

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

2026.PHHC:123861



1. CRM-M-43896-2017 (O&M)

Inderjit Kaur

...Petitioner

Versus

State of Haryana and another

...Respondents

2. CRM-M-25473-2021 (O&M)

Gurjit Singh and others

...Petitioners

Versus

State of Haryana and another

...Respondents

Sr. No.	Particulars	Details
1	The date when the judgment is reserved	25.08.2026
2	The date when the judgment is pronounced	07.09.2026
3	The date when the judgment is uploaded on the website	07.09.2026
4	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Arnav Kumar, Advocate for the petitioners.

Mr. A. K. Khubbar, Addl. A.G., Haryana.

Mr. Bhag Singh, Advocate
for respondent No.2/complainant.

MANISHA BATRA, J.

1. Since both the abovementioned petitions arise out of the same FIR involving same facts and seek identical relief, they are being taken up together and are being decided by this common order.

2. Through these petitions, filed under Section 482 of Cr.P.C., the petitioners seek quashing of FIR No.279 dated 25.11.2016, registered under Sections 365, 406, 420 and 120-B IPC at Police Station Parao, Ambala Cantt, along with report under Section 173 Cr.P.C., charge-sheet dated 12.07.2017 under Sections 420 and 506 IPC and all subsequent proceedings arising therefrom.

3. For a better understanding of the matter, it would be appropriate to briefly notice the relationship between the parties. Respondent No.2-Sita Rani is the wife of petitioner No.1-Gurjit Singh in CRM-M No.25473 of 2021. Petitioner No.3-Harjinder Kaur is the mother of Gurjit Singh and, therefore, the mother-in-law of respondent No.2. Petitioner No.2-Jarnail Singh is the husband of petitioner-Inderjeet Kaur, who is the sister of Gurjit Singh and, therefore, sister-in-law of respondent No.2. Petitioner-Inderjeet Kaur in CRM-M No.43896 of 2017 is, thus, the sister-in-law of respondent No.2.

4. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a complaint moved by respondent No. 2 Sita Rani alleging therein that she was married to petitioner Gurjeet Singh and had two children, namely Saravjeet Singh and Prabhjot Kaur. Her husband was a permanent resident of Italy and used to visit India once or twice in a year. She was residing at the matrimonial home along with her children and her mother-in-law, Harjinder Kaur, who was looking after the household. The complainant further alleged that her husband had told her that he would take her as well as their children to Italy and that he had obtained an affidavit in that regard. Her sister-in-law, namely Inderjeet Kaur, who was the resident of Kampal Vihar, Bhasinpura Railway

Crossing, Jalandhar City, had been threatening her and asking her to give the children to them and leave her husband. It was further alleged that on 17.08.2016, she received a call from the mobile phone of her mother-in-law, who instructed her to send the children with her. On being told by her mother-in-law that there was a Paath at the house of Inderjeet Kaur, the complainant got both the children and her mother-in-law ready. Thereafter, her mother-in-law informed her that Pardeep Kumar, resident of Ambala Cantt., would also accompany them. Consequently, on the same day, the complainant sent the children along with her mother-in-law and Pardeep Kumar in a car. The complainant alleged that on 18.08.2016, she telephonically contacted her sister-in-law, Inderjeet Kaur, from her mobile phone and enquired about the children. Inderjeet Kaur told her that she did not know anything about the children and that the children were with her mother-in-law Harjinder Kaur. The complainant further stated that earlier her mother-in-law had told her that the children were in a queue for Darshan. Thereafter, the mobile phones of her mother-in-law as well as the children were switched off. She alleged that her Harjinder Kaur, Inderjeet Kaur, Pardeep Kumar, Jarnail Singh her husband Gurjeet Singh, in conspiracy with each another, had abducted her children by telling lies to her and without her consent. She also alleged that whenever she contacted her Inderjeet Kaur telephonically, she used to threaten to kill her. The complainant also stated that she contacted her husband Gurjeet Singh on his mobile number in Italy but he denied having any information regarding the children. She expressed apprehension to her own life as well as the lives of her children and, thus, prayed for taking action in the matter.

5. On the basis of the aforesaid complaint, initially the impugned FIR was registered under Sections 365 and 506 IPC and investigation proceedings were initiated. During investigation, statements of persons from the locality were recorded and documents were collected. On the basis thereof, offences under Sections 406, 420 and 120-B IPC were also added.

6. During investigation, offence under Section 365 IPC was deleted and Pardeep Kumar was found innocent. As regards petitioner-Inderjeet Kaur, after completion of investigation qua her, the police presented challan against her. The learned trial Court thereafter framed charges against her under Sections 420 and 506 IPC on 12.07.2017. The charge under Section 420 IPC was based on the allegation that she had induced the complainant to send the children to her house and thereafter got their custody, while the charge under Section 506 IPC related to the allegation of criminal intimidation. So far as the petitioners Gurjit Singh, Harjinder Kaur and Jarnail Singh are concerned, they were residing in Italy and had not been arrested. It was the stand of the State that investigation against them would be carried out in accordance with law and that a supplementary challan would be presented after their arrest. Subsequently, petitioner Inderjit Kaur filed the petition numbered above and vide order dated 20.11.2017, the learned trial Court was directed to adjourn the case beyond the date fixed before it. The said order is continuing till date.

7. It is argued by learned counsel for the petitioners that they have been falsely implicated in this case. The FIR, even if taken at its face value, does not disclose the commission of the offences for which the petitioners are sought to be prosecuted. It is argued that the basic allegation was that the children were taken to Italy. However, admittedly, Section 365 IPC, which was the principal offence alleged in the FIR, was subsequently deleted during

investigation. Learned counsel further argued that the allegations regarding Section 406 and 420 IPC cannot be sustained merely on the allegation that custody of the children was obtained or that they were taken to Italy. It was argued that there is no allegation of entrustment of any property or dishonest inducement to deliver any property so as to attract Section 406 or Section 420 IPC.

8. It is further argued that so far as petitioner-Inderjeet Kaur is concerned, she was merely the sister-in-law of the complainant and had no concern with the matrimonial dispute between the complainant and Gurjeet Singh. It was further argued that the complainant herself had earlier given an affidavit permitting Gurjeet Singh to take the children to Italy and, therefore, the allegation that the children were taken away without her consent was not correct. With regard to petitioners in ***CRM-M-25473-2021***, it is additionally argued that they were not even challaned in the present case and that no charge had been framed against them. It is argued that the State itself has admitted that the challan was presented only against Inderjeet Kaur and the petitioners were stated to be residing in Italy. Learned counsel also referred to the affidavit dated 24.09.2015, according to which the complainant had no objection to Gurjit Singh taking the children to Italy for their education. While submitting that no prima facie case for the alleged offences is made out against any of the petitioners and that their prosecution under the impugned FIR would be nothing but sheer abuse of the process of law, it is urged that the petitions deserve to be allowed and the impugned FIR and consequential proceedings are liable to be quashed qua the petitioners.

9. On the other hand, learned State counsel, assisted by learned counsel for respondent No.2, has argued that the petitions are liable to be

dismissed. It is argued that the FIR was registered after obtaining the opinion of the Deputy District Attorney and that the investigation had revealed material against the accused persons. During investigation, statements of the complainant and other persons were recorded and documents were collected, on the basis of which Sections 406, 420 and 120-B IPC were added. It is further argued that the material collected during investigation showed that the children had been taken away and sent to Italy in pursuance of a conspiracy.

10. Learned counsel appearing for respondent No.2 argued that the affidavit relied upon by the petitioners did not amount to consent for taking away the children in the manner in which they were taken. It is argued that the affidavit and the passports had been obtained on the pretext of making arrangements for the children's education and visa. It is further argued that Inderjeet Kaur had called the complainant's mother-in-law and children to her house on the pretext of a religious ceremony, from where the children were thereafter taken to Italy. It is also submitted that there was material showing the involvement of the petitioners in the alleged conspiracy and that the disputed questions raised by them could not be examined in proceedings under Section 482 Cr.P.C. Hence, it is urged that the petitions are liable to be dismissed.

11. This Court has considered the submissions made by learned counsel for the parties and has gone through the material available on record.

12. At the outset, it will be profitable to look into the scope and ambit of the Court's power under Section 482 Cr.P.C. (*which is pari materia with Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023*) as spelt out in several judicial pronouncements of Hon'ble Supreme Court as well as different High Courts. The well settled proposition of law is that in exercise of

inherent powers under Section 482 Cr.P.C., the High Court is not expected to analyze all the facts, which are to be placed before the High Court. The power conferred under this section is very specific. To secure the ends of justice, to prevent the abuse of process of Court or to make any such orders as may be necessary to give effect to any order under the Code, such power can be exercised to prevent abuse of process of Court. The Hon'ble Supreme Court has drawn up some guidelines in some categories of cases by way of illustration to circumscribe the exercise of inherent power under Section 482 of Cr.P.C. to prevent abuse of process of any Court or to secure the ends of the justice or to give effect to an order of the Court. A celebrated pronouncement on this point is the case cited as ***State of Haryana v. Bhajan Lal : 1992 SUPP (1) SCC 335***, wherein Hon'ble Supreme Court has discussed different categories of cases wherein the power under Section 482 Cr.P.C. could be exercised either to prevent abuse of process of law or otherwise to secure the ends of justice, while observing that it might not be possible to lay down any precise, clearly defined, sufficiently channelized, inflexible guidelines or rigid formulae and to give an exhaustive list or myriad kind of cases where such powers should be exercised. The following principles have been culled out:-

“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) 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 private and personal grudge.”

13. The principles of law as laid down by Hon’ble Supreme Court in ***Bhajan Lal***’s case (supra) have been followed in a catena of judgments. In ***Paramjeet Batra v. State of Uttarakhand, (2013) 11 SCC 673***, it was observed by Hon’ble Supreme Court that although the inherent powers of a High Court under Section 482 of the Code should be exercised sparingly and only for the purpose of preventing abuse of process of any Court or otherwise to secure ends of justice, yet, the High Court must not hesitate in quashing

such criminal proceedings, where essential ingredients of the offence are not made out. In ***Randheer Singh v. State of Uttar Pradesh, (2021) 14 SCC 626***, it was observed by Hon'ble Supreme Court that criminal proceedings cannot be taken recourse to as a weapon of harassment.

14. Reference can further be made to ***Gian Singh v. State of Punjab, (2012) 10 SCC 303***, wherein Hon'ble Supreme Court observed that the power of the High Court in quashing a criminal complaint or an FIR, in exercise of its inherent jurisdiction, is distinct and different from the power given to a criminal court for compounding the offences under [Section 320](#) of the Code. Inherent power is of wide plentitude with no statutory limitation but it has to be exercised in accordance with the guidelines engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. Reference can further be made to ***Narinder Singh and Ors. v. State of Punjab : (2014) 6 SCC 466***, wherein it was by Hon'ble Supreme Court that while exercising power under Section 482 of Cr.P.C., the High Court has to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal case would put him into great oppression and prejudice and injustice would be caused to him by not quashing criminal case.

15. In ***Dhruvaram Murlidhar Sonar v. State of Maharashtra : 2019 (18) SCC 191***, Hon'ble Supreme Court, while reiterating the parameters as laid down in ***Bhajan Lal***'s case (supra), had observed that for quashing of the proceedings, meticulous analysis of factum of taking cognizance of an offence by the Magistrate was not called for. Appreciation of evidence was also not permissible in exercise of inherent powers. If the allegations set out in the complaint did 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.

16. Now advertent to the present case. The question which now arises is whether, taking the allegations in the FIR and the material collected during investigation at their face value, the ingredients of the offences for which the petitioners are sought to be prosecuted are made out. This Court is conscious of the fact that at this stage it is not required to conduct a detailed appreciation of evidence. However, where the basic ingredients of the alleged offences are absent, continuation of criminal proceedings would not serve any useful purpose. In the present case, the principal allegation in the FIR was that the children of respondent No.2 were taken away from her custody and ultimately taken to Italy without her consent. It is on this allegation that the FIR was initially registered under Sections 365 and 506 IPC. It is not in dispute that during investigation Section 365 IPC was deleted. Thus, the allegation which formed the foundation of the FIR, namely, kidnapping or abduction with the object contemplated under Section 365 IPC, no longer survives against the petitioners. Thereafter, Sections 406, 420 and 120-B IPC were added during investigation. The Court, therefore, has to examine whether the allegations, even if accepted in their entirety, disclose the essential ingredients of these offences or not?

17. Section 406 IPC deals with criminal breach of trust. For an offence under Section 406 IPC, there has to be entrustment of property or dominion over property, followed by dishonest misappropriation or conversion of that property, or its dishonest use or disposal in violation of law or of any contract. In the present case, there is no allegation that any property belonging to the complainant was entrusted to any of the petitioners and was

thereafter dishonestly misappropriated or converted by them. The allegation is only with regard to the custody of the children. Custody of children, however serious the dispute may be, cannot by itself constitute entrustment of property so as to attract Section 406 IPC. Thus, the basic ingredients of Section 406 IPC are wholly absent.

18. The position with regard to Section 420 IPC is also no different. The offence of cheating requires deception and dishonest or fraudulent inducement of a person to deliver any property, or to make, alter or destroy a valuable security, or anything which is signed or sealed and capable of being converted into a valuable security. In the present case, the allegation against petitioner-Inderjeet Kaur is that she allegedly induced the complainant to send the children with her mother-in-law on the pretext of a *Paath* at her house and thereafter the children were taken away. The charge framed against her under Section 420 IPC is also based on this very allegation. Even if the aforesaid allegation is accepted as it stands, the essential requirement of Section 420 IPC that the complainant was dishonestly induced to deliver any property or valuable security is not satisfied. What is alleged to have been obtained by deception is the temporary custody of the children. The allegation, therefore, may give rise to a dispute regarding custody or the manner in which the children were taken away, but it does not disclose the ingredients of cheating punishable under Section 420 IPC. The mere use of the words "cheated" or "dishonestly induced" in the allegations cannot make out an offence under Section 420 IPC when the necessary ingredients of that provision are otherwise absent.

19. So far as Section 120-B IPC is concerned, the FIR contains a general allegation that the petitioners and the other persons named therein, in

conspiracy with each other, abducted the children by telling lies to the complainant and without her consent. There is, however, no specific material in the FIR showing any agreement between the petitioners to commit an offence which could constitute the offence of criminal conspiracy. The allegation of conspiracy is essentially a conclusion drawn by the complainant from the fact that the children left the house with the mother-in-law and Pardeep Kumar and were thereafter not available to her. More importantly, when the substantive offences under Sections 406 and 420 IPC themselves are not attracted on the allegations made in the FIR, the offence of conspiracy cannot be permitted to survive merely on the basis of a general allegation that the accused acted "in conspiracy". There has to be some material showing the meeting of minds for doing an unlawful act or for doing a lawful act by unlawful means. Such material is not apparent from the allegations in the FIR.

20. The remaining allegation is under Section 506 IPC. The FIR states that whenever the complainant contacted her sister-in-law, Inderjeet Kaur, she was threatened to be killed. The allegation, however, is completely general in nature. No particular date, time, occasion or words used in the alleged threat have been mentioned. There is also no specific allegation showing the circumstances in which the alleged threat was given or that the complainant was thereby intentionally alarmed or was compelled to do or omit to do any act which she was not legally bound to do. The mere reproduction of the expression that she was threatened to be killed, without the necessary particulars showing the ingredients of criminal intimidation, cannot by itself sustain the prosecution under Section 506 IPC.

21. This Court is also not required, for deciding these petitions, to determine whether the affidavit relied upon by the petitioners was voluntarily

executed by respondent No.2 or whether the children were taken to Italy with her consent. Those are disputed matters and this Court does not consider it necessary to enter into them. Even leaving that aspect completely aside and proceeding only on the allegations contained in the FIR, the essential ingredients of Sections 406 and 420 IPC are not disclosed and the allegation of conspiracy is also too general to sustain Section 120-B IPC. The fact that charge under Sections 420 and 506 IPC has already been framed against petitioner-Inderjeet Kaur also does not alter the position. Framing of charge does not preclude this Court from exercising its inherent jurisdiction where, on a plain reading of the allegations and the material relied upon by the prosecution, the basic ingredients of the alleged offences are not made out. In the present case, the charge under Section 420 IPC proceeds on the premise that obtaining custody of the children amounts to the delivery of property contemplated by that provision, which, for the reasons noticed above, cannot be accepted.

22. As regards petitioners Gurjit Singh, Harjinder Kaur and Jarnail Singh, it is also relevant that no challan has been presented against them and no charge has been framed against them. The State has stated that they were residing in Italy and that further proceedings against them were to be taken in accordance with law. However, the pendency of such investigation by itself cannot justify continuation of criminal proceedings when the allegations, even if accepted at their face value, do not disclose the ingredients of the offences sought to be attributed to them.

23. The case, therefore, falls within the principles laid down by the Hon'ble Supreme Court in *Bhajan Lal's case (supra)*, particularly the category where the allegations in the FIR, even if taken at their face value and

accepted in their entirety, do not prima facie constitute the offence alleged. The inherent jurisdiction of this Court is meant precisely to prevent continuation of proceedings where the criminal law is being set in motion without the basic ingredients of the offence being present. In view of the above discussion, this Court is of the considered view that continuation of the criminal proceedings against the petitioners would amount to an abuse of the process of law. The dispute, as disclosed from the FIR, essentially concerns the custody and taking away of the children to Italy. Whatever may be the rights of the parties in that regard, the allegations as made do not constitute the offences under Sections 406, 420 and 120-B IPC, while the offence under Section 365 IPC already stands deleted during investigation. The allegation under Section 506 IPC also does not contain sufficient particulars to constitute the offence of criminal intimidation.

24. Consequently, both the petitions are allowed and FIR No.279 dated 25.11.2016, registered under Sections 365, 406, 420 and 120-B IPC at Police Station Parao, Ambala Cantt. and all consequential proceedings arising therefrom are hereby quashed qua the petitioners.

25. Let a photocopy of this order be placed on the file of the connected case.

07.09.2025

Waseem Ansari

**(MANISHA BATRA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No