

A.F.R.
Reserved on: 12.01.2026
Delivered on: 30.01.2026



HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 46079 of 2025

Irfan Solanki

.....Applicant(s)

Versus

State of U.P. and another

.....Opposite Party(s)

Counsel for Applicant(s) : Mohit Singh, Vineet Vikram

Counsel for Opposite Party(s) : G.A.

Court No. - 53

HON'BLE SAMIT GOPAL, J.

1. Heard Sri Imran Ullah, learned Senior Advocate, assisted by Sri Mohit Singh and Sri Vineet Vikram, learned counsels for the applicant, Sri Manish Goel, learned Senior Advocate/Additional Advocate General assisted by Sri Rupak Chaubey, learned AGA-I for the State and perused the record.
2. This application under Section 528 B.N.S.S., 2023 has been filed by the applicant Irfan Solanki with the following prayers:-

“It is, therefore, most respectfully prayed that this Hon’ble Court may graciously be pleased to allow the present Criminal Misc. Application and to quash/set-aside the entire proceedings of S.T. No. 838 of 2023 (State vs. Irfan Solanki and others), Under Section 3(1) of the Uttar Pradesh Gangsters Act, 1986 pending in the Court of Special Judge MP/MLA/Additional Sessions Judge, Court No. 08, Kanpur Nagar arising out of Case Crime No.156/2022, Police Station- Jajmau, District Kanpur Nagar and also to quash the impugned charge sheet dated 27.06.2023 and the impugned cognizance/summoning order dated 21.07.2023 as well as the impugned order dated 30.08.2025 whereby discharge application of the applicant has been rejected and the

impugned order dated 17.09.2025 whereby charges have been framed against the applicant Under Section 3(1) of the Uttar Pradesh Gangsters Act, 1986.

It is further prayed that this Hon'ble Court may kindly be pleased to stay the further proceedings of S.T. No. 838 of 2023 (State vs. Irfan Solanki and others), Under Section 3(1) of the Uttar Pradesh Gangsters Act, 1986 pending in the Court of Special Judge MP/MLA/Additional Sessions Judge, Court No. 08, Kanpur Nagar arising out of Case Crime No.156/2022, Police Station- Jajmau, District Kanpur Nagar, during the pendency of the present application before this Hon'ble Court and/or may pass such other and further orders which this Hon'ble Court may deem fit and proper in the facts & circumstances of the case, otherwise the applicant would suffer an irreparable loss and injury.”

3. This matter was heard on 12.01.2026 and during the course of arguments it was informed by learned counsel for the applicant that trial in the matter has started in which testimony of P.W.-1 has been recorded and further examination-in-chief of P.W.-2 has also been recorded and it is now at the stage of his cross-examination. The following order was passed by this Court on the said date:-

“1. Heard Sri Imran Ullah, learned Senior Advocate, assisted by Sri Mohit Singh and Sri Vineet Vikram, learned counsels for the applicant, Sri Manish Goel, learned Senior Advocate/Additional Advocate General assisted by Sri Roopak Chaubey, learned AGA-I for the State and perused the record.

2. During the course of arguments, it was informed by learned counsels for the applicant that the trial in the matter has started, in which the testimony of PW-1 has been recorded and further the examination-in-chief of PW-2 as also been recorded and is now at the stage of his cross-examination. The same is not disputed by learned counsel for the State.

3. Arguments concluded.

4. Judgement reserved. “

4. The facts of the case are as under:-

(A) A First Information Report was lodged on 26.12.2022 as Case Crime No.156/2022, Police Station- Jajmau, District Kanpur Nagar, under Section 3(1) of The Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986 by Ashok Kumar Dubey, Incharge Inspector, Police Station- Jajmau, District Kanpur Nagar against 5 persons namely Irfan Solanki, Rizwan Solanki, Israil Aatewala, Mohd.

Sharif, Shaukat Ali, alleging therein that on routine area round and inspection he came to know that gang-leader Irfan Solanki S/o Late Haji Mushtak Solanki, r/o 178D & 92D, Defence Colony, Police Station Jajmau, Kanpur Nagar, aged 43 years, member Rizwan Solanki, S/o Late Haji Mushtak Solanki, r/o 178D&180D, Defence Colony, Jajmau, Kanpur Nagar, aged 37 years, member Israil (Aatewala) S/o Ismail r/o 99/345, Kanghi Mohal, Police Station Bajaria Kanpur Nagar aged 46 years, member Mohd. Sharif S/o Late Shabbir Ahmed r/o 12/471 Gwaltoli, Police Station Gwaltoli, Kanpur Nagar aged 36 years, member Shaukat Ali S/o Late Hameed r/o 11/26 Shootarganj Police Station Gwaltoli, Kanpur Nagar aged 65 years have an active gang and together and independently are involved in breach of law and order and are involved for financial gain in offences under various Chapters of I.P.C. The said gang is an inter-district gang which is active and on 07.11.2022 with an intention to forcible occupying the plot of a victim Nazeer Fatima being plot no.181D, Defense Colony, Jajmau, Kanpur Nagar, collected together and involved in the activity of setting it ablaze and threatening her for life, for which Case Crime No. 127 of 2022, under Sections 436/506 I.P.C. in which later on Sections 147/327/427/386/504/120B I.P.C. were added, was registered in which charge sheet no. A-48/22, dated 09.12.2022 and charge sheet no. A-48A/22, dated 19.12.2022 have been filed. An active member of gang Rizwan Solanki is also involved in a case being Case Crime No. 519/17, under Sections 420/427 I.P.C. and $\frac{3}{4}$ The Prevention of Damage to Public Property Act, Police Station- Gangaghat, District Unnao, on the basis of which he has been identified as a Bhoomafiya. He was involved in forcibly occupying land of Gram Sabha and selling it off. Mohd. Sharif a member of gang, is involved in Case Crime No. 30/20, under Sections 406/420/504/506 I.P.C., Police Station Gwaltoli, in which by committing cheating and forgery and threatening for life he had gained in terms of money. The case is pending in the court concerned. Israil Aatewala another member of the gang is involved in Case Crime No.114/19, under Sections 147/452/506/384 I.P.C., Police Station Bajaria, District Kanpur

Nagar, in which after investigation charge sheet has been filed against him. He is a history-sheeter of Police Station Bajaria, which are annexed along with the gang chart and they are involved in acts prejudicial to the law and order. They are involved in various criminal activities of arson, forcibly taking properties into possession, cheating and forgery and other criminal activities. Due to their criminal activities there is a fear in the public and commotion in the area. Their living freely is not in the interest of public. No one comes forward for lodging of reports and giving evidence due to their fear. Their acts make out a case under Section 3(1) of The Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986.

(B) A gang chart dated 24.12.2022 was prepared by Assistant Commissioner of Police (Cantt.), Commissionerate, Kanpur Nagar and forwarded to the superior officers on which Additional Police Commissioner (East), Kanpur Nagar recommended and forwarded it on 24.12.2022. Commissioner of Police (East), Kanpur Nagar has also accorded his sanction and forwarded it vide order dated 24.12.2022 after which Commissioner of Police, Comissionerate, Kanpur Nagar approved it vide his order dated 25.12.2022. As per gang chart the applicant Irfan Solanki is shown to be involved in Case Crime No. 127 of 2022, under Sections 147, 436, 506, 327, 427, 386, 504, 120B I.P.C., Police Station Jajmau, District Kanpur Nagar in which charge sheet is stated to have been forwarded. In so far as the members of the gang are concerned, Rizwan Solanki, Israil Aatewala and Mohd. Sharif are shown to be involved in two cases and Shaukat Ali is shown to be involved in one case.

(C) Investigation in the matter concluded and a charge sheet dated 27.6.2023 under Section 3(1) of The Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986, was filed against Irfan Solanki, Rizwan Solanki, Israil Aatewala, Mohd. Sharif and Shaukat Ali. The Additional Sessions Judge, Court No. 11, MP/MLA, Kanpur Nagar vide order dated 21.7.2023 took cognizance upon the same and summoned the accused.

(D) An application dated 12.12.2024 claiming discharge was filed by Irfan Solanki and Rizwan Solanki in the matter. The said application stood rejected vide order dated 30.08.2025. The Court of Special Judge MP/MLA/Additional Sessions Judge, Court No. 8, Kanpur Nagar vide order dated 17.09.2025 framed charge against the accused Irfan Solanki, Rizwan Solanki, Mohd. Israil Aatewala, Mohd. Sharif, Shaukat Ali, Mursalin Khan @Bholu and Ajjan@Ajaz for the offence under Section 3(1) of The Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986. The said charge was read over to the accused and explained to them who denied the same and claimed to be tried. The trial then started.

(E) It is common ground between learned counsels for the applicant(s) and learned counsels for the State that trial in the matter has started and testimony of P.W.-1 has been recorded, after which examination-in-chief of P.W.2 has concluded and the matter is being listed for his cross-examination.

(F) This application under Section 528 B.N.S.S. thus has been filed and is being pressed at this stage.

5. Learned counsel for the applicant submits as under:-

(A) The applicant has been falsely implicated in the present case.

(B) The proceedings against the applicant are totally abuse of process of court.

(C) The applicant is a former MLA representing Sisamau Constituency of Kanpur Nagar from Samajwadi Party having won elections in the year 2022.

(D) In the case being shown against the applicant in the gang chart being Case Crime No. 127 of 2022, Police Station Jajmau, District Kanpur Nagar, he was convicted by the trial court concerned vide judgement and order dated 03.06.2024 against which he preferred an appeal before the High Court being Criminal Appeal No. 6659 of 2024 in which he has been granted bail vide order dated 14.11.2024 but prayer for stay of conviction was refused by the High Court and then he has

approached the Apex Court for the same through SLP (Crl.) No. 2168 of 2025, in which notice has been issued and the matter is pending, para 23 of the affidavit in support of this application has been placed before the Court to buttress the same.

(E) Only on account of political vengeance the District Administration on the instance of political rivals of the applicant have implicated him and his brother in a false case previously being Case Crime No. 127/22, Police Station Jajmau, District Kanpur Nagar and thereafter in a series of false cases in continuation and subsequently in the present case under The Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986 also, para-25 of the affidavit in support of this application has been placed before the Court to buttress the same.

(F) The applicant although was previously involved in 8 criminal cases but his implication in all the cases are false. Disclosure and explanation therein is given in para-32 of the affidavit in support of this application wherein in 04 cases Final Report has been submitted in his favour, 03 cases have been withdrawn under Section 321 Cr.P.C. and in one case he is on bail. The said cases are prior to lodging of the present case, para-32 of the affidavit in support of this application has been placed before the Court to buttress the same.

(G) After the present case on account of political vengeance the District Administration has implicated him in 10 other criminal cases including the present case and Case Crime No. 127/2022 and in 08 cases he has been granted bail by the courts concerned, disclosure and explanation is given in para-33 of the affidavit in support of present application u/s 528 BNSS, 2023.

(H) Reliance has been placed heavily on the judgement of the Apex Court in the case of Vinod Bihari Lal vs. State of Uttar Pradesh and another: 2025 INSC 767 and it is submitted that there is a clear violation of Rules of The Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Rules, 2021.

(I) The records do not show that there was any joint meeting between the Commissioner of Police and Additional Police Commissioner while according approval to the Gang Chart, there was total non-application of mind by the authority in approving it, the Commissioner of Police has not accorded sanction in accordance with Rule 16(3) of Rules 2021. There is lack of independent assessment by the competent authority in forwarding the Gang Chart and there is significant procedural lapse as approvals have been accorded on a pre-printed format of the Gang Chart.

(J) The present petition thus deserves to be allowed and the prayers as prayed for be granted.

6. Learned Additional Advocate General for the State of U.P. duly assisted by learned Additional Government Advocates vehemently opposed the petition, prayers and arguments of learned counsel for the applicant and submitted as under:-

(A) The present petition has been filed with multiple prayers in it and even it contains the prayer for quashing of the orders at a very belated stage inasmuch as at present trial is under progress in which evidence of witnesses is being recorded and thus challenging the summoning order and the order rejecting application for discharge cannot be considered at such a belated stage.

(B) The charge has been framed against the applicant and other accused and at that stage, they denied it and claimed to be tried, which is also impugned herein and now at this stage, challenging the summoning order and the order rejecting the application for discharge is again too belated.

(C) Satisfaction of the authorities concerned while approving the gang-chart is duly recorded in the gang-chart and it cannot be said that they acted in a mechanical manner while approving it.

(D) The Commissioner of Police while finally approving the gang-chart has specifically made a note of his satisfaction for its approval which itself is evident from the gang-chart. The same is hand-written in

it and thus it cannot be said that approval is on a pre-formatted gang-chart.

(E) The judgement of the Apex Court in the case of **Vinod Bihari Lal (Supra)** cannot be followed as a precedent as the F.I.R. therein was lodged on 28.7.2018, the gang-chart was approved by the District Magistrate concerned on 28.07.2018 but the Rules as are considered in the said judgement are of the year 2001 and thus the same is not applicable in the present case.

(F) The trial is at an advanced stage and thus at this stage where the evidence of witnesses is being recorded, interference in a petition whereby challenge is to the summoning order, order of rejection of discharge application and framing of charge is not in the interest of justice as after framing of charge the accused can be acquitted but not discharged since testimony of the witnesses is being recorded. Reliance has been placed on the judgement of the Apex Court in the case of **Amit Kapoor v. Ramesh Chander and another: 2012 (9) SCC 460**.

(G) The present petition is thus devoid of any merit and deserves to be dismissed.

7. After having heard learned counsels for the parties and perusing the records, it is evident that this petition under Section 528 B.N.S.S., 2023 (corresponding to Section 482 Cr.P.C.) has been filed by the applicant- **Irfan Solanki** with the prayers to quash the proceedings of S.T. No. 838 of 2023 (State vs. Irfan Solanki and others), Under Section 3(1) of the Uttar Pradesh Gangsters Act, 1986, arising out of Case Crime No.156/2022, Police Station- Jajmau, District Kanpur Nagar, pending in the Court of Special Judge MP/MLA/Additional Sessions Judge, Court No. 08, Kanpur Nagar, quash the charge sheet dated 27.6.2023, quash the order taking cognizance/summoning dated 21.7.2023, quash the order dated 30.08.2025 rejecting the discharge application of the applicant and further to quash the order dated 17.9.2025 framing charge under Section 3(1) of the Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986. At the very outset, the stage of trial at

the present moment is not disputed by learned counsels for the parties being the stage of cross-examination of P.W.-2 after completion of his examination-in-chief and also completion of recording of testimony of P.W.-1. The prayers in the present application for quashing is many folds. The orders taking cognizance and summoning cannot be looked into at this stage for the purpose of quashing since after the same the application for discharge was filed by the applicant-accused which stood rejected by the trial court, subsequent to which charge has been framed against him and co-accused. In so far as the ground of violation of Rules 2021 are concerned, looking to the facts of the case and the gang-chart it transpires that the Commissioner of Police concerned on 25.12.2022 gave his opinion independently in it while approving the same. It thus cannot be said that he merely signed on a pre-formatted gang chart while according approval. The applicant has been convicted in a case by the trial court concerned against which an appeal is pending before the High Court. This Court in the case of ***Kunal Chawala vs. State of U.P. and another: 2023 SCC OnLine All 4606***, in para-14, 15, 16, 17, 18 and 19 has held that:-

“14. The Apex Court in the case of ***Ratilal Bhanji Mithani Vs. State of Maharashtra and others : (1979) 2 SCC 179*** has held that after framing of charge there cannot be a discharge but only an acquittal can be done on a finding of not guilty turning on the merits of the case. It has been held as follows :-

“24. At the outset, let us have a look at the relevant provisions of the Code of Criminal Procedure, 1898, which admittedly governed the pending proceedings in this case. The procedure for trial of warrant cases by Magistrates is given in Chapter XXI of that Code. The present case was instituted on a criminal complaint. Section 252 provides that in such a case, the Magistrate shall proceed to hear the complainant (if any) and take all such evidence, as may be produced, in support of the prosecution. Sub-section (2) of that Section casts a duty on the Magistrate to ascertain the names of persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and to summon all such persons for evidence. Section 253 indicates when and in what circumstances an accused may be discharged: It says:

“253. (1) If, upon taking all the evidence referred to in Section 252, and making such examination (if any) of the accused as the Magistrate thinks necessary, he finds that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him.

(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.”

Section 254 indicates when and in what circumstances a charge should be framed. It reads:

“254. If, when such evidence and examination have been taken and made, or at any previous stage of the case, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try, and which, in his opinion could be adequately punished by him, he shall frame in writing a charge against the accused.

Section 255 enjoins that the charge shall then be read over and explained to the accused, and he shall be asked whether he is guilty or has any defence to make. If the accused pleads guilty, the Magistrate shall record that plea, and may convict him thereon.

25. Section 256 provides that if the accused refuses to plead or does not plead, or claims to be tried, he shall be required to state at the next hearing whether he wishes to cross-examine any of the witnesses for the prosecution whose evidence has been taken, and if he says he so wants to cross-examine, the witnesses named by him shall be recalled and he will be allowed to further cross-examine them. “The evidence of any remaining witnesses for the prosecution shall next be taken” and thereafter the accused shall be called upon to enter upon and produce his defence.

26. Section 257 is not material. Section 258(1) provides that if in any case in which a charge has been framed the Magistrate finds the accused not guilty, he shall record an order of acquittal. Sub-section (2) requires, where in any case under this chapter the Magistrate does not proceed in accordance with the provisions of Section 349 or Section 562, he shall, if he finds the accused guilty, pass sentence on him in accordance with law.

27. From the scheme of the provisions noticed above it is clear that in a warrant case instituted otherwise than on a police report, “discharge” or “acquittal” of accused are distinct concepts applicable to different stages of the proceedings in Court. The legal effect and incidents of “discharge” and “acquittal” are also different. An order of discharge in a warrant case instituted on complaint, can be made only after the process has been issued and before the charge is framed. Section 253(1) shows that as a general rule there can be no order of discharge unless the evidence of all the prosecution witnesses has been taken and the Magistrate considers for reasons to be recorded, in the light of the evidence, that no case has been made out. Sub-section (2) which authorises the Magistrate to discharge the accused at any previous stage of the case if he considers the charge to be groundless, is an exception to that rule. A discharge without considering the evidence taken is illegal. If a *prima facie* case is made out the Magistrate must proceed under Section 254 and frame charge against the accused. Section 254 shows that a charge can be framed if after taking evidence or at any previous stage, the Magistrate, thinks that there is ground for presuming that the accused has committed an offence triable as a warrant case.

28. Once a charge is framed, the Magistrate has no power under Section 227 or any other provision of the Code to cancel the charge, and reverse the proceedings to the stage of Section 253 and discharge the accused. The trial in a warrant case starts with the

framing of charge; prior to it, the proceedings are only an inquiry. After the framing of the charge if the accused pleads not guilty, the Magistrate is required to proceed with the trial in the manner provided in Sections 254 to 258 to a logical end. Once a charge is framed in a warrant case, instituted either on complaint or a police report, the Magistrate has no power under the Code to discharge the accused, and thereafter, he can either acquit or convict the accused unless he decides to proceed under Section 349 and 562 of the Code of 1898 (which correspond to Sections 325 and 360 of the Code of 1973).

29. Excepting where the prosecution must fail for want of a fundamental defect, such as want of sanction, an order of acquittal must be based upon a “finding of not guilty” turning on the merits of the case and the appreciation of evidence at the conclusion of the trial.

30. If after framing charges the Magistrate whimsically, without appraising the evidence and without permitting the prosecution to produce all its evidence, “discharges” the accused, such an acquittal, without trial, even if clothed as “discharge”, will be illegal. This is precisely what has happened in the instant case. Here, the Magistrate, by his order dated December 12, 1962, framed charges against Mithani and two others. Subsequently, when on the disposal of the revision applications by Gokhale, J., the records were received back he arbitrarily deleted those charges and discharged the accused, without examining the “remaining witnesses” of the prosecution which he had in the order of framing charges, said, “will be examined after the charge”.

(emphasis supplied)

15. The situation is the same in the present matter. After taking cognizance on the chargesheet, framing of charges, accused not pleading guilty and claiming to be tried, the trial starting and one witness has been examined whereas the statement of the other prosecution witnesses is being recorded, the applicant who is facing trial comes up challenging the cognizance/summoning order dated 28.02.2022 as well as entire proceedings of the trial at such a belated stage.

16. 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; State of Bihar Vs. P. P. Sharma : 1992 Supp (1) SCC 222; Trisuns Chemical Industry Vs. Rajesh Agarwal and Ors. : (1999) 8 SCC 686; M. Krishnan Vs. Vijay Singh & Anr. : (2001) 8 SCC 645; Zandu Pharmaceuticals Works Ltd. Vs. Mohammad Shariful Haque : (2005) 1 SCC 122; M. N. Ojha Vs. Alok Kumar Srivastava : (2009) 9 SCC 682; 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; Md. Allauddin Khan Vs. State of Bihar : (2019) 6 SCC 107; Anand Kumar Mohatta and Anr. Vs. State (NCT of Delhi), Department of Home and Anr. : (2019) 11 SCC 706; Rajeev Kourav Vs. Balasaheb & others : (2020) 3 SCC 317; Nallapareddy Sridhar Reddy Vs. The State of Andhra Pradesh : (2020) 12 SCC 467*, 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/charge-sheet in deciding whether the rarest of the rare case is made out to scuttle the prosecution.

17. Further in the case of *Priti Saraf & anr. Vs. State of NCT of Delhi & anr. : 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/charge-sheet and other documentary evidence, if any, on record.

24. The question which is raised for consideration is that in what circumstances and categories of cases, a criminal proceeding may be quashed either in exercise of the extraordinary powers of the High Court under Article 226 of the Constitution, or in the exercise of the inherent powers of the High Court under Section 482 CrPC. This has often been hotly debated before this Court and various High Courts. Though in a series of decisions, this question has been answered on several occasions by this Court, yet the same still comes up for consideration and is seriously debated.

25. In this backdrop, the scope and ambit of the inherent jurisdiction of the High Court under Section 482 CrPC has been examined in the judgment of this 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 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 uncontested 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."

26. This Court has clarified the broad contours and parameters in laying down the guidelines which have to be kept in mind by the High Courts while exercising inherent powers under Section 482 CrPC. The aforesaid principles laid down by this Court are illustrative and not exhaustive. Nevertheless, it throws light on the circumstances and the situation which is to be kept in mind when the High Court exercises its inherent powers under Section 482 CrPC.

27. It has been further elucidated recently by this 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.

28. It is thus settled that the exercise of inherent power of the High Court is an extraordinary power which has to be exercised with great care and circumspection before embarking to scrutinise the complaint/FIR/charge-sheet in deciding whether the case is the rarest of rare case, to scuttle the prosecution at its inception."

8. In the case of ***Ramveer Upadhyay Vs. State of U.P. : 2022 SCC Online SC 484*** the Apex Court has held in paragraph nos. 27 and 38 that quashing of a criminal case by exercising jurisdiction under Section 482 Cr.P.C. should be done in exceptional cases only. Paragraphs 27 and 38 are quoted herein:-

"27. Even though, the inherent power of the High Court under Section 482 of the Cr.P.C., to interfere with criminal proceedings is wide, such power has to be exercised with circumspection, in exceptional cases. Jurisdiction under Section 482 of the Cr.P.C is not to be exercised for the asking.

38. Ends of justice would be better served if valuable time of the Court is spent on hearing appeals rather than entertaining petitions under Section 482 at an interlocutory stage which might ultimately result in miscarriage of justice as held in Hamida v. Rashid @ Rasheed and Others, (2008) 1 SCC 474."

9. Further in the case of ***Daxaben Vs. State of Gujarat : 2022 SCC Online SC 936*** in para 49 the Apex Court has held as under:

"49. In exercise of power under section 482 of the Cr.P.C., 1973 the Court does not examine the correctness of the allegation in the complaint except in exceptionally rare cases where it is patently clear that the allegations are frivolous or do not disclose any offence."

10. Further in so far as the ground relating to political vengeance is concerned, in the case of ***Ramveer vs. State of U.P.: 2022 SCC OnLine 484***, the Apex Court has held in para- 39 that a criminal case cannot be quashed on the ground of political vengeance. Para- 39 reads as under:-

"39. In our considered opinion criminal proceedings cannot be nipped in the bud by exercise of jurisdiction under Section 482 of the Cr.P.C. only because the complaint has been lodged by a political rival. It is possible that a false complaint may have been lodged at the behest of a political opponent. However, such possibility would not justify interference under Section 482 of the Cr.P.C. to quash the criminal proceedings. As observed above, the possibility of retaliation on the part of the petitioners by the acts alleged, after closure of the earlier criminal case cannot be ruled out. The allegations in the complaint constitute offence under the Atrocities Act. Whether the allegations are true or untrue, would have to be decided in the trial. In exercise of power under Section 482 of the Cr.P.C., the Court does not examine the correctness of the allegations in a complaint except in exceptionally rare cases where it is patently clear that the allegations are frivolous or do not disclose any offence. The Complaint Case No.19/2018 is not such a case which should be quashed at the inception itself without further Trial. The High Court rightly dismissed the application under Section 482 of the Cr.P.C."

(emphasis supplied)

11. The Apex Court in the case of ***Pradeep Kumar Kesarwani Versus State of Uttar Pradesh and Another : 2025 SCC OnLine SC 1947*** has laid a four-step test for High Courts to follow while considering petitions for quashing criminal proceedings under Section 482 of the Code of Criminal Procedure. It has been held as under:

"20. The following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.:—

(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the material is of sterling and impeccable quality?

(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such,

as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal - proceedings, in exercise of power vested in it under Section 482 of the Cr.P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused. [(See: Rajiv Thapar v. Madan Lal Kapoor (Criminal Appeal No. 174 of 2013)]

12. The proposition of law, the facts of the case, the stage of trial which is not disputed by learned counsels for the parties, the *prima facie* material available against the applicant, the non-fulfillment of the conditions of the four-step test, does not call for this Court to consider it a fit case for interference and thus the present application under Section 528 B.N.S.S. **is dismissed.**

13. Pending application(s), if any, shall stand disposed of.

(Samit Gopal,J.)

January 30, 2026
Naresh.