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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.41128 of 2022 (O&M)
Reserved on :04.09.2025
Pronounced on:31.10.2025.

Vishal

.....Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Argued by: Mr. Pragyati, Advocate for
Mr. Sandeep Goyal, Advocate for the petitioner.

Ms. Deepali Verma, AAG, Haryana.

SURYA PARTAP SINGH, J. (Oral):

In Police Station Gohana City, District Sonepat, the FIR No.475 dated 20.10.2020 has been lodged for the commission of offence punishable under Section 11 of the Central Sales Tax Act, 1956 and under Sections 420, 467, 468 and 471 of IPC. In the above mentioned FIR the petitioner has been arrayed as an accused. The petitioner is aggrieved of the above mentioned prosecution, and therefore, he has approached this Court for quashing of abovesaid FIR by invoking the jurisdiction vested in this Court by virtue of Section 482 Cr.P.C.

2. In nut-shell, the facts emerging from record are that the above mentioned FIR came into being in response to a written complaint submitted by the Office of Excise and Taxation officer dated 13.02.2000. The allegations contained in the above mentioned complaint were as under:-

"their office has received a communication that huge outward supply has been made by 'M/s Bhagwati Traders', Khanpur turn, Gohana,

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Sonipat (06AILPV7596K12Z4) to Mandi Govindgarh. Punjab. That preliminary inquiry was conducted by the said office and it was observed that this firm is non-existent and non-functional and for name sake only a sign board has been installed in front of premises located at Khanpur turn, Gohana, Sonipat. That from the volume of transactions made by the tax payer, it seems that only paper transaction has been made and this tax payer has made the following purchases from the State/UT of Haryana, Punjab, Chandigarh, Uttrakhand, Delhi, and made subsequent sale of Rs. 14,85,07,183/-to the State of Punjab as mentioned in the letter received from Punjab Authorities.

The details of the transaction were given in the complaint itself, which were as under:-

Firm name M/s	GSTN	Place	State	Taxable amount	IGST	CGST	SGST
GKM Enterprises	04BLHPA2654R1ZX	UT Chandigarh	Chandigarh	229229144	41261246	0	0
Industries	07AHFPK9402Q1ZV	Pitampura	Delhi	20490724	3688330	0	0
Sehaj Trading Co.	07CTJPK9383A1ZD	Keshav Puram	Delhi	8314160	1496549	0	0
Kabir Steel Industries	07GWYPS4728B1ZV	Rani Bagh	Delhi	1359296	244673	0	0
Pardeep Steel	07HF1PS5917A1ZA	New Delhi	Delhi	6669033	1200426	0	0
SK Industries	07HUKPS8749R1Z2	Rani Bagh Pitum Pura	Delhi	4368549	786339	0	0
RS Steel Traders	06A9ZPA4111P1ZM	Panipat	Haryana	8421664	0	757950	757950
Sai Enterprises	06APUPD8844E1ZL	Panipat	Haryana	4608215	0	414739	414739
Sanjana	06ASBPH	Panipat	Haryana	263889	0	1235387	12358

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Steel	2748H1ZX						7
M/s Balaji Enterprises	06BQQPG7678P1ZQ	Karnal	Haryana	7733240	0	695992	695992
Maa Katyani Steel	06CYQPK6166H1ZX	Kurukshetra	Haryana	36428844	0	3278596	3278596
Shri Om Sai Traders	06GSJPS75578N1ZH	Ambala	Haryana	1481530	0	1333038	1333038
Crown Enterprises	06JLIPS0749N1ZA	Kurukshetra	Haryana	4396305	0	394767	394767
Akash Steel Corporation	03ANUPS8721M3Z5	Mandi Gobindgarh	Punjab	450068	81012	0	0
Rajputana Traders	08BGIPP6272N1ZM	Bikaner	Rajasthan	1334922	240286	0	0
Ajit Steel Impex	08CFHPS0414L1Z9	Jodhpur	Rajasthan	523425	94217	0	0
Akas Steel Corporation	05ANUPS8721N2Z2	Bhaniyala	Uttrakhand	45173207	8131177	0	0
			Total	408292739	57224255	8134219	8134219

The complainant further had stated that this firm was assigned to Central authorities, and therefore, letter had been written to central authorities to block the ITC (Input Tax Credit). In addition to above, letters were also written to the respective authorities in Haryana, Chandigarh. Uttrakhand, Delhi, Rajasthan, from where purchases had been made by this dealer, and they were requested to block the ITC at their end.

3. It is the case of the prosecution that on receipt of above information, the FIR was registered under Sections 420/467/468/471 IPC and Section 11 of Central Sales Tax Act and investigation was set into motion. It is the case of the prosecution that once the above mentioned FIR was lodged, the investigation had been taken up.

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4. Since the petitioner has been arrayed as an accused in the above mentioned FIR he filed the present petition alleging:-

a) that the petitioner is registered under the Haryana Goods and Services Tax Act, 2017/ Central GST Act, since 23.02.2018, vide GSTIN 06AILPV7598K1Z4 to carry the business of trading in Iron Scrap (waste pieces or disused articles of wrought iron suitable for reworking).

b) that in normal course of its business, the Petitioner purchases Iron Scrap from various states including Delhi, Haryana, Dehradun and sells the same to the traders at Mandi Gobindgarh, Punjab. The goods are transported through trucks. The Petitioner is in possession of all the requisite documents in respect of purchases as prescribed under the Act.

c) that the purchases made by the Petitioner are reflected in Form of GSTR-2A which is available on the GST portal. In respect of sales made by the Petitioner, the Petitioner is in possession of proper invoices and E-way bills. That the details of Sales made are uploaded on the GST website in form of monthly returns filed in GSTR-3B. As per petitioner, he was actively conducting its business in the relevant Financial Year of 2018-19.

d) that as per GST Portal of the Petitioner, a letter dated 08.01.2021 was sent by the ETO-cum-Taxation Officer (State Tax), Karnal to the ETO, Sonepat, Ward No. 10, Sonepat directing to disallow the ITC of INR 13,91,984/- for the period

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of October 2018 to February 2019 received from ‘M/s Balaji Enterprises’, GSTIN 06BQQPG7678P1ZQ.

e) that on 28.04.2021 a notice in Form GST DRC-01A under Section 74(5) of CGST Act, 2017 was received by Sh. Vishal, proprietor, ‘M/s Bhagwati Traders’, alleging paper transaction without physical movement of goods in connivance with as many as 10 firms. The Petitioner was advised to pay the amount of tax, Interest and penalty amounting to INR 2,51,85,954/- within 10 days of receipt of the notice or otherwise a show cause notice under Section 74(1) was proposed to be issued to the petitioner. However, no such show cause notice has been issued to the petitioner, whatsoever.

f) That as per GST portal of the Petitioner, a Notice, dated 28.03.2022, in Form DRC-01 was issued under Section 74(5) of CGST Act, 2017 to Sh. Vishal, proprietor ‘M/s Bhagwati Traders’, whereby a total demand of Rs. 67,31,840.00/-, Including tax, interest and penalty was raised for the Financial Year 2018-19 alleging that the petitioner has shown purchases from a non-existent firm, namely, ‘M/s Shiv Om Sai Traders’, GSTIN 06GSJPS7578N1ZH.

g) that as per GST portal of the Petitioner, a notice, dated 29.03.2022, in Form DRC-01A was issued under Section 74(5) of CGST Act, 2017 to Sh. Vishal, proprietor, ‘M/s Bhagwati Traders’, whereby a total demand of Rs, 32,85,082.00/-, including tax, interest and penalty was raised for the Financial Year 2018-19 alleging that the petitioner has shown purchases

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from a non-existent firm, namely, 'M/s Balaji Enterprises', GSTIN 06DBQQPG7678P1ZQ.

h) that on 01.09.2022, to the shock of the Petitioner, he was first time apprised of the FIR No. 0475 of 2020 when police officials visited his residential premises, i.e. 19, Bhatia Colony, Near Ganesh Mandir, Panipat-132103 (Haryana) and enquired about the said FIR.

i) That on 20.10.2020, FIR No. 0475 was registered in P.S. Gohana City, Distt. Sonipat under Section 11, CST Act, 1956 read with Sections 420, 467, 468 and 471 of the IPC on the directions of Excise and Taxation Officer, Sub Division, Gohana Distt Sonipat against the Petitioner alleging that the Petitioner is non-existent, non functional and has merely Installed a board in front of the premises and is not carrying out any business from its registered premises. That as per the FIR, the memo to register FIR is dated 13.02.2019. Thus, there is an unexplained delay of over 1 year and 8 months in registering the FIR.

j) that in the FIR, it has been alleged that the Petitioner is a non-existent, non-functional entity and for name sake only a sign board has been installed in front of the premises of the petitioner located at Khanpur Mode, Gohana, Sonipat. It is alleged that the petitioner seems to be making only paper transactions.

k) that the petitioner was first time apprised of the above-mentioned FIR No. 0475 of 2020 when police officials visited

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the residential premises, i.e. H. No.19, Bhatia Colony, Near Ganesh Mandir, Panipat-132103 (Haryana) of the petitioner and made enquiries about the said FIR.

l) that the petitioner received summons under Section 41-A of the Criminal Procedure Code to appear before Assistant Sub-Inspector on 05.09.2022 in regard to the present FIR.

m) that the Central Board of Indirect Taxes and Customs ("CBIC") issued a circular no. 171/03/2022-GST, dated 06.07.2022 whereby it clarified various issues relating to applicability of demand and penalty provisions under the CGST Act, 2017 in respect of transactions involving issue of invoices without actual supply of goods or services. The CBIC clarified that actual action against a person will depend upon the specific facts and circumstances of the case and tax/interest/ penalty has to be imposed as per the definite role performed by the person in the fraudulent transaction.

5. In support of above mentioned grounds the petitioner relied upon following documents:-

	Documents
Annexure P-1	A copy of the registration certificate of the Petitioner
Annexure P-2	Copy of returns filed by the Petitioner for the Financial Year of 2018-19 under Form GSTR 3B
Annexure P-3	Copy of the letter dated 08.01.2021 issued by ETO-cum-Taxation Officer (State Tax), Karnal
Annexure P-4	A copy of the notice dated 28.04.2021
Annexure P-5	A copy of the Intimation notice dated 28.03.2022
Annexure P-6	A copy of the intimation notice dated 29.03.2022
Annexure P-7	A copy of the FIR along with its true typed copy and its translated version

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Annexure P-8	Copy of the Summons dated 01.09.2022

6. Reply to the petition has been filed by the respondent wherein not only the allegations contained in the petition have been specifically and categorically denied, but also it has been reiterated that the proceedings have been taken up in the right earnest and strictly in accordance with law. While claiming that the firm of the petitioner is a non existing firm, doing no business, it has been alleged by the respondents that fake documents have been created by the petitioner to claim 'Inward Tax Credit' ('ITC' in short) by defrauding the respondents.

7. Heard.

8. It has been argued by learned counsel for the petitioner that filing of FIR for the commission of offence punishable under Section 11 of CST Act and under Sections 420, 467, 468 and 471 of IPC, is purely an abuse of process of law. As per learned counsel for the petitioner, since under the GST Act the above mentioned Act has been defined as an offence under Section 132(1)(b), any action under general law cannot be initiated. It has been further contended by learned counsel for the petitioner that the FIR in question has been lodged with *mala fide* intentions just for harass the petitioner, and that instead of taking action as per provisions of GST Act, which a complete Code in itself, the FIR under Sections 420, 467m 468 and 471 of IPC has been lodged. While referring to the principles of law laid down by the Hon'ble Supreme Court of India in the case of **State of Haryana Vs. Bhajan Lal, 1992 SCC (Cri) 426,** the learned counsel for the petitioner has sought for quashing of present FIR.

9. In addition to above, the learned counsel for the petitioner has also argued that the term "Complete Code" has been discussed by the Hon'ble

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Supreme Court in the case of **Girnar Traders (3) Vs. State of Maharashtra (2011), 3 SCC 1** wherein it has been observed that "Complete" further adds a degree of certainty to the code. It has to be a compilation of provisions which would comprehensively deal with various aspects of the purpose sought legislations is either absent or at best is minimal. The provisions of the enactment in question should provide for a complete machinery to deal with various problems that may arise during its execution. Sufficient powers should be vested in the authority/forum created under the Act to ensure effectual and complete implementation of the Act. There should be complete and coherent scheme of the statutory provisions for attainment of the object and purpose of the Act. It essentially should also provide for adjudicatory scheme to deal with grievances/claims of the persons affected by enforcement of the provisions of the Act, preferably, including an appellate forum within the framework of the Act. In other words, the Act in itself should be a panacea to all facets arising from the implementation of the Act itself.

10. It has been further argued on behalf of the petitioner that CGST Act 2017 which is a complete code, prescribes the procedure for prosecution, and punishment upon conviction, with regard to the acts attributed to the petitioner, and that it further prescribes the cancellation of registration under GST Act, if the firm is found to be non-operating from its registered premises. As per learned counsel for the petitioner since the contents of FIR reveals that one of the allegation against the petitioner is that he is not operating from its registered premises, the only action which can be taken against the petitioner is the cancellation of registration of the firm of petitioner, and not the prosecution under general provisions of law.

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11. The learned counsel for the petitioner has further argued that in the present case the mandatory procedure enshrined under Section 74 of CGST Act 2017, read with Rule 142 of CGST Rule 2017, has not been followed and that the above mentioned provisions prescribed that if an officer arrives at a conclusion that input tax credit (ITC) has been wrongly availed, he must communicate the same to the alleged defaulter, give an opportunity to pay tax/interest/penalty and if the alleged defaulter does not pay the same then issue a show cause notice, and give an opportunity to file representation. According to learned counsel for the petitioner the above mentioned mandatory provisions have not been followed in the present case, and therefore, for want of above mentioned compliances, the FIR at the instance of Excise and Taxation Officer is not sustainable.

12. While referring to the clause 132(1)(b) of CGST Act read with clause 132, the learned counsel for the petitioner has argued that the above mentioned statute provides the procedure in case of evasion of tax on account of invoice/bill without supply of goods, and therefore, instead of filing the FIR, the above mentioned procedure should have been followed by the Excise and Taxation Authority. In support of above mentioned arguments the learned counsel for the petitioner has referred to the principles of law laid down by the Hon'ble Supreme Court of India in the case of **Jeewan Kumar Raut Vs. CBI, (2009), 7 SCC 526,** wherein it has been held that 'where a statute empowers an authority to investigate a matter, cognizance of such offence must not be taken under the Criminal Procedure Code'.

13. The learned counsel for the petitioner has also referred to the principles of law laid down by this Court in the case of **Ajay Kumar Sandhu Vs. State of Haryana, 2015 SCC Online P&H 16972,** wherein it has been

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held that "the Finance Act 1994", being a Special and Complete Code prevails over general provisions of IPC, and accordingly, for alleged non-payment of service tax, department cannot file an FIR under the provisions of IPC. While referring to the principles of law laid down by the Hon'ble Supreme Court of India in the case of **Union of India Vs. Ashok Kumar Sharma and other, 2020 SCC Online SC 683,** the learned counsel for the petitioner has further contended that in the above mentioned case Hon'ble Apex Court while upholding the Allahabad High Court judgment, whereby the FIR was quashed with respect to an offence registered under Drugs and Cosmetics Act, 1940, held that Police Officers cannot register FIR, arrest, prosecute or investigate in regard to cognizable offence under Chapter IV of the Drugs and Cosmetics Act, as the latter is a complete Code in itself.

14. The learned counsel for the petitioner has also contended that the FIR in question has been lodged for the commission of offence punishable under Sections 420, 467, 468 and 471 of IPC, and that one of the essential ingredient of above mentioned offence is the fraudulent and dishonest intention at the time of making promise or representation. According to learned counsel for the petitioner in the present case there are no such allegations, and therefore, in view of the law laid down by the Hon'ble Supreme Court in the case of **V.Y. Jose Vs. State of Gujarat (2009) 3 SCC 78,** the above mentioned FIR is not sustainable.

15. In support of his above arguments, the learned counsel for the petitioner has referred to the principles of law laid down by the Hon'ble Supreme Court of India in the case of **Rekha Jain Vs. State of Karnataka, 2022 SCC Online SC 585,** wherein it has been held that to make out a case against a person for the offence under Section 420 IPC there must be a

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dishonest inducement to deceive a person to deliver any property to any other person. According to learned counsel for the petitioner, in the present case, there is no allegation at all against the accused - 'Bhagwati traders', of any inducement by it to deceive and deliver the goods. As per learned counsel for the petitioner, considering the allegations in the FIR/complaint as they are, and in the absence of any allegation of dishonest inducement by 'M/s Bhagwati Traders' through its proprietor Sh. Vishal, it cannot be said that the Petitioner firm has committed any offence under Section 420 of IPC.

16. In view of above mentioned contention the learned counsel for the petitioner has argued that the present case is a perfect case wherein the principles of law laid down by the Hon'ble Supreme Court in the case **State of Haryana Vs. Bhajan Lal, 1992 SCC (Cri) 426,** should be followed and while holding that the filing of FIR against the petitioner is nothing but an abuse of process of law, the above mentioned FIR should be quashed.

17. Per contra, it has been argued by learned State counsel that the present case is not a case wherein at its own level the FIR has been lodged by the police. According to learned State counsel, in fact, in the present case, it was the Tax Authority, i.e. the Excise and Taxation Officer, who approached the police and requested for filing of FIR in view of the fraudulent acts committed by the petitioner. While defending the action taken by the Police authority it has been argued by learned State counsel that once the complaint has been moved by tax authority, the filing of FIR for a cognizable offence by the police is in accordance with law, and there is no such bar that in such a case the FIR cannot be lodged.

18. The learned State counsel while referring to the contents of complaint has argued that it was reported by the tax authority that the

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petitioner was running a non-existent firm just for the purpose of creating document to avail the facility of 'Input Tax Credit', and that, in fact, no business was being run by the petitioner. According to learned State counsel for drawing the benefit of 'Inward Tax Credit' the documents were forged and fabricated by the petitioner and therefore, for the acts of creating false documents, the petitioner can be prosecuted under the general provisions of Indian Penal Code.

19. In the alternative the learned State counsel has argued that for the sake of arguments even if it is accepted that the petitioner cannot be prosecuted for the offence under Sections IPC, he can be prosecuted under GST Act, as the abovementioned offence is cognizable and non-bailable. In this regard, the learned State counsel has pointed out that the total tax liability as detailed in the complaint comes out to be Rs.7,34,92,693/-. In view of above discussed figures it has also been contended by learned State counsel that Section 132(1)(b) read with Section 132(1)(i) makes it abundantly clear that the offence allegedly committed by the petitioner is a cognizable offence, and therefore, filing of FIR by the police at the instance of Taxation authority cannot be held to be illegal.

20. The record has been perused carefully.

21. As far as the present petition is concerned, the facts and circumstances of the present case, the grounds taken by the petitioner for quashing of FIR and the reply submitted by the State, makes it abundantly clear that the points which need determination in the present case is:-

Whether at this stage the FIR lodged against the petitioner is liable to be quashed.

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As far as the above mentioned point of determination is concerned there are two relevant aspects which are necessary to be taken into consideration.

Firstly, whether on the basis of allegations contained in the FIR any cognizable offence is made out, if yes, under what provisions; and

secondly, whether it will serve the ends of justice if by taking into consideration the plea raised by the petitioner, the FIR is quashed at this stage.

22. As far as the first component is concerned the contents of the FIR shows that the allegations against the petitioner are that he sought GST number but without doing any business he has been issuing invoices, and thereby claiming the benefit of 'Input Tax Credit'.

23. Withe regard to the above mentioned allegations Section 132(1)(b) of the Central Goods and Service Tax Act 2017 is relevant. It provides that issuing any invoice or bill without supply of goods or service or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of 'Input Tax Credit' or refund of tax is an offence.

Sections 132(1)(i) further provides that whosoever commits, or causes to commit and retain the benefit arising out of above mentioned offence shall be punished with imprisonment for a term which may extend to 5 years and with fine, if the tax evaded or the amount of 'Input Tax Credit' wrongly availed or utilized or the amount of refund wrongly taken, exceeds Rs.5,00,00,000/-.

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It is also relevant to mention here that Section 132(5) provides that the offence defined under Section 132(1)(b) and punishable under Sections 32(1)(i) shall be cognizable and non-bailable.

24. In the light to above mentioned special statute now it has to be determined as to whether in view of allegations levelled by the complainant against petitioner-accused, the offence under Section 132(1)(b) is made out against the petitioner or the offence under Section 420, 467, 468 and 471 IPC.

25. With regard to above, the thin line which can be a defining factor is the manner in which the GST number was obtained by the petitioner, and also act and conduct of the petitioner while performing the business. If the GST number has been obtained with the help of forged documents or with an intention to commit cheating with the department, and right from the very beginning not even a single valid transaction with regard to trade/business was performed by the petitioner, then definitely there is a very strong chance that the above mentioned act and conduct of the petitioner may fall within the ambit of cheating/forgery, defined under Indian Penal Code. On the other hand if the petitioner has been doing business in usual course and during the course of business there were certain transactions which had not actually taken place, then the petitioner may be treated to be a *bona fide* trader who with regard to certain limited transactions committed the offence under Section 132(1)(b) of the GST.

26. In order to determine above mentioned distinction the proper course available to the petitioner is to approach the learned trial Court and raised the plea taken by him at the time of defending himself. Since the learned trial Court is having an opportunity to look into the contents of final report submitted by the police along with evidence collected during the course of

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investigation, and also the evidence led during trial, only trial Court will be in a position to take a decision as to whether the offence allegedly committed by the petitioner comes within the purview of Section 420, 467, 468 and 471 of IPC or under Section 132(1)(b) of GST.

27. If the offence allegedly committed by the petitioner comes within the purview of Section 32(1)(b) of GST Act the principles of law laid down by the Hon'ble Supreme Court of India in the case of **Ashok Kumar Shamra (supra)** are also applicable wherein the Hon'ble Supreme Court upheld the verdict of Allahabad High Court whereby the FIR registered by the Police under the provisions of Drug and Cosmetic Act was quashed.

28. With regard to facts and circumstances of the present case one of the most relevant and important aspect to be taken into consideration is that in the present case the investigation already stands completed, and the final report under Section 173 Cr.P.C. (challan) has already been filed before the learned trial Court. In view of above mentioned report the learned trial Court has not only taken cognizance against the petitioner, but also the charge has been framed against the petitioner. The case is now fixed for prosecution evidence before the learned trial Court. There is nothing on record to show that at the time of framing of charge the petitioner raised any objections commensurate to the grounds taken in the present petition, and thus, the order with regard to framing of charge, which has not been challenged, has become final.

29. As far as the quashing of FIR is concerned the scope for quashing of FIR is limited as in the quashing petition this court does not have the advantage of looking into the evidence collected by the Investigating Agency.

30. In this regard the Hon'ble Supreme Court of India in the case of **Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others,**

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rendered in Criminal Appeal No.330 of 2021, has prescribed the guidelines wherein the FIR can be quashed. Those guidelines 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

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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 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. 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

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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

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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

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

31. Similarly in the case of **Sadiq B. Hanchinmani Vs. State of Karnataka, Criminal Appeal No.4728 of 2025,** the Hon'ble Supreme Court of India has ruled that police investigation should be allowed to proceed unless exceptional circumstances warrant intervention. According to Hon'ble Supreme Court of India the High Court should not interfere with the investigation when allegations in FIR disclose cognizable offences.

32. In the case of **M/s Balaji Traders Vs. The State of U.P. & Anr. 2025(3) RCR (Criminal) 175,** the Hon'ble Supreme Court of India has ruled that jurisdiction of quashing of FIR should be exercised sparingly in the 'rarest of rare cases'. As per Hon'ble Supreme Court of India allegations in FIR or complaint must be taken at face value and accepted int heir entirety to assess whether they disclose a cognizable offence.

33. In the case of **Muskan Vs. Ishaan Khan (Sataniya) Criminal Appeal No.4752 of 2025,** the Hon'ble Supreme Court of India held that the Court should not conduct a mini-trial at the stage of quashing and that quashing of FIR should be an exception and exercised sparingly in rarest of rare cases. The Hon'ble Supreme Court of India has further held that Courts cannot embark upon an enquiry as to the reliability or genuineness of allegations made in the FIR/complaint.

34. If the facts and circumstances of present case are analysed in the light of above mentioned guiding principles, it leads to the conclusion that, at this stage, when it is not possible to decipher as to whether the allegations against the petitioner comes within purview of Sections 420, 467, 468 and 174 IPC or Section 132 of GST any firm opinion cannot be rendered, as to whether

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the plea taken by the petitioner that FIR cannot be filed, and the same deserves to be quashed, is devoid of merit. Hence, finding no merit in this petition at this stage, the same is hereby dismissed. However, the petitioner shall be at liberty to take all the pleas which have been taken in this quashing petition before the learned trial Court at appropriate stage.

(SURYA PARTAP SINGH)
JUDGE

Pronounced on:31.10.2025
Manoj Bhutani

Whether speaking/reasoned Yes/No
Whether reportable Yes/No

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