

HOW TO QUASH AN F.I.R UNDER SECTION 482 OF C.R.P.C?

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ABSTRACT

The power of quashing in context FIR (First Information Report) is among the inherent powers of the High Courts of India with regards to sec 482 of code of criminal procedure 1973. The section envisages three circumstances within which the inherent jurisdiction to stop abuse of the process of the court, To secure the ends of justice. This section provides for the courts power for providing correct justice and conjointly is ought to be exercised to prevent the general public from filing fictitious complaints.

Keywords : quashing , inherent power, abuse

RESEARCH METHODOLOGY:

The researchers utilized an exploratory research system based on past literature from annual reports,

Newspapers, journals and publications covering wide gathering of scholastic writings.

OBJECTIVE OF THE STUDY:

To Research: how F.I.R. is quashed under sec. 482 of C.R.P.C.? What are general rules and principle followed by the court in exercise of its power under sec 482 C.P.R.C. for quashing F.I.R.?

INTRODUCTION

The power of quashing in context FIR (First Information Report) is among the inherent powers of the High Courts of India with regards to sec 482 of code of criminal procedure 1973, Courts possessed this power even before the enactment of code of criminal procedure 1973. The provision under sec 482 was appended by an amendment in 1923, which is a reproduction of the

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section 561(A) of the 1898 code. Impetuous being high courts were unable to render justice even in cases in which the abuse of justice was palpable and apparent, the section was created so as to nudge the subordinate court that they exist to prevent injustice done by them .

MEANING OF INHERENT POWER OF THE COURT AND ITS EXERCISED

The section envisages three circumstances within which the inherent jurisdiction is also exercised, namely:

1. To offer impact to associate order under Code Of Criminal Procedure ,1973,
2. To stop abuse of the process of the court,
3. To secure the ends of justice.

It comes into operation in order passed by the court while it acts judiciously. Order passed in administrative capacity has no application .though the power under the provision is wide in its scope it is rule of practice that its exercise will be done made in exceptional case exercised in exceptional cases. The inherent power of the court is an inalienable attribute of the position it holds with relation to the courts subordinate to it. These powers are partly judicial and partly administrative.

Under Code of criminal procedure, inherent powers are vested solely within the high courts and therefore the courts subordinate to the high courts don't have any inherent powers. In *Bindeshwari Prasad Singh v Kali Singh*², the Supreme Court held that a magistrate has no inherent power to restore a complaint dismissed in default. In a continuing under section 482, the Supreme Court won't enter into any finding of facts, notably once the matter has been terminated by coincidental finding of facts of two subordinate courts.

It is well settled that the inherent powers below section 482 will be exercised only no alternative remedy is out there to the litigator and NOT wherever a particular remedy is provided by the statute. It can't be used if it's inconsistent with specific provision provided below the Code.- *B.S. Joshi v. State of Haryana*³(AIR 2003 SC 1386). If an

² Bindeshwari Prasad Singh v Kali Singh S.C.R.[1977] 1 (SC)125

³*B.S. Joshi v. State of Haryana* AIR 2003 (SC) 1386

effective alternative remedy is available, the high court will not exercise its powers under this section, especially when the applicant may not have availed of that remedy.

Test To Work Out Whether Or Not There Has Been An Abuse Of Any Court Are:-

1. See whether or not a blank statement of facts of case would be decent to persuade HC if it's a work case for interference at intermediate stage.
2. Whether or not within the admitted circumstances it might be a mock trial if case is allowed to proceed.

According to sec 26 of code of criminal procedure ,1973 are divided into⁴:

1). Offences under Indian penal code (IPC) triable by HC, Sessions Court and different court shown within the first Schedule to the CODE OF CRIMINAL PROCEDURE ,1973. 2). Offences under the other law empowers HC once no court is mentioned for any offence beneath any law although Indian penal 482 deals with Inherent powers of the court into action once the court acts judicially and passes an order. If order is lapsed executive officer of State in administrative capacity it's no application. Thus persons aggrieved by such order cannot by law among that means of Art 21⁵ of Constitution consequently any order of HC in violation of any right under Art 21 will not be declared ultra vires.

The three functions specifically mentioned within the section. This inherent power cannot naturally be invoked in respect of any matter lined by the particular provisions of the Code. It cannot even be invoked if its exercise would be inconsistent with any of the particular provisions of the Code. It's as long as the matter in question isn't lined by any specific provision of the Code that Section 482 will acquire operation, subject further to the necessity that the exercise of such power should serve any of the three functions mentioned within the aforesaid section.

QUASHING FIR UNDER SEC 482 OF CODE OF CRIMINAL PROCEDURE

⁴Albabalam 2015Quashing of FIR/Criminal Proceedings Under Section 482 of CrPC Available at: <http://http://www.legalserviceindia.com/legal/article-187-quashing-of-fir-criminal-proceedings-under-section-482-of-crpc.html.html> [Accessed 20 sep. 2018].

⁵ Indian constitution ,1950

Black's law dictionary⁶ defines quash on *overthrow / to abate / to vacate / to annul / to create void*. In simplest terms, quashing of criminal proceedings would mean ceasing the legal machinery that had been set in motion.

Section 482 of Code Of Criminal Procedure, 1973 says, "Saving of inherent powers of high court Nothing under this Code shall be deemed to limit or impact on} the inherent powers of the tribunal to form such orders as could also be necessary to provide effect to any order under this Code, or to forestall abuse of the method of any Court or otherwise to secure the ends of justice."

General Rules Governing Quashing Of F.I.R.:

1)Prima facie no case is being created. 2) The allegations are too absurd.3) Meek likelihood of defendant committing the crime. 4) To prevent abuse of court's method via filing false cases.5) to secure the ends of justice that makes no sense delay within the outcome and no purpose is serve with .6) running a case for imprecise cause.6) Grave injustice being done to the party.

Principle lay down by the court for quashing of F.I.R. under sec 482 Code Of Criminal Procedure, 1973

In the case of *ParbatbhaiAahir&Ors. Vs. State of Gujarat &Anr*⁷, the High Court observed that it had been given "a fair idea" about the *modus operandi* adopted by the Appellants for grabbing the land, in the course of which they had opened bogus bank accounts. The High Court held that the case involves extortion, forgery and conspiracy and all the Appellants have acted as a team. Hence, in the view of the High Court, it was not in the interest of society at large to accept the settlement and quash the FIR. The High Court held that the charges are of a serious nature and the activities of the appellants render them a potential threat to society. On this ground, the prayer to quash the First Information Report was rejected by the High Court.

The Hon'ble Supreme Court after discussing various precedents on the subject summarized the following broad principles in relation to Section 482 for quashing FIRs.

⁶Black's Law Dictionary 126 (9th ed. 2009)

⁷ ParbatbhaiAahir&Ors. Vs. State of Gujarat & ANR. SCC(2017) 9 (SC)641

- i. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognizes and preserves powers which inhere in the High Court;
- ii. The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.
- iii. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;
- iv. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised;
 - a. to secure the ends of justice or
 - b. to prevent an abuse of the process of any court;
- v. The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;
- vi. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;
- vii. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

- viii. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;
- ix. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

There is yet an exception to the principle set out in propositions (viii) and (ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanor. The consequences of the act complained of upon the financial or economic system will weigh in the balance.

Thus to secure the ends of justice of secure ends of justice”- HC can interfere. it is of significant importance within the administration of justice, and guarantee correct freedom and independence of Judges should be maintained and allowed to perform their functions freely and intrepidly while not undue influence on anyone, as SC in *MadhuLimaye v. state of Maharashtra*⁸, has control the subsequent principles would govern the exercise of inherent jurisdiction of the HC:

1. Power isn't to be resorted to if there's specific provision in code for redress of grievances of aggrieved party.
2. It ought to be exercised meagerly to forestall abuse of method of any Court or otherwise to secure ends of justice.
3. It mustn't be exercised against the categorical bar of the law engrafted in the other provision of the code.

It is neither possible nor practicable to lay down thoroughly on what ground the jurisdiction of the high court below Section 482 of the Code of Criminal Procedure ought to be exercised. However some attempts are made therein behalf in a number of the decisions of this Court.

⁸*MadhuLimaye v. state of Maharashtra* SCC(1977) 4(SC)551

CONCLUSION

Section 482 Code of Criminal Procedure, 1973 contains a very wide scope and it's very necessary for the courts to use it properly and sagely. It had been widely noticed, even in disputes related to money FIR against the opposite person simply to harass him. In such cases it becomes important for the High Courts to quash such complaints because it ends up in the abuse of the process of the lower courts. This section would modify the courts for providing correct justice and conjointly ought to be exercised to prevent the general public from filing fictitious complaints just to fulfill their personal grudges. Power under Section 482 Code of Criminal Procedure, 1973, can be exercised only to "*secure the ends of justice*" and to prevent "*the abuse of the process of court*". The High Court ought not to have by-passed the procedure in the exercise of inherent power under the provision, which in any case have to be sparingly exercised.