



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MMO No.497 of 2026
Date of Decision: 11.08.2026

Pallavi Ramchaik

.....Petitioner

Versus

State of H.P. & Ors.

.....Respondents

Coram:

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting? ¹

For the petitioner: Mr. Vinod Sharma & Mr. Rakesh Kumar,
Advocates.

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

Sandeep Sharma, Judge(oral):

By way of the instant petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita (in short '**BNSS**'), prayer has been made on behalf of the petitioner for quashing of Kalandra filed under Sections 221 and 276 of Bharatiya Nyaya Sanhita, registered at Police Station Rampur, Bushahr, District Shimla, Himachal Pradesh, as well as consequent proceedings, if any, pending in the competent court of law.

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

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 respondent No. 2-complainant (hereinafter referred to as the “**complainant**”), who at the relevant time was working as Sub-Divisional Magistrate, Rampur Bushahr, District Shimla, HP, filed a complaint to SHO, PS Rampur Bushahr, District Shimla, against the petitioner, alleging therein that on 24.02.2025, during the hearing of a Case bearing No. 25-VIII/2024, titled **Bhupesh Kumar versus State of Himachal Pradesh**, pending adjudication before the said Court, an incident of obstruction of court proceedings occurred. Complainant alleged that during the course of arguments, petitioner namely Smt. Pallavi Ramchaik, wife of Bhupesh Kumar, entered the courtroom without the permission of the Court and started disrupting the court proceedings by raising objections and advancing arguments. Complainant alleged that petitioner obstructed him in discharge of his official duties and despite there being direction to leave the courtroom, she continued with her disruptive conduct, as a result thereof, court proceedings were hampered. He alleged that action of disrupting the court proceedings amounts to interference with the administration of justice. Taking note of aforesaid complaint made by the complainant, police prepared a Kalandra under Sections 221 and 267 of Bharatiya Nyaya Sanhita, registered vide GD entry

dated 25.02.2025 (Annexure P-1 colly) and thereafter after obtaining permission from the learned Magistrate concerned, the police presented the Kalandra before the learned Additional Chief Judicial Magistrate, Rampur Bushahr, District Shimla, Himachal Pradesh, where it is pending adjudication and was fixed for consideration on charges on 03.03.2026.

3. Before aforesaid proceedings could be taken to its logical end, petitioner has approached this Court in the instant proceedings for quashing of Kalandra along with consequent proceedings on the ground that in terms of Section 215 of BNSS, Kalandra presented in the competent court of law, on the basis of complaint made by the complainant, could not have been entertained.

4. Precisely, the case of the petitioner, as has been highlighted in the petition and further canvassed by Mr. Vinod Sharma, learned counsel for the petitioner, is that in terms of Section 215 of BNSS, no case under Sections 221 and 267 of Bharatiya Nyaya Sanhita (in short "**BNS**") could be instituted against the petitioner without there being any written complaint to the high ups. While making this Court peruse provision contained under Section 221 of BNS, learned counsel for the petitioner submitted that no case under Sections 172 to 188 of IPC can be registered without there being any written complaint by the higher authority.

5. Mr. Rajan Kahol, learned Additional Advocate General, while putting in appearance on behalf of respondents No.1 to 3, supported the impugned action of filing Kalandra against the petitioner.

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. The law relating to quashing of criminal cases was explained by the Hon'ble Supreme Court in **B.N. John v. State of U.P., 2025 SCC OnLine SC 7** as under:-

“7. As far as the quashing of criminal cases is concerned, it is now more or less well settled as regards the principles to be applied by the court. In this regard, one may refer to the decision of this Court in State of Haryana v. Ch. Bhajan Lal, 1992 Supp (1) SCC 335, wherein this Court has summarised some of the principles under which FIR/complaints/criminal cases could be quashed in the following words:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under

Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(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) 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 FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.*

(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 that 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 a private and personal grudge.”*
(emphasis added)

8. *Of the aforesaid criteria, clause no. (1), (4) and (6) would be of relevance to us in this case.*

In clause (1) it has been mentioned that 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, then the FIR or the complaint can be quashed.

As per clause (4), where the allegations in the FIR do not constitute a cognizable offence but constitute only a noncognizable offence, no investigation is permitted by a police officer without an order dated by the Magistrate as contemplated under Section 155 (2) of the CrPC, and in such a situation, the FIR can be quashed.

Similarly, as provided under clause (6), if there is an express legal bar engrafted in any of the provisions of the CrPC or the concerned Act under which the criminal proceedings are instituted, such proceedings can be quashed.”

10. This position was reiterated in Ajay Malik v. State of Uttarakhand, 2025 SCC OnLine SC 185, wherein it was observed:

“8. It is well established that a High Court, in exercising its extraordinary powers under Section 482 of the CrPC, may issue orders to prevent the abuse of court processes or to secure the ends of justice. These inherent powers are neither controlled nor limited by any other statutory provision. However, given the broad and profound nature of this authority, the High Court must exercise it sparingly. The conditions for invoking such powers are embedded within Section 482 of the CrPC itself, allowing the High Court to act only in cases of clear abuse of process or where intervention is essential to uphold the ends of justice.

9. It is in this backdrop that this Court, over the course of several decades, has laid down the principles and guidelines that High Courts must follow before quashing criminal proceedings at the threshold, thereby pre-empting the Prosecution from building its case before the Trial Court. The grounds for quashing, inter alia, contemplate the following situations : (i) the criminal complaint has been filed

with mala fides; (ii) the FIR represents an abuse of the legal process; (iii) no prima facie offence is made out; (iv) the dispute is civil in nature; (v.) the complaint contains vague and omnibus allegations; and (vi) the parties are willing to settle and compound the dispute amicably (State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335).

9. 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.

10. 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.

11. Before ascertaining the correctness of rival submissions made by the learned counsel for the parties, this Court deems it fit to take note of Section 215 of BNSS, which reads as under:-

“215. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.

(1)No Court shall take cognizance-

- (a) (i) of any offence punishable under sections 206 to 223 (both inclusive but excluding section 209) of the Bharatiya Nyaya Sanhita, 2023; or
 - (ii) of any abetment of, or attempt to commit, such offence; or
 - (iii) of any criminal conspiracy to commit such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate or of some other public servant who is authorised by the concerned public servant so to do;
- (b) (i) of any offence punishable under any of the following sections of the Bharatiya Nyaya Sanhita, 2023, namely, sections 229 to 233 (both inclusive), 236, 237, 242 to 248 (both inclusive) and 267, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court; or
 - (ii) of any offence described in sub-section (1) of section 336, or punishable under sub-section (2) of section 340 or section 342 of the said Sanhita, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court; or
 - (iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii), except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate.

(2) Where a complaint has been made by a public servant or by some other public servant who has been authorised to do

so by him under clause (a) of sub-section (1), any authority to which he is administratively subordinate or who has authorised such public servant, may, order the withdrawal of the complaint and send a copy of such order to the Court; and upon its receipt by the Court, no further proceedings shall be taken on the complaint:

Provided that no such withdrawal shall be ordered if the trial in the Court of first instance has been concluded.

(3) *In clause (b) of sub-section (1), the term "Court" means a Civil, Revenue or Criminal Court, and includes a tribunal constituted by or under a Central or State Act if declared by that Act to be a Court for the purposes of this section.*

(4) *For the purposes of clause (b) of sub-section (1), a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the Principal Court having ordinary original civil jurisdiction within whose local jurisdiction such Civil Court is situate:*

Provided that-

(a) *where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate;*

(b) *where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed."*

12. Bare perusal of aforesaid provision of law clearly reveals that no court shall take cognizance of any offence punishable under Sections 206 to 223 of Bharatiya Nyaya Sanhita, except on complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate, or of some other public servant who is authorized by the concerned public servant so to do.

13. Admittedly, in the case at hand, the Sub-Divisional Magistrate, who was presiding over the Court at the relevant time, filed a complaint with the SHO, Police Station Rampur Bushahr, District Shimla, Himachal Pradesh, alleging therein that on 24.02.2025, during the hearing of Case bearing No. 25/VIII/24, titled *Bhupesh Kumar versus Himachal Pradesh Government*, the petitioner, without the permission of the Court, entered the courtroom and started disrupting the proceedings by raising objections and advancing arguments. The Sub-Divisional Magistrate, in the complaint lodged with the police, alleged that the petitioner obstructed him in discharge of his official duties and since she, despite there being direction to leave the courtroom, continued with her disruptive behavior, her action amounts to interference in administration of justice.

14. Though offences alleged to have been committed under Sections 221 & 224 of BNS by the petitioner appears to be covered

under Section 206 of BNS, but question, which needs to be determined in the case at hand is that ***“whether Sub-Divisional Magistrate could have straightaway lodged a complaint to the police for registration of a case against the petitioner under Sections 221 and 276 of BNS?”***

15. Careful perusal of Section 215 of BNSS, 2023 clearly reveals that no court shall take cognizance of any offence punishable under Sections 206 to 223 and 267, except on complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate, or of some other public servant who is authorized by the concerned public servant so to do.

16. Since the complainant herein was presiding over the Court at the time when the alleged disruption was caused by the petitioner, he could have made a complaint in writing to the Court to which his Court is subordinate. In the case at hand, complainant, i.e. Sub-Divisional Magistrate, made a written complaint to SHO, Police Station Rampur Bushahr, District Shimla, Himachal Pradesh, which, after having conducted investigation, presented Kalandra in the court of learned Additional Chief Judicial Magistrate, whereas as per law, complainant, on account of alleged disruption of court proceedings, ought to have made a complaint in writing either directly to the

superior court or to some other public servant to whom he is administratively subordinate.

17. This Court, in *Cr.MMO No. 520 of 2021, titled Shubham Kashyap v. State of Himachal Pradesh*, had an occasion to deal with a similar proposition of law. Having taken note of the provisions of law applicable to the case, this Court observed as under:

“4. The Gujarat High Court in judgment dated 15.2.2019, titled Mohmadmohsin mohmadirfan Chhalotiya v. State of Gujarat, in R/Special Criminal Application No. 4105 of 2017 2019(2) RCR (Criminal) 397, has held as under:

“ 7 In order to appreciate the rival contentions on the aforesaid issue, it will be apposite to have closer look at some of the decisions of the Supreme Court for ascertaining the true nature and import of the provisions of section 195 of the Code.

Section 195 of the Cr.P.C. reads as under: Section 195:

Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence:

- (1) No Court shall take cognizance-(a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code, or*
(ii) of any abetment of, or attempt to commit, such offence, or
(iii) of any criminal conspiracy to commit such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administrative subordinate;

(b) (i) of any offence punishable under any of the following sections of the Indian Penal Code, namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or

(ii) of any offence described in section 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court, or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii), a [except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate.]

(2) Where a complaint has been made by a public servant under clause (a) of subsection (1) any authority to which he is administratively subordinate may order the withdrawal of the complaint and send a copy of such order to the Court; and upon its receipt by the Court, no further proceedings shall be taken on the complaint: Provided that no such withdrawal shall be ordered if the trial in the Court of first instance has been concluded.

(3) In clause (b) of sub-section (1), the term "Court" means a Civil, Revenue or Criminal Court, and includes a tribunal constituted by or under a Central,

Provincial or State Act if declared by that Act to be a Court for the purposes of this section.

(4) For the purposes of clause (b) of sub-section (1), a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies to the principal Court having ordinary original civil jurisdiction within whose local jurisdiction such Civil Court is situate:

Provided that-

(a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate;

(b) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed. (Emphasis supplied by me)”

8. The first in point of time is the decision of the Supreme Court is in the case of Basir-ulHaq (supra). (The relevant sections considered are sections 182, 297 and 500 of the IPC). The relevant observations are incorporated as under:

14. Though, in our judgment, Section 195 does not bar the trial of an accused person for a distinct offence disclosed by the same facts and which is not included within the ambit of that section, it has also to be borne in mind that the provisions of that section cannot be evaded by

resorting to devices or camouflages. The test whether there is evasion of the section or not is whether the facts disclose primarily and essentially an offence for which a complaint of the court or of the public servant is required.

In other words, the provisions of the section cannot be evaded by the device of charging a person with an offence to which that section does not apply and then convicting him of an offence to which it does, upon the ground that such latter offence is a minor offence of the same character, or by describing the offence as being one punishable under some other section of the Indian penal Code, though in truth and substance the offence falls in the category of sections mentioned in Section of the Code of Criminal Procedure. Merely by changing the garb or label of an offence which is essentially all offence covered by the provisions of Section 195 prosecution for such an offence cannot be taken cognizance of by mis-describing it or by putting a wrong label on it.

9. *Thus, the Supreme Court has approved the decision of the Full Bench of the Calcutta High Court in the case of Satis Chandra Chakravarti v. Ram Dayal De, AIR 1921 Cal 1, and has held that section 195 of the Cr.P.C does not bar the trial of an accused person for a distinct offence disclosed by the same facts and which is not included within the ambit of that section, it has also to be borne in mind that the provisions of that section cannot be evaded by resorting to devices or camouflages.”*

18. In view of the detailed discussion made herein above and law taken into consideration, there appears to be sufficient ground for this Court to exercise its inherent jurisdiction under Section 482 Cr.P.C (now Section 528 of BNSS), for quashing of FIR and consequent

criminal proceedings against the petitioner, to prevent abuse of process of law and to prevent unnecessary harassment to the petitioner against whom there is no evidence to connect him with the commission of offences as incorporated in the Kalandra. Otherwise also, continuance of the criminal proceedings against the petitioner in the present case would be a sheer wastage of time of the learned trial Court and the same would amount to subjecting the petitioner to unnecessary and protracted ordeal of trial, which is bound to culminate in acquittal. If the evidentiary material collected on record to prove the guilt of the petitioner is perused in its entirety, this is not sufficient to connect the petitioner with the offence alleged to have been committed by him. To the contrary, if, on the basis of material adduced on record by the investigating agency, trial is allowed to continue, great prejudice would be caused to the petitioner and same would amount to sheer abuse of process of law.

19. Consequently, in view of the detailed discussion made herein above as well as law laid down by the Hon'ble Apex Court, this Court finds merit in the present petition and accordingly, the same is allowed. Kalandra registered under Sections 221 and 276 of BNS, at Police Station Rampur, Bushahr, District Shimla, as well as consequent proceedings, are quashed and set aside qua the petitioner. The petitioner is discharged henceforth.

20. The petition stands disposed of in the aforesaid terms,
along with all pending applications.

**(Sandeep Sharma),
Judge**

August 11, 2026
(sunil)

High Court of HP