

HIGH COURT OF ALLAHABAD**Bench: Hon'ble Dinesh Pathak, J.****Date of Decision: 19th June 2024**

Case No.: APPLICATION U/S 482 No. - 11128 of 2024

APPLICANT:**UMAKANT SHUKLA****VERSUS****RESPONDENT(S):****STATE OF U.P. AND ANOTHER****Legislation and Rules:**

Section 482 of the Code of Criminal Procedure (Cr.P.C.)

Sections 279, 338, 427 of the Indian Penal Code (IPC)

Subject: Application under Section 482 Cr.P.C. to quash the entire proceedings of Criminal Case No. 2897 of 2019 (State vs. Umakant Shukla) arising out of Case Crime No.0129 of 2016 for offences under Sections 279, 338, 427 IPC, Police Station Hariparwat, District Agra. The case concerns an alleged traffic accident involving an auto rickshaw and a truck, resulting in injuries and property damage.

Headnotes:

Criminal Law – Quashing of Proceedings – Section 482 Cr.P.C. Application for quashing criminal proceedings on the grounds of absence of prima facie case – Court refused to quash proceedings, stating that factual disputes must be resolved during the trial – No abuse of process or grounds for quashing found – Disputed questions of fact and technical reports must be examined by the trial court – Reference to established case law on the limited scope of Section 482 Cr.P.C. in quashing proceedings [Paras 1-16].

Jurisdiction of High Court – Inherent Powers – Section 482 Cr.P.C. Explains the inherent powers of the High Court under Section 482 Cr.P.C. to prevent abuse of process or secure the ends of justice – Reiterates that such powers should be exercised sparingly and only in exceptional cases – Cites precedents emphasizing the necessity for caution in exercising these powers and the distinct nature of inherent jurisdiction from the trial process [Paras 7-13].

Bail Consideration – Supreme Court Guidelines Court advised that if the applicant surrenders and applies for bail, the application should be considered expeditiously in light of Supreme Court guidelines in *Satender Kumar Antil v. CBI* – Applicant directed to file for bail within three weeks [Para 17-18].

Decision: Application under Section 482 Cr.P.C. dismissed. Applicant advised to surrender and apply for bail within the specified timeframe, with directions for the trial court to consider the bail application promptly in accordance with Supreme Court guidelines.

Referred Cases:

- R.P. Kapur v. State of Punjab, AIR 1960 SC 866
- State of Haryana and Ors. v. Bhajan Lal and Others, 1992 Supp (1) SCC 335
- Trisuns Chemical Industry v. Rajesh Agarwal and Ors., (1999) 8 SCC 686
- M. Krishnan v. Vijay Singh & Anr., (2001) 8 SCC 645
- Joseph Salvaraj A. v. State of Gujarat and Ors., (2011) 7 SCC 59
- Arun Bhandari v. State of Uttar Pradesh and Ors., (2013) 2 SCC 801
- Anand Kumar Mohatta and Anr. v. State (NCT of Delhi), Department of Home and Anr., (2019) 11 SCC 706
- Gian Singh v. State of Punjab, (2012) 10 SCC 303
- Mohd. Allauddin Khan v. State of Bihar and Others, 2019 (6) SCC 107
- Chilakamarthi Venkateswarlu and Another v. State of Andhra Pradesh and Another, 2019 SCC OnLine SC 964
- Priti Saraf & Anr. v. State of NCT of Delhi & Anr., 2021 SCC OnLine SC 206

- Arnab Manoranjan Goswami v. State of Maharashtra and Others, 2020 SCC OnLine SC 964
- M/s Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and Others, AIR 2021 SC 1918
- Satender Kumar Antil v. Central Bureau of Investigation and Another, (2021) 10 SCC 773

Representing Advocates:

Judgement

Hon'ble Dinesh Pathak, J.

1. Heard Shri Hans Bajpai holding brief of Shri Saurabh Sachan, learned counsel for the applicant as well as learned A.G.A. and perused the record.
2. The applicant has invoked the inherent jurisdiction of this Court under Section 482 Cr.P.C. for quashing the entire proceeding of Criminal Case No. 2897 of 2019 (State vs. Umakant Shukla) arising out of Case Crime No.0129 of 2016 under Section 279, 338, 427 I.P.C., Police Station Hariparwat, District Agra.
3. Showing the date of accident dated 19.02.2016, an F.I.R. being Case Crime No.0129 of 2016 dated 26.02.2016 has been lodged by respondent no.2 with an averment that his father is an auto driver being Auto Rickshaw No. UP 80 AZ 9208. On the date of incident at about 5:30 p.m. his vehicle has been rammed into by Truck No. UP 78 CN 9611 resulted in severe injury to his father and damage of vehicle.
4. Having considered the rival submissions advanced by learned counsel for the applicant as well as learned A.G.A. for the State respondent and the perusal of record, prima facie the occurrence of crime on the date of incident i.e. 19.02.2016 wherein auto rickshaw has been damaged and injury caused to father of the respondent no.2 cannot be ruled out. Submission as advanced by learned counsel for the applicant that auto itself was rammed into the truck from the back side is a matter of trial. Technical report which has been relied upon by learned counsel for the applicant in support of his submission is still to be proved. Innocence of the present applicant, as is being tried to put forward by the applicant, is a matter of trial which can more appropriately be adjudicated upon by the trial court after appraising the evidence on record. At this juncture, this Court is not expected to conduct a mini trial to examine the

innocence of the present applicant. I neither found any abuse of the process of law to the proceeding which has been challenged before this Court nor any justifiable ground to pass any order for the purposes of securing the ends of justice, therefore, there is no justification to exercise inherent power of this Court under Section 482 Cr.P.C.

5. Record reveals that learned counsel for the applicant has raised disputed question of fact qua involvement of present applicant in the incident in question.
6. In exercise of inherent power under Section 482 Cr.P.C., this Court is not expected to analyze the factual evidence which is to be placed before the trial court. The power conferred under Section 482 Cr.P.C. is very specific and wide to secure the ends of justice or to prevent the abuse of the process of any Court or to make such orders as may be necessary to give effect to any order under this Code. No provision of this Code is deemed to limit or effect such inherent power of the High Court.
7. It has been held by the Apex Court in the cases of **R.P. Kapur Vs. State of Punjab : AIR 1960 SC 866; State of Haryana and Ors. Vs. Bhajan Lal and Others : 1992 Supp (1) SCC 335; Trisuns Chemical Industry Vs. Rajesh Agarwal and Ors. : (1999) 8 SCC 686 3; M. Krishnan Vs. Vijay Singh & Anr. : (2001) 8 SCC 645; Joseph Salvaraj A. Vs. State of Gujarat and Ors. : (2011) 7 SCC 59; Arun Bhandari Vs. State of Uttar Pradesh and Ors. : (2013) 2 SCC 801; Anand Kumar Mohatta and Anr. Vs. State (NCT of Delhi), Department of Home and Anr. : (2019) 11 SCC 706** that exercise of inherent power of the High Court under Section 482 of the Code of Criminal Procedure is an exceptional one. Great care should be taken by the High Court before embarking to scrutinise the complaint/FIR/chargesheet in deciding whether the rarest of the rare case is made out to scuttle the prosecution in its inception.
8. In the case of **Gian Singh vs. State of Punjab, (2012) 10 SCC 303**, Hon'ble Supreme Court has made the following observation in Paragraph 61 which is quoted herein below :-

"61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or an FIR or a complaint 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 plenitude with no statutory limitation but it has to be exercised in accord with the guideline en-grafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court."

9. In Criminal Appeal No. 675 of 2019 arising out of **SLP (Crl.) No. 1151 of 2018, Mohd. Allauddin Khan v. State of Bihar and others, 2019 (6) SCC 107**, the Apex Court has held that the High Court had no jurisdiction to appreciate the evidences of the proceedings under Section 482 Cr.P.C. because where there are contradictions or the inconsistencies in the statements of the witnesses, is essentially an issue relating to appreciation of evidences and the same can be gone into by the Judicial Magistrate during trial, when the entire evidence is adduced by the parties. The same view has also been reiterated in judgment dated 31.07.2019 passed by Apex Court in Criminal Appeal No.1082 of 2019, arising out of **SLP (Crl.) No.10762 of 2018, Chilakamarthi Venkateswarlu and Another v. State of Andhra Pradesh and Another**.

10. In the case of **Priti Saraf & anr. Vs. State of NCT of Delhi & anr. Criminal Appeal No(s). 296 of 2021 (Arising out of SLP(Crl.) No(s). 6364 of 2019] (judgment dated March 10, 2021) : 2021 SCC Online SC 206** the Apex Court while considering the powers under Section 482 Cr.P.C. has held as follows :-

"23. It being a settled principle of law that to exercise powers under Section 482 CrPC, the complaint in its entirety shall have to be examined on the basis of the allegation made in the complaint/ FIR/charge-sheet and the High Court at that stage was not under an obligation to go into the matter or examine its correctness. Whatever appears on the face of the complaint/FIR/charge-sheet shall be taken into consideration without any critical examination of the same. The offence ought to appear ex facie on the complaint/FIR/chargesheet and other documentary evidence, if any, on record."

11. The scope and ambit of the inherent jurisdiction of the High Court under Section 482 CrPC has been examined in detail by Hon'ble Apex Court in **State of Haryana and Others Vs. Bhajan Lal and Others, (1992 Suppl (1) SCC 335)**. The relevant para is mentioned hereunder :-

"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 channelized 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 on 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."

12. It has been further elucidated recently by Hon'ble Apex Court in **Arnab Manoranjan Goswami Vs. State of Maharashtra and Others, 2020 SCC Online SC 964** where jurisdiction of the High Court under Article 226 of the Constitution of India and Section 482 CrPC has been analysed at great length.

13. Further, in the case of **M/s Neeharika Infrastructure Pvt.**

Ltd. Vs. State of Maharashtra and others reported in **AIR 2021 SC 1918**, Full Bench of the Apex Court while considering the powers of quashing under Section 482 of the Criminal Procedure Code and/or Article 226 of the Constitution of India has illustrated the circumstances under which quashing of a criminal case can be done and/or interim order can be granted.

14. Therefore, the disputed defence of the accused cannot be considered at this stage. In absence of any of the grounds recognized by the Supreme Court which might justify the quashing of complaint or the impugned proceedings, the prayer for quashing the same is not sustainable in the eyes of law. I do not see any abuse of the court's process either. The summoning court has been vested with sufficient powers to discharge the accused even before the stage to frame the charges comes, if for reasons to be recorded it considers the charge to be groundless. Moreover, the applicants have got a right of discharge under Section 239 or 227/228 Cr.P.C., as the case may be, through a proper application for the said purpose and they are free to take all the submissions in the said discharge application before the Trial Court.

15. Having considered the rival submissions advanced by learned counsel for the applicants and learned A.G.A. and the material available on record, in the light of dictum of Hon'ble Apex Court as discussed above, no ground is made out to consider the merits of the instant case. As such, prayer of quashing, as made in instant application, is hereby refused.

16. Accordingly, the present application under Section 482 Cr.P.C. is hereby **dismissed**.
17. Before parting, learned counsel for the applicant submits that the applicant is not granted bail till date. Moreover, in all sections, as mentioned in the FIR, maximum punishment is seven years or less than 7 years, therefore, the bail application if filed by the applicant no.1 may be considered in the light of the dictum of Hon'ble Supreme Court in the case of **Satender Kumar Antil Vs. Central Bureau of Investigation and another reported in (2021) 10 Supreme Court Cases 773**. In the cited case, Hon'ble Supreme Court has given certain guidelines for deciding the bail application by categorizing the offences.
18. Considering the entire facts and circumstances of the case and the dictum of Hon'ble Supreme Court, I think it appropriate that in case, the present applicant appears/surrenders before the concerned court below and move bail application within three weeks, the same shall be considered and decided in accordance with law, considering the judgment of Hon'ble Supreme Court, expeditiously, preferably within a period of one month, thereafter.

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