

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
CRM-M-39544-2021 (O&M)

PHOOL KALI

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

1	The date when the judgment is reserved	24.08.2026
2	The date when the judgment is pronounced	25.08.2026
3	The date when the judgment is uploaded on the website	25.08.2026
4	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment and reasons thereof.	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Ms. Promila Nain, Senior Advocate with
Ms. Kanchan Kumari, Advocate and
Mr. Amit Thakur, Advocate for the petitioner

Ms. Ruchika Sabherwal, Senior DAG, Punjab

MANISHA BATRA, J.

1. The instant petition has been filed under Section 482 of the Code of Crime Procedure (for short “Cr.P.C.”) seeking quashing of FIR No.110 dated 07.06.2017 registered under Sections 212 and 213 of the IPC at Police Station Division No.4, District Ludhiana and all the consequential proceeding having emanated therefrom.
2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a complaint



submitted by ASI Kulwant Singh, posted at Police Station Division No. 4, Ludhiana, alleging therein that on 7th of June, 2023, he was conducting investigation in another case bearing FIR No.109, dated 3rd June, 2017, registered under Section 354 of IPC and Section 8 of POCSO Act, 2012, at Police Station Sub Division No.4, Ludhiana, when he received secret information that Ram Naresh, who was named as accused in the aforementioned FIR, was given shelter by his friend Ram Sewak alias Lala and was hiding himself at some unknown place. The aforementioned FIR was registered. Investigation proceedings were initiated. During investigation, the above-named Ram Naresh was apprehended along with the accused Ram Sewak and the present petitioner when they were standing at Burari Chowk, Delhi, and were waiting for somebody. Accused Ram Naresh managed to flee, whereas the present petitioner and Ram Sewak were apprehended. It was revealed that the present petitioner was wife of the accused Ram Naresh and had given shelter to her husband to avoid his arrest in case bearing FIR No.109. The petitioner was nominated as accused and was formally arrested. Investigation now stands concluded and the petitioner, along with the co-accused, is facing trial for commission of offences punishable under Section 212 and Section 213 of the Indian Penal Code.

3. It is argued by learned Senior counsel for the petitioner that she has been falsely implicated in this case. She was not named in the FIR. No material has been collected against her to show that she had given shelter to or concealed her husband i.e. accused Ram Naresh. In fact, she was running



from pillar to post in search of her husband who had not returned from his duty since the day of registration of the impugned FIR. The ingredients for commission of offence punishable under Sections 212 and 213 are not at all attracted qua her. Rather, the case of the petitioner is covered under the Exception to Section 212 and hence she could not be nominated as accused in this case. There are no chances of her conviction in this case. The allegations even if believed to be correct cannot be relied upon. It is, therefore, argued that the petition deserves to be allowed.

4. *Per contra*, learned State counsel has argued that thorough and proper investigation was conducted on the allegations as levelled in the FIR. A *prima facie* case for commission of aforementioned offences has been made out. The investigation stands concluded. There is no exceptional or sparing circumstance to quash the impugned FIR in view of the specific allegations levelled against the petitioners in the FIR as well as in the challan report. It is not a fit case for exercising powers under Section 482 of Cr.P.C.. With these assertions, it is stressed that the petition does not deserve to be allowed.

5. This Court has heard the rival submissions made by learned counsel for the parties at considerable length.

6. At the outset, this Court deems it appropriate to consider the scope of interference in the FIR that has been filed against the petitioner. An accused certainly can approach High Court under Section 482 Cr.P.C. (*which*



is pari materia with Section 528 of BNSS, 2023) or under Article 227 of the Constitution of India to have the proceedings quashed against him, when the complaint does not make out any case against him. Hon'ble Supreme Court has laid down broad principles of law relating to exercise of extraordinary power under Article 226 of the Constitution of India to quash the FIR/Challan report in a celebrated judgment cited as ***State of Haryana vs. Bhajan Lal and others, 1991 (1) RCR (Criminal) 383***, wherein it has been held that the power to quash an FIR/chargesheet can be exercised either to prevent abuse of process of Court or otherwise to secure the ends of justice. The following categories of cases have been detailed, wherein such powers can 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 F.I.R. 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.

7. The principles of law as laid down by Hon'ble Supreme Court in *Bhajan Lal's* case (supra) have been followed in a catena of judgments. In *Paramjeet Batra vs. State of Uttarakhand, (2013) 11 SCC 673*, it was observed by Hon'ble Supreme Court that although the inherent powers of a High Court under Section 482 of the Code should be exercised sparingly and only for the purpose of preventing abuse of process of any Court or otherwise to secure ends of justice, yet, the High Court must not hesitate in quashing such criminal proceedings, where essential ingredients of the offence are not made out. In *Randheer Singh vs. State of Uttar Pradesh, (2021) 14 SCC 626*, it was observed by Hon'ble Supreme Court that criminal proceedings cannot be taken recourse to as a weapon of harassment.



8. Reference can further be made to *Gian Singh vs. State of Punjab, (2012) 10 SCC 303*, wherein Hon'ble Supreme Court observed that the power of the High Court in quashing a criminal complaint or an FIR, in exercise of its inherent jurisdiction, is distinct and different from the power given to a criminal court for compounding the offences under [Section 320](#) of the Code. Inherent power is of wide plentitude with no statutory limitation but it has to be exercised in accordance with the guidelines engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court.

9. In *Dhruvaram Murlidhar Sonar vs. State of Maharashtra : 2019 (18) SCC 191*, Hon'ble Supreme Court, while reiterating the parameters as laid down in *Bhajan Lal's* case (supra), had observed that for quashing of the proceedings, meticulous analysis of factum of taking cognizance of an offence by the Magistrate was not called for. Appreciation of evidence was also not permissible in exercise of inherent powers. If the allegations set out in the complaint did not constitute the offence of which cognizance has been taken, it is open to the High Court to quash the same in exercise of its inherent powers.

10. Keeping in mind the abovementioned principles of law, let us consider as to whether in the instant case, there is any scope of interference for this Court for quashing of FIR and the consequent proceedings as initiated against the petitioner.

11. The petitioner has been booked and charge-sheeted for commission of offences punishable under Sections 212 and 213 of the IPC.



As per Section 212 of the IPC, any person who harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment, is liable for punishment. An offence under this section presupposes that some other offence has been committed by a person whom the accused harbours or conceals with the intention of screening him from legal punishment. For the purpose of Section 212 IPC,, following three ingredients are to be proved by the prosecution:

- (i) There must be an offender;
- (ii) That the offender should have already committed an offence; and
- (iii) The person accused under this section should have harboured the offender knowing that he is an offender.

12. So far as the word “**harbour**” is concerned, it is defined in Section 52A of the IPC as follows:-

“Except in section 157, and in section 130 in the case in which the harbour is given by the wife or husband of the person harboured, the word “harbour” includes supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means or conveyance, or assisting a person by any means, whether of the same kind as those enumerated in this section or not, to evade apprehension.”

The word 'harbour' is defined as follows in Law Lexicon of P. Ramanatha Aiyer, Second edition :



"In construing a statute making the harbouring or concealing of an offender a crime, it was said that the word 'harbour' is defined by Worcester 'To entertain; to shelter; to rescue; to receive clandestinely and without lawful authority'.

13. The word “**harbouring**” is defined as follows :

"**Harbouring**" means a fraudulent concealment, and hence, where slaves or prisoners ran away, and were found in the possession of defendant, who openly maintained them, and gave notice to plaintiff that he would do so until they were recovered by law there was no harbouring."

In the Webster Dictionary the word “harboured” is defined as under:-

“To shelter; to rescue; to secure; to secrete, as to harbour a thief.

The word in statute only applies when the person is harboured or concealed with knowledge that he is an offender."

14. To attract the provisions of Section 212 of IPC, it is necessary to establish commission of an offence of harbouring or concealing the person known or believed to be an offender and such harbouring etc. must be with the intention of screening the offender from legal punishment or to avoid his apprehension. However, before a person can be held guilty as an accessory, it must be shown that he expressly or impliedly assisted the offender. Mere knowledge of the whereabouts of an offender does not amount to harbouring unless the accused has done something to help the offender to evade apprehension. Then as per the Exception, Section 212 shall not extend to any



case in which the harbour or concealment is by the husband or wife of the offender. A wife screening her husband after some offence has been committed is not liable as an accessory after the fact.

15. In the instant case, admittedly and evidently, the petitioner is wife of accused Ram Naresh, who was nominated as accused in case bearing FIR No. 109 dated 03.06.2017 and was absconding. Her case is obviously covered under the Exception to Section 212, and therefore, she could not have been booked or challaned for commission of offence punishable under Section 212 of IPC on the allegations that she gave shelter to or harboured her own husband. It is apparent that this fact has not been considered by the learned trial court while taking cognizance and while framing charges against the petitioner. In view of the above discussion, it is clear that there are no chances of conviction of the petitioner for commission of offence punishable under Section 212 of the Indian Penal Code, even if the allegations in the FIR are proved to be true. As such, the FIR as well as the proceedings initiated on the basis of the same are not sustainable as against the petitioner and are liable to be quashed qua her.

16. So far as the offence under Section 213 of IPC is concerned, as per the same, any person who accepts or attempts to obtain or agrees to accept any gratification for himself or any other person, or any restitution of property to himself or any other person, in consideration of his concealing an offender or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal



punishment, is liable for punishment. The allegations as leveled against the petitioner on the face of record do not make out any case for commission of this offence at all, because there is not even an iota of allegation that the petitioner had harboured the co-accused Ram Naresh, that is, her husband, in lieu of any consideration.

17. As a fallout and consequence of the above stated legal analysis and in view of the peculiar facts and circumstances of the case, it is held that the instant one is a fit case for exercising inherent powers of this Court under Section 482 of Cr.P.C. to do real and substantial justice as the continuation of criminal proceedings against the petitioner would amount to abuse of process of law. Accordingly, the present petition is allowed and the FIR No. 110 dated 07.06.2017 registered under Sections 212 and 213 of the IPC at Police Station Division No.4, District Ludhiana as registered against the petitioner and all the proceedings having emanated therefrom are hereby ordered to be quashed.

18. Since the main petition has been disposed of, pending application, if any, is rendered infructuous.

(MANISHA BATRA)
JUDGE

25.08.2026

Amit Sharma

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No