an accused. As far as 1226 boxes of country-made liquor were concerned, they were yet to be dispatched.

**20.** Vide notification dated 23.5.2012, (Annexure P-2) issued by the Excise and Taxation Commissioner, it is the duty of the Excise and

Taxation Officer to ensure the affixation of hologram, however in the instant case, Shri Santram, who at the relevant time was posted as the Excise and Taxation Officer, was though made an accused, but FIR qua him already stands quashed by coordinate bench of this court in CRMMO No. 739 of 2022.

**21.** Though this Court finds force in the submission of Mr. Rajan Kahol, learned Additional Advocate General that in terms of Notification No.7 362/2009EXN1727089, dated 23.05.2012, the licensee is under legal obligation to affix holograms/EALS on the caps of the bottles extending onto the neck thereof, but the question which needs to be determined in the case at hand is, *whether on account of omission, if any, to fulfill aforesaid obligation, licensee would be liable to be prosecuted under Sections 39(1) and 39(2) of the Act, or whether he will be liable to be imposed penalty in terms of Section 43 of the Act.*

**22.** As has been observed herein above, omission, if any, of licensee to put hologram, doesn't constitute an offense under Sections 39(1) and 39(2) of the Act, rather, qua aforesaid omission, licensee can be imposed penalty in terms of Section 43 of the Act.

**23.** At this stage, it is apt to take note of Sections 66 and 67 of the Act, which read as under.

"**66. Composition of offences by the Collector**.

(1) The Collector may, on an application from any person who is reasonably suspected of having committed an offence punishable under sections 26, 43, 44, 45, 46, 47 or 59 including the attempts to commit or abet any of these offences under section 50 of this Act, accept a sum of money not exceeding twenty five thousand rupees subject to a minimum of five thousand rupees by way of composition, for each of such offences, and on payment of such sum of money to the Collector, the accused person if in custody shall be discharged and no further proceedings shall be taken against him in respect of such offence.

(2) If any lease, license, permit or pass has become liable for cancellation or suspension or has been cancelled or suspended under clauses (a), (b) or (c) of section 29 of this Act, the authority having power to cancel or suspend it, may, on application made by holder of such lease, license, permit or pass, after payment of such penalty, as it may fix, revoke or fore go such cancellation or suspension, as the case may be.

(3) Where any liquor has been seized under the provisions of this Act, the Collector may, if he considers it expedient but subject to the provisions of section 65, at any time, before the Judicial Magistrate has passed an order under sub-section (2) of section 60, release it on receiving payment of the value thereof, if such liquor is fit for human consumption : Provided that such release of liquor shall not affect the punishment of the accused for the offence for which he is liable under this Act.

**67. Composition of certain other offences.**

(1) Notwithstanding anything contained in section 39, any offence whether committed before or after commencement of this Act relating to the import, export, transport or possession upto one hundred litres of lahan or upto forty-five bulk litres of liquor, may, on an application made by the accused, be compounded :-

(i) before institution of the prosecution, by the Excise Officer of first class (not below the rank of the Excise Officer Incharge of the district), and

(ii) after institution of the prosecution, by the Judicial Magistrate of the first class, by accepting an amount which shall not be less than

> five thousand rupees but which shall not exceed twenty-five thousand rupees.
>
> (2) Where an offence has been compounded under sub-section (1), the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of such offence : Provided that if a person commits an offence specified in subsection (1), for more than three times, the same shall not be compounded.
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> (3) When a case has been compounded under sub-section (1), the Judicial Magistrate of the first class or the Excise Officer of first class (not below the rank of Excise Officer-in-charge of the district), as the case may be, may make such orders as he thinks fit for the disposal of the case property."

**24.** Section 67 of the Act clearly provides that notwithstanding anything contained in Section 39, any offense relating to import, export, transport or possession up to forty five bulk liters of liquor, may on an application made by the accused be compounded by an Excise Officer of first class, but before institution of prosecution and thereafter by the Judicial Magistrate First Class, before whom the prosecution is launched.

**25.** As per Section 43, as has been reproduced herein above, whoever being holder of license, permit or pass granted under the Act, willfully does or omits to do anything in breach of any of the conditions of the license or reduces the strength of any liquor below the prescribed limit, shall be punishable with fine which may extend to Rs.1 lakh, but shall not be less than Rs.15,000/-. Notification dated 30.5.2012, Annexure P-6, issued by the Excise and Taxation Department, clearly reveals that duty has been cast upon licensee to sell brands of liquor by affixing holograms on the caps of the bottles extending on the necks thereof and such violation, if any, can be compounded under Sections 66 and 67 of the Act as discussed herein above.

**26.** Having scanned the material adduced on record by respective parties, as discussed herein above, this Court is of definite view that no case is made out against petitioner under Sections 39(1) and 39(2) of the Act, and as such, FIR, otherwise sought to be quashed in the instant proceedings, if permitted to sustain, would be sheer abuse of process of law. If petitioner herein is left to suffer the ordeal of protracted trial, which is otherwise bound to fail in all eventuality, great prejudice shall be caused to him. Hence, this Court, while exercising power under Section 482 of CrPC, is persuaded to quash the FIR against the petitioner, which otherwise stands quashed against one of the accused, namely Santram, by Coordinate Bench of this Court vide judgment dated 24.3.2023 in CrMMO No.739 of 2022. Ordered accordingly.

**27.** Though having perused notice dated 12.6.2020, issued by the Collector (Excise) (North Zone), Himachal Pradesh, Palampur, this Court finds that proceedings under Section 43 of Act, stand initiated against the petitioner for his having contravened certain provisions of the Act, but learned Counsel representing parties including learned Additional Advocate General, state that this Court with a view to put quietus to the matter, can itself proceed to impose the penalty in terms of Sections 66 and 67 of the Act, especially when, it stands duly established on record that petitioner herein had failed to put holograms on large number of bottles. Though this Court is of definite view that it is the domain of Collector Excise to impose penalty for violation of provision contained under Section 43 of Excise Act, but having taken note of the fact that aforesaid authority, after its having issued notice dated 12.6.2020, has not proceeded further till date, coupled with the fact that criminal prosecution launched against petitioner has been already ordered to be quashed by this Court in the instant proceeding, this Court, with a view to settle the controversy for all times to come, deems it fit to impose penalty of Rs.1.00 lakh upon petitioner, for his having contravened the provision contained under Section 43 of Act, which shall be deposited with the Excise Department, within a period of four weeks. Needless to say, after deposit of aforesaid amount, proceedings under Section 43 of the Act, pending adjudication before the Collector against petitioner shall come to an end.

**28.** In the aforesaid terms, present petition is disposed of along with pending applications, if any.

**29.** List for compliance on **24.8.2026**.

**July 14, 2026** **(Sandeep Sharma),**
(manjit) **Judge**