



2026:DHC:6531



* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: August 05, 2026

+ CRL.M.C. 4491/2026, CRL.M.A. 18495/2026

HARBANS SINGH GILL

.....Petitioner

Through: Ms. Aakansha Kaul, Adv.

Versus

CENTRAL BUREAU OF INVESTIGATION **.....Respondent**

Through: Mr. Premtosh Mishra, SPP with Mr.
Anubhav Upadhyay and Mr. Aniket
Chauhan, Adv.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T (O R A L)

1. The petitioner by the present petition under *Section 482* of the Code of Criminal Procedure, 1973¹/ *Section 528* of the Bharatiya Nagarik Suraksha Sanhita, 2023² seeks to challenge the judgment dated 06.02.2026 passed by the learned Special Judge (PC Act) (CBI)-16, Rouse Avenue Courts Complex, New Delhi³ in Crl. Rev. No.40/2025 entitled '*Harbans Singh Gill vs. CBI.*' since his revision petition against the order dated 05.08.2025 passed by the learned ACJM-05, Rouse Avenue Court Complex, New Delhi⁴ in CBI No.3/2025 has been dismissed.

FACTUAL BACKGROUND:

2. The brief facts germane to the present petition are that the Central Bureau of Investigation registered an RC on 01.01.1992 against the

¹ Hereinafter referred to as '*CrPC*'

² Hereinafter referred to as '*BNS*'

³ Hereinafter referred to as '*Sessions Court*'

⁴ Hereinafter referred to as '*ACJM*'



petitioner and other co-accused persons since they were sending people to foreign countries by arranging forged travel documents.

3. Three such co-accused persons, Kamaljeet @ Kamal, Neena Kapoor and Sohan Bajaj after being convicted, were sentenced by the learned ACJM *vide* order dated 11.12.2024 to undergo imprisonment for the period already undergone by them and also imposed fine of Rs.50,000/- each. Interestingly, since the petitioner herein never faced trial, he was declared a Proclaimed Offender *vide* order dated 01.03.1994, which, even after the passage of time, still stands today. In those circumstances, the petitioner filed an application under *Section 265B CrPC*, *albeit*, through his Special Power of Attorney (SPA) holder Mr. Iqbal Singh, seeking benefit of plea-bargaining claiming to be a resident of United States of America and suffering from Stage IV cancer and cardiac ailment, which came to be dismissed by the learned ACJM *vide* order dated 05.08.2025 *inter alia* holding that plea-bargaining through SPA is neither permissible nor envisaged under CrPC.

4. The petitioner assailed the said order dated 05.08.2025 of the learned ACJM by availing the statutory remedy of filing a revision petition under *Section 397* of the CrPC⁵ before the learned Sessions Court,

⁵ **397. Calling for records to exercise of powers of revision-**(1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.

Explanation.-All Magistrates, whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of *Section 398*.

(2) The powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

(3) **If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them.**



which has also since been dismissed *vide* judgment dated 06.02.2026 as there was no infirmity found in the order impugned therein.

PRESENT PETITION:

5. Aggrieved thereby, the petitioner invoked the extraordinary powers of this Court under *Section 482 CrPC*⁶/ *Section 528 BNSS*⁷.

6. Since there was an issue of maintainability regarding ***whether it is permissible for the petitioner to take recourse to the inherent powers of this Court after already having exhausted his remedy of revision before the learned Sessions Court, especially, in the wake of Section 397(3) CrPC/ Section 438(3) BNSS and Section 399(3) CrPC***⁸/ *Section 440(3) BNSS expressly prohibiting a second revision by the same party*, whence the present petition was first listed on 01.07.2026, after hearing learned counsel for the petitioner at considerable length, this Court passed the following order:-

“1.

2. After some arguments, learned counsel for the petitioner seeks some time for addressing arguments and/ or taking appropriate measures.

3. Renotify on 05.08.2026 ”

⁶ 528. **Saving of inherent powers of High Court.**—Nothing in this Sanhita shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Sanhita, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

⁷ 482. **Saving of inherent powers of High Court.**—Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

⁸ 399. **Sessions Judge's powers of revision**—(1) In the case of any proceeding the record of which has been called for by himself, the Sessions Judge may exercise all or any of the powers which may be exercised by the High Court under sub-section (1) of Section 401.

(2) Where any proceeding by way of revision is commenced before a Sessions Judge under sub-section (1), the provisions of sub-sections (2), (3), (4) and (5) of Section 401 shall, so far as may be, apply to such proceeding and references in the said sub-sections to the High Court shall be construed as references to the Sessions Judge.

(3) Where any application for revision is made by or on behalf of any person before the Sessions Judge, the decision of the Sessions Judge thereon in relation to such person shall be final and no further proceeding by way of revision at the instance of such person shall be entertained by the High Court or any other Court.



7. Today, a new learned counsel has appeared, who also addressed arguments *de novo*. Be that as it may, the moot issue even today remains the same, i.e. *qua the maintainability of the present petition*.

8. This Court has heard learned counsel for the petitioner as also gone through the documents and materials on record.

FINDINGS AND ANALYSIS:

9. At the outset, before proceeding on the merits involved, this Court notes that in the year 1973, certain changes/ introductions carried by the Legislature in the CrPC were with a view to clearly distinguish and distinctly draw a visible difference/ demarcation amongst the remedies available to any party under revision under *Section 397 CrPC* from that of an appeal available under *Section 372⁹ CrPC* from that of the “*inherent powers*” of a Court available under *Section 482 CrPC*. The Legislature consciously made the said distinction to prevent repetitive and frivolous litigation(s).

10. The aforesaid intention/ purpose/ mandate of the Legislature is also apparent from the fact that the Legislature continued with the very same difference/ demarcation while replacing provisions of revision as available under *Section 397 CrPC* with that of *Section 438 BNSS*, that of an appeal as available under *Section 372 CrPC* with that of *Section 413 BNSS* and that of “*inherent powers*” of a Court as available under and *Section 482 CrPC* with that of *Section 528 BNSS*.

⁹ **372. No appeal to lie unless otherwise provided.**—No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force:

[Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.]



11. As such, none of the aforesaid provisions can be read into the other. The parameters prescribed in each of them are separate from the other, and there are no reasons of their interplay. This Court, thus, cannot interpret something which was not the intention of the Legislature from the very beginning, be it while enacting the CrPC or thence while replacing it with the now existing BNSS. Under such circumstances, this Court is only to interpret provisions of the Statutes as they are, more so, as it is the domain of the Legislature to enact such Statutes.

12. As per the facts involved herein, the petitioner herein initially filed an application under *Section 265B* CrPC before the learned ACJM. Being aggrieved by the rejection thereof, the petitioner then *rightly* filed a revision petition thereagainst under *Section 397* CrPC, which also was dismissed. Thereafter, the petitioner has now filed the present petition under *Section 482* CrPC/ *Section 528* BNSS seeking setting aside of the said judgment passed by the learned Sessions Court in a revision petition by simply challenging it in the form of an appeal.

13. Therefore, this gives rise to the issue of *maintainability* of the present petition, more so, since there is no express provision for the same anywhere in the Statutes, be it the CrPC and/ or the existing BNSS. This is more relevant as there is a specific bar contained in *Section 397(3)* CrPC/ *Section 438(3)* BNSS read with *Section 399(3)* CrPC/ *Section 440(3)* BNSS, after a Court has already exercised its revisional jurisdiction under *Section 397* CrPC/ *Section 438* BNSS.

14. Accordingly, the “*inherent powers*” of this Court as preserved under *Section 482* CrPC/ *Section 528* BNSS cannot be invoked by anyone like the petitioner herein as a matter of course, much less, to subvert the



existing salient provisions of the Statute i.e. the CrPC/ now existing BNSS. It was always incumbent upon the petitioner to fit within the contours of *Section 482 CrPC/ Section 528 BNSS* as no party like the petitioner herein can be allowed to invoke the “*inherent powers*” of this Court by simply challenging any impugned order in the form of an appeal thereunder to somehow circumvent the bar imposed under *Section(s) 372, 397, 397(3), 399(3) and 482 of the CrPC/ Section(s) 438, 438(3), 440(3) and 582 of the BNSS*. A party like the petitioner has to make out a case to come within the dominion of *extraordinary jurisdiction* of a High Court, and that too only whence it is able to establish that there is an abuse of process of law and/ or it is necessary for securing the ends of justice and/ or if there has been a miscarriage of justice and/ or if there is a non-compliance of any mandatory provision(s) of law and/ or if there is ignorance of material(s) on record and/ or if there is something of a like nature, by the Court below, while exercising its revisional jurisdiction.

15. In fact, the Hon’ble Supreme Court in case of ***Amar Nath v. State of Haryana***¹⁰, while dealing with the express bar *qua* interlocutory order under *Section 397(2) CrPC*, expressed in the following words:-

“3. While we fully agree with the view taken by the learned Judge that where a revision to the High Court against the order of the Subordinate Judge is expressly barred under sub-section (2) of Section 397 of the 1973 Code the inherent powers contained in Section 482 would not be available to defeat the bar contained in Section 397(2). Section 482 of the 1973 Code contains the inherent powers of the Court and does not confer any new powers but preserves the powers which the High Court already possessed. A harmonious construction of Sections 397 and

¹⁰ (1977) 4 SCC 137,



482 would lead to the irresistible conclusion that where a particular order is expressly barred under Section 397(2) and cannot be the subject of revision by the High Court, then to such a case the provisions of Section 482 would not apply. It is well settled that the inherent powers of the Court can ordinarily be exercised when there is no express provision on the subject-matter. Where there is an express provision, barring a particular remedy, the Court cannot resort to the exercise of inherent powers.”

[Emphasis Supplied]

16. Further, the Hon’ble Supreme Court in the celebrated judgment in the case of ***Madhu Limaye v. State of Maharashtra***¹¹, also went on to reaffirm the aforesaid position of law by expressly laying down the following principles in relation to exercise of the inherent powers of the High Court as under:-

“(1) That the power is not to be resorted to if there is a specific provision in the Code for the redress of the grievance of the aggrieved party;

(2) That it should be exercised very sparingly to prevent abuse of process of any Court or otherwise to secure the ends of justice;

(3) That it should not be exercised as against the express bar of law engrafted in any other provision of the Code.”

[Emphasis Supplied]

17. As apparent therefrom, the prohibition entailed in Section 397(3) CrPC/ Section 438(3) BNSS read with Section 399(3) CrPC/ Section 440(3) BNSS may apply, but if harmoniously construed, inherent jurisdiction under Section 482 CrPC/ Section 528 BNSS can be invoked, however, not as a blanket rule under all circumstances. What entails therefrom is that the scope of Section 482 CrPC/ Section 528 BNSS has

¹¹ (1977) 4 SCC 551



not been expanded and a party like the petitioner herein has to satisfy this Court to fall within the narrow category therein.

18. Moving further, the Hon'ble Supreme Court in **Madhu Limaye (supra)** only in this backdrop recognised the limited but indispensable role of inherent jurisdiction and gone onto further to hold as under:-

*“10.The Legislature in its wisdom decided to check this delay by introducing sub-section (2) in Section 397. On the one hand, a bar has been put in the way of the High Court (as also of the Sessions Judge) for exercise of the revisional power in relation to any interlocutory order, on the other, the power has been conferred in almost the same terms as it was in the 1898 Code. On a plain reading of Section 482, however, it would follow that nothing in the Code, which would include sub-section (2) of Section 397 also, “shall be deemed to limit or affect the inherent powers of the High Court”, But, if we were to say that the said bar is not to operate in the exercise of the inherent power at all, it will be setting at naught one of the limitations imposed upon the exercise of the revisional powers. In such a situation, what is the harmonious way out? In our opinion, a happy solution of this problem would be to say that the bar provided in sub-section (2) of Section 397 operates only in exercise of the revisional power of the High Court, meaning thereby that the High Court will have no power of revision in relation to any interlocutory order. Then in accordance with one of the other principles enunciated above, the inherent power will come into play, there being no other provision in the Code for the redress of the grievance of the aggrieved party. But then, if the order assailed is purely of an interlocutory character which could be corrected in exercise of the revisional power of the High Court under the 1898 Code, the High Court will refuse to exercise its inherent power. **But in case the impugned order clearly brings about a situation which is an abuse of the process of the Court or for the purpose of securing the ends of justice interference by the High Court is absolutely necessary, then nothing contained***



in Section 397(2) can limit or affect the exercise of the inherent power by the High Court. But such cases would be few and far between. The High Court must exercise the inherent power very sparingly.”

[Emphasis Supplied]

19. Similarly, the Hon’ble Supreme Court in its subsequent judgment of ***Krishnan v. Krishnaveni***¹², rendered in the present context of Section 397(3) and Section 482 CrPC held as under:

“10. Ordinarily, when revision has been barred by Section 397(3) of the Code, a person-accused/ complainant cannot be allowed to take recourse to the revision to the High Court under Section 397(1) or under inherent powers of the High Court under Section 482 of the Code since it may amount to circumvention of the provisions of Section 397(3) or Section 397(2) of the Code. It is seen that the High Court has suo motu power under Section 401 and continuous supervisory jurisdiction under Section 483 of the Code. So, when the High Court on examination of the record finds that there is grave miscarriage of justice or abuse of the process of the courts or the required statutory procedure has not been complied with or there is failure of justice or order passed or sentence imposed by the Magistrate requires correction, it is but the duty of the High Court to have it corrected at the inception lest grave miscarriage of justice would ensue. It is, therefore, to meet the ends of justice or to prevent abuse of the process that the High Court is preserved with inherent power and would be justified, under such circumstances, to exercise the inherent power and in an appropriate case even revisional power under Section 397(1) read with Section 401 of the Code. As stated earlier, it may be exercised sparingly so as to avoid needless multiplicity of procedure, unnecessary delay in trial and protraction of proceedings. The object of criminal trial is to render public justice, to punish the criminal and to see that the trial is concluded expeditiously before the memory of the

¹² (1997) 4 SCC 241



witness fades out. The recent trend is to delay the trial and threaten the witness or to win over the witness by promise or inducement. These malpractices need to be curbed and public justice can be ensured only when trial is conducted expeditiously.”

[Emphasis Supplied]

20. Now advertent to the facts herein, the present petition is simpliciter a challenge to the judgment passed by the learned Sessions Court in its revisional jurisdiction. Though there is nothing of the sort which calls for any exercise of its “*inherent powers*” under Section 482 CrPC/ Section 528 BNSS, however, in response to the query put by this Court, learned counsel for petitioner has drawn attention of this Court to paragraph nos.3, 5 and 24 and ground ‘R’ of the present petition to contend otherwise. The said paragraphs, for ease of reference, are reproduced as under:-

“3. That the petitioner is unable to move and represent this Hon’ble Court in person therefore, in the present matter he executed an SPA in favour of Mr. Iqbal Singh who signed the petition and Vakalatnama for and on behalf of the petitioner. A copy of the SPA is attached herewith and marked as ANNEXURE P-3.

xxx

xxx

xxx

5. That the Applicant is a resident of United States of America and suffering from various ailments. The petitioner is a cancer patient of 4th stage and suffering from heart ailment under medication. The applicant being a law abiding person, is of view, when he will leaves this world, no accusation should be against him in the entire world. The applicant is aware that his condition is at the worst stage and is not able to move and, therefore, he authorized his old friend Mr. Iqbal Singh to represent him in the matter, for and on his behalf in the court and without stating anything on merit wants to take benefit of plea of



bargaining. It is submitted that the applicant has/ had never been convicted by any court of law and therefore, trying by way of the present application to take benefits of plea of bargaining.

XXX

XXX

XXX

24. That except filing the present petition, no officious remedy available to the petitioner, Hence the petitioner is filing the present petition.”

Grounds

XXX

XXX

XXX

“R. BECAUSE the petitioner without any coercive step came forward to appear before the Hon'ble Court and now appearing before SPA holder is only under compulsive circumstance, because due to health reasons he is unable to appear before the Hon'ble Court. The petitioner is seeking parity and ready to pay fine and compensation as per direction of this Hon'ble Court. The inherent powers of this Hon'ble Courts are needed to be invoked because on the said issues of filing petition through SPA Holder the entire CrPC is silent. The same discretion have been applied/allowed by the Hon'ble Courts except the FIR matters.”

XXX

XXX

XXX

21. Alas, a bare perusal of the whole petition herein, including the aforesaid, clearly reflects that they are general submissions/ grounds raised by the petitioner, which, in no manner can be held to be sufficient for this Court to exercise its “*inherent powers*” under *Section 482 CrPC/ Section 528 BNSS*, and that too against a judgment passed by the learned Sessions Court while exercising its revisional jurisdiction under *Section 397 CrPC*. Barely challenging any order passed by a Court exercising a



revisional jurisdiction in form of an appeal under *Section 482 CrPC/ Section 528 BNSS* like the present, one does not call for interference. Through the present petition, the petitioner is *once again* seeking to rake the very same issues by making the very same submissions and raising the very same grounds, which, this Court finds have already been duly negated by the learned Sessions Court by a well-reasoned impugned judgment. Also, in view of the said concurrent findings rendered by the learned ACJM and the learned Sessions Court, there is no case made out by the petitioner for this Court to interfere and/ or use its “*inherent powers*” under *Section 528 BNSS*.

22. Accordingly, in view of the aforesaid, the legal maxim “***Quando aliquid prohibetur ex directo, prohibetur et per obliquum***” [What cannot be done directly, cannot be done indirectly] squarely applies and no party like the petitioner can try to circumvent the existing position of law.

23. Conceptually seen also, the petitioner has failed to show anything which comes within the realm of there being any abuse of process of law and/ or there has been a miscarriage of justice and/ or there has been a non-compliance of any mandatory provision(s) of law and/ or there has been any ignorance of material(s) on record and/ or there has been something of a like nature.

24. In fact, these proceedings emanate from the hands of a petitioner who has never paid any regard to the process of law as it is he who had left India and remained absconding during the whole trial, only to be declared a Proclaimed Offender *vide* order 01.03.1994. Strangely, even as on date, the petitioner merely filed an application for plea-bargaining through his SPA.



25. In view thereof, though learned counsel for the petitioner has sought to rely upon the decision of Hon'ble Supreme Court in ***Prabhu Chawla vs. State of Rajasthan and Another***¹³ and ***Vinod Kumar Pandey and Another vs. Seesh Ram Saini and Others***¹⁴, however, since both the judgments were rendered in a totally different context, and in view of the aforesaid findings and analysis hereinabove, they are not applicable to the facts of the present case.

CONCLUSION:

26. Based on all the above, especially in view of the law as enunciated by the Hon'ble Supreme Court in ***Amar Nath (supra)***, ***Madhu Limaye (supra)*** and ***Krishnan (supra)***, which still hold the field and stand strong, in the considered opinion of this Court, the present petition does not fall within the given contours of *Section 482 CrPC/ Section 528 BNSS* and is *per se* not maintainable.

27. Accordingly, the present petition is dismissed *in limine*.

SAURABH BANERJEE, J.

AUGUST 05, 2026/Ab

¹³ (2016) 16 SCC 30

¹⁴ 2025 SCC OnLine 1951