

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MMO No.101 of 2025
Date of Decision: 23.06.2026

Rishi Bhardwaj		Petitioner
	Versus	
State of H.P. & Others.		Respondents

Coram:

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting? ¹ Yes.

For the petitioner: Ms. Nidhi Sharma & Ms. Narvada,
Advocates.

For the Respondents: Mr. Rajan Kahol & Mr. Vishal Panwar,
Additional Advocates General with Mr. Ravi
Chauhan & Mr. Anish Banshtu, Deputy
Advocates General, for respondents No.1 to
3-State.

Mr. Vikas Rajput, Advocate, for respondent
No.4.

Ms. Sanjeev K. Suri, Advocate, for
respondent No.5.

Sandeep Sharma, Judge(oral):

By way of instant petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, prayer has been made on behalf of the petitioner for quashing of FIR No.252 of 2016, dated 18.10.2016, under Sections 195-A, 504, 506 and 120-B of IPC, registered at Police Station, Indora, District Kangra, Himachal Pradesh as well as consequent proceedings pending in the Court of learned Additional Chief Judicial Magistrate, Nurpur, District Kangra, Himachal Pradesh.

¹ Whether the reporters of the local papers may be allowed to see the judgment?

2. Quintessential facts, as emerge from the pleadings as well as other material adduced on record by the respective parties, are that FIR, sought to be quashed in the instant proceedings, came to be lodged at the behest of respondent No.4, Sh. Sanjeev Kumar Lakha, who, at the relevant time, was working as a Assistant District Attorney (**for short 'ADA'**), Indora, District Kangra, Himachal Pradesh, alleging therein that on 18.10.2016, petitioner had made a call on mobile No.9816801751 three times between 10.00 AM to 10.15 A.M and extended threats to kill him as well as his wife in the event of their appearing as witnesses in Sessions Trial No.289 of 2015 pending in the Court of learned Sessions Judge, Una, District Una, Himachal Pradesh. Complainant also alleged that accused, named in the FIR i.e. petitioner herein, also pressurized them to compromise the matter and in lieu of which, he would pay them Rs. 10 lakh. Complainant alleged that though he refused to enter into the compromise, but yet accused abused and extended threats to kill him and ensure that he is removed from the job as his Uncle is working in the Office of Secretary (Home) Government of Himachal Pradesh. Though, after completion of the investigation, police has already presented the challan in the competent Court of law, but before same could be taken to its logical ends, petitioner has approached this Court in the instant proceedings for quashing of the FIR on the ground

that no case muchless under Sections 195-A, 504, 506 and 120-B of IPC is made out against the petitioner.

3. Ms. Nidhi Sharma, learned counsel representing the petitioner, vehemently argued that FIR, sought to be quashed, has been lodged by respondent No.4, who is working as ADA, with an intention to harass the petitioner, who is also a practising lawyer at Una. She stated that bare perusal of contents of the FIR itself suggests that no case is made out under aforesaid provisions of law. She stated that bare perusal of call details report (CDR) annexed with the challan filed under Section 173 Cr.P.C itself suggests that first call was made by the petitioner on mobile No. 9805166997 and thereafter three calls were made from the phone of the petitioner for the reason that person on the other phone was not audible. She submitted that otherwise also, all the three calls were of very short duration, in which conversation, if any, *inter se* petitioner and complainant, as detailed in the FIR, could not have been made. She submitted that very object and purpose of lodging FIR, sought to be quashed, at the behest of the complainant is/was to ensure that bail granted in favour of the petitioner in Sessions Trial No.289 of 2015 is cancelled. She stated that otherwise also, complainant has inimical relation with the petitioner with whom number of litigation is pending. Lastly, learned counsel for the petitioner argued that challan under Section 173 Cr.P.C in the FIR, sought to be quashed, was scrutinized by the

complainant, who at the relevant time was working as ADA in the Court concerned. He firstly made complaint and then ensured filing of challan under Section 173 Cr.P.C, which act of him itself suggests that complainant is hell-bent in falsely implicating the petitioner.

4. To the contrary, Mr. Vishal Panwar, learned Additional Advocate General, while supporting the impugned action of the respondents, submitted that bare perusal of the material collected on record by the prosecution, clearly establishes case against the petitioner under Sections 195-A, 504, 506 and 120-B of IPC. He submitted that whether petitioner-accused had made telephonic call, as detailed in the CDR, is a question to be decided by the learned trial Court in totality of evidence, but certainly at this stage prayer made on behalf of the petitioner for quashing of the FIR cannot be accepted. While fairly admitting that challan sought to be quashed in the instant proceedings was securitized by the complainant in the capacity of ADA, he submitted that there is nothing wrong in the same.

5. Mr. Vikas Rajput, learned counsel representing the respondent/complainant, also adopted the arguments raised at the behest of learned Additional Advocate General. In addition to afore arguments, he submitted that present petition is not maintainable because earlier petition filed for quashing of FIR was withdrawn without there being any liberty to file afresh. In support of his aforesaid submissions, he placed reliance upon the judgment passed

by Hon'ble Apex Court in case titled **M.C. Ravi Kumar vs. D.S.Velmurugan and others, 2025 SCC Online SC 1498.**

6. Crux of the arguments raised at the behest of the respondents is that allegations made in the complaint prima facie disclose that commission of criminal offences and evidence collected on record by the prosecution is sufficient to prove the guilt of the petitioner under aforesaid provisions of law.

7. I have heard learned counsel representing the parties and gone through the record carefully.

8. Having heard learned counsel representing the parties and perused the material available on record vis-à-vis contents of the FIR, sought to be quashed, this Court finds that wife of the complainant, who is also practising lawyer, had lodged one complaint i.e. FIR No.289 of 2015, under Sections 341,354, 323, 506 of IPC and Section 3(1)(r)(s) of SC/ST Act against the petitioner, alleging therein that petitioner-accused not only hurled abuses, but also behaved indecently and called her by caste. Police, after having completed the investigation in the aforesaid FIR, presented the challan in the competent Court of law i.e. Sessions Trial No.289 of 2015. Allegedly, on 18.10.2016, petitioner-accused made telephonic call to the complainant, who happens to be husband of the complainant in afore sessions trial, that in case he as well as his wife deposes against him in the afore Sessions Trial, he would kill them. Allegedly, petitioner

also compelled the complainant as well as his wife to compromise the case and in lieu thereof, he is ready to pay sum of Rs. 10 lakh to them. After receipt of aforesaid telephonic call, FIR, sought to be quashed, came to be instituted against the petitioner, who has approached this Court in the instant proceedings for quashing of the FIR.

9. Before ascertaining the genuineness and correctness of the submissions and counter-submissions having been made by the learned counsel for the parties vis-à-vis prayer made in the instant petition, this Court deems it necessary to discuss/elaborate upon the scope and competence of this Court to quash the criminal proceedings, while exercising power under Section 482 of Cr.PC (now 528 of BNSS).

10. A three-Judge Bench of the Hon'ble Apex Court in case titled **State of Karnataka v. L. Muniswamy and others**, 1977 (2) SCC 699, held that High Court while exercising power under Section 482 Cr.PC is entitled to quash the proceedings, if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed.

11. Subsequently, in case titled **State of Haryana and others v. Bhajan Lal and others**, 1992 Supp (1) SCC 335, the Hon'ble Apex Court, while elaborately discussing the scope and

competence of High Court to quash criminal proceedings under Section 482 Cr.PC laid down certain principles governing the jurisdiction of High Court to exercise its power. After passing of aforesaid judgment, issue with regard to exercise of power under Section 482 Cr.PC, again came to be considered by the Hon'ble Apex Court in case bearing Criminal Appeal No.577 of 2017 (arising out of SLP (CrL.) No. 287 of 2017) titled ***Vineet Kumar and Ors. v. State of U.P. and Anr.***, wherein it has been held that saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose i.e. court proceedings ought not be permitted to degenerate into a weapon of harassment or persecution.

12. The Hon'ble Apex Court in **Prashant Bharti v. State (NCT of Delhi)**, (2013) 9 SCC 293, relying upon its earlier judgment titled as **Rajiv Thapar and Ors v. Madan Lal Kapoor**, (2013) 3 SCC 330, reiterated that High Court has inherent powers under Section 482 Cr.PC., to quash the proceedings against an accused, at the stage of issuing process, or at the stage of committal, or even at the stage of framing of charge, but such power must always be used with caution, care and circumspection. In the aforesaid judgment, the Hon'ble Apex Court concluded that while exercising its inherent jurisdiction under Section 482 of the Cr.PC, Court exercising such power must be fully satisfied that the material produced by the

accused is such, that would lead to the conclusion, that his/their defence is based on sound, reasonable, and indubitable facts and the material adduced on record itself overrule the veracity of the allegations contained in the accusations levelled by the prosecution/complainant. Besides above, the Hon'ble Apex Court further held that material relied upon by the accused should be such, as would persuade a reasonable person to dismiss and condemn the actual basis of the accusations as false. In such a situation, the judicial conscience of the High Court would persuade it to exercise its power under Section 482 of the Cr.P.C. to quash such criminal proceedings, for that would prevent abuse of process of the court, and secure the ends of justice.

13. It is quite apparent from the bare perusal of aforesaid judgments passed by the Hon'ble Apex Court from time to time that 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/her due to private and personal grudge, High Court while exercising power under Section 482 Cr.PC can proceed to quash the proceedings.

14. The Hon'ble Apex Court in case titled **Anand Kumar Mohatta and Anr. v. State (Government of NCT of Delhi) Department of Home and Anr**, AIR 2019 SC 210, has held that abuse

of process caused by FIR stands aggravated if the FIR has taken the form of a charge sheet after investigation and as such, the abuse of law or miscarriage of justice can be rectified by the court while exercising power under Section 482 Cr.PC. The relevant paras of the judgment are as under:

16. Even otherwise it must be remembered that the provision invoked by the accused before the High Court is Section 482 Cr. P.C and that this Court is hearing an appeal from an order under Section 482 of Cr.P.C. Section 482 of Cr.P.C reads as follows:-

“482. Saving of inherent power of the High Court.- Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”

17. There is nothing in the words of this Section which restricts the exercise of the power of the Court to prevent the abuse of process of court or miscarriage of justice only to the stage of the FIR. It is settled principle of law that the High court can exercise jurisdiction under Section 482 of Cr.P.C even when the discharge application is pending with the trial court (G. Sagar Suri and Anr. V. State of U.P. and Others, (2000) 2 SCC 636 (para 7), Umesh Kumar v. State of Andhra Pradesh and Anr. (2013) 10 SCC 591 (para 20). Indeed, it would be a travesty to hold that proceedings initiated against a person can be interfered with at the stage of FIR but not if it has advanced, and the allegations have materialized into a charge sheet. On the contrary it could be said that the abuse of process caused by FIR stands aggravated if the FIR has taken the form of a charge sheet after investigation. The power is undoubtedly conferred to prevent abuse of process of power of any court.”

15. Aforesaid law, clearly stipulates that court can exercise power under Section 482 of the Code of Criminal Procedure(now Section 528 of BNSS), to quash criminal proceedings, in cases, 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.

16. Now being guided by the aforesaid proposition of law laid down by the Hon'ble Apex Court, this Court would make an endeavor to examine and consider the prayer made in the instant petition vis-à-vis factual matrix of the case.

17. To ascertain the correctness of aforesaid submission of the petitioner, this Court finds it necessary to take note of Sections 195-A, 504 and 506 of IPC, which reads as under:-

195A. Threatening any person to give false evidence.—

Whoever threatens another with any injury to his person, reputation or property or to the person or reputation of any one in whom that person is interested, with intent to cause that person to give false evidence shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both; and if innocent person is convicted and sentenced in consequence of such false evidence, with death or imprisonment for more than seven years, the person who threatens shall be punished with the same punishment and sentence in the same manner and to the same extent such innocent person is punished and sentenced.

“Section 504 of IPC:- Intentional insult with intent to provoke breach of the peace.

Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Section 506 of IPC:- Punishment for criminal intimidation

Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

If threat be to cause death or grievous hurt, etc – and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

120B. Punishment of criminal conspiracy.—

(1)Whoever is a party to a criminal conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2)Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.

18. Bare perusal of Section 195-A IPC provides that whoever threatens another with any injury to his person, reputation or property with intent to cause that person to give false evidence shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both. If the allegation contained in the FIR sought to be quashed is perused, there is no such allegation that petitioner herein ever attempted to compel the complainant or his wife to give false evidence, rather precise allegation is that he allegedly threatened the complainant and his wife to dissuade them from giving evidence against him in Sessions Trial No. 289 of 2015 pending adjudication before the learned Sessions Judge, Una.

19. Reliance is also placed upon the judgment rendered by Hon'ble Apex Court in **Salib @ Shalu @ Salim vs. State of U.P & others**, passed in Criminal Appeal No.2344 of 2023, wherein it has been held as under:-

“15. There is a different angle to this matter. It appears that the investigating agency has invoked [Section 195A](#) of the IPC. [Section 195A](#) of the IPC reads thus:-

“Section 195A. Threatening any person to give false evidence.— Whoever threatens another with any injury to his person, reputation or property or to the person or reputation of any one in whom that person is interested, with intent to cause that person to give false evidence shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both;

and if innocent person is convicted and sentenced in consequence of such false evidence, with death or imprisonment for more than seven years, the person who threatens shall be punished with the same punishment and sentence in the same manner and to the same extent such innocent person is punished and sentenced.”

16. A plain reading of the aforesaid provision indicates that if any individual is threatened with any injury to his person, reputation or property and such threats are administered with intent to cause that person to give false evidence, the same would constitute an offence under [Section 195A](#) of the IPC. In our opinion, none of the ingredients to constitute the offence punishable under [Section 195A](#) of the IPC are disclosed, on plain reading of the FIR and the further statement of the first informant including the statement of the so-called eye witness. The allegation in the FIR is that the accused persons threatened and pressurized the first informant to withdraw her first FIR bearing No. 122 of 2022 registered for the offences punishable under Sections 376D, 323, 120B, 354A and 452 resply of the [IPC](#). There is nothing to indicate that the accused persons threatened the first informant with intent that the first informant gives false evidence before the Court of law. The later part of Section 195A makes it very clear that false evidence means false evidence before the Court of law. On such false evidence if a person is convicted and sentenced, then the person found guilty of administering threats would be liable to be punished with the same punishment and sentence in the same manner and to the same extent as such innocent person is punished and sentenced. The word “false” in Section 195A should be read in the context with what has been explained in [Section 191](#) of the IPC which falls in Chapter XI – of False Evidence and Offences Against Public Justice. Thus, even if we believe the allegations levelled in the FIR

to be true, none of the ingredients to constitute the offence punishable under Section 195A are disclosed. To give threat to a person to withdraw a complaint or FIR or settle the dispute would not attract [Section 195A](#) of the IPC.

20. Having carefully perused the basic ingredients of Sections 504 IPC, this Court is persuaded to agree with learned counsel for the petitioner that no case much less under aforesaid provision of law is made out against the petitioner. Bare perusal of Section 504 IPC, which has been reproduced hereinabove, suggests that whoever intentionally insults, and thereby gives provocation to any person with the intent or knowledge that such insult would provoke either disturbance of public peace, or commission of any offence, shall be liable to be punished with imprisonment for a term, which may extend to two years or with fine, or with both. Section 504 of Indian Penal Code comprises of the following ingredients viz.:- (a) intentional insult, (b) the insult must be such as to give provocation to the person insulted, and (c) the accused must intend or know that such provocation would cause another to break public peace or to commit any other offence. The intentional insult must be of such a degree that should provoke a person to break public peace or to commit any other offence. If a person intentionally insults another, intending or knowing it to be likely that such insult will provoke that person and such provocation is likely to cause a breach of the public peace or the commission of any other offence, then the ingredients of Section 504 of the Indian Penal Code can be said to be satisfied. One

of the essential elements constituting the offence is that there should have been an act or conduct amounting to intentional insult and the mere fact that the accused abused the complainant, as such, is not sufficient by itself to warrant a conviction under Section 504 Indian Penal Code. Reliance in this regard is placed upon the judgment passed by the Hon'ble Apex Court in ***Fiona Shrikhande v. State of Maharashtra [Fiona Shrikhande v. State of Maharashtra, (2013) 14 SCC 44 : (2014) 1 SCC (Cri) 715 : AIR 2014 SC 957]***. While placing reliance upon its earlier judgment passed in ***Fiona Shrikhande*** (supra), Hon'ble Apex Court, in case titled ***Madhushree Datt Vs. State of Karnataka and another*** along with ***Badrinarayana Jaganathan Vs. State of Karnataka and another, (2025) 3 Supreme Court Cases 612***, decided on 24.01.2025, reiterated that mere act of insulting someone, does not fulfill requirement of Section 504 of Indian Penal Code, rather insult, must be of such a nature as to provoke the person insulted to breach the public peace or engage in criminal conduct.

21. Allegedly, in the case at hand, petitioner on the date of alleged incident telephonically extended threats to the complainant that in case he and his wife deposes against him in Sessions trial No.289 of 2015 pending adjudication before the learned Sessions Judge, Una, he would kill them. Besides above, he allegedly also attempted to persuade complainant as well as his wife to settle the

dispute in lieu of Rs. 10 lakh. Aforesaid allegations nowhere constitute offence, if any, punishable under Section 504 of IPC. Mere hurling of abuses and filthy expressions, if any, by the petitioner, is not sufficient to conclude that he had intentionally provoked the complainant to commit breach of public peace or to commit any other offence. Even if for the sake of arguments, allegations contained in the FIR are taken into consideration as they are, those cannot be said to be sufficient to provoke the complainant or his wife to commit breach of public peace or to commit any other offence.

22. The background facts, circumstances, the occasion, the manner in which words were used, the person or persons to whom they were addressed, the time and the conduct of the person who indulged in such actions are all relevant factors to be borne in mind while examining a complaint lodged for initiating proceedings under Section 504 of Indian Penal Code. Therefore, from the material on record, the ingredients of offence under Section 504 of Indian Penal Code, as taken note hereinabove, are not satisfied. Again for ascertaining whether *prima facie* the provision of Section 506 of Indian Penal Code is made out, this Court need to read said provision juxtaposing contents of FIR. Section 506 of Indian Penal Code provides for punishment for alleged act of criminal intimidation, which is otherwise defined under Section 503 of Indian Penal Code. Bare reading of definition of “Criminal intimidation” reveals that there must

be an act of threatening another person with injury to his person, reputation, or property, or to the person, reputation, or property of anyone in whom the threatened person is interested. Most importantly, the threat must be made with the intent to cause alarm to the person threatened or it must be to do any act which he is not legally bound to do or omit to do an act which he is legally entitled to do.

23. Allegations contained in the FIR cannot be read in piece meal, rather same are required to be read in conjunction. Allegedly, petitioner made telephonic call to the complainant, thereby calling upon him as well as his wife not to depose against him in Sessions Trial No.289 of 2015, lest he would kill them. Most importantly, while doing so, complainant allegedly made an attempt to prevail upon complainant's wife to settle the matter for sum of Rs. 10 lakh, meaning thereby attempt, if any, of the petitioner was to settle the dispute with the complainant's wife amicably, but while doing so, he also allegedly extended threats.

24. Most importantly, to establish an offence of criminal intimidation, it is incumbent upon the prosecution to establish that accused had the intention to cause alarm to the complainant or person threatened. There is nothing in the complaint, on the basis of which, FIR came to be instituted, to suggest that petitioner had extended threats with an intent to cause alarm to the complainant,

rather same can be presumed to have been extended to express his anguish for false implication in the case i.e. Sessions Trial No.289 of 2015.

25. At this stage, this Court finds it necessary to take note of the fact that complainant in the case at hand is ADA and his wife was a practising lawyer at Una, where petitioner at present is a practising lawyer. Prior to lodging of the FIR, sought to be quashed, wife of the complainant lodged one complaint against the petitioner, as has been taken note hereinabove, on the basis of which, Sessions Trial No. 289 of 2015 came to commence against the petitioner in the Court of learned Sessions Judge, Una. Admittedly, in the aforesaid ST No.289 of 2015 petitioner stood enlarged on bail. Wife of the complainant approached this Court under relevant provisions of law for cancellation of bail. Interestingly, application for cancellation of bail came to be filed by the complainant after his having lodged FIR sought to be quashed, wherein he alleged that threats were extended to him as well as his wife by the petitioner to not depose against him in aforesaid sessions trial.

26. Most importantly, complainant himself being ADA scrutinized the challan, which was prepared by the police after investigation in the complaint filed by the complainant. Once complaint on the basis of which, FIR came to be instituted was made by the complainant, there was no occasion, if any, for him to scrutinize the

challan, rather in that situation he ought to have referred the matter to District Attorney for getting the challan scrutinized from other Officer. Since there is/ was a conflict of interest, this Court is compelled to draw an inference that complainant was hell-bent to ensure that criminal prosecution is launched against the petitioner and he is convicted. On account of aforesaid conduct of the complainant, possibility of his having influenced the investigation also cannot be ruled out. Though, inquiry was initiated against the complainant for his aforesaid conduct, but therein it came to be concluded that such act of the complainant was not deliberate. However, this Court sees no reason to agree with aforesaid conclusion drawn by the Inquiry Officer. Once, it is not in dispute that challan, which the complainant scrutinized, was prepared on the basis of investigation carried out in the complaint lodged by the complainant, act of his scrutinizing challan itself raises suspicion and amounts to conflict of interest.

27. In afore background, this Court is persuaded to conclude that prima-facie ingredients of Section 506 of Indian Penal Code are not disclosed against the petitioner.

28. At this stage, this Court intends to take note of two judgments passed by Hon'ble Apex Court, which very aptly applies to the present case. In ***Fiona Shrikhande*** (supra), Hon'ble Apex Court, while interpreting Section 504 of Indian Penal Code, held that to attract said offence, there must be an act or conduct on the part of the

accused, which must amount to intentional insult to a person with knowledge that it would provoke him to break public peace or to commit any other offence. Relevant paras of the afore judgment are extracted herein below:-

“13. Section 504IPC comprises of the following ingredients viz. : (a) intentional insult, (b) the insult must be such as to give provocation to the person insulted, and (c) the accused must intend or know that such provocation would cause another to break the public peace or to commit any other offence. The intentional insult must be of such a degree that should provoke a person to break the public peace or to commit any other offence. The person who intentionally insults intending or knowing it to be likely that it will give provocation to any other person and such provocation will cause to break the public peace or to commit any other offence, in such a situation, the ingredients of Section 504 are satisfied. One of the essential elements constituting the offence is that there should have been an act or conduct amounting to intentional insult and the mere fact that the accused abused the complainant, as such, is not sufficient by itself to warrant a conviction under Section 504IPC.

14. We may also indicate that it is not the law that the actual words or language should figure in the complaint. One has to read the complaint as a whole and, by doing so, if the Magistrate comes to a conclusion, prima facie, that there has been an intentional insult so as to provoke any person to break the public peace or to commit any other offence, that is sufficient to bring the complaint within the ambit of Section 504IPC. It is not the law that a complainant should verbatim reproduce each word or words capable of provoking the other person to commit any other offence. The background facts, circumstances, the occasion, the manner in which they are used, the person or persons to whom they are

addressed, the time, the conduct of the person who has indulged in such actions are all relevant factors to be borne in mind while examining a complaint lodged for initiating proceedings under Section 504 IPC.”

(emphasis supplied)

29. In **Madhushree Datt** (supra), Hon'ble Apex Court had an occasion to deal with the applicability of Sections 504, 506 and 507 of Indian Penal Code. Relevant paras of the afore judgment are extracted hereinbelow:-

“22. The next question for determination is, whether the mere assertion of “filthy language” allegedly used by the appellants in scolding the complainant, is sufficient to establish commission of offences under Sections 504 and 509IPC.

23. In the above context, it would be apt to consider the provisions contained in Section 504IPC.

24. A perusal of Section 504 IPC reveals that a mere act of insulting someone does not fulfil its requirements; the insult must be of such a nature that it provokes the person insulted to breach the public peace or engage in criminal conduct. Therefore, to establish the ingredients of Section 504 IPC, it must be demonstrated, based on the available material, that there was intentional insult with the intent or knowledge that such insult would provoke either disturbance of the public peace or the commission of any other offence.

26. In the instant case, the charge-sheet states that the appellants used “filthy language” while scolding the complainant; however, no such allegation is made against the appellants in the complaint. Furthermore, it is nowhere alleged that this act of using filthy language and insulting the complainant by the appellants, has provoked the complainant to commit breach of public peace or to commit any other offence. Therefore, from the materials on record,

the ingredients of the offence under Section 504IPC, as explained in the abovesaid decision, are not satisfied.

27. For ascertaining whether, prima facie, the provision of Section 509IPC was attracted, it is essential to first understand the meaning of the term “modesty”, to determine whether modesty has been insulted. While modesty is not explicitly defined in IPC, this Court has addressed the essence of a woman's modesty in the decision in Ramkripal v. State of M.P. [Ramkripal v. State of M.P., (2007) 11 SCC 265 : (2008) 1 SCC (Cri) 674] Excerpts from the decision read as under : (SCC pp. 266-67, para 7)

“7. ... ‘12. What constitutes an outrage to female modesty is nowhere defined in IPC. The essence of a woman's modesty is her sex. The culpable intention of the accused is the crux of the matter. The reaction of the woman is very relevant, but its absence is not always decisive. Modesty in this Section is an attribute associated with female human beings as a class. It is a virtue which attaches to a female owing to her sex.’ ”

(emphasis supplied)

28. Further, this Court while discussing the test for outraging the modesty of a woman under Section 509IPC in Rupan Deol Bajaj v. Kanwar Pal Singh Gill [Rupan Deol Bajaj v. Kanwar Pal Singh Gill, (1995) 6 SCC 194 : 1995 SCC (Cri) 1059] , observed as under : (SCC p. 206, para 15)

“15. In State of Punjab v. Major Singh [State of Punjab v. Major Singh, 1966 SCC OnLine SC 51 : AIR 1967 SC 63] a question arose whether a female child of seven-and-a-half months could be said to be possessed of “modesty” which could be outraged. In answering the above question Mudholkar, J., who along with Bachawat, J. spoke for the majority, held that when any act done to or in the presence of a woman is clearly suggestive of sex according to the common notions of mankind that must fall within the

mischief of Section 354IPC. Needless to say, the “common notions of mankind” referred to by the learned Judge have to be gauged by contemporary societal standards. The other learned Judge (Bachawat, J.) observed that the essence of a woman's modesty is her sex and from her very birth she possesses the modesty which is the attribute of her sex. From the above dictionary meaning of “modesty” and the interpretation given to that word by this Court in Major Singh case [State of Punjab v. Major Singh, 1966 SCC OnLine SC 51 : AIR 1967 SC 63] it appears to us that the ultimate test for ascertaining whether modesty has been outraged, is the action of the offender such as could be perceived as one which is capable of shocking the sense of decency of a woman.”

29. *The conclusion that emerges from the above discussion is that it will be essential for this Court to carefully assess the evidence presented, in order to determine whether there is sufficient material to establish the intention and knowledge on the part of the appellants, to insult the modesty of the complainant or, to put it pithily, whether any act was intended to shock the sense of decency of the complainant being a woman.*

30. *The term “filthy language”, when examined in isolation, and without any contextual framework or accompanying words, indicating an intent to insult the complainant's modesty, does not fall within the purview of Section 509IPC. Had there been references to specific words used, contextual details, or any gestures—whether preceding, succeeding, or accompanying these words—that could demonstrate a criminal intent to insult the modesty, and it might have assisted the prosecution in establishing the case against the appellants.*

31. *In considering the term “filthy language” objectively, in the overall conspectus of the case, we are of the view that the appellants' actions do not demonstrate the requisite intent or knowledge that would reasonably lead to the conclusion that their*

conduct could provoke such a severe emotional response as to constitute an insult to a woman's modesty.

32. Be that as it may, it goes without saying that each case must be assessed having regard to the specific facts and circumstances, not only of the case itself, but also of the individuals involved in the alleged incident. It is undisputed that the complainant and the appellants were positioned as an employee and senior officials, respectively. Moreover, it is evident from the case presented by both parties that a dispute existed between them with regard to the employment in question.

33. To reiterate, in the present case, the complaint does not indicate that the appellants used language towards the complainant that would warrant an offence under Section 509IPC. However, the charge-sheet alleges that the appellants scolded the complainant using "filthy language". Notably, this allegation is also absent in the FIR.

34. In light of the employer-employee relationship between the appellants and the complainant; the existing dispute between them relating to the employment; the absence of any references to specific words used, contextual details, or accompanying gestures—whether preceding or succeeding the alleged words—the failure to mention the use of any "filthy language" in the complaint; and the fact that this allegation is only found in the charge-sheet : there are serious concerns regarding the claim of insulting modesty of the complainant by the appellants. Considering the materials available on record, we are of the view that prima facie ingredients of an offence under Section 509IPC have not been disclosed.

35. This brings us to the offence under Section 506IPC, which the High Court has found to be prima facie disclosed against the appellants. Section 506IPC prescribes the punishment for the offence of criminal intimidation, while Section 503 defines the offence of criminal intimidation.

36. This Court had the occasion to examine the ingredients of Sections 503 and 506IPC in *Manik Taneja v. State of Karnataka* [*Manik Taneja v. State of Karnataka*, (2015) 7 SCC 423 : (2015) 3 SCC (Cri) 132], wherein it was observed as follows : (SCC p. 428, para 11)

“11. ... A reading of the definition of “criminal intimidation” would indicate that there must be an act of threatening to another person, of causing an injury to the person, reputation, or property of the person threatened, or to the person in whom the threatened person is interested and the threat must be with the intent to cause alarm to the person threatened or it must be to do any act which he is not legally bound to do or omit to do an act which he is legally entitled to do.”

37. In the present case, the complaint does not specifically attribute any threats or intimidation to the second accused. Therefore, ingredients of Section 506IPC, *prima facie*, are not made out against him. The argument that the first accused acted at the behest of the second accused is untenable, as Section 34IPC, which imposes vicarious liability in criminal matters, has not been applied in this case.

38. However, the complainant has stated in her complaint that she was threatened by the first accused, as detailed below:

“Then on 25-10-2013 at about 2.00 p.m. and 3.00 p.m. one Madhushiree Dutta (HR) asked me to forcefully resign or otherwise I will be sent out immediately. Further she abruptly asked me not to come for my work henceforth.”

39. Before an offence of criminal intimidation to be made out against the first accused, it must be established that she had the intention to cause alarm to the complainant. A review of the alleged threat reveals that the complainant is primarily alleging illegal termination, which constitutes a civil dispute, rather than criminal intimidation. It is also the appellants' case, which has not been disputed by the complainant, that the complainant has filed a reference before the

Labour Court challenging her termination and seeking reinstatement along with back wages. Given these circumstances and the materials on record, the ingredients of Section 506IPC, prima facie, are not disclosed against the first accused too.

30. In afore case, Hon'ble Apex Court, while relying upon its earlier judgments, reiterated that before offence of criminal intimidation is made out against the perpetrator, it must be established that she/he intentionally caused alarm to the complainant.

31. Plea of *res judicata*, as raised at the behest of Mr. Vikas Rajput, learned counsel representing the respondent/complainant, is also not tenable. No doubt, earlier petition filed by the petitioner for quashing of FIR was dismissed as withdrawn without there being liberty to file fresh. By now it is well settled that High Court has the inherent power to decide any successive petition under Section 482 Cr.P.C and that it is not denuded of that power by the principle of *res-judicata*. In this regard, reliance is placed upon the judgment rendered by Hon'ble Apex Court in case titled **Muskan Enterprises & another vs. The State of Punjab & another** passed in Criminal Appeal No.5491 of 2024, wherein it has been held as under:-

“14. The procedural laws governing criminal proceedings and civil proceedings in our country are quite dissimilar, though the rule of audi alteram partem and a procedure that is both fair and reasonable to both/all parties for rendering justice are at the heart of both the Cr. PC and the Code of Civil Procedure, 1908. The principle of *res judicata*, traceable in Section 11 of the CPC, does neither apply to criminal proceedings nor is there any provision in the Cr. PC akin to Order XXIII Rule 1(3), CPC. While Section 114 of the CPC read with Order XLVII thereof empowers the civil courts to exercise the power of review, Section 362, Cr. PC bars a review. A close reading of Sections 482, Cr. PC and 115, CPC would also reflect that the purposes sought to be achieved by exercising the high

courts' inherent powers, which the respective procedural laws save, are also at variance. Prudence and propriety in the decision- CPC making process, thus, make it imperative for the high courts to not confuse the procedural laws governing criminal and civil proceedings.

15. The legal position as to whether a second petition under Section 482, Cr. PC would be maintainable or not is no longer res integra. We may notice a few decisions of this Court on the point.

16. In S.M.S. Pharmaceuticals Ltd. v. Neeta Bhalla 11, a decision arising out of the N.I. Act, the relevant high court had given the party the liberty to avail any remedy in law, if available, at the time of withdrawing her petition under section 482, Cr. PC. This Court, observed that the high court would have the inherent power to decide any successive petition under section 482 and that it is not denuded of that power by the principle of res judicata.

17. That the principle of res judicata has no application in a criminal proceeding was reiterated by this Court in Devendra v. State of U.P.12.

18. Recently, this Court in Bhisham Lal Verma v. State of U.P.13, has again held that there is no blanket rule against filing of successive petition under section 482, Cr. PC before the high court. It was also held that if such a petition is filed, it must be seen (2007) 4 SCC 70 (2009) 7 SCC 495 2023 SCC OnLine SC 1399 whether there was any change in facts or circumstances, necessitating the filing of such petition.

19. Section 482, Cr. PC, on its own terms, saves the inherent powers of the high court to make such orders as may be necessary

(i) to give effect to any order under the Cr. PC, or (ii) to prevent abuse of the process of any court, or (iii) to secure the ends of justice. Change of law can legitimately be regarded as a vital change in circumstance clothing the high court with the power, competence and jurisdiction to entertain the subsequent petition notwithstanding the fact that the earlier petition was withdrawn without obtaining any leave, subject to the satisfaction recorded by the high court that the order prayed for in the subsequent petition ought to be made, inter alia, either to prevent abuse of the process of any court or to secure the ends of justice.

20. Thus, in our considered opinion, the constricted view taken by High Court to hold that the appellants were required to obtain the leave of the Judge who had dismissed the earlier petition prior to filing the subsequent petition is clearly untenable and not warranted in law. It is noted that the appellants had applied a second time before the High Court only when the law on interpretation of Section 148, N.I. Act was laid down somewhat differently in Jamboo Bhandari (supra) and not on any other ground. It was not a review in disguise that the appellants attempted but their endeavour was to impress the High Court to have the law, currently governing the field, to be applied in their case. In terms of the authorities referred to above, the subsequent petition was well-nigh maintainable."

32. It is not understood that for what reason an offence under Section 120-B of IPC has been registered against the petitioner. Section 120-B provides for punishment of criminal conspiracy, which has been defined under Section 120-A of IPC. As per aforesaid provisions of law, when two or more persons agree to do, or cause to be done an illegal act, or an act which is not illegal by illegal means, such an agreement is designated as a criminal conspiracy. The essential ingredient of criminal conspiracy is an agreement to commit an offence. Mere proof of such an agreement is sufficient to establish criminal conspiracy. However, in the instant case, there is only one accused i.e. petitioner, who allegedly extended threats and attempted to dissuade complainant from giving evidence in his case. Once there is no person, other than accused, named in the FIR, petitioner herein could not have been charged under Section 120-B of IPC. Therefore, essence of criminal conspiracy is an agreement to do an illegal act and such an agreement can be proved either by direct evidence or by circumstantial evidence, or by both, and it is a matter of common experience that direct evidence to prove conspiracy is rarely, available. However, in the instant case, once there is only one accused and there is no allegation of any agreement or connivance with any other person, case under Section 120 of IPC registered against the petitioner is not tenable.

33. Having scanned the entire material adduced on record, vis-à-vis prayer made in the instant petition, this Court is persuaded to agree with learned counsel for the petitioner that this Court, while exercising power under Section 528 of BNSS, may proceed to quash the FIR as well as consequent proceedings, because continuance thereof would be sheer abuse of process of law, since, for the reasons stated herein above, case of prosecution is bound to fail against the petitioner in all probabilities. Otherwise also, in case prayer made on behalf of the petitioner is not accepted, he would be subjected to unnecessary ordeal of facing protracted trial, which otherwise is bound to fail.

34. Consequently, in view of detailed discussion made herein above and law taken into consideration, present petition is allowed. FIR No.252 of 2016, dated 18.10.2016, under Sections 195-A, 504, 506 and 120-B of IPC, registered at Police Station, Indora, District Kangra, Himachal Pradesh as well as consequent proceedings pending in the competent court of law, are quashed and set aside. The petitioner is acquitted of the charges framed against him.

All pending applications, stand disposed of.

**(Sandeep Sharma),
Judge**

June 23, 2026
(shankar)