



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1124 of 2025

Application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

Sidheswar Mallik

.....

Petitioner

-versus-

State of Odisha

.....

Opposite Party

For Petitioner : Mr. Susant Kumar Lenka, Advocate

For Opposite Party : Mr. Udit Ranjan Jena, AGA

CORAM:

HON'BLE MISS JUSTICE SAVITRI RATHO

JUDGMENT

19.06.2025

Savitri Ratho, J.

This application has been filed with a prayer for quashing the criminal proceeding in G.R. Case No.106 of 2025 arising out of Sorada P.S. Case No.59 of 2025 pending in the Court of learned J.M.F.C., Sorada, registered for commission of offences punishable under Sections 318(4) and 336(3) of the Bharatiya Nyaya Sanhita (in short, the 'BNS').



ALLEGATIONS IN FIR

2. First Information Report (in short “FIR”) has been lodged at the Sorada Police Station by one Ramakrushna Mallik of Village Gajalabadi on 03.02.205 and Sorada P.S. Case No 59 of 2025 has been registered against the petitioner for commission of offences under Sections 318(4) and 336 (3) of the BNS .

3. It has been stated in the FIR that the petitioner is working as a Medical Attendant at Hinjilikatu CHC, Belagaon, has secured government job by submitting fake certificate educational qualification, fake certificate pertaining to date of birth and fake certificate pertaining to his caste. As per information obtained under the RTI Act, the petitioner has completed his class-VII during the academic year 2004-2005 at Rambha Govt. High School with date-of-birth is 06.07.1993. But for getting employment, he has submitted a marksheet and transfer certificate from PUP School Dhanapur claiming that he was studying in PUPS Dhanapur and completed Class VII in the academic year 2010-2011 and his date of birth as 04.03.1998. As a person could not have studied in Class VII twice within a period of six years the matter is required to be investigated into. As per information received under the RTI Act the petitioner Sidheswar Mallik has not studied at PUPS at



Dhanapur and he was not a student of that School. So he has procured a government job by producing false mark-sheet and false transfer certificate. It is further alleged that as per information received under the RTI Act, the petitioner procured the job under Scheduled Tribe (ST) category, but he belongs to 'Pana' caste and is a Christian by religion, which is under SEBC and OBC category. As per information received through RTI, the petitioner was enrolled at UPS Gajalabadi on 20.07.1993 with date-of-birth as 15.06.1988. The petitioner has submitted certificates containing three different dates of birth and has pursued primary education thrice. The information has been given by way of the following table:-

ବିଦ୍ୟାର୍ଥୀ କ ନାମ	ବିଦ୍ୟାଳୟର ନାମ	ଯୋଗଦାନ ତାରିଖ	ଜନ୍ମ ତାରିଖ
ସିଦ୍ଧେଶ୍ୱର ମଲିକ	U.P.S GAZALABADI	20.07.1993	15.06.1988
ପିତା - ପୂର୍ଣ୍ଣଚନ୍ଦ୍ର ମଲିକ	RAMBHA GOVT HIGH SCHOOL	30.06.2003	06.07.1993
ମାତା - ଡେରେଶା ମଲିକ	MAA KANDHUNI DEBI H.S GAZALABADI	27.04.2006	06.07.1993
ଗ୍ରାମ - ଗାଜଲବାଡ଼ି	P.U.P.S DHANAPUR	08.04.2009	04.03.1998

It has also been stated in the FIR that eligible Adivasi students in spite of hard work are not getting jobs and doing dadan labour and



tending to goats and cows, while a person who belongs to SEBC, OBC has secured a job meant for ST candidate.

SUBMISSIONS

4. Mr. Susant Kumar Lenka, learned counsel for the petitioner has submitted that in view of the provisions of Sections 6(2), 7(1) and 11(2) of the Odisha Scheduled Castes, Scheduled Tribes and Backward Classes (Regulation of Issuance and Verification of Caste Certificates) Act, 2012 (hereinafter referred to as '*the Act*'), only the scrutiny committee can enquire into the allegation regarding genuineness of a caste certificate. He has submitted that Section 11(2) of the Act provides that no Court shall take cognizance of an offence punishable under this section except upon a complaint in writing made by the Scrutiny Committee or by any other Officer duly authorized by the Scrutiny Committee for this purpose and hence the FIR relating to submission of fake caste certificate is not maintainable. He has also submitted that if the petitioner has used fabricated / forged documents regarding date-of-birth and educational qualification, the same is the concern of the Headmaster of the school and his employer / appointing authority. Action can be initiated only after the appointing authority completes an enquiry in this regard or the



Headmaster gives a complaint . But a private person has no locus standi to lodge the FIR. He also submits that if the FIR is allowed to stand, there is the possibility that the petitioner will be punished for the same act twice, therefore the FIR and consequent proceeding should be quashed. After hearing was closed on 16.05.2025, he has submitted a list of citations on 23.05.2025 (during the summer vacations). The cases are: -

- 1. Arnab Ranjan Goswami v. Union of India & others : AIR 2020 SC 2386***
- 2. State of Haryana & others v. Ch. Bhajan Lal : AIR 1992 SC 604***
- 3. Inder Mohan Goswami & others v. State of Uttaranchal & others : (2007) 12 SCC 1***
- 4. Paramjeet Batra v. State of Uttarkhand & others : (2013) 11 SCC 673***
- 5. G. Sagar Suri & another v. State of U.P. & others : (2000) 2 SCC 636***
- 6. Babubhai v. State of Gujarat & other : 2010 AIR SCW 5126***
- 7. T.T. Antony v. State of Kerala & others : (2001) 6 SCC 181***
- 8. Upkar Singh v. Ved Prakash & others : AIR 2004 SC 4320***
- 9. Shailesh Gandhi v. The Central Information Commissioner New Delhi & others : AIR 2015 (NOC) 1138 (BOM)***
- 10. Prem Chand Singh v. State of Uttar Pradesh & another : 2020 (1) OLR (SC) 568***



11. Criminal Appeal No.335/2024 (Arising out of Special Leave to Appeal (Crl.) No.2877/2021) (Mariam Fasihuddin & another v. State by Adugodi Police Station & another) 2024 INSC 49

12. Criminal Appeal No.5478 of 2024 (Arising out of SLP (Crl. No.8700 of 2023) P. Manikandan v. CBI & others : 2024 INSC 1007)

13. Crl. A (MD) Nos.446, 449 & 460 of 2021 (V.Eswar @ Venkatesh v. Deputy Superintendent of Police CBI/EOW, Chennai)

5. Mr. U.R. Jena, learned Additional Government Advocate has submitted that from a reading of the FIR, it is apparent that apart from the allegations that the petitioner has submitted fake caste certificate, there are allegations that the petitioner has submitted fake marksheet and transfer certificate from a school where he has never studied which contains a different date of birth. He has submitted that Section 11(2) of the Act provides that cognizance of an offence punishable under that section (Section 11(1)(a) and (b) relate to allegation of obtaining fake caste certificate) shall only be taken, upon a complaint in writing made by the Scrutiny Committee or by any other Officer duly authorized by the Scrutiny Committee for the purpose, but in the present case the FIR in question has been registered under Sections 318(4) and Section 336(3) of the BNS. Section 318 which relates to cheating



and Section 336 which relates to forgery and as the case has not been registered for commission of an offence under Section 11 of the Act, no ground is made out for quashing the FIR and the proceeding.

STATUTORY PROVISIONS

6. For convenience Sections 318 and 336 of the BNS, Section 337 of the BNSS, Article 20 of the Constitution of India and Section 6, 11 of the Act which are relevant for deciding this application, are quoted below.

“Section 318. (1) Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to cheat.

(2) Whoever cheats shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

(3) Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates,



he was bound, either by law, or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

(4) Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

Section 336. *(1) Whoever makes any false document or false electronic record or part of a document or electronic record, with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.*

(2) Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

(3) Whoever commits forgery, intending that the document or electronic record forged shall be used for the purpose of cheating, shall be punished with



imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

(4) Whoever commits forgery, intending that the document or electronic record forged shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.”

Section 337 of BNSS is extracted below.

“Section 337. *(1) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under sub-section (1) of section 244, or for which he might have been convicted under sub-section (2) thereof.*

(2) A person acquitted or convicted of any offence may be afterwards tried, with the consent of the State Government, for any distinct offence for which a separate charge might have been made against him at the former trial under sub-section (1) of section 243.

(3) A person convicted of any offence constituted by any act causing consequences which, together with



such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

(4) A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(5) A person discharged under section 281 shall not be tried again for the same offence except with the consent of the Court by which he was discharged or of any other Court to which the first-mentioned Court is subordinate.

(6) Nothing in this section shall affect the provisions of section 26 of the General Clauses Act, 1897 or of section 208 of this Sanhita.”

Article 20 of the Constitution of India provides as follows:

“20. Protection in respect of conviction for offences

(1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a



penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

(2) No person shall be prosecuted and punished for the same offence more than once.

(3) No person accused of any offence shall be compelled to be a witness against himself.”

Sections 6 and 11 of the Odisha Scheduled Castes, Scheduled Tribes and Backward Classes (Regulation of Issuance and Verification of Caste Certificates) Act, 2012 Act is extracted below: -

“Section 6 (1) *The Government shall constitute by notification in the Official Gazette, one or more Scrutiny Committee for verification of Caste Certificate issued by the Competent Authorities under Sub section (1) of Section 4 specifying in the said notification the functions and the area of jurisdiction of each of such Scrutiny Committee.*

(2) The appointing authority of the Government, Central Government, Local Authority, public section undertaking, education institution. Co-operative Societies or any other Government aided institutions may make application, in such form and in such manner as may be prescribed, to the Scrutiny Committee concerned for verification of the Caste Certificate, if any



doubt arises about the genuineness of the Caste Certificate produced by any person to get any benefit on the basis of such Certificate.

Provided further that the person whose Caste Certificate has been subjected to verification shall not be debarred to avail the benefit nor shall discontinue to avail the benefit until the Caste Certificate is cancelled by the Scrutiny Committee.

(3) The Scrutiny Committee shall follow such procedure for verification of the caste certificate and adhere to the time limit for verification and grant of validity certificate as may be prescribed .

Section 11. (1) *Whoever,-*

(a) obtains a false Caste Certificate by furnishing false information or by filing false statement or documents or by any other fraudulent means; or

(b) not belonging to any of the reserved category secures any benefit or appointment exclusively available for such reserved category in the Government, Local Authority or any public sector undertaking or in any Government aided institution, or secures admission in any educational institution against a seat exclusively reserved for such reserved category or is elected to any of the elective offices of any Local Authority or Co-operative Society against the office, reserved for such category by producing a false Caste Certificate, shall, on conviction, be punished with rigorous imprisonment



for a term which shall not be less than six months but may extend to two years or with fine which shall not be less than two thousand rupees, but may extend to twenty thousand rupees or both.

(2) No Court shall take cognizance of an offence punishable under this section except upon a complaint in writing made by the Scrutiny Committee or by any other Officer duly authorised by the Scrutiny Committee for this purpose.”

JUDICIAL PRONOUNCEMENTS RELIED ON BY THE PETITIONER

7. Ongoing through the decisions contained in the list of citations submitted by the learned counsel for the petitioner, I found they do not support the case of the petitioner. This would be apparent from a reading of the relevant portions of the judgments which are extracted below for convenience, in a chronological manner.

7.1 In the case of **Ch. Bhajanlal** (supra), the Supreme Court held as follows:-

“146. We set aside the judgment of the High Court quashing the First Information Report as not being legally and factually sustainable in law for the reasons aforementioned; but, however, we quash the



commencement as well as the entire investigation, if any, so far done for the reasons given by us in the instant judgment on the ground that the third appellant (SHO) is not clothed with valid legal authority to take' up the investigation and proceed with the same within the meaning of Section 5A(1) of the Prevention of Corruption Act, as indicated in this judgment. Further we set aside the order of the High Court awarding costs with a direction that the said costs is payable to the first respondent (Ch. Bhajan Lai) by the second respondent (Dharam Pal). 147. In the result, the appeal is disposed of accordingly but at the same time giving liberty to the State Government to direct an investigation afresh, if it so desires, through a competent Police Officer empowered with valid legal authority in strict compliance with S. 5A(1) of the Act as indicated supra. No order as to costs."

7.2 In the case of **G. Sagar Suri** (supra), the Supreme Court held that the dispute arose from a loan agreement, which is inherently a civil matter. The Court emphasized that criminal proceedings should not be initiated for matters that can be resolved through civil remedies. It cited the case of **Kurukshetra University v. State of Haryana**, where the High Court had quashed an FIR under Section 482 of the Cr.P.C., and the Supreme Court upheld the



decision, stating that inherent powers should be exercised sparingly and with circumspection. The Court further held that the High Court had dismissed the appellants' application under Section 482 of the Cr.P.C. without proper consideration, leading to a miscarriage of justice. The Supreme Court quashed the criminal proceedings against the appellants.

7.3 In the case of *T.T. Antony* (supra), the Supreme Court held that once an FIR is registered for a cognizable offence, all subsequent information about the same incident should be treated as part of the original investigation. A second FIR for the same offence is impermissible under Section 154 of the Cr.P.C. The police must investigate not only the specific offence reported in the FIR but also other connected offenses committed during the same transaction or occurrence. If a second FIR is registered, it is irregular, and courts can intervene to prevent abuse of the judicial process. The third FIR registered in this case was quashed, and the investigation based on it was held to be invalid.

7.4 In the case of *Upkar Singh* (supra), the Supreme Court did not accept the contention that it had been decided in the case of *T.T. Anthony vs State of Kerala, AIR 2001 SC 2637*, that once an FIR is registered on the complaint of one party, a second FIR in the



nature of counter case is not registrable and no investigation based on the said second complaint could be carried out. Citing the hypothetical example that where the real accused lodges a false FIR relating to the crime committed by him and the case is registered, if it is held that a counter FIR relating to the same incident cannot be filed, then the aggrieved victim of the crime will be precluded from lodging complaint giving his version of the incident and will be deprived of his right of bringing the real accused to book. It held that in the case *of T.T.Anthony* (supra), no such proposition of law had been laid that a Magistrate cannot direct police at any stage to register a counter complaint and investigate into the same and that this would not be hit by Sections 161 or 162 of the Cr.P.C.

7.5 In the case of *Inder Mohan Goswami* (supra) the Supreme Court held as follows: -

“42. The following ingredients are essential for commission of the offence under Section 467 IPC;

- 1. the document in question so forged*
- 2. the accused who forged it*
- 3. the document is one of the kinds enumerated in the aforementioned section.*



The basic ingredients of offence under Section 467 are altogether missing even in the allegations of the FIR against the appellants. Therefore, by no stretch of the imagination, the appellants can be legally prosecuted for an offence under Section 467 IPC.

43. Even if all the averments prosecution under Sections 420 made in the FIR are taken to be correct, the case for and 467 IPC is not made out against the appellants. To prevent abuse of the process and to secure the ends of justice, it becomes imperative to quash the FIR and any further proceedings emanating therefrom.

44. The court must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private vendetta or with an ulterior motive to pressure the accused. On analysis of the aforementioned cases, we are of the opinion that it is neither possible nor desirable to lay down an inflexible rule that would govern the exercise of inherent jurisdiction. Inherent jurisdiction of the High Courts under Section 482 Cr.P.C though wide has to be exercised sparingly, carefully and with caution and only when it is justified by the tests specifically laid down in the Statute itself and in the aforementioned cases. In view of the settled legal position, the impugned judgment cannot be sustained.”



7.6 In the case of *Babubhai* (supra) the Supreme Court held that the High Court's decision to quash the charge-sheets on ground of irregularities in investigation was not justified. The Court emphasized that the power to quash charge-sheets should be exercised cautiously and only in cases where there is a manifest miscarriage of justice. The Court directed that the investigation be conducted afresh by an independent agency to ensure fairness and transparency.

7.7 In the case of *Paramjeet Batra* (supra), the accused persons had filed application under Section – 482 of the Cr.P.C for quashing the order of cognizance and proceedings against them under Sections 406, 420, 467, 468, 471, 447, 448 read with Section 34 of the IPC, which was dismissed by the High Court. Holding that the dispute was essentially civil in nature and essentially about the profit of the hotel business and its ownership and the pending civil suit would take care of all the issues as well as the allegations that the forged and fabricated document to file similar complaint had failed and the appellant had been acquitted in another case under Section 406 of the IPC, the Supreme Court quashed the entire proceedings and order of cognizance.



7.8 In the case of *Shailesh Gandhi* (supra), the Bombay High Court held that records maintained by income-tax department in respect of individual assessee cannot be said to be public record. Such records are exempted from disclosure under Section 8(1)(j) and such information can only be disclosed when applicant makes out a case for disclosure of information on public interest. It held that “*there are adequate provisions in the Representation of the People Act under which the information sought is to be provided to the Parliament to the extent mentioned in the said provisions and therefore reliance cannot be placed on the proviso to Section 8(1)(j) to contend that the exemption provided in the said Section would not operate.*”

7.9 In the case of *Arnab Ranjan Goswami* (supra), the petitioner Editor-in-Chief of an English television news channel, Republic TV, Managing Director of ARG Outlier Media Asianet News Private Ltd, which owned and operated a Hindi television news channel by the name of R Bharat had filed the writ petition under Article 32 of the Constitution of India before the Supreme Court (Writ Petition (Crl) No. 130 of 2020), praying for:-



(i) Quashing all the complaints and FIRs lodged against the petitioner in multiple States and Union Territories;

(ii) A writ direction that no cognisance should be taken of any complaint or FIR on the basis of the cause of action which forms the basis of the complaints and FIRs which have led to the present writ proceedings; and

(iii) A direction to the Union Government to provide adequate safety and security to the petitioner and his family as well as to his colleagues at Republic TV and R Bharat.

Another writ petition was filed by him under Article 32 of the Constitution of India (Writ Petition (Crl) Diary No. 11189 of 2020) , as another FIR was registered against the petitioner under Sections 153, 153A, 295A, 500, 505(2), 511, 505 (1)(c) and 120B of the IPC. Challenging the FIR, the petitioner had prayed for quashing the FIR and for a writ directing that no cognisance should be taken on any complaint or FIR on the same cause of action thereafter.

The Supreme Court rejected the prayer for transfer the investigation to the C.B.I. but quashed 14 FIRs and complaints filed by different persons relating as all the FIRS related to the same



broadcast and therefore the same cause of action. The FIR already transferred from the Police Station Sadar, District Nagpur City to NM Joshi Marg Police Station in Mumbai renumbered as FIR No. 164 of 2020 was directed to be investigated by the NM Joshi Marg Police Station in Mumbai, but the offence under Section 499 IPC would not be investigated into. The interim protection granted to the petitioner was extended by three weeks to enable him to avail the remedies available under law; the Commissioner of Police, Mumbai was directed to consider the request of the petitioner for providing security at his residence and at his business establishment.

7.10. In the case of *Prem Chand Singh (supra)* holding that the subject matter of both the FIRs was the same general power of attorney dated 02.05.1985 and the sales made by the appellant in pursuance of the same and mere addition of Sections 467, 468 and 471 in the subsequent FIR cannot be considered as different ingredients to justify the latter FIR and as the appellant had already been acquitted of the charge of forging general power of attorney of the respondent, prosecution on the basis of the subsequent FIR was unsustainable.



7.11 In the case of *Mariam Fasihuddin* (*supra*) the Supreme Court quashed the FIR lodged by Respondent No.2 (husband) alleging that his signatures had been forged on the application for passport of their son where the case had been registered against the appellants (his wife and father-in-law) under Sections 420, 468, 471 read with Section 34 IPC, holding as follows: -

“It is undeniable that despite the evident discord between the Appellants and Respondent No.2, resulting in numerous complaints and legal proceedings, the issue at hand has adversely impacted the rights and interests of the minor child. The right to travel abroad is a fundamental right of an individual, albeit not absolute, and subject to established legal procedures. The conduct exhibited by Respondent No.2 infringes upon the best interests of the minor child, which necessitates the child's travel abroad for the realisation of opportunities and intrinsic value, aligning with the child's dignity, as enshrined by the Constitution.”

7.12 In the case of *Criminal Appeal No.5478 of 2024 (Arising out of SLP (Crl. No.8700 of 2023 (P. Manikandan v. CBI & others))*, a case had been registered against the appellants under Sections 364A and 302 of the Indian Penal Code, 1860. The appellant had been convicted by the trial Court. The High Court



allowed the appeal and set aside his conviction but directed the CBI to conduct de novo investigation and if required proceed against him in accordance with law. The CBI submitted charge-sheet against him under Sections 364 and 302 of the IPC. Application under Section 482 of the Cr.P.C challenging the charge-sheet was dismissed by the High Court holding that the appellant had not challenged the earlier direction of the High Court for fresh investigation. The Supreme Court held that as the subsequent was a fresh proceeding where the appellant for the second time was sought to be prosecuted and punished for the same offence and same set of facts, his right enshrined in Article 20(2) of the Constitution of India was violated and quashed the proceedings.

7.13 In the case of *Crl. A (MD) Nos.446, 449 & 460 of 2021 (V.Eswar @ Venkatesh v. Deputy Superintendent of Police CBI/EOW, Chennai)*, the appellants had challenged their conviction under Sections 120-B, 420, 468 and 471 of the IPC and Section – 13 (2) r/w 13(1) (d) of the Prevention of Corruption Act. The Madras High Court after discussing the evidence on record and the findings of the trial court acquitted them of all the charges. The allegations did not relate to false caste certificate or forgoing fabrication of caste certificate or educational certificates.



OTHER RELEVANT JUDICIAL PRONOUNCEMENTS

Locus Standi

8.1 In the case of *A.R. Antulay v. R.S. Nayak*, AIR 1984 SC 718, the Supreme Court has held:

"It is well recognized principle of criminal jurisprudence that anyone can set or put the criminal law into motion except where the statute enacting or creating an offence indicates to the contrary. Locus standi of the complainant is a concept foreign to criminal jurisprudence save and except that where the statute creating an offence provides for the eligibility of the complainant by necessary implication the general principle gets excluded by such statutory provision. Punishment of the offender in the interest of the society being one of the objects behind penal statutes enacted for larger good of the society, right to initiate proceedings cannot be whittled down, circumscribed or fettered by putting it into a strait-jacket formula of locus standi unknown to criminal jurisprudence, save and except specific statutory exception."

Quashing of FIR

8.2 In the case of *State of Haryana v. Bhajan Lal* : 1992 Suppl. (1) SCC 335, the Supreme Court has laid down guidelines for quashing of FIR, holding as follows:



"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 private and personal grudge."



8.3 In the case of *Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra : 2021 SCC OnLine SC 315*, the Supreme Court has observed as follows: -

"Conclusions:

80. In view of the above and for the reasons stated above, our final conclusions on the principal/core issue, whether the High Court would be justified in passing an interim order of stay of investigation and/or "no coercive steps to be adopted", during the pendency of the quashing petition under Section 482 Cr.P.C and / or under Article 226 of the Constitution of India and in what circumstances and whether the High Court would be justified in passing the order of not to arrest the accused or "no coercive steps to be adopted" during the investigation or till the final report/chargesheet is filed under Section 173 Cr.P.C., while dismissing/disposing of/not entertaining/not quashing the criminal proceedings/complaint/FIR in exercise of powers under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India, our final conclusions are as under:

- i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence;*
- ii) Courts would not thwart any investigation into the cognizable offences;*



- iii) It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on;*
- iv) The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the rarest of rare cases (not to be confused with the formation in the context of death penalty).*
- v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;*
- vi) Criminal proceedings ought not to be scuttled at the initial stage;*
- vii) Quashing of a complaint/FIR should be an exception rather than an ordinary rule;*
- viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere;*
- ix) The functions of the judiciary and the police are complementary, not overlapping;*
- x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;*



xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

xiii) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the court;

xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of



R.P. Kapur (*supra*) and ***Bhajan Lal*** (*supra*), has the jurisdiction to quash the FIR/complaint;

xv) When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR;

xvi) The aforesaid parameters would be applicable and/or the aforesaid aspects are required to be considered by the High Court while passing an interim order in a quashing petition in exercise of powers under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India. However, an interim order of stay of investigation during the pendency of the quashing petition can be passed with circumspection. Such an interim order should not require to be passed routinely, casually and/or mechanically. Normally, when the investigation is in progress and the facts are hazy and the entire evidence/material is not before the High Court, the High Court should restrain itself from passing the interim order of not to arrest or "no coercive steps to be adopted" and the accused should be relegated to apply for anticipatory bail under Section



438 Cr.P.C. before the competent court. The High Court shall not and as such is not justified in passing the order of not to arrest and/or "no coercive steps" either during the investigation or till the investigation is completed and/or till the final report/chargesheet is filed under Section 173 Cr.P.C., while dismissing/disposing of the quashing petition under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India.

xvii) Even in a case where the High Court is prima facie of the opinion that an exceptional case is made out for grant of interim stay of further investigation, after considering the broad parameters while exercising the powers under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India referred to hereinabove, the High Court has to give brief reasons why such an interim order is warranted and/or is required to be passed so that it can demonstrate the application of mind by the Court and the higher forum can consider what was weighed with the High Court while passing such an interim order.

xviii) Whenever an interim order is passed by the High Court of "no coercive steps to be adopted" within the aforesaid parameters, the High Court must clarify what does it mean by "no coercive steps to be adopted" as the term "no coercive steps to be adopted" can be said to be



too vague and/or broad which can be misunderstood and/or misapplied."

(Emphasis supplied)

8.4 In the case of ***Kim Wansoo vs State of Uttar Pradesh and others : 2025 INSC 8***, the Supreme Court on a perusal of the FIR found that the same did not disclose commission of offence(s) as alleged. It also found that the other allegations, even if taken as true, would not disclose the commission of any offence .While quashing the FIR, it held as follows: -

*"8. In regard to quashing of criminal proceedings at the investigation stage itself, this Court in **Eastern Spg. Mills v. Rajiv Poddar : AIR 1985 SC 1668** , held that the High Court could interfere with the investigation, if non-interference would result in miscarriage of justice.*

*9. In **State of A.P. v. Golconda Linga Swamy : (2004)6 SCC 522 : 2004 INSC 404**, this Court again held that where an FIR did not disclose the commission of an offence without anything being added or subtracted from the recitals thereof, the said FIR could be quashed."*

*"11. In the contextual situation, it is also relevant to refer to the decision of this Court in **Mohammad Wajid and Another v. State of U.P. and Anr : 2023 SCC Online SC 951; 2023 INSC 683**, whereunder this Court, in so far as it is relevant, held thus: -*



“34.....it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation....”

Exercise of Inherent Power to quash an FIR

8.5 In the case of *Jagmohan Singh vs Vimlesh Kumar: 2022 SCC Online Sc 2418*, the Supreme Court set aside the order of the High Court quashing the FIR, holding that :-

“ The Court interferes in criminal proceedings, in exercise of the power under Section 482 of the Cr.P.C., in



rare and exceptional cases, to give effect to the provisions of the Cr.P.C. or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

While exercising jurisdiction under Section 482 of the Cr.P.C., the High Court should not ordinarily embark upon an enquiry into whether there is reliable evidence or not. The jurisdiction has to be exercised sparingly, carefully and with caution only when such exercise is justified by the specific provisions of Section 482 of the Cr.P.C. itself. The criminal proceedings can be said to be in abuse of the process of Court, to warrant intervention under Section 482 Cr.P.C., when the allegations in the FIR do not at all disclose any offence or there are materials on record from which the Court can reasonably arrive at a finding that the proceedings are in abuse of the process of the Court.”

ANALYSIS

9. From a reading of the aforesaid decisions, it is clear that for quashing an FIR, the Court has to consider the following factors:-

- i) Whether the case of petitioner falls within any of the parameters laid down in the case of ***Bhajan Lal*** (*supra*)?
- ii) Whether on a plain reading of the FIR, without adding or subtracting anything, any offence is made out?



iii) Whether there is any statutory bar for registration of the FIR or carrying out investigation?

iv) Whether the informant had the locus standi to lodge FIR i.e whether the impugned FIR could have been registered at the instance of the informant?

v) Whether Section 337 of BNSS (earlier Section 300 of the Cr.P.C) or Article 20 (2) of the Constitution will be a bar for the investigation to proceed?

10. There is no bar in criminal law against registration of an FIR for setting the law into motion, at the instance of a person who is not a victim or affected by the action of the accused (a third party), as most offences are considered to be against society with exception of only a few which have been specified in the Statute (defamation, matrimonial, offences) with restrictions contained in Sections 195 and 199 of the Cr.P.C. (Sections 215 and 222 of the BNSS) and IPC which require the complainant to be the aggrieved party.

11. Section 154 of the Cr.P.C (Section 173 of the BNSS) does do not prescribe any qualification for a person to lodge an FIR in respect of a cognizable offence. The Court also has the power to



take suo motu cognizance of the facts constituting an offence if it comes to learn about the same. So the contention that the FIR at the instance of the informant could not be registered or investigated into and only the employer could have lodged FIR, has no merit.

12. As a reading of the FIR prima facie reveals commission of cognizable offences, the FIR cannot be quashed when investigation is at the nascent stage.

13. The ingredients of the offence under Section-11 of the Act and the offences alleged in the impugned FIR which has been registered for commission of offences under the BNS are totally different. Apart from the allegations that the caste certificate was illegally obtained, there are also the allegations that the transfer certificate containing a different date of birth, and the mark-sheet, both obtained from PUPS Dhanapur are fake as the petitioner had never studied in that school and he has utilized these fake certificates containing different age of birth and year of completing Class VII, utilizing the same for securing employment.

14. In cases where the accused has faced trial involving the same allegations or offences and has been acquitted then a second



complaint / prosecution on same or similar allegations has been quashed, in view of the bar under Section 300 of the Cr.P.C (Section 337 of the BNSS) and / or Article 20 (2) of the Constitution. In the present case, the petitioner has not faced any trial for the offences alleged in the impugned FIR for which there is no bar for the investigation to proceed.

15. Whether any enquiry or proceedings will be conducted by the employers of the petitioner does not have any bearing on the investigation which commences after registration of an FIR. The Investigating Authority may in fact bring this to the notice of the employer of the petitioner during investigation.

16. The allegation is that by utilizing fake documents, the petitioner has got employment, which constitutes a criminal offence and is not a civil dispute, hence the FIR cannot be quashed on this ground.

17. In view of the above discussion, this Court finds no ground to exercise its inherent jurisdiction under Section 528 of the BNSS to quash the FIR at this stage, as the contentions raised by the petitioner do not satisfy the parameters laid down in ***Bhajan Lal***



(supra) nor do they disclose any legal bar under the BNSS, the Act or the Constitution.

CONCLUSION

18. In view of the aforesaid discussion, in my considered view, no case is made out for quashing the FIR.

19. The CRLMC being devoid of merit is dismissed.

20. The petitioner is at liberty to raise his contentions before the appropriate forum, after completion of investigation and filing of charge-sheet, if any.

.....
(Savitri Ratho)
Judge

Orissa High Court, Cuttack.
The 19th June, 2025/RKS