



2026:DHC:5817



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on 08th July, 2026
Pronounced on: 23rd July, 2026
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+ CRL.M.C. 2110/2025 & CRL.M.A. 9453/2025, CRL.M.A.
17931/2025
NIKHIL DABASPetitioner

Through: Mr. Kartik Gaddi, Adv.
versus

STATE GOVT. OF NCT OF DELHI AND ANR.Respondents
Through: Mr. Naresh Kumar Chahar, APP.
SI Sahil, PS Kanjawla
SI Preeti
Mr. Harshit Jain, (DHCLSC) along
with Mr. Arjun Drall, and Mr. Utsav
Tarsolia, Advs. for the
Victim/Prosecutrix.

CORAM:
HON'BLE MS. JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 hereinafter referred to as the 'BNSS'), seeking quashing *of FIR No. 0356/2024* registered at Police Station Kanjhawala, Delhi, for offences punishable under Sections 376 and 506 of the Indian Penal Code, 1860 (hereinafter referred to as the 'IPC'), and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as the 'POCSO Act'), along with the chargesheet filed pursuant thereto and all consequential proceedings arising therefrom. The criminal case



is presently pending before the Court of the learned Additional Sessions Judge, Fast Track Court (POCSO), North-West District, Rohini Courts, Delhi.

FACTUAL MATRIX:

2. As per the prosecution case, Respondent No.2, who claimed to be a minor aged about fourteen years, along with her mother and younger siblings, shifted to Delhi in or around December, 2023 and started residing in a room situated near a gaushala, of which the petitioner is stated to be the owner. It was alleged that on 30.12.2023, while the complainant's mother had travelled outside Delhi, the petitioner entered the room occupied by the complainant, threatened her younger brothers with a knife, forced them to leave the room and thereafter committed forcible sexual assault upon the complainant. It was further alleged that the petitioner threatened the complainant with dire consequences if she disclosed the incident to anyone. The complainant further alleged that a similar incident occurred again after two days.

3. It was further alleged that after her mother's return, the complainant disclosed the incident to her. According to the complaint, she was thereafter sent to stay with her relatives in Himachal Pradesh. During her stay there, she allegedly developed abdominal pain and, upon medical examination, came to know that she was pregnant. It was further alleged that medication was procured by her sister-in-law, resulting in termination of the pregnancy. Thereafter, the complainant and her mother approached the police, whereupon the present FIR came to be registered on 08.08.2024.

4. Upon registration of the FIR, the investigation was undertaken by the Investigating Agency. During the course of investigation, the prosecutrix was medically examined and her statement under Section 183 BNSS, was



recorded before the learned Metropolitan Magistrate, where she supported the case of prosecution. The petitioner came to be arrested on 10.08.2024. During investigation, the Investigating Officer also conducted inquiries with regard to the age of the prosecutrix and other aspects of the allegations, including her medical examination and other material collected during investigation.

5. The investigation further records that during the course of inquiry the prosecutrix is stated to have made certain subsequent statements, including a statement that she had been influenced to level the allegations against the petitioner. The investigation also refers to the prosecutrix's bone ossification test, as per which she is stated to be 15-16 year of age and certain inquiries conducted by the Investigating Agency regarding the allegations relating to pregnancy and abortion.

6. It is the case of the petitioner that the FIR has been falsely registered owing to previous disputes between the petitioner and one Advocate Devender Kumar, who according to the petitioner was acquainted with the complainant's mother. The petitioner asserts that the allegations have been levelled at the instance of the said Advocate and the complainant's mother with an oblique motive to pressurise him in relation to disputes concerning the gaushala property. The petitioner has also relied upon certain subsequent statements allegedly made by the prosecutrix before different forums including during the proceedings relating to grant of bail and in proceedings before this Court to contend that the allegations contained in the FIR were false and were made under influence and coercion.

7. The petitioner was granted regular bail by the learned Trial Court by order dated 13.09.2024. Thereafter, upon completion of investigation the



Investigating Officer filed the chargesheet before the learned Trial Court. The learned Trial Court has taken cognizance of the offences alleged and the matter is presently pending before the Court of the learned Additional Sessions Judge (POCSO), North-West District, Rohini Courts, Delhi.

8. Aggrieved by the registration of the FIR, the filing of the chargesheet and the continuation of the criminal proceedings, the petitioner has preferred the present petition seeking quashing thereof.

SUBMISSION ON BEHALF OF THE PETITIONER:

9. Learned counsel appearing on behalf of the petitioner submits that the present petition has been filed after completion of the investigation and filing of the chargesheet in view of the subsequent developments which according to the petitioner completely undermine the prosecution case. It is submitted that the material collected during investigation itself demonstrates that the allegations made in the FIR and in the statement of the prosecutrix recorded under Section 183 Bharatiya Nagarik Suraksha Sanhita, Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS') (earlier Section 164 Cr.P.C.) are not borne out and that continuation of the criminal proceedings would amount to an abuse of the process of law.

10. It is submitted that although the FIR came to be registered on 08.08.2024 and the statement of the prosecutrix under Section 183 BNSS was recorded shortly thereafter, the investigation which followed brought on record several subsequent statements of the prosecutrix wherein she is stated to have withdrawn the allegations levelled against the petitioner. Learned counsel submits that during investigation the prosecutrix categorically stated that no such incident had occurred and that the allegations had been made at



the instance of her mother and one Advocate Devender Kumar.

11. Learned counsel further submits that during investigation, the prosecutrix was taken to Rohru, Himachal Pradesh for the purpose of identifying the hospital medical store and other places where she had alleged that her pregnancy had been terminated. However, according to the petitioner she failed to identify any such hospital, doctor or medical store and informed the Investigating Officer that the allegations had been made under pressure exerted by her mother and the said Advocate.

12. It is further submitted that the prosecutrix reiterated the aforesaid stand during counselling before the Child Welfare Committee on more than one occasion and maintained that she had been persuaded to level false allegations against the petitioner. Learned counsel submits that similar statements were also made by the prosecutrix before the learned Sessions Court during the hearing of the petitioner's bail application.

13. Learned counsel also places reliance upon the proceedings arising out of ***W.P. (Crl.) No.3720/2024*** filed by the mother of the prosecutrix. It is submitted that during the chamber interaction before the Division Bench of this Court, the prosecutrix stated that she had never become pregnant and had not undergone any abortion. According to the petitioner, the said statements further weakens the allegations contained in the FIR.

14. It is contended that there are material contradictions between the initial allegations made in the FIR and the subsequent statements of the prosecutrix regarding the alleged incidents, the allegation of pregnancy and abortion, as well as the identity of the person responsible for the alleged acts. Learned counsel submits that these inconsistencies strike at the root of the prosecution



case and render the continuation of the criminal proceedings wholly unjustified.

15. It is the petitioner's case that the present FIR is the outcome of previous disputes relating to the gaushala land and has been engineered by the complainant's mother with an oblique motive to pressurise the petitioner. It is submitted that the allegations are actuated by *mala fides* and have been levelled to falsely implicate the petitioner.

16. Learned counsel submits that the petitioner was initially denied bail however, upon the subsequent statements made by the prosecutrix and the developments during investigation, regular bail came to be granted by the learned Trial Court.

17. Reliance has been placed upon the decisions of the Supreme Court in *State of Haryana v. Bhajan Lal 1992 Supp (1) SCC 335*, *Rajiv Thapar v. Madan Lal Kapoor 2013 (3) SCC 330*, *Pramod Suryabhan Pawar v. State of Maharashtra, Pepsi Foods Ltd. v. Special Judicial Magistrate, (1998) 5 SCC 749 (2019) SCC 608.*, to contend that where the material collected during investigation itself demolishes the prosecution case and continuation of the proceedings would amount to an abuse of the process of law, this Court ought to exercise its inherent jurisdiction to quash the FIR and all consequential proceedings.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS:

18. *Per contra*, learned APP appearing for the State submits that the present petition does not warrant interference in exercise of the inherent jurisdiction of this Court. It is submitted that the FIR came to be registered on



the basis of the statement made by the prosecutrix, wherein she levelled specific allegations against the petitioner. During the course of investigation, the statement of the prosecutrix under Section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (earlier Section 164 Cr.P.C.) was also recorded before the learned Metropolitan Magistrate, wherein she reiterated and corroborated the allegations made in the FIR.

19. Learned APP submits that, during investigation, the prosecutrix was medically examined and other investigative steps were undertaken, including her production before the Child Welfare Committee, inquiries relating to her age, and verification of the allegations concerning the alleged pregnancy and abortion. Upon completion of investigation, the Investigating Officer found sufficient material to file a chargesheet against the petitioner for offences punishable under Sections 376 and 506 IPC and Section 6 of the POCSO Act, which is presently pending consideration before the learned Trial Court.

20. Learned APP fairly submits that, during the course of investigation, the prosecutrix made certain subsequent statements to the Investigating Officer and before the Child Welfare Committee which were at variance with her earlier version. It is further submitted that similar statements were also made by the prosecutrix during the hearing of the petitioner's second bail application and subsequently during the proceedings in ***W.P. (Crl.) No.3720/2024*** before this Court.

21. However, it is submitted that the subsequent statements relied upon by the petitioner were made after the statement under Section 183 BNSS had already been recorded before the learned Metropolitan Magistrate. According to the learned APP for the State, the prosecutrix had, in her judicial statement,



fully supported the prosecution case and levelled allegations against the petitioner. The effect of the subsequent statements and the contradictions sought to be highlighted by the petitioner are matters which require appreciation of evidence and cannot be conclusively determined in proceedings under Section 528 BNSS.

22. Learned APP further submits that the chargesheet has already been filed and the matter is presently pending before the learned Trial Court. At this stage, the petitioner is at liberty to raise all permissible contentions before the Trial Court at the stage of consideration of charge and during trial. It is submitted that the disputed questions arising from the varying statements of the prosecutrix can only be adjudicated upon after evidence is led by the parties.

23. Learned APP for the State, further submits that there is no mechanism by which this Court can at this stage, conclusively determine which of the conflicting statements made by the prosecutrix represents the correct version. The issue, according to the State, necessarily requires appreciation of evidence during trial.

24. The learned APP further relies on the judgement of Supreme Court in ***SLP (Crl.) 9552/2021***, titled ***Hazrat Deen Vs. The State of Uttar Pradesh And Anr.*** to contend that discrepancies between the FIR and any subsequent statement under section 164 of CrPC may be a defence however, the discrepancies cannot be ground of discharge without initiation of trial.

ANALYSIS AND FINDINGS:

25. This Court has heard arguments addressed by learned counsel for the



petitioner as well as learned APP for the State and has perused the material on record.

26. The petitioner seeks quashing of FIR No.356/2024 registered for offences punishable under Sections 376 and 506 IPC and Section 6 of the POCSO Act, primarily on the ground that, after registration of the FIR and recording of the statement of the prosecutrix under Section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (earlier Section 164 Cr.P.C.), the prosecutrix made subsequent statements before the Investigating Officer, the learned Sessions Court and this Court, stating that the allegations against the petitioner were false and had been made under the influence of her mother.

27. The Hon'ble Supreme Court has laid the guidelines for quashing the FIR in ***State of Haryana and Ors. v. Ch. Bhajan Lal and Ors. 1992 SCC (Cri) 426***, which reads as under:

“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 extra-ordinary 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 F.I.R. 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 F.I.R. 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.”



28. It is to be noted that in case of ***Bhajan Lal (Supra)***, the Hon'ble Supreme Court has cautioned that High Court, in exercise of powers under Article 226 of the Constitution of India or Section 482 Cr.P.C may interfere in proceedings relating to cognizable offences to prevent abuse of the process of any court or otherwise to secure the ends of justice, but such power should be exercised sparingly and that too in the rarest of rare cases.

29. The Hon'ble Supreme Court in the case of ***Rakhi Mishra V. State of Bihar and Others (2017) 16 SCC 772***, has held that the High Courts can use its power under Section 482 of Cr.P.C. only in exceptional circumstances when a prima facie case is not made out against the accused.

30. The Hon'ble Supreme Court in its recent decision of ***Neeharika Infrastructure v. State of Maharashtra 2021 SCC OnLine 315***, has analyzed the precedents and culled out the relevant principles that govern the law on quashing of a First Information Report under Section 482 of the Cr.P.C. The Court has held as under:

“57. From the aforesaid decisions of this Court, right from the decision of the Privy Council in the case of Khawaja Nazir Ahmad (supra), the following principles of law emerge:

- 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 cognizable offences;*
- ii) Courts would not thwart any investigation into the cognizable offences;*
- iii) However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on;*



iv) The power of quashing should be exercised sparingly with circumspection, in the 'rarest of rare cases'. (The rarest of rare cases standard in its application for quashing under Section 482 Cr.P.C. is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court);

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 and a rarity 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. The inherent power of the court is, however, recognized to secure the ends of justice or prevent the abuse of the process by Section 482 Cr.P.C.

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 encyclopedia 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. During or 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 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; and

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

31. In the present case, the FIR contains specific allegations of repeated sexual assault. The prosecutrix reiterated these allegations in her statement recorded under Section 183 BNSS before the learned Metropolitan Magistrate. Upon completion of investigation, the Investigating Officer has filed a chargesheet against the petitioner for offences punishable under Sections 376 and 506 IPC and Section 6 of the POCSO Act.



32. The principal submission of the petitioner rests upon the subsequent statements allegedly made by the prosecutrix during investigation and thereafter. However, those statements cannot be viewed in isolation. The record itself shows that there are multiple statements made by the prosecutrix at different stages of the proceedings, some supporting the prosecution case and others taking a contrary stand. Determining which of these versions represents the truthful account, would necessarily require appreciation of oral testimony, examination of surrounding circumstances and evaluation of the evidence led by the parties. Such an exercise lies squarely within the domain of the learned Trial Court and cannot be undertaken while exercising jurisdiction under Section 528 BNSS.

33. The Supreme Court has dealt with a similar contention in ***Hazrat Deen v. State of Uttar Pradesh***. While considering discrepancies between the FIR and the subsequent statement of the prosecutrix, the Court held that such discrepancies may constitute a defence available to the accused however, they cannot furnish a ground for discharge or termination of the criminal proceedings before commencement of trial. The observations of the Supreme Court squarely apply to the facts of the present case. The relevant paragraph is reproduced herein below:

“Discrepancies between the FIR and any subsequent statement under Section 164 of the CrPC may be a defence. However, the discrepancies cannot be a ground for discharge without initiation of trial.”

34. This view also finds support from the decision of the Delhi High Court in ***CRL.M.C. 681/2024*** titled ***Deepak Ahirwar v. State (Govt. of NCT of Delhi)***, wherein the prosecutrix had not fully supported the prosecution case during the course of trial. The Court nevertheless declined to quash the FIR,



observing that the evidentiary value of the various statements made by the prosecutrix was required to be examined by the learned Trial Court during trial and could not be made the basis for quashing criminal proceedings. The reasoning adopted therein equally governs the present case.

35. Even considering the relevant principles governing quashing of FIR laid down in *Neeharika Infrastructure (supra)* and *Bhajan Lal (Supra)*, the present case is not a fit case for quashing as the allegations in the FIR are serious in nature and the prosecutrix at the time of the alleged incident was minor and there are specific allegations against the petitioner herein

CONCLUSION AND FINDINGS:

36. In view of the above, this Court is unable to hold that the present case falls within any of the categories laid down in *Bhajan Lal (supra)* warranting exercise of the inherent jurisdiction of this Court. The contentions raised by the petitioner are essentially matters of defence which remain open to be urged before the learned Trial Court at the appropriate stage.

37. Accordingly, the present petition, being devoid of merit, is dismissed. Pending application(s), if any, shall also stand disposed of.

38. It is however, clarified that the observations made herein are confined to the adjudication of the present petition and shall not influence the learned Trial Court while considering the matter on its own merits.

**MADHU JAIN
(JUDGE)**

JULY 23, 2026/ys/P