IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE PRAMOD KUMAR AGRAWAL

MISC. CRIMINAL CASE No. 31811 of 2025

PUNIT JAIN AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Suresh Sahni with Shri Ashutosh Godbole - Advocates for petitioners.

Smt. Geeta Yadav - Government Advocate for respondent/State.

Shri Sankalp Kochar - Advocate for respondent No.2.

Reserved on : 31.10.2025

Pronounced on : 19.12.2025

ORDER

The petitioners have filed the present petition under Section 528 of BNSS, 2023 for quashment of the FIR bearing No.198/2025 registered against the petitioners at Police Station Mahila Thana, District Bhopal under Sections 85, 351(2), 3(5) of BNS and Sections 3, 4 of Dowry Prohibition Act and all consequential proceedings arising thereto.

2. As per the prosecution story, petitioners No.1 and 2 father-in-law and mother-in-law and petitioner No.3 is husband of the complainant/respondent No.2 - Disha Jain. According to the prosecution case, on 12.06.2025, respondent No.2/complainant lodged the report against petitioners alleging therein that she got married to petitioner No.3 on 04.01.2023 as per the Hindu Rites at Jaipur, Rajasthan. Father of

complainant/respondent No.2 has given all household articles, jewellery and cash. At the time of marriage, her mother-in-law and father-in-law have demanded a sum of Rs.30 lac and jewellery of Rs.10 lac. At the time of engagement, her husband, father-in-law and mother-in-law demanded Rs.10 lac which was given by the father of complainant to the petitioners. When complainant went to Japan with her husband then petitioners started torturing her and snatched all Stridhan and committed marpeet with her. They also threatened to kill her. Her husband in 2023 came to Bhopal twice and demanded Rs.50 lac from her father. Petitioner No.3/husband after consuming alcohol used to beat her. Due to threatening by her husband, complainant returned back to India. She tired her best to adjust in the petitioner's family but petitioner pressurized her either to give Rs.50 lac as dowry or to give divorce. Thereafter, the complainant filed the report. On the basis of which, Crime No.198/2025 was registered at Mahila Police Station, District Bhopal, against the petitioners.

3. Learned counsel for the petitioners submits that the petitioners are innocent and have falsely been implicated in the present crime. It is further submitted that soon after the marriage, parties shifted to Japan, but respondent No.2/complainant was not feeling happy with petitioners No.1 and 2 who were living with newly weds and started creating all kinds of ruckus and bickering on regular basis with her husband/petitioner No.3. She also compelled and coerced the petitioner No.3 to live separately in Japan and abandon his parents. It is further submitted that petitioner No.3 repeatedly asked to shift to Bhopal and live with her parents in in-laws as

son-in-law but petitioner No.3 declined it. It is further submitted that intangible torture of respondent No.2 forced the petitioner No.3 to take medical therapy to save his life.

3.1 Learned counsel for petitioners has further submitted that respondent No.2 was employee at Japan and she finally settled all her dues with the employer over there and transferred all the money to her account in India. It is further submitted that FIR has been lodged with inordinate delay for which no plausible explanation has been given. It is also contended that petitioners No.1 and 2 at the residence of petitioner No.3 in Japan and they wanted to stay there but respondent No.2 compelled her husband/petitioner No3 to ask his parents to go for vacations for two nights to Hakone (Japan). It is further submitted that petitioner No.3 and respondent No.2 were enjoying the post marriage early life very happy which is corroborated by their photographs. It is further contended that respondent No.2 with to extort money from the petitioners issued a notice dated 24.09.2024 to petitioner No.3 and asked him to respond the notice but the allegations levelled in the FIR are conspicuously silent. It is also contended that mediation proceeding occurred between the petitioner No.3/husband and respondent No.2/wife at mediation centre attached with the Delhi High Court, but no settlement could be arrived between the parties. It is further submitted that respondent No.3, who happens to be Investigating Officer, issued a notice dated 16.05.2025 under Sections 35(3)(4)(5) of BNSS and asked the petitioners to appear before him on 20.06.2025 and also issued restrain orders. Respondent No.3 also threatened them to arrest.

3.2 It is further submitted that FIR is nothing but an instrument of operation to extort the petitioners. The police is not doing the investigation in fair and impartial manner. It is further submitted that respondent No.3 was doing investigation as per the direction of respondent No.2. It is further contended that that evidence collected by the police reveals that there is no whisper or whimper qua the culpability of petitioners. It is further submitted that petitioners are being pressurized by the police to enter into compromise with respondent No.2 and her father. It is further submitted that notice of mediation (Annexure-2) received by petitioners from the counsel for respondent No.2 is conspicuously silent in the FIR. The reply of notice given by petitioners was not controverted by the respondent. It is further submitted that travel chart of respondent No.2 speaks that she was frequently travelling domestically and internationally at her wish and will. It is further submitted that allegations regarding demand of dowry and harassment are omnibus. It is further contended allegation levelled against the petitioner in the FIR, even if they are taken at their face value and accepted in its entirety, do not *prima facie* constitute any offence against the petitioners.

3.3 It is further submitted that the FIR speaks that all the allegations are generic in nature and they have been levelled to extort the petitioners. It is further submitted that in the notice (Annexure A/4) which was sent by the mediator of complainant, it is mentioned that there are temperamental differences between the parties, but in the FIR, this fact is not mentioned. It is also contended that criminal proceedings are initiated with malafide intention. It is further submitted that respondent No.2 in connivance with the

police has misused the various provisions of law. It is further submitted that as per the FIR, offence has been committed in Japan not in India, therefore, for criminal proceedings, sanction by the Central Government under Section 188 of Cr.P.C is mandatory, but in this case, no such sanction has been granted by the government. Learned counsel for petitioners has placed reliance upon the various decisions in the cases of ***Shivangi Bansal Vs. Sahib Bansal, 2025 SCC OnLine SC 1494, Geddam Jhansi and Anr. Vs. State of Telangan and Ors., (2025) INSC 160, Rajesh Chaddha and Ors. Vs. State of Uttar Pradesh and Anr., (2025), SCC OnLine SC 1094, Digambar and Anr. Vs. State of Maharashtra and Anr., (2024) SCC OnLine SC 3836, Mahmood Ali and Ors. Vs. State of Uttar Pradesh and Ors., (2023) 15 SCC 488, Kahkashan Kausar @ Sonam and Ors. Vs. State of Bihar and Ors., (2022) 6 SCC 599, Muppidi Lakshmi Narayana Reddy and Ors. Vs. State of Andhra Pradesh and Anr., (2025) SCC OnLine SC 884, Mahalakshmi and Ors. Vs. State of Karnataka and Ors., (2023) SCC OnLine SC 1622, Sandeep Singh Bais @ Anshu and Ors. Vs. State of M.P. and Anr., (2017) SCC OnLine MP 394, Satender Kumar Antil Vs. Central Bureau of Investigation and another, 2025 SCC OnLine SC 1322 and Joginder Kumar Vs. State of U.P. and others, (1994) 4 SCC 260***. Hence, he prays for quashment of the FIR as well as subsequent proceedings pending before the trial Court.

4. Counsel for the State and respondent No.2/complainant have opposed the prayer by submitting that allegation made in the FIR are not baseless or vague but they are specific, detailed and disclose the commission of cognizable offence. It disclose continuing offence wherein

wife/respondent No.2 has suffered mental and physical cruelty including dowry related demands, verbal abuse and threats to life. It is also submitted that petitioners deliberately concealed the fact that respondent No.2/wife has already filed proceedings under the Protection of Women from Domestic Violence Act, 2005 before the JMFC, Bhopal. It is further submitted that respondent No.2/wife has also filed divorce petition before the Family Court, Bhopal but the petitioners have deliberately suppressed this fact. Respondent No.2/wife also lodged the complaint before the Embassy/Consulate regarding cruelty, harassment and ill treatment meted out to her by petitioners, but the petitioners deliberately concealed this fact.

4.1 It is further submitted that suppression of aforesaid material facts indicates lack of bonafide in approaching the Court and it disentitles the petitioners from seeking any relief under Section 528 of BNSS/482 of Cr.P.C. It also reveals that petitioners have not approached this Court with clean hands. It is further submitted that this Court should not interfere at this preliminary stage as the investigation is going on. FIR was registered only after exhausting all efforts at reconciliation. It is further submitted that complainant tried to adjust in the matrimonial home, but the cruelty and harassment continued unabated and compelling her to lodge the FIR. It is further submitted that quashing of FIR would amount to pre-judging the entire case without trial which would deny the complainant's right to seek justice through due process of law. It is also contended that petitioner No.1 Punit Jain has criminal record of three cases in which he was convicted and awarded a concurrent sentence of two years each amounting to a total of six

years. There are approximately 13-14 complaints lodged against petitioner No.1.

4.2 It is further submitted that passport of Punit Jain was also impounded and he was prohibited from leaving the country, but he illegally left India in gross violation of Court's order. It is further submitted that in or around August-September 2002, petitioner No.1 Punit Jain was stopped at the Delhi Airport while attempting to flee from the country. Subsequently, he illegally crossed the Indian border via Nepal and entered Japan. The immigration authorities informed the Court about this incident through a formal letter. There is another criminal case registered against petitioner No.1 vide FIR No.7/2006 under Sections 420 and 120-B of IPC, which is still pending. In this case, he is out on bail. It is further submitted that this conduct demonstrates that petitioner No.1 is a habitual offender. It is also noteworthy to highlight that respondent No.2 was subjected to cruelty and harassment by petitioners which is clearly visible and demonstrable from the photographs. It is also contended that allegations made by the petitioners against respondent No.2 are false and baseless. Learned counsel for respondent No.2/complainant has placed reliance upon the various decisions in the cases of ***Anand Subramanium Vs. State of M.P. passed in M.Cr.C. No.16725/2020 on 06.07.2020, State of Bihar Vs. K.J.D. Singh 1994 SCC (Cri) 63, State of U.P. and Anr. Vs. Akhil Sharda and Ors., 2022 SCC OnLine SC 820, Seetha Sreenivasan Vs. State of Kerala and Anr., (2025) SCC OnLine Ker 4789, Dineshbhai Chandubhai Patel Vs. State of Gujarat and Ors., (2018), State of Madhya Pradesh Vs. Surendra Kori, (2012) 10***

SCC 155, State of Madhya Pradesh Vs. Deepak, (2019) 133 SCC 62, Kamaladevi Agrawal Vs. State of West Bengal and Ors., (2002) 1 SCC 555, Sartaj Khan Vs. State of Uttarakhand, (2022) 13 SCC 136, Savita VS. State of Rajasthan and Ors., (2005) 12 SCC 338, Ajay Aggrawal Vs. Union of India and Ors, (1993) 3 SCC 609, Pramod Kumar Rasik Bhai Jhaveri VS. Karmasey Kunvargi Tak and Ors., (2002) 6 SCC 455, Rupalli Devi Vs. State of Uttar Pradesh and Ors., (2019) 5 SCC 384, Guru Dutt Pathak Vs. State of Uttar Pradesh, (2021) 6 SCC 116, M/s Niharika Infrastructures Private Limited Vs. State of Maharashtra passed in Criminal Appeal No.330/2021, Thota Venkateshwarlu Vs. State of A.P. TR. PRINCL SEC. & Anr., (2011) 9 SCC 527, Taramani Parakh Vs. State of M.P. & Ors., (2015) 11 SCC 260, Devanandh P.P. and Ors. Vs. State of Kerala and Ors., Crl. MC No.6184/2023, Abhishek Shukla Vs. State of U.P., (2022) 5 AIILJ 421, Nerella Chiranjeevi Arun Kumar Vs. State of A.P., (2022) 3 Crimes 279 and Priya Indoria Vs. State of Karnataka and Ors., (2024) 4 SCC 749. Hence, he prayed for dismissal of this petition.

5. I have heard the counsel for the parties and perused the record.

6. Regarding quashment of FIR, complaint and criminal proceedings, the Hon'ble Apex Court in the case of ***Kamaladevi Agrawal Vs. State of W.B. (2002) 1 SCC 555*** has considered the scope and ambit of Section 482 of Cr.P.C., which reads as under :-

> *"This Court has consistently held that the revisional or inherent powers of quashing the proceedings at the initial stage should be exercised sparingly and only where the*

allegations made in the complaint or the FIR, even if taken it at the face value and accepted in entirety, do not prima facie disclose the commission of an offence. Disputed and controversial facts cannot be made the basis for the exercise of the jurisdiction."

7. In the case of ***R. Kalyani Vs. Janak C. Mehta, (2009) SCC 516***, Hon'ble Apex Court further observed that :-

Propositions of law which emerge from the said decisions are :

(1) The High Court ordinarily would not exercise its inherent jurisdiction to quash a criminal proceeding and, in particular, a First Information Report unless the allegations contained therein, even if given face value and taken to be correct in their entirety, disclosed no cognizable offence.

(2) For the said purpose, the Court, save and except in very exceptional circumstances, would not look to any document relied upon by the defence.

(3) Such a power should be exercised very sparingly. If the allegations made in the FIR disclose commission of an offence, the court shall not go beyond the same and pass an order in favour of the accused to hold absence of any mens rea or actus reus.

(4) If the allegation discloses a civil dispute, the same by itself may not be a ground to hold that the criminal proceedings should not be allowed to continue.

8. The aforesaid legal position has been reiterated in the case of ***Mahesh Chaudhary Vs. State of Rajasthan and another, (2009) 4 SCC 439***. Relevant paragraphs of the judgment are condign to quote here:-

"13. The principle providing for exercise of the power by a High Court under Section 482 of the

Code of Criminal Procedure to quash a criminal proceeding is well known. The court shall ordinarily exercise the said jurisdiction, inter alia, in the event the allegations contained in the FIR or the Complaint Petition even if on face value are taken to be correct in their entirety, does not disclose commission of an offence.

14. It is also well settled that save and except very exceptional circumstances, the court would not look to any document relied upon by the accused in support of his defence. Although allegations contained in the complaint petition may disclose a civil dispute, the same by itself may not be a ground to hold that the criminal proceedings should not be allowed to continue. For the purpose of exercising its jurisdiction, the superior courts are also required to consider as to whether the allegations made in the FIR or Complaint Petition fulfill the ingredients of the offences alleged against the accused."

9. Further, the Hon'ble Apex Court in the case of ***State of M.P. vs. Deepak [(2019) 13 SCC 62]***, reversing the order of discharging of the High Court, has enunciated the principles which the High Courts must keep in mind while exercising their jurisdiction under the provision. In this case, endorsing another case of Hon'ble Apex Court in the case of ***Amit Kapoor vs. Ramesh Chander [(2012) 9 SCC 460*** has quoted as under:-

"27. .. At best and upon objective analysis of various judgments of this Court, we are able to cull out some of the principles to be considered for proper exercise of jurisdiction, particularly, with regard to quashing of charge either in exercise of jurisdiction under Section 397 or Section 482 of the Code or together, as the case

may be:

27.2. The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents submitted therewith prima facie establish the offence or not. If the allegations are so patently absurd and inherently improbable that no prudent person can ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the Court may interfere.

27.3. ***The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.***

27.4. ***Where the exercise of such power is absolutely essential to prevent patent miscarriage of justice and for correcting some grave error that might be committed by the subordinate courts even in such cases, the High Court should be loath to interfere, at the threshold, to throttle the prosecution in exercise of its inherent powers.***

27.9. Another very significant caution that the courts have to observe is that it cannot examine the facts, evidence and materials on record to determine whether there is sufficient material on the basis of which the case would end in a conviction; the court is concerned primarily with the allegations taken as a whole whether they will constitute an offence and, if so, is it an abuse of the process of court leading to injustice.

27.13. Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, ***the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide***

admissibility and reliability of the documents or records but is an opinion formed prima facie."

10. Again, on this aspect, the verdict of Hon'ble the Apex Court in a recent judgment of ***Directorate of Enforcement Vs. Niraj Tyagi and Ors.*** reported in ***2024 LawSuit (SC) 112*** decided ***on 13.02.2024***, is significant. Paras 22, 23 & 24 are worth to be referred to the context of this case :-

"22. Recently, a Three-Judge Bench in Neeharika Infrastructure (supra) while strongly deprecating the practice of the High Courts in staying the investigations or directing not to take coercive action against the accused pending petitions under Section 482 of Cr.P.C., has issued the guidelines, which may be reproduced hereinbelow for ready reference:-
"Conclusions

33. In view of the above and for the reasons stated above, our final conclusions on the principal/core issue, whether the High Court would be justified in passing an interim order of stay of investigation and/or "no coercive steps to be adopted", during the pendency of the quashing petition under Section 482CrPC 4 2017 (2) SCC 779 and/or under Article 226 of the Constitution of India and in what circumstances and whether the High Court would be justified in passing the order of not to arrest the accused or "no coercive steps to be adopted" during the investigation or till the final report/charge-sheet is filed under Section 173 CrPC, while dismissing/disposing of/not entertaining/not quashing the criminal proceedings/complaint/FIR in exercise of powers under Section 482CrPC and/or under Article 226 of the Constitution of India, our final conclusions are as under:

33.1. Police has the statutory right and duty under the relevant provisions of the Codeb of Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence.

33.2. Courts would not thwart any investigation into the cognizable offences.

33.3. 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.

33.4. 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).

33.5. 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.

33.6. Criminal proceedings ought not to be scuttled at the initial stage.

33.7. Quashing of a complaint/FIR should be an exception rather than an ordinary rule.

33.8. 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 and one ought not to tread over the other sphere.

33.9. The functions of the judiciary and the police are complementary, not overlapping.

33.10. 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.

33.11. Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice.

33.12. The first information report is not an encyclopaedia 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.

33.13. The power under Section 482CrPC is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the court.

33.14. 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 R.P. Kapur [R.P. Kapur v. State of Punjab, 1960 SCC OnLine SC 21 : AIR 1960 SC 866] and Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , has the jurisdiction to quash the FIR/complaint.
33.15. 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.

33.16. 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 CrPC 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 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 CrPC 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/charge-sheet is filed under Section 173 Cr.P.C., while dismissing/disposing of the quashing petition under Section 482 CrPC and/or under Article 226 of the Constitution of India. 33.17. 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 CrPC 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.

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

23. The impugned orders passed by the High Court are in utter disregard and in the teeth of the said guidelines

> *issued by the Three-Judge Bench of this Court. It was sought to be submitted by the Learned Counsels for the respondents-accused that the allegations made in the FIRs are of civil nature, and have been given a colour of criminal nature. According to them, as discernible from the record, number of proceedings had ensued between the parties pursuant to the actions taken by the IHFL against the complainant-borrower for the recovery of its dues under the SARFAESI Act, and the borrower M/s Shipra after having failed in the said proceedings had filed the complaints with ulterior motives. We do not propose to examine the merits of the said submissions as the writ petitions filed by the concerned respondents-accused seeking quashing of the FIRs on such grounds are pending for consideration before the High Court. It would be open for the High Court to examine the merits of the petitions and decide the same in accordance with law.*
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> *24. Without elaborating any further, suffice it to say that judicial comity and judicial discipline demands that higher courts should follow the law. The extraordinary and inherent powers of the court do not confer any arbitrary jurisdiction on the court to act according to its whims and caprice."*

11. It is also well established that when the case is prima facie established from the material available on record it would not apposite for the High Court to quash the criminal proceedings considering the chances of conviction or acquittal. Where material evidence is available against the applicant it should be left to be decided by the trial Court which is the appropriate forum for the evaluation of the said materials and evidences. On this aspect the view of Hon'ble Apex Court recently held in the case of ***Just Rights for Children Alliance & Anr. vs. S. Harish & Ors.,*** reported in *2024 LawSuit(SC) 847* is condign to quote here as

under:-

> *189. Once the foundational facts are prima facie established from the materials on record, it would be improper for the High Court in a quashing petition to conduct an intricate evidentiary inquiry into the facts and ascertain whether the requisite mental elements are present or not. All these aspects should be left to be decided by the trial court which is the appropriate forum for the evaluation of the same, especially where the statutory presumption has been attracted prima facie from the material on record.*
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> *190. When the High Court quashes any criminal proceedings without considering the legal effect of the statutory presumption, it effectively scuttles the process of trial and thereby denies the parties the opportunity to adduce appropriate evidence and the right to a fair trial. This would not only defeat the very case of the prosecution but would also thwart the very object of a particular legislation and thereby undermine the public confidence in the criminal justice system.*

12. In so far as the contention regarding sanction is concerned, learned counsel for petitioners has submitted that the alleged offence is committed outside of the India, therefore, without previous sanction of Central Government, no investigation can be done as per Section 188 of Cr.P.C., but learned counsel for respondents has submitted that in the initial stage, sanction is not required and only on this ground FIR cannot be quashed. In this regard, learned counsel for respondents has placed reliance upon the decisions of ***Thota Venkateshwarlu (supra), Ajay Aggrawal (supra) and Nerella Chiranjeevi Arun Kumar (supra).***

13. From perusal of record, it reveals that in the FIR it is alleged that offence is not only committed in Japan but it is also committed in India and as per the allegations of FIR when she returned from Japan to India, even then petitioners tortured her. It is pertinent to mention here that in this case, only FIR has been registered and as per the aforesaid citations cited on behalf respondent No.2, sanction under Section 188 of Cr.P.C. applies only at the cognizable or trial stage, not at prerequisite for FIR/investigation. Therefore, only on this ground, FIR against the petitioners cannot be quashed at this earlier stage.

14. The decisions cited by the learned counsel for petitioners are not applicable in the present case as the facts and circumstance of the present case is different from the aforesaid decisions, because in this case, only FIR has been registered, case is at initial stage, investigation is still pending and charge-sheet has not been filed.

15. The petitioners have filed this petition under Section 528 of BNSS (old Section 482 of Cr.P.C.) for quashing for FIR.However, the question whether an application under SEction 528 BNSS (old Section 482 Cr.P.C.) is maintainable for quashing the FIR has been considered by a Two-Judge Bench of Hon'ble Apex Court in ***Pradnya Pranjal Kulkarni Vs. State of Maharashtra and another, passed in Special Leave to Appeal (Crl.) No.13424 of 2025 dated 3.9.2025*** wherein in paragraph 8, the Hon'ble Apex Court has held as under:

> *"8. However, from the preamble of the writ petition filed by the petitioner before the Bombay High Court, it*

> *is evident that the same sought to invoke the twin jurisdiction under Article 226 of the Constitution and Section 528 of the BNSS for having the FIR quashed. It is true that the police report (charge-sheet) had been filed on 14 th May, 2025 upon completion of investigation of the FIR, but whether or not cognizance had been taken by the jurisdictional magistrate is not too clear from the impugned order extracted above. So long cognisance of the offence is not taken, a writ or order to quash the FIR/charge- sheet could be issued under Article 226; however, once a judicial order of taking cognisance intervenes, the power under Article 226 though not available to be exercised, power under Section 528, BNSS was available to be exercised to quash not only the FIR/charge-sheet but also the order taking cognisance, provided same is placed on record with the requisite pleadings to assail the same and a strong case for such quashing is set up. Significantly, it was reasoned by us in Neeta Singh (supra) that a judicial order not being amenable to challenge before a high court under Article 226 of the Constitution and there being no prayer either under Article 227 thereof or Section 482, Cr.PC, the Allahabad High Court was right in holding the writ petition under Article 226 to have been rendered infructuous.*

16. Thus Hon'ble Apex Court in ***Pradnya Pranjal Kulkarni*** (supra) has clearly held that for quashing of the FIR, the High Court can exercise jurisdiction under Article 226 of the Constitution of India and if chargesheet has been submitted and cognizance has been taken and the same has been placed along with the FIR on the record, then the same can be quashed by invoking Section 528 BNSS (old section 482 CrPC).

17. From perusal of the prayer so made in the present petition, it is clear that the petitionerd have simply sought for quashing the FIR and they have not placed the charge-sheet as well as the cognizance taken on the charge-sheet by the competent Court. Thus, in view of the judgement

of Hon'ble Apex Court in ***Pradnya Pranjal Kulkarni (supra)***, since the charge-sheet and the cognizance has not been placed on record, FIR cannot be quashed by invoking the provisions of Section 528 BNSS (old section 482 CrPC). Thus, in view of the above, present petition is not maintainable also.

18. In view of the above, this Court is not inclined to quash the FIR and the consequential criminal proceedings arising out of the same. Accordingly, the petition being devoid of merits is hereby **dismissed**.

19. Before parting, it is clarified that trial Court shall not be influenced by the observations of this Court made in this order, during trial.

20. A copy of this order be sent to the trial Court concerned for necessary information and compliance.

Certified copy, as per rules.

(PRAMOD KUMAR AGRAWAL)
JUDGE

Sateesh