



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CrMMO No.954 of 2024
Date of Decision: 28.7.2026

Sanjay Kumar Khanna and Ors.
.....Petitioners
Versus
State of Himachal Pradesh and Anr.
....Respondents

Coram
Hon’ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting?

For the Petitioners: Mr. I.S. Chandel, Advocate.
For the Respondents: Mr. Rajan Kahol and Mr. Vishal Panwar
Additional Advocates General with Mr. Ravi
Chauhan, Deputy Advocate General.

Sandeep Sharma, J. (Oral)

By way of instant petition filed under Section 482 CrPC, prayer has been made by the petitioners for quashing of Kalandra No.422/B dated 5.8.2022 titled as State of Himachal Pradesh versus Sanjay Kumar Khanna and others under Sections 186 and 189 of Indian Penal Code filed by Police Station Jubbal, District Shimla as well as consequential proceedings, pending in the court of learned Judicial Magistrate First Class Jubbal, District Shimla.

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

5.8.2022 at about 10:05 p.m., while petitioner No.1 was returning from his shop at Sawara to his house at Jubbal in his vehicle bearing registration No. HP63E0551 and had reached near Bowli Nallah, police which had laid Naka nearby, stopped the vehicle and asked for the papers of the vehicle. Allegedly, police official demanded sum of Rs.5,000/- from the petitioner, however he refused to pay the same, as a result of which, he was challaned by the police. Allegedly, respondent No.2 Sh. Sanjeev Kumar, who at relevant time, was working as Head Constable (No. 94) at Police Station Jubbal, Tehsil Jubbal, misbehaved with the petitioner No.1. Petitioner No.1 reported the matter to police vide GD No. 003 (Roznamcha) to Police Station Jubbal dated 5.8.2023 at 12:45 AM, requesting to take legal action against respondent No.2-Sanjeev Kumar. Allegedly, police officials of Police Station Jubbal did not take legal action against respondent No.2, rather proceeded to lodge report vide GD No. 004 (Roznamcha) at Police Station Jubbal dated 5.8.2023 against the petitioners, alleging therein that when respondent No.2 was busy in checking vehicles and managing traffic, one vehicle bearing registration No.HP63B0551 was stopped for inspection. Since three passengers more than seating capacity were sitting in the vehicle, vehicle was challaned under Section 194A and 192 of Motor Vehicles Act (in short "Act"). Thereafter, one another vehicle bearing registration No. HP 63E0551 was also stopped, however, one person sitting in the aforesaid vehicle

inquired about the reason for issuance of challan to the vehicle which was ahead of his vehicle. Complainant alleged that though occupants of aforesaid vehicle were informed about the infringement of the rules by said vehicle but occupants of vehicle bearing registration No. HP63B0551 started threatening the police loudly by saying that police do not work without remuneration and false challans are being issued. Complainant alleged that driver of the vehicle was asked for the driving license which was produced, but he also threatened police. Complainant alleged that since vehicle was having LED lights, same was also challaned under Sections 182A(4), 181 and 179 of the Act, but occupants of the vehicle leveled various allegations against the police official. In the aforesaid background, Kalandra was filed by SHO Jubbal in the court of learned JMFC, Jubbal, which taking cognizance of the same, issued process against the petitioners. In the aforesaid background, petitioners have approached this court in the instant proceedings for quashing of Kalandra on the ground that no case under Sections 186 and 189 of Indian Penal Code is made out.

3. Mr. I.S. Chandel, learned counsel for the petitioner, while referring to the provision contained under Section 186 of Indian Penal Code vis-a-vis allegations leveled against the petitioners, vehemently argued that

at no point of time, obstruction, if any, was caused by the petitioners to the police official. Mr. Chandel, further argued that as per own case of prosecution, petitioners not only stopped the vehicle, but also produced license, but yet for totally unjustifiable reasons, he was challaned. He further submitted that there is nothing in the Kalandra to reflect the fact that petitioners ever misbehaved or obstructed the Head Constable Sanjeev Sharma for doing his duty, rather, material adduced on record of investigation agency suggests that demanded documents were produced. Mr. Chandel further submitted that since no voluntary obstruction, if any, was ever caused by the petitioners, thereby preventing the police officials from discharging their public duty, chances of conviction of the petitioners are very remote and bleak and hence, continuance of proceedings under Sections 186 and 189 of Indian Penal Code, which are otherwise bound to fail, would not only waste the precious time of the court, but would also unnecessarily cause harassment to the petitioners.

4. To the contrary, Mr. Anish Banshtu, learned Deputy Advocate General, supported the action of police in filing Kalandra under relevant provisions of law. While referring to the Kalandra sought to be quashed, Mr. Banshtu submitted that though documents were produced by the petitioners, but since there was violation of traffic rules and vehicle was

having LED lights, respondent No. 2 rightly challaned the petitioners under Section 182A(4), 181 and 179 of the Act. He submitted that Kalandra clearly reveals that while respondent No. 2 was discharging his official duty, petitioners not only leveled wild allegations against him but also obstructed him from discharging his duty and as such, no illegality can be said to have been committed by learned court below while issuing process against the petitioners named in the Kalandra.

5. I have heard the learned counsel for the parties and gone through the record of the case.

6. 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.

7. Hon'ble Apex Court in judgment titled ***State of Haryana and others vs. Bhajan Lal and others, 1992 Supp (1) SCC 335*** has laid down several principles, which govern the exercise of jurisdiction of High Court under Section 482 Cr.P.C. Before pronouncement of aforesaid judgment rendered by the Hon'ble Apex Court, a three-Judge Bench of

Hon'ble Court in ***State of Karnataka vs. L. Muniswamy and others, 1977 (2) SCC 699***, held that the High Court is entitled to quash a proceeding, 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. Relevant para is being reproduced herein below:-

“7.In the exercise of this wholesome power, the High Court is entitled to quash a proceeding 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. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the legislature. The compelling necessity for making these observations is that without a proper realisation of the object and purpose of the provision which seeks to save the 56 inherent powers of the High Court to do justice, between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction.”

8. Subsequently, Hon'ble Apex Court in **Bhajan Lal** (supra), has elaborately considered the scope and ambit of Section 482 Cr.P.C. Subsequently, Hon'ble Apex Court in **Vineet Kumar and Ors. v. State of U.P. and Anr.**, while considering the scope of interference under Sections 397 Cr.PC and 482 Cr.PC, by the High Courts, has held that High Court is entitled to quash a proceeding, 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 proceedings ought to be quashed. The Hon'ble Apex Court has further held that the saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose i.e. a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In the aforesaid case, the Hon'ble Apex Court taking note of seven categories, where power can be exercised under Section 482 Cr.PC, as enumerated in **Bhajan Lal** (supra), i.e. where a criminal proceeding is manifestly attended with malafides 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, quashed the proceedings.

9. Hon'ble Apex Court in **Prashant Bharti v. State (NCT of Delhi)**, (2013) 9 SCC 293, has reiterated that High Court has inherent

power under Section 482 Cr.PC., 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 charge, but such power must always be used with caution, care and circumspection. While invoking 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 and the material adduced on record itself overrules the veracity of the allegations contained in the accusations levelled by the prosecution/complainant. 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 Cr.P.C. to quash such criminal proceedings, for that would prevent abuse of process of the court, and secure the ends of justice.

10. Hon'ble Apex Court in **Asmathunnisa v. State of A.P. (2011)**

11 SCC 259, has categorically held that where discretion exercised by the Magistrate in issuing process is capricious and arbitrary having been based either on no evidence or on materials which are wholly irrelevant or

inadmissible; and where the complaint suffers from fundamental legal defects, such as, want of sanction, or absence of a complaint by legally competent authority and the like, High Court would be justified in exercise of its powers under Section 482 CrPC.

11. From the bare perusal of aforesaid exposition of law, it is quite apparent that while exercising its inherent power under Section 482 Cr.PC., High Court can proceed to quash the proceedings, if it comes to the conclusion that allowing the proceedings to continue would be an abuse of process of the law.

12. Now being guided by the aforesaid law laid down by the Hon'ble Apex Court from time to time, this court would make an endeavour to find out *whether offence, if any, punishable under the afore provisions of law and evidentiary material collected on record by the prosecution is sufficient to connect the accused with the alleged commission of offence or not?*

13. Bare perusal of pleadings as well as documents annexed therewith especially Kalandra reveals that on the date of alleged incident petitioner No.1 stopped his vehicle after being given signal by police present at Naka and also produced his driving license, but since vehicle was having LED lights, police official present on the spot proceeded to challan the vehicle in question under Section 182A(4), 181 and 179 of the Act.

Allegedly, petitioner No.1 and other occupants of the vehicle leveled wild allegations against police officials, especially respondent No. 2 and as such proceedings under Sections 186 and 189 of IPC came to be initiated against the petitioners on account of their having caused obstruction in discharge of public duty by Head Constable namely Sanjeev Kumar.

14. Having taken note of the allegations contained in Kalandra filed under the aforesaid provisions of law, which have been otherwise taken note in earlier part of judgment, this court is persuaded to agree with learned counsel for petitioner that no case, whatsoever, under Section 186 of Indian Penal Code is made out.

15. At this stage, it would be apt to take note of Section 186 of Indian Penal Code, which reads as under:

“186. Obstructing public servant in discharge of public functions.—Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.”

16. To invoke aforesaid provision of law, it is incumbent upon prosecution to prove that person charged with aforesaid section voluntarily obstructed any public servant in discharge of his public function. Section 186 IPC, provides for conviction of a person, who voluntarily obstructs any public servant in the discharge of public function, with imprisonment,

which may extend to three months or fine, however, in the instant case, there is nothing on record to suggest that the petitioners stopped the police official from challaning him, rather police, after having noticed certain discrepancies, challaned him. Making certain remarks, if any, on the spot may not be sufficient to conclude obstruction, if any, caused by the petitioners. Otherwise also, import of the remarks allegedly made by the petitioners, as have taken note hereinabove, nowhere indicates that an attempt was made by the petitioners to dissuade the police officials from doing their duty.

17. Admittedly, petitioner No.1 had produced the documents of the vehicle, but yet he was challaned under Sections 182A(4), 181 and 179 of the Act on account of fixation of the LED lights, which are not permissible under Motor Vehicles Rules. Since it is an admitted case of the police that petitioner No. 1 was challaned, it is not understood that how and in what manner, he obstructed the police official from discharging his duty, as such, this court is persuaded to agree with Mr. Chandel, learned counsel for petitioner that no obstruction, if any, was ever caused by the petitioner while he was being challaned. Since no obstruction was caused, no proceedings, if any, under Section 186 of Indian Penal Code otherwise could have been initiated against petitioner No1. Since basic ingredients of

Section 186 of Indian Penal Code are missing in the case at hand, chances of conviction of petitioners in trial if permitted to continue are very remote and bleak. If it is so, no fruitful purpose would be served by permitting the trial to continue, rather, continuance of trial would amount to sheer abuse of process of law.

18. Though perusal of Kalandra sought to be quashed reveals that while respondent No. 2 was discharging his duty, petitioners leveled wild allegations, but question which needs consideration is that “*whether act of making wild allegations would amount to voluntarily causing obstruction or not.*” Once there is no allegation that accused used physical force to cause any obstruction to the police official, who admittedly after having noticed certain non-compliances on the part of accused-petitioner challaned him under relevant provisions of the Act, no case under Section 186 of Indian Penal Code could have been initiated against the petitioner. In order to make out an offense punishable under Section 186 of Indian Penal Code, it is incumbent upon the prosecution to show that: 1.) accused voluntarily obstructed a public servant and 2.) such obstruction was caused in discharge of public function of such public servant. The term 'voluntarily' contemplates the commission of some overt act; mere passive conduct of a person would not amount to causing obstruction. In the present case, it is

none of the case of prosecution that petitioner obstructed the police official from challaning him or impounding his vehicle, rather in the case at hand, police concerned challaned the petitioner.

19. Precise allegation in the case at hand against the petitioners is that they started making wild allegations, but certainly such act, if any, of theirs, cannot be considered as an obstruction.

20. No doubt, expression 'obstruction' does not necessarily mean physical obstruction, but this court is of the view that any action accompanied by either show of force or threat or having the effect of obstructing the public servant from carrying out his duty, would constitute 'obstruction' for the purpose of Section 186 of Indian Penal Code. In the case at hand, police officer was never obstructed in any manner in discharging his duty, rather he after having taken note of the fact that LED lights were installed in the vehicle, issued challan against the petitioner. Mere protesting or using intemperate language, without an overt act, will not be an offense punishable under Section 186 of Indian Penal Code. Passive conduct without disturbing a public servant in discharge of his functions or duties will not amount to voluntarily obstructing a public servant within the meaning of Section 186 of Indian Penal Code. Reliance in this regard is placed upon judgment passed by this court in case titled

Karun Nagar v State of Himachal Pradesh and another, 2024 (Suppl.)
Shim. LC 2492.

21. Consequently, in view of the detailed discussion made hereinabove as well as law taken into consideration, Kalandra No.4 dated 5.8.2022 under Sections 186 and 189 of Indian Penal Code submitted by Police Station Jubbal, District Shimla as well as consequential proceedings pending in the court of learned Judicial Magistrate First Class Jubbal, are quashed and set aside and accused are acquitted of charges framed against them. Accordingly, the present petition is disposed of along with pending applications, if any.

July 28, 2026
(manjit)

(Sandeep Sharma),
Judge