



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MMO No. 880 of 2025

Reserved on: 20.11.2025

Date of Decision: 28.11.2025.

Jitender Kumar & another

...Petitioners

Versus

State of H.P. and others

...Respondents

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ No

For the Petitioners : M/s R.L. Chaudhary and H.R. Sidhu,
Advocates.

For Respondent Nos 1 to 3 : Mr Lokender Kutlehria, Additional
Advocate General.

Rakesh Kainthla, Judge

The petitioners have filed the present petition for quashing of FIR No. 1 of 2025, dated 03.01.2025, registered at Police Station Hamirpur, District Hamirpur, H.P., for the commission of offences punishable under Sections 420, 120-B, 468, 471, 485 and 487 of the Indian Penal Code (IPC).

¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.



2. Briefly stated, the facts giving rise to the present petition are that the informant made a complaint to the police that Swami Vivekanand College of Education, Tarkwari, Tehsil Bhoranj, District Hamirpur, obtained affiliation from the H.P. Board of School Education for running JBT courses by submitting a fake no-objection certificate (NOC) of the Fire Department. An enquiry was conducted into the matter, and it was found that a certificate dated 24.06.2024 was produced by the institution, purported to have been issued by the Fire Department, Shimla, whereas no such certificate was issued by the Fire Department. Another certificate purported to have been issued on 22.08.2024 was produced by the institution, but again, the Fire Department stated that no such certificate was issued by the department. Fake certificates were being submitted for obtaining the affiliation. The police registered the FIR and investigated the matter.

3. Being aggrieved by the registration of the FIR, the petitioners have filed the present petition asserting that the college submitted the documents to the HP Board of School Education, as per the requirement. A fine of ₹1,00,000/- was imposed by the H.P. Board of School Education, Dharmshala, for submitting a false certificate. A person can be punished only once,



and the registration of the FIR is impermissible after imposing penalty. The temporary affiliation was granted by the education board. The H.P. Board of School Education noticed that the certificates were not genuine, and the FIR was registered. No loss or any injury was caused to any person. Therefore, it was prayed that the present petition be allowed and the FIR be quashed.

4. Mr R.L. Chaudhary, learned counsel for the petitioners, relied upon the judgment of the Hon'ble Supreme Court in *Jupally Lakshmikantha Reddy vs. State of Andhra Pradesh 2025 INSC:1096* to submit that there was no requirement to obtain NOC from the Fire Department, and the FIR was wrongly registered. He prayed that the present petition be allowed and the FIR be quashed.

5. Mr Lokender Kutlehria, learned Additional Advocate General for the respondent/State, submitted that even if there was no cheating, forged NOCs were submitted. The investigation is continuing, and it is premature to quash the FIR. Hence, he prayed that the present petition be dismissed.

6. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.



7. The law relating to quashing of FIR was explained by the Hon'ble Supreme Court in *B.N. John v. State of U.P.*, 2025 SCC OnLine SC 7 as under: -

“7. As far as the quashing of criminal cases is concerned, it is now more or less well settled as regards the principles to be applied by the court. In this regard, one may refer to the decision of this Court in *State of Haryana v. Ch. Bhajan Lal*, 1992 Supp (1) SCC 335, wherein this Court has summarised some of the principles under which FIR/complaints/criminal cases could be quashed in the following words:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) *Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against the accused.*

(2) *Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers*



under Section 156(1) of the Code, except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable based on which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings, and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to a private and personal grudge.” *(emphasis added)*

8. Of the aforesaid criteria, clause no. (1), (4) and (6) would be of relevance to us in this case.



In clause (1), it has been mentioned that 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, then the FIR or the complaint can be quashed.

As per clause (4), where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order dated by the Magistrate as contemplated under Section 155 (2) of the CrPC, and in such a situation, the FIR can be quashed.

Similarly, as provided under clause (6), if there is an express legal bar engrafted in any of the provisions of the CrPC or the concerned Act under which the criminal proceedings are instituted, such proceedings can be quashed.”

8. This position was reiterated in *Ajay Malik v. State of Uttarakhand*, 2025 SCC OnLine SC 185, wherein it was observed:

“8. It is well established that a High Court, in exercising its extraordinary powers under Section 482 of the CrPC, may issue orders to prevent the abuse of court processes or to secure the ends of justice. These inherent powers are neither controlled nor limited by any other statutory provision. However, given the broad and profound nature of this authority, the High Court must exercise it sparingly. The conditions for invoking such powers are embedded within Section 482 of the CrPC itself, allowing the High Court to act only in cases of clear abuse of process or where intervention is essential to uphold the ends of justice.

9. It is in this backdrop that this Court, over the course of several decades, has laid down the principles and guidelines that High Courts must follow before quashing criminal proceedings at the threshold, thereby pre-



emptying the Prosecution from building its case before the Trial Court. The grounds for quashing, *inter alia*, contemplate the following situations : (i) the criminal complaint has been filed with *mala fides*; (ii) the FIR represents an abuse of the legal process; (iii) no *prima facie* offence is made out; (iv) the dispute is civil in nature; (v.) the complaint contains vague and omnibus allegations; and (vi) the parties are willing to settle and compound the dispute amicably (*State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335)

9. The present petition is to be decided as per the parameters laid down by the Hon'ble Supreme Court.

10. The Hon'ble Supreme Court held in *Jupally Lakshmikantha Reddy* (supra) that, as per the National Building Code of India 2016, the NOC from the Fire Department is not necessary for educational buildings below 15 meters in height. It was further held that the police were unable to find the person who had forged the certificate; hence, the FIR was quashed. In the present case, the petitioner has filed a photocopy of a letter dated October 9, 2015, in which the height of the building was mentioned as 11.30 meters. Since it is merely a photocopy and its authenticity has not yet been established, it is impermissible to rely upon it to quash the proceedings. Even if it is accepted as correct, the offence punishable under Section 420 of the IPC



would not be *prima facie* made out, but the offence of forgery of the certificate would still remain.

11. In *Jupally Lakshmikantha Reddy* (supra), the Hon'ble Supreme Court specifically held that there was no evidence that the appellant had manufactured the fake document. In the present case, no such finding can be recorded, at this stage, because the charge sheet has not been filed and the investigation is continuing. Thus, there is a force in the submission of Mr Lokender Kutlehria, learned Additional Advocate General for the respondent/State, that the present petition is premature.

12. It was submitted that the Education Department had imposed a penalty of ₹1,00,000/-, and a person cannot be punished twice. It was laid down by the Allahabad High Court in *Bhagwan Singh v. Deputy Commissioner, 1961 SCC OnLine All 254: AIR 1962 All 232* that departmental proceedings are quite distinct from criminal proceedings and Article 20 (3) of the Constitution of India does not apply to it. It was observed at page 232:

“3. The only provision of law relied on by learned Counsel is Article 20(3) of the Constitution. This Article lays down that no person accused of an offence shall be compelled to be a witness against himself. To my mind, it appears that this relates to the very case in which a person is being tried for an offence. If a person is being tried for an offence, he



cannot be compelled to be a witness against himself in the case in which he is being tried for that offence. In the Departmental proceedings, he is not being tried for any criminal offence. He might be found guilty of negligence or dereliction of duty, which might not be criminal offences at all. Even if the charges framed against the petitioner in the Departmental proceeding may be construed to be offences in a broad sense, he is not being compelled in those proceedings to be a witness against himself. In those proceedings, he would be given an opportunity to give any explanation or to produce any evidence that he likes. Learned Counsel for the petitioner has not stated before me that in the criminal proceedings he is being compelled to appear as a witness or to produce any evidence against himself. Under the circumstances, I am of the opinion that this provision of the Constitution has no application to the present case.”

13. It was held in *State (NCT of Delhi) v. Ajay Kumar Tyagi*, 2012 SCC OnLine SC 666 : (2012) 9 SCC 685 that exoneration in the departmental proceedings will not result in the acquittal in the criminal proceedings because they are of a different nature. It was observed at page 695:

24. Therefore, in our opinion, the High Court quashed the prosecution on a total misreading of the judgment in *P.S. Rajya case [(1996) 9 SCC 1: 1996 SCC (Cri) 897]*. In fact, there are precedents, to which we have referred to above, that speak eloquently a contrary view, i.e. exoneration in departmental proceedings ipso facto would not lead to exoneration or acquittal in a criminal case. On principle also, this view commends us. It is well settled that the standard of proof in a department proceeding is lower than that of criminal prosecution. It is equally well settled that the departmental proceeding, or for that matter, criminal cases have to be decided only on the basis of evidence adduced



therein. Truthfulness of the evidence in the criminal case can be judged only after the evidence is adduced therein, and the criminal case cannot be rejected on the basis of the evidence in the departmental proceeding or the report of the inquiry officer based on that evidence.”

14. Therefore, no advantage can be derived from the fact that the Education Board has imposed a penalty.

15. No other point was urged.

16. In view of the above, the present petition fails and it is hereby dismissed.

17. The present petition stands disposed of, and so are the miscellaneous applications, if any.

18. The observations made herein before shall remain confined to the disposal of the petition and will have no bearing, whatsoever, on the merits of the case.

(Rakesh Kainthla)
Judge

28th November, 2025
(Nikita)