

Praveen Singh And 3 Others vs State Of U.P. And Another on 2 December, 2022

Author: Manju Rani Chauhan

Bench: Manju Rani Chauhan

HIGH COURT OF JUDICATURE AT ALLAHABAD

A.F.R.

Court No. - 75

Case :- APPLICATION U/S 482 No. - 8755 of 2022

Applicant :- Praveen Singh And 3 Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Nipun Singh,Vivek Chaubey

Counsel for Opposite Party :- G.A.,Amit Rai,Atharva Dixit,Aushim Luthra,Imran Ullah,Sanj

Hon'ble Mrs. Manju Rani Chauhan,J.

1. Heard Mr. Nipun Singh and Mr. Vivek Chaubey, learned counsel for the applicants, Mr. Rajiv Nanda, Senior Advocate assisted by Mr. Manish Kumar Vikkey, Mr. Sanjeev Kumar Yadav and Mr. Amit Rai, learned counsel for the opposite party no.2 and Mr. Amit Singh Chauhan, learned AGA for the State and perused the records.

2. The present application under Section 482 Cr.P.C. has been filed to quash the summoning order dated 07.03.2022 passed by Additional Chief Judicial Magistrate, Court No.1, District-Bijnor as well as the entire proceedings of F.R. Case No.63/2021 (Misc. Case No.87/2022)(Pramod Kumar Baliyan vs. Praveen Singh and others), arising out of Case Crime No.419/2021, under Sections 326, 307, 323, 324, 504, 506, 120B IPC, Police Station-Haldaur, District-Bijnor, pending before the court of

learned Additional Chief Judicial Magistrate, Court No.1, District-Bijnor.

3. For the dispute between the parties, an FIR was lodged by the opposite party no.2 through an application under Section 156(3) Cr.P.C. moved on 22nd November, 2022. The present case was presented on 26th March, 2022 and came up before the Court for argument for the first time on 20th April, 2022. The Co-ordinate Bench of this Court, after hearing the matter at length passed the following order on 20th April, 2022:-

"Heard learned counsel for the applicants, Sri Imran Ullah, learned counsel for the opposite party no.2 learned A.G.A. for State and perused the material on record.

In view of submissions made by learned counsel for the applicants, matter requires consideration.

Opposite party no.2 may file counter affidavit within one week. Rejoinder affidavit, if any, may be filed within one week thereafter.

Put up this case on 10.05.2022 as fresh."

4. On the next date, i.e. 08.07.2022, as the parties were ready to amicably settle the dispute, therefore, the following order was passed:-

"Put up as fresh on 18.07.2022 at 02.00 p.m. Till 18.07.2022, no coercive action shall be taken against the applicants in F.R. Case No. 63 of 2021 (Misc. Case No. 87 of 2022) arising out of Case Crime No. 419 of 2021 under sections 326, 307, 323, 324, 504, 506 and 120-B IPC, Police Station Haldaur, District Bijnor."

5. On 18th July, 2022, the case was adjourned on the request of learned counsel for the opposite party no.2, therefore, the following order was passed:-

"Mr. Atharva Dixit, Advocate on behalf of Mr. Manish Tiwari, learned Senior Counsel for opposite party no.2 submits that Mr. Senior counsel is engaged in some other Court, therefore, the matter may be posted for 25.07.2022.

As prayed, put up as fresh on 25.07.2022 at 2:00 PM.

Interim order, if any, is extended till the next date of listing."

6. On 25th July, 2022, the applicant nos.1, 2 and 4 as well as opposite party no.2 were present and after hearing their respective counsels, the following order was passed in their presence:-

"Heard Mr. Nipun Singh and Mr. Vivek Chaubey, learned counsel for the applicants, Mr. Manish Tiwari, Senior Advocate assisted by Mr. Atharva Dixit, learned counsel for the opposite party no.2 and Mr. Pankaj Kumar Srivastava, learned A.G.A. for the

State.

Today, Mr. Pramod Kumar Baliyan, opposite party no.2 is present before this Court. Applicant no.1 Praveen Singh, applicant no.2 Virendra Singh and applicant no.4 Jubair are also present before this Court and have been identified by their respective counsels.

Learned counsels for the parties state that the parties are ready to settle the dispute amicably, therefore, the matter may be posted for 3rd of August, 2022.

Put up this matter as fresh on 03.08.2022 at 2:00 PM in Chamber.

The applicants as well as opposite party no.2 shall be present before this Court on the next date i.e. 03.08.2022.

The applicant nos.1, 2 and 4 will inform about this order to applicant no.3 that he has to be present before this Court on the next date fixed.

Till the next date of listing, no coercive action shall be taken against the applicants in Case Crime No.419 of 2021, under Sections 326, 307, 323, 324, 504, 506 and 120B I.P.C., Police Station-Haldaur, District Bijnor."

7. Again on 03rd August, 2022, the following order was passed:-

"Heard Mr. Nipun Singh and Mr. Vivek Chaubey, learned counsel for the applicants and Mr. Atharva Dixit, learned counsel for the opposite party no.2 and Mr. Amit Singh Chauhan, learned AGA for the State.

On the last occasion, i.e 25.07.2022, the applicants as well as opposite party no.2 were directed to be present before this Court as the parties had agreed to amicably settle the dispute.

Today, in compliance of the earlier order dated 25.07.2022, the applicants, namely, Praveen Singh, Virendra Singh, Arun Khanna and Jubair are present before this Court, who have been identified and their signatures have also been attested by their counsel.

However, learned counsel for the opposite party no.2 informs that a message has been sent to him through E-mail stating therein that the opposite party no.2 is suffering from spinal injuries and has been advised for bed rest till 12.08.2022, therefore, he is unable to appear before this Court. In the said message, he has also mentioned that five days back, he had requested to elder brother of applicant, namely, Mr. Zubair to withdraw the complaints, which have been filed by them and their associates against him before the court of ADJ-VII, Dehradun, the S.P., Bijnor,

the court of ADJ-III, Dehradun and Bar Council of Uttarakhand. He has also mentioned that his request was denied by elder brother of applicant, namely, Mr. Zubair and expressed his view as to how compromise could be possible in such a situation.

The applicants, who are present before this Court, have given their explanation for denying to withdraw the case stating that, as agreed, the memorandum of understanding for settlement in the matter was to be placed before this Court after which the cases were to be withdrawn, therefore, there was no question of conceding to the request made by the opposite party no.2 for withdrawal of the case as that would have amounted to disrespect of the Court.

In such situation, on the request of learned counsel for the opposite party no.2, put up this case as fresh on 24.08.2022 at 02:00 p.m. in Chamber.

The applicants as well as opposite party no.2 shall be present before this Court on the next date fixed, i.e. 24.08.2022.

In case, the opposite party no.2 does not turn up on that date, the Court will proceed to hear this matter taking cognizance of the fact that the opposite party no.2 had given his consent for settlement of the matter in order to get case withdrawn against him.

It is made clear that the Court had directed the parties to be present before this Court today so that all the deliberations regarding compromise may be made before this Court, for the same reason, the parties are directed to be present on the next date fixed.

Interim order, granted earlier, is extended till the next date of listing.

This order has been passed in the presence of learned counsel for the parties as well as applicants, who are present before this Court."

8. On 24th August, 2022, as the counsel for the opposite party no.2 informed that opposite party was not willing to settle the dispute, therefore, on 24.08.2022, a detailed order was passed and the matter was posted for 28.09.2022 at 02:00 p.m. to be heard on merits. The order dated 24.08.2022 is as follows:-

"The lawyers are abstaining from work due to strike.

The matter is being taken up in Chamber as parties are present as directed by order dated 03.08.2022.

Pursuant to the order dated 03.08.2022, the applicants namely, Praveen Singh, Virendra Singh, Arun Khanna and Jubair are present before this Court, in Chamber.

The opposite party no.2, Mr. Pramod Kumar Baliyan is also present.

The applicants as well as opposite party no.2 cannot be identified as the lawyers are on strike today and are not appearing before the Court.

The opposite party no.2 submits that he has changed his counsel and has engaged some other counsel but the Vakalatnama of the newly engaged counsel is not on record. He further submits that he does not want to compromise with the applicants in the present case.

Earlier, on 08.07.2022, learned counsel for the parties had taken time to inquire from their respective clients as to whether they want to amicably settle the dispute which is between a senior lawyer and junior lawyer as well as law students. Therefore, the matter was posted for the next date i.e. 18.07.2022 and interim protection was given to the applicants. On 18.07.2022, on the request of learned counsel for the opposite party no.2, the matter was posted for 25.07.2022.

Lastly, when the matter was again posted for 25.07.2022, Mr. Pramod Kumar Baliyan, opposite party no.2 was present in person and was ready to amicably settle the dispute, hence, the matter was posted for 03.08.2022 as one of the applicants, applicant no.3 Mr. Arun Khanna, was not present on that date. On 03.08.2022, the opposite party no.2 was not present before this Court due to reasons as mentioned in the order dated 03.08.2022.

The applicants present before this Court, inform that opposite party no.2 has moved an application before concerned S.S.P. for lodging frivolous case against them, after order dated 03.08.2022.

The statement of the opposite party no.2 goes to show that he avoided the Court on 03.08.2022 in order to buy time to move an application before the S.S.P. concerned against the applicants.

In view of above, let the matter be posted as fresh on 29.08.2022 at 2:00 PM to be heard on merits.

Interim order, granted earlier, is extended till the next date of listing."

9. On 29th August, 2022, the matter was heard at length and in order to bring all the affidavits on record as filed by the parties, the matter was posted for further hearing on 05.09.2022 and case was finally heard on merits.

10. Brief facts as placed by the learned counsel for the applicants are that for the incident alleged to have occurred on 08.11.2021, an FIR was lodged by opposite party no.2, namely, Pramod Kumar Baliyan, which was registered as Case Crime No.419 of 2021, under Sections 386, 120B, 326, 307, 323, 324, 504, 506 IPC, Police Station-Haldaur, District-Bijnor on 02.12.2021. The aforesaid case was lodged at the instance of opposite party no.2 by way of application filed under Section 156(3) Cr.P.C. on 22.11.2021. As per the FIR, Pramod Kumar Baliyan aged about 52 years, permanent resident of Village-Murliwala, Police Station-Afzalgarh, District-Bijnor, is practicing at Dehradun. The applicants, namely, Zubair Ahmed (Applicant No.4), Praveen Singh (Applicant No.1), Virendra Singh (Applicant No.2) used to give cases to the opposite party no.2 on commission basis since last so many years. On account of lockdown and closure of courts, they could not provide cases on commission basis to opposite party no.2. The aforesaid applicants misbehaved with opposite party no.2 forcing him to pay advance money to them and when the opposite party no.2 failed to provide money, they extended life threat to opposite party no.2 and Arun Khanna (applicant no.3) and co-accused-Ehatsam Ansari also extended help to the aforesaid applicants in extending life threat to the opposite party no.2. It has further been alleged that in the morning of 08.11.2021, opposite party no.2 along with one Rakesh Kumar, resident of Village Murliwala, Police Station-Afzalgarh, District-Bijnor was going to Village Nangaljat, at about 05:00 a.m., when the opposite party no.2 reached near Village Bhagawa, he was chased by one Sky Blue Santro Car bearing registration No.UK 7 BA 0170. After stopping the opposite party no.2, the aforesaid five persons, namely, Jubair (applicant no.4), resident of Lakkhibagh Colony, Dehradun, Praveen Singh (applicant no.1), resident of Bhagat Singh Colony, Dehradun, Virendra Singh (applicant no.2), resident of Alakhnanda Vidarland No.1, Nakrauda, Dehradun, Ehatsan Ansari (co-accused), resident of Azad Colony, Near 15 BT, Dehradun and Arun Khanna (applicant no.3), resident of 31, Chander Nagar, Dehradun, came out of the car and Zubair (applicant no.4) fired upon the opposite party no.2, which was fortunately missed, then, Ehatsam Ansari, after taking the countrymade pistol from Zubair again fired upon him after reloading the country made pistol. Praveen Singh (applicant no.1) also assaulted multiple times over the head and chest of opposite party no.2 by khookri, in which opposite party no.2 sustained deep wound on the head and cut on his chest. Virendra Singh (applicant no.2) assaulted the opposite party no.2 by baseball stick, hitting on his nose, resulting into fracture of his nose bone. On hue and cry being raised by opposite party no.2, people from nearby, namely Moola Singh son of Balvir Singh, resident of Village Ravti, Rakesh Kumar, Manoj Kumar sons of Shyam Lal, resident of Village Nangaljat, Dalvir Singh son of Balraj Singh, resident of Village Agupura, District Bijnor came on the spot. Thereafter, the opposite party no.2 was brought to the Government Hospital, Kotwali Dehat, where he was medically treated and was, later on, referred to District Bijnor. The x-ray of his head, nose and hand was conducted wherein his nose bone was found to be fractured.

11. For the aforesaid incident, an application U/s 156(3) Cr.P.C. was filed before the court of learned Additional Chief Judicial Magistrate, Bijnor on 22.11.2021 and the court concerned directed the concerned SHO of Police Station-Haldaur to conduct an inquiry and submit the report. The report dated 26.11.2021 was submitted by the concerned SHO, perusal of which goes to show that the villagers of Vill-Bhagawa stated that no such incident had taken place, informing the concerned Inspector that in case, any such incident of using firearm would have taken place, the villagers would have come to know about the same on hearing noise of the firearms.

12. The concerned Magistrate ignoring the said police report directed for registering the case, hence the FIR was registered on 02.12.2021 as Case Crime No.419 of 2021 against as many as five named accused persons including the present applicants and co-accused Ehatsam Ansari. The investigating officer, after carrying out thorough investigation, considering the statements of the villagers and the call details of the applicants as well as alleged witnesses, submitted final report/closure report on 29.12.2021, against which a protest petition was filed, which was accepted by the concerned court below and summoned the applicants vide impugned order dated 07.03.2022, under Sections 326, 307, 323, 324, 506, 120B IPC. Hence, this application has been filed.

13. Learned counsel for the applicants submits that the opposite party no.2 has filed the present case in order to settle his personal grudge and while arguing the matter on merits, he has placed the detailed facts, which is as under:-

a) An application under Section 156(3) Cr.P.C. was filed by the opposite party no.2 on 22.11.2021 for the incident dated 08.11.2021. On the aforesaid application, the concerned Magistrate directed the SHO, Police Station-Haldaur to conduct an inquiry and submit a report. Thereafter, the report so submitted by the Investigating Officer on 26.11.2021, shows that no such incident had taken place as narrated in the application U/s 156(3) Cr.P.C. moved by the opposite party no.2. Ignoring the said police report, learned court below has directed for lodging of the FIR on which the FIR came to be registered as Case Crime No.419 of 2021 on 02.12.2021.

b) As per the prosecution case, opposite party no.2 sustained as many as five injuries as he was examined by one Dr. Pramod Kumar at Primary Health Centre, Kotwali Dehat, Bijnor at 6.35 AM on 08.11.2021. As per the medical report, opposite party no.2 by himself went to the doctor for his medical examination. There is no whisper as to the role of Rakesh Kumar, who was accompanying the opposite party no.2 on motorcycle at the time of incident.

c) As per the supplementary medical report dated 12.11.2021, injury no.5 was found to be grievous in nature and rest of the injuries were found to be simple in nature as opined by Dr. Pramod Kumar in his supplementary medical report.

d) The Investigating Officer during the course of investigation recorded the statements of as many as 15 independent witnesses, who are resident of the nearby villages, where the alleged incident is said to be taken place. The aforesaid witnesses informed the Investigating Officer that no such incidence as alleged by the opposite party no.2 had ever taken place as it was not possible that the villagers could not hear the noise of firearm being used, that too in the early morning. The statements of four other witnesses, as mentioned in the FIR, namely, Moola Singh, Rakesh Kumar, Manoj Kumar and Dalvir Singh were also recorded. The witness, Rakesh Kumar was the one, who was going along with the opposite party no.2 on his motorcycle and the witness Moola Singh resident of Village Ravti, P.S. Himpur Dipa, District Bijnor, stated that he was going to his relative's place at Village Takpura, Police Station

Haldaur, District Bijnor and while, he was passing through Village Baghawa, the alleged incident had taken place. Witness, Manoj Kumar, resident of Village Nangaljat, P.S. Haldaur, Bijnor, has stated that he was going to his tubewell which is near to village Baghawa on the main road, when the aforesaid incident as alleged by the opposite party no.2 had taken place. The third witness Dalvir Singh, resident of Village Agupura, P.S. Najibabad, District Bijnor has stated that he was going to the matrimonial home of his aunt's daughter at about 5:00 AM, when he saw the alleged incident. Therefore, the aforesaid three witnesses including Rakesh Kumar, who was accompanying the opposite party no.2 on motorcycle have supported the prosecution case.

e) The Investigating Officer, after completing the investigation, considering the statements of independent witnesses (villagers, who were residents of nearby villages), considering the call details of applicants, opposite party no.2 and his alleged witnesses, did not find any credible evidence regarding the fact that any such incidence had taken place and submitted the final report/closure report on 29.12.2021. The opposite party no.2 challenged the aforesaid final report by filing protest petition and the court concerned vide order dated 07.03.2022 has rejected the final report and summoned the applicants to face the trial u/s 326, 307, 323, 324, 506 and 120B IPC. Therefore, the applicants have filed the present application u/s 482 of Cr.P.C., whereby challenging the said order including the entire proceedings of instant case.

14. Learned counsel for the applicants has challenged the aforesaid proceedings on the following grounds:-

a) The criminal prosecution against the applicants is a clear abuse of process of law as the allegations made in the F.I.R. are so absurd and inherently, improbable on the basis of which no prudent person can ever reach to a conclusion for proceedings against the accused applicants.

b) Opposite Party no.2 has filed the present case in order to settle his personal vendetta out of sheer revenge and anguish as applicants and other co accused Ehatsam Ansari Advocate has started their independent practice and disowned themselves from opposite party no.2. It is admitted case of the opposite party no.2 that the applicants and other co-accused persons used to give cases to him on commission basis. It is when the applicants started providing case to another counsel, the opposite party no.2 being annoyed has filed the aforesaid case in order to wreck vengeance and harass the applicants. It would be appropriate to quote paragraph no.24 of the application u/s 482 of Cr.P.C., which is reproduced herein below:-

"That the true fact is that the applicant no.1, 2 and 3 were doing their internship with the opposite party no.2 and during their internship, many cases were referred to the

opposite party no.2 by them, which is also admitted by the opposite party no.2 in the F.I.R., but because of his bad behavior, the applicant no.1, 2 and 3 have left opposite party no.2 and have joined the applicant no.4 for their further internship, which was not accepted by the opposite party no.2 and further the opposite party no.2 was regularly threatened the applicants to implicate in a false case, which was resulted into the implication of the applicants in the present case as well as in other several cases."

c) In the counter affidavit, the contents of paragraph no.24 have been replied in the said manner, which is reproduced herein below:-

"That the contents of paragraph no.24 of the affidavit is partly correct and partly denied because the applicants used to refer cases to the deponent however when the deponent was unable to pay the applicants money owing to the covid-19 pandemic the accused persons took the grave step and attacked him in order to extort money."

d) The opposite party no.2 being the permanent resident of District Dehradun, having roaring practice at District Courts, Dehradun, misused his power and post and had got multiple F.I.R.s including the present one lodged against the applicants on totally false, incorrect and concocted facts. The Aadhar card annexed by the opposite party no.2 clearly shows that he is the permanent resident of Dehradun and just in order to file the present case he is hiding his identity showing himself permanent resident of District Bijnor.

e) All applicants and co-accused Ehatsam Ansari Advocate are also the permanent residents of Dehradun and they have no concern in any manner from District Bijnor, but in order to create a false and fabricated case at Bijnor, a false story has been manufactured to falsely implicate the applicants by managing the chance witnesses, doctor and as well as the concerned court in lodging the present F.I.R. against the applicants.

f) When all the parties are residing at Dehradun, there was no point or occasion to chase the opposite party no.2 to Bijnor and commit the alleged crime. This shows that district Bijnor has been chosen intentionally and deliberately to harass the applicants as it would be very difficult for applicants to visit Bijnor and to contest the cases over there as he threatened the applicants to stop their practice.

g) In the alleged incident dated 08.11.2021, the opposite party no.2 as alleged that he has sustained serious injuries, but on the same day, not only the presence of the opposite party no.2 was recorded by the Additional District Judge, Court No.3, Dehradun at Dehradun in Misc. Case No.598/2021 and 629/2021, but also his statement was duly recorded by the court in its order dated 8.11.2021. This clearly shows without any doubt that the opposite party no.2 was present at District Court, Dehradun on the date of alleged incident and, therefore, it is highly improbable that after having allegedly sustained serious injuries, the opposite party no.2 is working in the courts at Dehradun.

h) The opposite party no.2 filed multiple MACT cases in Dehradun MACT on 09.11.2021, 10.11.2021, 11.11.2021, 12.11.2021, 15.11.2021, 16.11.2021 and 22.11.2021. The status of the cases filed by the opposite party no.2 on 09.11.2021, 10.11.2021, 11.11.2021 and 15.11.2021 have been brought on record at page no.85 to 95 of the main application. The details of cases filed by the opposite party no.2 are reproduced herein below:-

a. CNR No.UKDD01-004860-2021 filed on 09.11.2021, before the 5th Additional District Judge, Dehradun b. CNR No.UKDD01-004896-2021 filed on 10.11.2021, before the District Judge, Dehradun c. CNR No.UKDD01-004894-2021 filed on 10.11.2021, before the 5th Additional District Judge, Dehradun d. CNR No.UKDD01-004940-2021 filed on 11.11.2021, before the 5th Additional District Judge, Dehradun e. CNR No.UKDD01-004939-2021 filed on 11.11.2021, before the 5th Additional District Judge, Dehradun f. CNR No.UKDD01-004998-2021 filed on 15.11.2021, before the 5th Additional District Judge, Dehradun g. CNR No.UKDD01-005009-2021 filed on 15.11.2021, before the 5th Additional District Judge, Dehradun h. CNR No.UKDD01-005030-2021 filed on 16.11.2021, before the 5th Additional District Judge, Dehradun i. CNR No.UKDD01-005175-2021 filed on 22.11.2021, before the 5th Additional District Judge, Dehradun j. CNR No.UKDD01-005177-2021 filed on 22.11.2021, before the 5th Additional District Judge, Dehradun

i) The applicants have brought on record the order dated 22.11.2021 passed by the court of 3rd Additional District Judge, Dehradun, in which co-accused Ehatsam Ansari Advocate filed application for release of claim amount awarded to the claimant by MAC Tribunal in case no.651/2021 being application no.12C & 13C, which came to be objected by the opposite party no.2 by filing his detailed objection that without obtaining NOC, co-accused Ehatsam Anwari has filed his Vakalatnama and application for release of Claim amount awarded to claimant.

j) The court of Additional District Judge-III, Dehradun rejected the objections of O.P no.2 by allowing the application no.12C & 13C moved by co-accused Ehatsam Ansari, Advocate by allowing him to accept the awarded amount on behalf of the claimant vide order dated 22.11.2022. In the objections or in arguments before the court of ADJ-III, Dehradun, the opposite party no.2 did not disclose at all about any such incident alleged to have taken place on 8.11.2021.

k) The aforesaid order dated 22.11.2021 prompted the opposite party no.2 to file an application u/s 156(3) Cr.P.C falsely implicating the applicants and co-accused Ehatsam Ansari Advocate, because on the same day i.e. 22.11.2021, application u/s 156(3) Cr.P.C. was moved by the opposite party no.2 before the court of 1st ACJM, Bijnor, however again the presence of the opposite party no.2 was recorded at Dehradun in order dated 22.11.2021.

l) Unfortunately, as soon as the opposite party no.2 came to know that investigation is going against him, he lodged another FIR on 18.12.2021 arising out of Case Crime No.853/2021, under Sections 500, 501, 506 IPC and Section 67 of the I.T. Act, 2008 at P.S.-Kotwali, District-Bijnor against all the applicants. On 06.02.2022, another FIR was lodged by the opposite party no.2 against the applicants, registered as Case Crime No.52/2022, under Sections 379, 382, 506, 120B IPC, P.S.-Noorpur, District-Bijnor, showing the date of incident as 22.12.2021. The aforesaid FIR was also lodged by the opposite party no.2 in the similar fashion wherein it has been alleged that the opposite party no.2 was going alongwith Rakesh Kumar on the motorcycle at about 2:00 PM on 22.12.2021. The applicants again went all the way to District Bijnor from Dehradun for settlement where Jubair Ahmad (applicant no.4), Praveen Singh (applicant no.1), Virendra Singh (applicant no.2) and Arun Khanna (applicant no.3), after breaking the diggi of motorcycle stole Rs.18,000/- and after showing the country made pistol, giving life threat to the opposite party no.2 and Rakesh Kumar, while running away, the applicants also stole proofs, documents, pendrive relating to the present case apart from Rs.18,000/-. The opposite party no.2 further alleged that the applicants threatened to kill him, his witnesses and entire family, if all cases are not withdrawn.

m) Another FIR came to be lodged as Case Crime No.32/2022 at P.S. Rehar, District Bijnor, under Sections 323, 324, 394, 504, 506 IPC lodged by Sri Hariom Singh, on 11.03.2022 who is the junior of opposite party no.2 and also filed the objection on the release application of the claim amount along with opposite party no.2, which was decided on 22.11.2021, in a similar fashion, the allegations are as follows:-

a. The complainant Hariom Singh Advocate (junior of O.P no.2) was going to Nainital along with his client Tejpal Singh, where the applicants no.1, 2 and 4 chased the car of complainant at about 4.30 AM on 02.02.2022 and the applicants no.1, 2 and 4 after coming out from the car, after snatching Rs.30,000/-, assaulted Hariom by hitting multiple times on his head and chest causing deep wound.

b. Again in the similar fashion, the complainant Sri Hariom, Advocate allegedly went to the nearest hospital at Dhampur, where the doctor was not available and therefore, they went to the same Kotwali Dehat Hospital, where the injuries of opposite party no.2 was examined. A copy of the F.I.R. lodged by Sri Hariom Singh has been annexed as Annexure No.SA-6 to the supplementary affidavit filed by the applicants.

n) It is pertinent to mention here that Kotwali Dehat hospital is the same hospital where opposite party no. 2 was also medically examined.

o) On 04.01.2022, another criminal complaint was filed against the applicants before the same court of ACJM, Bijnor under Sections 354B, 365, 376, 342, 504, 506 IPC through one Rinki, wherein she alleged that she was allegedly raped by applicants. The aforesaid complaint dated 04.01.2022 has been annexed as Annexure No.SA-6 to

the supplementary affidavit filed by the applicants.

p) The opposite party no.2 is hell-bent to take revenge from the applicants as the applicants have dared to change their choice by engaging another counsel on commission basis in place of opposite party no.2, for which the opposite party no.2 has gone to the extent of falsely implicating the applicants in several cases.

15. Learned counsel for the applicants has drawn the attention of the Court by placing certain facts, pointing out the conduct of opposite party no.2, while appearing before this Court that this matter came up for hearing before this Court on 20.04.2022 and while arguing the case, one of the submissions of the counsel for the applicants was that opposite party no.2 was not only present in the District Court, Dehradun but his statement was also recorded in the court proceedings on the date of occurrence, i.e. 08.11.2021 of present alleged offence, which is not possible as is evident from the copy of proceedings of District Court, Dehradun in Misc. Case Nos.598/2021, 629/2021 and 651/2021. The counsel for the opposite party no.2, Mr. Imran Ullah informed the court on the instructions of opposite party no.2, who was also present in the court that the said order has been corrected as there was mistake in the order in recording the presence and statement of opposite party no.2 and on such statement, the Hon'ble Court was pleased to grant one week time to the opposite party no.2 to file counter affidavit in light of the arguments advanced before this Hon'ble Court by fixing the matter on 10.05.2022 as fresh. The order dated 20.04.2022 already reproduced herein above.

16. Unfortunately, the matter could not be taken up on 10.05.2022 and finally, the matter came up for hearing before this Court on 08.07.2022, on which date, the matter was argued at length, but as the same could not be concluded, the Court was pleased to fix the matter on 18.07.2022 at 2:00 PM on the request of the counsels for both the parties, on which date, Mr. Manish Tiwari, Senior Advocate, appeared alongwith Atharv Dixit, Advocate after replacing Sri Imran Ullah, Advocate, which was for the reason that the statement given by Sri Imran Ullah, Advocate, that the order has been corrected on the instructions of opposite party no.2, was incorrect, which is clear from the counter affidavit in which after the order dated 20.04.2022 as mentioned aforesaid, the opposite party no.2 filed correction application through his junior counsel Sri Hariom. On intervention by the Court, parties were ready to settle the dispute amicably. In the supplementary affidavit filed by the applicants, the applicants have also apprised the Court by filing Annexure no.SA-1&2 that the applicants are objecting to the correction application and the opposite party no.2 and his junior counsel is avoiding the hearing of correction application. Relevant paragraphs of the supplementary affidavit are being reproduced hereunder:-

"3. That when it comes to the knowledge of the applicants that the opposite party no.2 with the help of his junior filed the aforesaid correction application, then without any further delay, on 17.05.2022, the applicants filed their objection. A copy of the objection filed by the applicants dated 17.05.2022 is being annexed as Annexure No.SA-1 to this Affidavit.

4. That after filing objection, the next date fixed was 15.06.2022 and on 15.06.2022, the opposite party no.2 took the adjournment and the next date fixed was 19.07.2022, on which date again the opposite party no.2 has filed his adjournment. Copies of the order sheet showing non-appearance of the opposite party no.2 are collectively being annexed as Annexure No.SA-2 to this Affidavit."

17. The aforesaid matter again came up for hearing before the Hon'ble Court on 18.07.2022 on which date adjournment was sought upon which the Hon'ble Court was pleased to fix 25.07.2022. On 25.07.2022, the matter was again heard by this Court and during the course of arguments, both the counsels requested the Court to mediate the matter for amicable settlement of the dispute. As all the parties, except applicant no.3, were present before the Court during the course of arguments and on the request of counsels of both the parties, the matter was placed on 03.08.2022 at 2:00 PM for settlement. The said date was fixed as on 25.07.2022, as the applicant no.3 was not present in the Court, otherwise the compromise would have taken place on 25.07.2022 itself. The order dated 25.07.2022 already reproduced hereinabove.

18. Learned counsel for the applicants further submits that on 03.08.2022, the matter again came up before the Court on which date applicants were present in terms of the order dated 25.07.2022, but deliberately opposite party no.2 did not appear and sent e-mail through his counsel Mr. Atharv Dixit that he is suffering from spinal injuries and has been advised for bed rest till 12.08.2022 and on his request, the matter was again fixed for 24.08.2022. The order dated 03.08.2022 is already reproduced hereinabove. Unfortunately, just before two days, on 22.08.2022, a supplementary counter affidavit was filed by the opposite party no.2 by engaging new counsel Mr Sanjeev Kumar Yadav, Advocate, along with one Senior Counsel of Supreme court, whereby refusing to settle the matter allegedly on the ground that the Hon'ble Apex Court in the case of State of Madhya Pradesh Vs. Kalyan Singh reported in (2019) 4 SCC 268 has refused to quash the criminal proceedings under section 307 IPC. In the supplementary counter affidavit, he has further filed a complaint against the applicants before the S.S.P., Dehradun, alleging therein that on 16.08.2022 at about 10:00 AM, applicants armed with knife, stick and other weapons assaulted the opposite party no.2, requesting the S.S.P. to lodge a criminal case against the applicants. Learned counsel for the applicants further submits that it is highly unfortunate that opposite party no.2, who has admitted in the open court that he is ready to settle the matter, is now running away from the settlement by again raising false and frivolous allegations against the applicants. After the first hearing of the matter, which took place on 20.04.2022 as mentioned above, where the incorrect statement was given that the order dated 08.11.2021 has been corrected, the correction application was moved u/s 151 and 152 C.P.C. for the first time on 24.04.2022, whereby seeking the correction of the order dated 08.11.2021 of concerned court of Dehradun in which not only the opposite party no.2 was present, but his statement was also recorded by the court of ADJ-III, Dehradun showing his presence at Dehradun. In fact, the order dated 8.11.2011 is still uncontroverted and unrebuttable on the instance of opposite party No.2 as till today he neither filed any corrected order nor appeared before the court to press the correction in the order, particularly because he does not want to give incorrect statement or by filing false affidavit before the concerned court because the court and O.P no.2 are aware of truth and true facts and that is why the correction application was deliberately moved by the junior counsel Hariom Advocate (Complaint Case No.32/2022).

19. Firstly, learned counsel for the applicants further submits that no correction application has been moved by the opposite party no.2 himself seeking correction of the order dated 08.11.2021 upto the first date of hearing of the present application u/s 482 of Cr.P.C., which was held on 20.04.2022. Even after filing the correction application, no steps have been taken by the opposite party no.2 or his junior counsel to get the correction application decided. In fact, the order sheet shows and reflects that they are seeking adjournment and not getting the correction application decided, which is for the reason that the Presiding Officer knows that the opposite party no.2 was present before him on 08.11.2021 and his statement and presence was correctly recorded by the court. For the aforesaid reason, the opposite party no.2 is trying to linger on the matter and without waiting for final discussion, has approached the Hon'ble Apex Court against interim order.

20. Secondly, learned counsel for the applicants submits that the allegations are so absurd and improbable that no man of ordinary prudence can rely upon such vague and baseless allegations and therefore, the present criminal case against the applicants is a pure abuse of process of law and has been maliciously instituted for oblique motive in order to fill up nefarious designs. The criminal proceedings are manifestly attended with malafide and the proceedings are maliciously instituted with an ulterior motive for wrecking vengeance with the accused and with a view to spite them due to private and personal grudge as the applicants changed their choice, by engaging another counsel on commission basis in place of opposite party no.2. The opposite party no.2 is misusing his power and profession and has arranged all the things in a well planned manner by creating the chance witnesses, whose names are mentioned in the F.I.R and also by managing the doctor, who mischievously manufactured the false injury report.

21. Thirdly, learned counsel for the applicants submits that the opposite party no.2 is the habitual complainant because in the past, in a similar fashion, he filed two criminal cases first was an application u/s 156(3) of Cr.P.C. on 03.02.2017 against Anoop, Sanjay, Neetu, Yashpal Singh, Praveen, Shishupal and Jitendra at Police Station Patelnagar, District Dehradun, in which he allegedly sustained some injuries and was examined at private hospital. The said application u/s 156(3) of Cr.P.C. was also filed in a similar fashion and the same was ultimately dismissed by the court of ACJM, Dehradun on 18.02.2017 by a detailed order mentioning therein that the opposite party no.2 sought to falsely implicate the accused therein by creating the injuries. The copy of the order dated 18.02.2017 rejecting the aforesaid application u/s 156(3) of Cr.P.C. has been annexed as Annexure No.SA-3 to the supplementary affidavit. The second FIR came to be lodged by the opposite party no.2 in similar fashion on 26.02.2017 at P.S. Raipur, Sadar, Dehradun being case crime no.75/2017 u/s 323, 504, 506 IPC against two unknown persons and finally, the said case was settled on the basis of compromise and accordingly a final report was submitted on 25.03.2017.

22. Fourthly, learned counsel for the applicants submits that the order sheet OF THE COURT PROCEEDINGS AT DEHRADUN COURT dated 08.11.2021 shows the presence of the opposite party no.2 at Dehradun on the date of alleged incident. The abovementioned order sheet dated 8.11.2021 is the sacrosanct document of impeccable character and its veracity cannot be doubted as the same is the record of judicial proceedings, where the statement and presence of the opposite party no.2 is recorded by the competent court and the same remains uncontroverted and un rebuttable till the first date of hearing on 20.04.2022 as the correction application for deleting

the name and presence of O.P no.2 at Dehradun on 8.11.21 was moved by junior counsel on 22.04.2022. Placing the above arguments, learned counsel for the applicants has just tried to prove that the presence of the opposite party no.2 at Bijnor is doubtful. Hence, the criminal proceedings are liable to be quashed on this ground itself.

23. Placing reliance upon the judgment of Hon'ble Apex Court in the case of Harshendra Kumar D. Vs. Rebatilata Koley and others, reported in (2011) 3 SCC 351, wherein it has been held that High Court can quash the criminal proceedings, if material/document as placed by accused are beyond suspicion or doubt or which are in the nature of public document are uncontroverted and are such that accusation against the accused cannot stand, it would be travesty of justice of the accused is relegated to trial and is asked to prove his defence before trial court.

24. Learned counsel for the applicants, placing reliance upon the judgment of Hon'ble Apex Court in the case of State of Madhya Pradesh Vs. Laxmi Narayan and others, reported in (2019) 5 SCC 688, has emphasized the fact that compromise in offences involving Section 307 IPC can be looked into in cases where wrong is basically personal or private in nature and does not amount to offence against society. The opposite party placing reliance upon the judgment of Kalyan Singh (supra) has wrongly interpreted the view of the Hon'ble Apex Court.

25. Learned counsel for the applicant further submits that the power under Section 482 Cr.P.C., which is inherent in a court's jurisdiction, is meant to prevent abuse of its process and to control its own procedure must in a criminal court include a power to safeguard an accused person from oppression or prejudice. On the application of abuse of process, the court confirms that an abuse of process justifying the interference in prosecution could arise in the circumstances where it would be impossible to give the accused a fair trial or where it would amount to misuse/manipulation of process because it offends the court's sense of justice and propriety to be asked to try the accused in the circumstances of the particular case. Learned counsel for the applicants further contends that it may be abuse of process if either (a) the prosecution has manipulated or misused the process of the court so as to deprive the accused of a protection provided by law or to take unfair advantage of a technicality, or (b) on the balance of probability the accused has been, or will be, prejudiced in the preparation of conduct of his defence by delay on the part of the prosecution which is unjustifiable. In support of his contentions, he has relied upon the judgments of Hon'ble Apex Court in the cases of Chandran Ratnaswami vs K.C. Palanisamy, reported in (2011) 3 SCC 351, Rajesh Tiwari and others Vs. Nandkishor Roy, reported in (2010) 8 SCC 442 and Dr. Monica Kumar & Anr vs State Of U. P. & Ors, reported in (2008) AIR SCW 4618.

26. Learned counsel for the applicants further submits that the Hon'ble Apex Court in various other cases has held that cognizance of offence cannot be taken unless there is at least some material indicating the guilt of the accused. The details of the cases are as follows:-

a) R.P. Kapur Vs. State of Punjab, reported in (1960) 3 SCR 388

b) Janta Dal Vs. H.S. Chowdhary, reported in (1992) 4 SCC 305

c) Raghubir Saran (Dr) Vs. State of Bihar, reported in (1964) 2 SCR 336

d) State of Karnataka Vs. M. Devendrappa, reported in JT 2002 (1) SC 213

e) Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haque, reported in JT 2004 (9) SC 486

27. He further submits that the powers under section 482 is a guarantee to injustice as held by the Apex Court, the relevant paragraph nos.11 and 12 of the judgment passed by the Hon'ble Apex Court in the case of Manoj Mahavir Prasad Khaitan Vs. Ramgopal Poddar and another, reported in (2010) 10 SCC 676 is being reproduced hereunder:-

"11. It was pointed out that the criminal revision against the issuance of summons was withdrawn. We were, therefore, taken to the High Court's judgment, where the High Court has found itself to be powerless in view of the withdrawal of the criminal revision and had advised the parties to go back to the revisional Court and get it restored. We do not think that the High Court was justified in advising the appellant to go back to the Sessions Judge and to get the criminal revision revived without going into the question whether such revision could have been revived in law or not. We observe that the High Court was not powerless. The High Court itself was exercising its jurisdiction under Section 482 Cr.P.C., where the High Court could pass any order in the interests of justice. This power was available only to the High Court in contradistinction to the Sessions Judge who was only entertaining the revision application of the appellant under Section 397 Cr.P.C. The High Court should have, therefore, applied its mind to the fact situation. It should have been realized that the complaint was wholly covered under the 7th circumstance in the case of State of Haryana and Ors. v. Bhajan Lal and Ors. (cited supra), which is as under:

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

It was also covered under 3rd circumstance in the case of State of Haryana and Ors. v. Bhajan Lal and Ors. (cited supra), which suggests:

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.

12. We reiterate that when the criminal Court looks into the complaint, it has to do so with the open mind. True it is that that is not the stage for finding out the truth or otherwise in the allegations; but where the allegations themselves are so absurd that no reasonable man would accept the same, the High Court could not have thrown its

arms in the air and expressed its inability to do anything in the matter. Section 482 Cr.P.C. is a guarantee against injustice. The High Court is invested with the tremendous powers thereunder to pass any order in the interest of justice. Therefore, this would have been a proper case for the High Court to look into the allegations with the openness and then to decide whether to pass any order in the interests of justice. In our opinion, this was a case where the High Court ought to have used its powers under Section 482 Cr.P.C."

28. Learned counsel for the applicants further submits that the present case is squarely covered under fifth and seventh guideline framed by the Hon'ble Supreme Court in State of Haryana Vs. Bhajan Lal case, reported in 1992 Supp (1) SCC 335, wherein it has been held that criminal case can be quashed to protect the accused from malicious prosecution. When a criminal proceeding is instituted with mala-fide intention to harass the person, the court can quash the entire proceedings to secure the ends of justice.

29. Lastly, learned counsel for the applicants, relying upon the judgment of the Hon'ble Apex Court in the case of State of West Bengal vs. Committee for Protection of Democratic Rights, West Bengal reported in (2010) 3 SCC 571, has prayed that the C.B.I. Inquiry be conducted in the present matter as well as several other matters in which the opposite party no.2 has lodged false and frivolous complaint on the basis of concocted story and has manipulated the medical report also.

30. Learned counsel for the applicants, therefore, submitted that the present criminal proceedings initiated against the applicant is not only malicious but also amount to an abuse of the process of the court of law. On the cumulative strength of the aforesaid submissions, it is submitted by learned counsel for the applicant that the proceedings of the above mentioned criminal case are liable to be quashed.

31. On the other hand, Mr. Amit Rai, learned counsel for the opposite party no.2 has opposed the submission made by the learned counsel for the applicants and submitted that the applicants have misled this Court with distorted facts and submissions which have no bearing with the present case. There is no junior senior relationship between the applicant and the complainant/opposite party no.2. In the entire proceedings, no such material was produced by the applicants to establish the relation of senior and junior with opposite party no.2. All the accused persons have their different versions for lodging this FIR in question. He has drawn attention of the Court to para 24 of the instant application, wherein reason for lodging FIR has been given as to applications nos. 1, 2 and 3 were pursuing their internship with opposite party no.2, but due to bad behaviour of opposite party no.2, they left him and joined applicant no.4, Jubair for their future internship, which prompted the opposite party no.2 to lodge the FIR in question. However, it is a matter of fact and record that applicant no.4 is not a lawyer and it is also strange to believe that why applicant no.3, who is a lawyer registered in 2013 with bar council of Uttarkhand as claimed by him, will join applicant no.4 as intern. This is the question as to whether a lawyer will join as an intern with law student? The submission made in para 24 is highly improbable.

32. He further submits that applicant no.3 has stated in his statement under Section 161 Cr.P.C. that he is having restaurant/house at the upper floor of the office of the opposite party no.2. Due to influence of money, the opposite party no.3, in order to purchase his restaurant/house has put pressure by lodging this FIR. The statement of applicant no.3 has been annexed at page 73 of the supplementary affidavit filed by the opposite party no.2. Contrary to the above statements, one accused Ehtesham Ansari, in his statement before the Investigating Officer has stated that he alongwith Praveen (applicant no.1), Virendra (applicant no.2) and Jubair (applicant no.4) was working in the office of opposite party no.2 as junior advocates. He has given the reason for lodging the present FIR as he opposed the opposite party no.2 from charging extra death claim amount from the widow of a victim. The statement of accused-Ehtesham Ansari has been annexed at page 74 of the supplementary affidavit filed by the opposite party no.2. He further submits that the co-accused-Ehtesham Ansari has challenged the impugned order dated 07.03.2022 before the concerned court below by filing revision petition U/s 397 Cr.P.C. In para 9 of the said revision petition, contrary to his statement before the Investigating Officer, he has submitted that since he had filed vakalatnama in some cases of opposite party no.2, caused for lodging the FIR in question.

33. Learned counsel for the opposite party no.2 further submits that in this matter complete and correct facts have been placed before this Court. The statements of the eye-witnesses, namely, Moola Singh, Rakesh Kumar, Manoj Kumar, Dalveer Singh, statement of opposite party no.2 and Dr. Promod Kumar, Prabhari Medical Officer, Primary Health Centre, Kotwali Dehat, Bijnor, who examined the complainant on 08.11.2021 and prepared medical report, have been placed at page 81-89 of the supplementary affidavit filed by the opposite party no.2. There is a criminal history of applicant no.3 as FIR u/s 117, 323, 332, 341, 353, 427, 504 IPC has been lodged on 12.02.2016 at P.S. Dalanwala, District Dehradun and also the criminal history of Applicant no.4 as one FIR dated 18.06.2019 u/s 147, 323, 307, 498A IPC and 3/4 Dowry Prohibition Act was lodged against the applicant no.4 at P.S. Kotwali, District Dehradun being Case Crime No.219/2019. He further submits that the opposite party no.2 has also lodged one FIR no.52/2022, under Sections 379, 382, 506, 120B IPC against the applicants at P.S.-Nurpur, District-Bijnor on 06.02.2022. The applicants had challenged the said FIR before this Court by means of filing Cri. Misc. Writ Petition No.4324 of 2022, which was dismissed as withdrawn on 21.04.2022.

34. Learned counsel for the opposite party no.2 further submits that in the entire application, the applicants have failed to established that the impugned order dated 07.03.2022 suffers from any illegality, incorrectness or perversity. He further submits that the concerned Magistrate has applied judicial mind before summoning the accused persons. The applicants have not challenged the order of concerned Magistrate dated 29.11.2021, directing for lodging of the FIR against them. It is the summoning order which is under challenge before this Court under Section 482 Cr.P.C.. This Court has to see whether the summoning order is justified as per law. Whether the trial court has exercised his jurisdiction appropriately before passing the summoning order. Whether the prima facie case is made out. Whether the material placed on record before the concerned Magistrate was sufficient to pass order of summoning the accused persons. Whether the concerned court below should have discarded the medical evidence as well as statements of the eye-witnesses. Whether the impugned order has been passed within the legal parameters. In support of his submissions, learned counsel for the opposite party no.2 has relied upon the judgment of the Apex Court in the case of

HareramSatpathy vs. Tikaram Agarwala & Ors. reported in (1978) 4 SCC 58 and Nupur Talwar vs. Central Bureau of Investigation, Delhi and Another reported in (2012) 2 SCC 188. Relying upon the aforesaid judgments, the counsel for the opposite party no.2 submits that this Court may not interfere with an order of taking cognizance and summoning the accused persons unless it is shown by the applicants that the order impugned is perverse or based on no material.

35. Learned counsel for the opposite party no.2 further submits that the applicants have failed to establish their case for invoking jurisdiction of this Court U/s 482 Cr.P.C. This case does not fall under the category for which extra-ordinary jurisdiction should be invoked by this Court. The trial cannot be stalled by merely raising some suspicion and doubt in the allegations. The applicants are dreaded criminals having several criminal records and are running away from facing the trial. They have deliberately violated the order of the trial court in the garb of pendency of this instant application. Before the Hon'ble Apex Court, order dated 08.07.2022. passed by this Court was assailed, whereby a blanket protection was granted to the accused persons without any reasons. The Hon'ble Apex Court has taken cognizance in the matter qua the interim protection and stalling of trial. The matter is listed before the Supreme Court on 12.09.2022. Before the Supreme Court, the applicants as well as the State have failed to justify the order dated 8.07.2022 in their respective affidavits.

36. Learned counsel for the opposite party no.2 further submits that the matter is required to be tried by the court having competent jurisdiction in full-fledged manner. Prima Facie, cognizable offence is made out and, therefore, interference of this Court in the present case under Section 482 Cr.P.C. is not warranted. He has relied upon the following judgments of the Apex Court:-

a) (2006) 7 SCC 188, Central Bureau of Investigation vs. Ravi Shankar Srivastava, IAS & Another (para 7,8 and 9)

b) (2005) 1 SCC 568, State of Orissa vs. Debendra Nath Padi (para 18, 20 & 23)

c) (2022) SCC Online Sc 484, Ramveer Upadhyay & Another vs. State of U.P. and another (para 30, 31, 38 & 39)

d) (2022) SCC Online SC 513, Rathish Babu Unnikrishnan vs. State (Govt. of Nct of Delhi) & another (para 14&15)

37. Thus, learned counsel for the opposite party no.2 submits that different versions have been made by the accused persons qua the lodging of the FIR in question in the initial stage. Alternate remedy lies with the applicants to file revision petition against the impugned order. Further in the entire application, no infirmity in the summoning order has been pointed out by the applicants, which shows that summoning order under challenge passed by the concerned Magistrate is within the legal parameters. The matter pertains to intricate questions of facts where detailed enquiry and full-fledged trial is required to reach its logical conclusion. He further submits that in the garb of the instant application, the trial has been scuttled which is not the objective of Section 482 Cr.P.C.

38. On the cumulative strength of the aforesaid submissions, learned counsel for the opposite party no.2 states that this Court may not exercise its inherent power under Section 482 Cr.P.C. in the present case, and hence the present application is liable to be rejected.

39. Per contra, Mr. Amit Singh Chauhan, learned A.G.A. for the State has opposed the prayer made by the learned counsel for the applicants by contending that there is no illegality or infirmity in the impugned summoning order dated 07.03.2022 by which the applicants have been summoned by the learned Magistrate. The applicants can agitate their grievance at appropriate stage before the concerned court below. Therefore, the impugned order passed by the learned Magistrate cannot be quashed at this stage.

40. Learned A.G.A. submits that perusal of F.I.R. as well as statements of the witnesses, goes to show that, prima facie case for the alleged offence is made out against the applicants. Lastly, the learned A.G.A. states that this High Court may not quash the entire criminal proceedings under Section 482 Cr.P.C. at the pre-trial stage, for which he has relied upon the judgment of the Apex Court in the case of Mohd. Allauddin Khan Vs. The State of Bihar & Others reported in 2019 0 Supreme (SC) 454, wherein the Apex Court has held that the High Court had no jurisdiction to appreciate the evidence of the proceedings under Section 482 Cr.P.C. because whether there are contradictions or/and inconsistencies in the statements of the witnesses is an essential issue relating to appreciation of evidence and the same can be gone into by the Judicial Magistrate during trial when the entire evidence is adduced by the parties. However, in the present case the said stage is yet to come.

41. Learned A.G.A. has further relied upon the judgment of the Apex Court in the case of Rajeev Kaurav Vs. Balasahab & Others reported in 2020 0 Supreme (SC) 143, wherein the Apex Court has held that it is no more res integra that exercise of power under Section 482 CrPC to quash a criminal proceeding is only when an allegation made in the FIR or the charge sheet constitutes the ingredients of the offence(s) alleged. Interference by the High Court under Section 482 CrPC is to prevent the abuse of process of any law or Court or otherwise to secure the ends of justice. It is settled law that the evidence produced by the accused in his defence cannot be looked into by the Court, except in very exceptional circumstances, at the initial stage of the criminal proceedings. It is trite law that the High Court cannot embark upon the appreciation of evidence while considering the petition filed under Section 482 CrPC for quashing criminal proceedings. It is clear from the law laid down by this Court that if a prima facie case is made out disclosing the ingredients of the offence alleged against the accused, the Court cannot quash a criminal proceeding.

42. On the cumulative strength of the aforesaid submissions, learned A.G.A. states that this Court may not exercise its inherent power under Section 482 Cr.P.C. in the present case, and hence the present application is liable to be rejected.

43. I have given thoughtful consideration to the submissions made by the learned counsel for the parties and gone through the records of the present application.

44. From perusal of the records, this Court finds that the present dispute had arisen out of an FIR lodged by opposite party no.2 namely, Pramod Kumar Baliyan, as Case Crime No.419 of 2021, under Sections 326, 307, 323, 324, 504, 506 and 120-B IPC, Police Station- Haldaur, District-Bijnor on 02.12.2021 for the incident allegedly occurred at 08.11.2021. The aforesaid case was lodged at the instance of opposite party no.2 through an application filed by him u/s 156(3) Cr.P.C. on dated 22.11.2021.

45. The prosecution as forwarded by the first informant is that on 08.11.2021, the accused/applicant, namely, Praveen Singh, Virendra Singh, Arun Khanna, Zubair and Ethesam Ansari armed with country made pistols and other weapons assaulted the opposite party no.2, whereby he sustained grievous injuries resulting in fracture of his nose bone. The opposite party no.2 is said to have been medically examined at Primary Health Centre, Kotwali Dehat, District-Bijnore at 6:35 A.M. on 08.11.2021. As per FIR the incident was witnessed by the persons, namely, Moola Singh, Rakesh Kumar, Manoj Kumar and Dalvir Singh. The case was investigated and after investigation, recording statement of witnesses of FIR and independent witnesses, the Investigating Officer submitted the Final Report with the remark that dispute pertains to professional rivalry as such opposite party no.2 (first informant) has lodged false case merely on the pretext of taking vengeance. The aforesaid Final Report dated 29.12.2021 was challenged by way of protest petition by opposite party no.2 which ultimately got allowed by order dated 07.03.2022 passed by learned ACJM-I Bijnor, hence the applicants have been summoned by the learned Magistrate.

46. As for the applicants, they are invoking the interference of this Court on the following grounds:-

a) Firstly, as per the applicants, no such incident has taken place, and the entire prosecution case as forwarded by the opposite party no.2 is based on false and fabricated story.

b) That all witnesses are interested witness and managed for the purpose deliberately to harass the applicants.

c) That the presence of opposite party no. 2 is questioned as on the date of alleged occurrence, he was present before the learned Additional District Judge, Court No. 3, Dehradun in Misc. Case No. 598 of 2021, which is being supported by order dated 08.11.2022 of that court.

d) That in several other cases, after the date of said incident, the opposite party no. 2 has appeared on almost nearby dates in District Dehradun, which depict that no such injury was sustained by him which could have unable the opposite party no.2 to follow ordinary pursuits as defined in Section 321 IPC.

e) Lastly, multiple cases have been filed in the similar fashion against the accused applicants by opposite party no.2 only for his personal grudge and malicious intention. Learned counsel for the applicants has relied upon the several judgments of the Hon'ble Apex Court in the following cases:-

1. Harshendra Kumar D. Vs. Rebatilatakoley and Others reported in (2011) 3 SCC 351;
2. Chandran Ratnaswami Vs K.C. Palaniswamy, reported in (2013) 6 SCC 740;
3. State of Karnataka Vs L. Muniswamy and Others reported in (1977) 2 SCC 699;
4. State of Haryana and Others Vs. Bhajan Lal and Others reported in 1992 Supp. (1) SCC 335;
5. Dr. Monica Kumar and Another Vs State of UP and Others reported in (2003 AIR SCW 4618);

f) From the aforesaid submissions made by learned counsel for the applicants, it is pressed that the Court proceeding ought not to be permitted to degenerate into weapon of harassment or persecution.

47. However, in contrast the opposite party no.2 had pleaded to reject the application of the applicants on following grounds:-

- a) That Prima facie, cognizable offence is made out and, therefore, the matter is required to be tried by the Court having competent jurisdiction
- b) That applicants have failed to establish that there is any incorrectness, perversity or illegality in the impugned order.
- c) That witness of FIR had supported the prosecution case and the Investigating Officer has wrongly placed Final report in the case before concerned court.
- d) The applicants are dreaded criminals and are running away from facing the trial.
- e) In support of his contentions, learned counsel for the opposite party no. 2 has relied upon the following judgments:-

1. (2006)7 SCC 188; CBI Vs. Ravi Shankar Srivastava,/ Act Anr.
2. (2005) L SCC 568; State of Orissa Vs. Debendranath Padhi
3. 2022 SCC online SC 484; Ramveer Upadhyay and Another Vs. State of UP and another.
4. 2022 SCC online SC 513; Rathish Babu Unnikrishna Vs State (Gov. Of NCT) and Another.

f) By way of the aforesaid submissions, learned counsel for the opposite party no.2 has requested that the matter pertains to intricate question of facts where detailed enquiry and full fledged trial is required and no short cut can be adopted to decide the matter.

48. Before discussing the power of Hon'ble Court u/s 482 Cr.P.C., it would be appropriate to analyze the facts admitted by both the parties, which are as follows:-

- a) There was a professional relationship between the parties concern as it has also been set up in the FIR.
- b) The presence of opposite party no.2 has been shown in the Court at Dehradun on 08.11.2021 by order of competent Court until it was sought for correction after filing of this present application, till date not corrected.
- c) There is medical examination of the injured opposite party no.2 conducted on 08.11.2021 at PHC, Bijnor for which certainly the applicants have raised doubt and claimed to be procured document.
- d) The relationship between both the parties was strained due to monetary and professional cases.
- e) Various criminal cases have been filed by/between the parties. There is further dispute with regard to engagement with clients.
- f) The opposite party no.2 is a senior legal practitioner having settled practice and applicants are young legal aspirants.
- g) Lastly, during pendency of the present application before this Hon'ble Court there was likelihood of matter being settled amicably, but stand of opposite party changed due to reasons best known to him.

49. The scope and ambit of Section 482 Cr.P.C. is a very agitated and debatable issue. Nevertheless, there are some cases which have got wide acceptance in the legal fraternity and hence, are used as the minor guidelines/principles governing the cases of quashing criminal proceedings.

50. The Hon'ble Apex Court in the case of Prashant Bharti Vs. State of NCT of Delhi reported in (2013) 9 SCC 293 has held that, in order to determine the veracity of prayer for quashing the criminal proceedings raised by an accused u/s 482 Cr.P.C., the following questions are to be raised before the High Court, if the answer to all the following questions was in affirmative, then the High Court should quash the proceedings by exercising its power u/s 482 Cr.P.C.

- "1. Whether the material relied upon by the accused is sound, reasonable and indubitable, i.e. material is of sterling and in impeccable quality?

2. Whether the material relied upon by the accused is sufficient to reject and over rule the factual assertions contained in the complaint, i.e. material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusation as false?

3. Whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or that the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

4. Whether proceeding with the trial would result in an abuse, of process of the Court and hence, would not serve the end of Justice?"

51. The Apex Court in the case of Parbatbhai Ahir Vs. State of Gujarat reported in (2017) 9 SCC 641, referring to various caases has summarized following principles to govern powers of High Court under Section 482 Cr.P.C.:-

"15 The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

(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 recognises 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; (i) to secure the ends of justice or (ii) 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

(x) 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 misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

52. The power of this Court under Section 482 Cr.P.C. has been amiably elaborated in following two cases, which are considered to be authorities on the subject of quashing of criminal proceedings. Despite all the contradicting judgments of the Apex Court the following cases provides most accepted views:-

I. In the case of State of Haryana Vs. Bhajan Lal reported in 1992 AIR 604, the Apex Court in paragraph 102 has enumerated 7 categories of the cases where power under Section 482 Cr.P.C. can be exercised by this Court, which are quoted below:-

"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 on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

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

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

II. In the case of R.P. Kapur Vs State of Punjab reported in 1960 AIR 862, the Apex Court discussing the power of this Court under Section 482 Cr.P.C. observed in paragraph 6 as follows:-

"6. Before dealing with the merits of the appeal it is necessary to consider the nature and scope of the inherent power of the High Court under Section 561-A of the Code. The said section saves the inherent power 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. There is no doubt that this inherent power cannot be exercised in regard to matters specifically covered by the other provisions of the Code. In the present case the magistrate before whom the police report has been filed under Section 173 of the Code has yet not applied his mind to the merits of the said report and it may be assumed in favour of the appellant that his request for the quashing of the proceedings is not at the present stage covered by any specific provision of the Code. It is well-established that the inherent jurisdiction of the High Court can be exercised to quash proceedings in a proper case either to prevent the abuse of the process of any court or otherwise to secure the ends of justice. Ordinarily criminal proceedings instituted against an accused person must be tried under the provisions of the Code, and the High Court would be reluctant to interfere with the said proceedings at an interlocutory stage. It is not possible, desirable or expedient to lay down any inflexible rule which would govern the exercise of this inherent jurisdiction. However, we may indicate some categories of cases where the inherent jurisdiction can and should be exercised for quashing the proceedings. There may be cases where it may be possible for the High Court to take the view that the institution or continuance of criminal proceedings against an accused person may amount to the abuse of the process of the court or that the quashing of the impugned proceedings would secure the ends of justice. If the criminal proceeding in question is in respect of an offence alleged to have been committed by an accused person and it manifestly appears that there is a legal bar against the institution or continuance of the said proceeding the High Court would be justified in quashing the proceeding on that ground. Absence of the requisite sanction may, for instance, furnish cases under this category. Cases may also arise where the allegations in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged; in such cases no question of appreciating evidence arises; it is a matter merely of looking at the complaint or the First Information Report to decide whether the offence alleged is disclosed or not. In such cases it would be legitimate for the High Court to hold that it would be manifestly unjust to allow the process of the criminal court to be issued against the accused person. A third category of cases in which the inherent jurisdiction of the High Court can be successfully invoked may also arise. In cases falling under this category the allegations made against the accused person do constitute an offence alleged but there is either no legal evidence adduced in support of the case or evidence adduced clearly or manifestly fails to prove the charge. In dealing with this class of cases it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is manifestly and clearly inconsistent with the accusation made and cases where there is legal evidence which on its appreciation may or may not support the accusation in question. In exercising its jurisdiction under Section 561-A the High Court would not embark upon an enquiry as to whether the evidence in question is reliable or not. That is the function of the trial magistrate, and ordinarily it would not be open to any party to invoke the High Court's inherent jurisdiction and contend that on a reasonable appreciation of the evidence the accusation made against the accused

would not be sustained. xxxxxxxx"

(Emphasis supplied)

53. Thus, the Hon'ble Apex Court has discussed 3 clauses of cases in which criminal proceeding can be quashed. They are as follows:-

"(a) where there is a legal bar against institution or continuance of criminal proceedings;

(b) where the allegation in FIR do not discloses or constitute an offence, even if taken at face value and not their entirely.

(c) where the allegation made constitute an offence but there is no evidence which can prove them."

54. Limitation of power under Section 482 Cr.P.C. has been discussed by the Hon'ble Apex Court and held in the case of Dr. Monika Kumar Anr. Vs State of U.P. as well as many other judgements of the Apex Court, that Section 482 Cr.P.C. powers are to be ex-debito justitiae (as a matter of right) in a manner to ensure real and substantial justice, and the administration of justice is why Court exists.

55. In recent relevant judgement of the Apex Court in the case of Anand Kumar Mohatta Vs. State (Govt. of NCT of Delhi, reported in (AIR) 2019 SC 210: 2018 SCC Online SC2447, it was observed;

"18-It is a settled principle of law that the High Court can exercise jurisdiction u/s 482 Cr.P.C. even when discharge application is pending with the trial Court. 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 allegation are materialized in 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 the power of any Court."

56. This Court time and again has examined the scope of jurisdiction of the High Court under Section 482 Cr.P.C. and laid down several principles which govern the exercise of jurisdiction of the High Court under Section 482 Cr.P.C. A three-Judges Bench of this Court in State of Karnataka v. L. Muniswamy (1977) 2 SCC 699 held that the High Court is entitled to quash a proceeding 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. In para 7 of the judgment, the following has been stated :

"7. ... In the exercise of this wholesome power, the High Court is entitled to quash a proceeding 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. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the legislature. The compelling necessity for making these observations is that without a proper realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice, between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction."

57. Further it has been held in various judgements that in proceeding u/s 482, the High Court will not enter into any finding of facts, particularly when the matter has been concluded by the concurrent finding of facts.

58. However, in the judgment of Apex Court in the case of Indian Oil Corporation Vs. NEPC India Ltd. And Ors. reported in (2006) 6 SCC 736, the Apex Court observes the following principles:-

"1. The High Courts, should not exercise the inherent powers to repress a legitimate prosecution. The power to quash criminal complaints should be used sparingly and with abundant caution.

2. The criminal complaint is not required to verbatim reproduce of legal ingredients of the alleged offence. If the necessary factual foundation is laid in the criminal complaint, merely on the ground that a few ingredients have not been stated in detail, the criminal proceeding should not be quashed. Quashing of complaint is warranted only where complaint is bereft of even the basic facts which are absolutely necessary for making out the alleged offence.

3. It was held that a given set of facts may make out (a) purely a Civil wrong, or (b) purely or criminal offence or (c) a civil wrong as also a criminal offence. A commercialor a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence."

59. As such, the High Court u/s 482 Cr.P.C. has very wide scope and is an essential part of the functioning in order to meet the end of justice, it must be noted that the power so assigned is so vast and can easily be misinterpreted. So, it becomes important for the Courts to use it wisely and according to the guidelines laid down by Hon'ble Apex Court.

60. Section 482 of Cr.P.C. has made its space in Cr.P.C. in order to not only enable the High Court to provide proper justice but also to curb the filing of fictitious complaints.

61. In the present case as forwarded by/from both the side, the Hon'ble Court may surely take judicial notice that contain facts as provided u/s 57 of the evidence act and set the law in motion by delivering substantial justice and balance be struck between the statutory obligations of investigation and rights of affected parties.

62. Further, even the framers of legislation while enacting section 482 Cr.P.C. had started with a non-obsante clause and completed the section with "or otherwise to secure the ends of justice" which lays obligation upon the power of High Court to prevent the Society from Criminals and law-breakers and should be exercised to stop the public from filing fictitious complaints just to fulfill their personal grudges.

63. In the present case, a balance has to be struck while considering the rival submissions made by the parties in order to arrive at a judicious conclusion. The land mark judgments have been cited by both the parties considering which this Court has to arrive at a conclusion considering the guidelines and principles setup by the Hon'ble Apex Court in various cases.

64. It has been emphasized by counsel for the opposite party that there is no senior, junior relationship between the parties and as the applicants have taken different stands while taking their defence, the aforesaid has established. This Court finds that from perusal of the FIR itself, wherein the opposite party no.2 has accepted that few applicants engaged him in cases on commission basis and other accused persons in one or other way assisted them, it can be understood that the applicants, who are pursuing internship or are advocates, being assisted by other persons, were connected with the opposite party no.2, (who happens to be senior lawyer by way of legal profession). Thus, the monetary relationship between the applicants and opposite party no.2 is established from perusal of the FIR itself. The dispute between the two cooked up when during period of lock-down due to pandemic of Covid-19, the professional activities were affected and the relationship between the two got strained as the applicants changed their stand and engaged some other person on commission basis which annoyed the opposite party no.2 and he cooked up the story by means of lodging the present case against the applicants showing the date of incident as 08.11.2021 at District-Bijnor, whereas on the same day, as per the proceedings of the District Court of Dehradun, the opposite party no.2 was present at Dehradun. Thus, from any of the stand taken by the applicants, there is monetary interest, which has given rise to the strained relationship, which fumed up due to unexpected lockdown and the opposite party no.2 being dissatisfied by the conduct of the applicants of handing over the cases on commission basis to some other counsels and handling of earlier pending cases, this affecting opposite party no.2 by causing monetary loss or gain, which gave way to lodging of the present FIR to wreak vengeance.

65. Learned counsel for the opposite party no.2 has tried to support his case with the medical document and the eye-witnesses mentioning about the criminal history of the applicants, this Court finds that during investigation, the Investigating Officer has collected the CDR of opposite party no.2 and the applicants to find the exact location from which he concluded that the presence of applicants and opposite party no.2 was not found at the place of occurrence on that date and time, which has been further supported by the independent witnesses of nearby locality. Moreover, the presence of opposite party no.2 is uncontroverted at District-Dehradun as on the date of incident,

i.e. 08.11.2021, as he was present at court proceedings and his statement was recorded by the concerned court.

66. Further more, it is the time, date and month of the incident, which makes it highly doubtful, as the same witness and medical aid have been managed and used against the applicants by the opposite party no.2 and one of his junior Hariom. The records of the District Court Dehradun also does not support the medical report according to which the opposite party no.2 received injuries which resulted in nose-bone fracture, however, he is shown to be present nearly everyday being engaged and also arguing cases at District Court Dehradun, which is highly improbable and contrary to the principles set and expected in conduct of normal human behavior.

67. Keeping in mind all these circumstances, it can be said that the witnesses have been managed and the medical documents have been procured by the opposite party no.2.

68. In relation to the averments with regard to criminal history of the applicants, several cases have been lodged by the opposite party no.2 and with regard to applicant no.3 and 4 explanation has already been provided by the applicants in rejoinder affidavit.

69. Final contentions as forwarded by opposite party no.2 is that the material placed on record before the concerned magistrate was sufficient to pass order of summoning the accused and that court concerned cannot discard the medical evidence as well as statement of eye witnesses and the trial cannot be stalled by merely raising some suspicion and doubt in allegation against the applicants.

70. In this regard, it is noted that present application is moved by the applicant invoking power under Section 482 Cr.P.C. of the High Court, challenging summoning order dated 07.03.2022 as well as the entire proceedings of the criminal case. To be precise, the power of the court concerned while deciding the protest petition and power of the High Court U/s 482 CrPC are two different thing. The court below was bound within the four tight corner's of Section 190 Cr.P.C. and 204 Cr.P.C. and had to be content with what is on record and cannot come to the conclusion about reliability of evidence at the initial stage, however in exercise of power u/s 482 Cr.P.C., this Court has different scope than what magistrate could have applied in the given situation.

71. The Hon'ble Apex Court in Bhajan Lal case (supra), after considering several judgments, distilled the principles governing the exercise of extra ordinary power of the court under Article 226 of the Constitution of India or it inherent power u/s 482 Cr.P.C. Several categories of cases by way of illustrations were also listed out, the same has been earlier discussed for ready reference. But, at the same time, the Apex Court also recorded a note of caution.

72. From the entire discussion, what is subtly clear is that FIR and charge sheet can be quashed if allegation or evidence do not establish the commission of an offence. Upon analysis, the Court noted that the facts of each case would determine the exercise of the discretion vested in the Court to quash criminal proceedings in order to prevent abuse of process of Court.

73. In the recent judgment delivered by the Single Bench of High Court of Delhi in the case of Mr. Abhishek Gupta and another vs. State of NCT of Delhi and another passed in CRL MC 1064/2022 and CRLMA 4586/2022 decided on 16.03.2022, even while denying to interfere, not finding the case to be suitable one to exercise power u/s 482 Cr.P.C., observed, inherent powers would be predicated on the facts of each case and no court would have any qualm in quashing of FIR and charge-sheet, if commission of offence is not established.

74. Now, coming to the contention of the applicants, they have supported their cases, firstly, that no such incident has happened and entire prosecution case has been build up on fabricated and procured story. To support it, they have demonstrated by way of Court order passed at District Dehradun that on the said date and time of incident, the opposite party no.2 was at District Dehradun, wherein his statement was also recorded and not at the location of alleged occurrence. Their contention finds support of 15 independent witnesses of the locality, whose statement has been recorded by the Investigating Officer during investigation and CDR which is also made part of case diary and particularly when just after the alleged incident the opposite party no.2 was engaged in ordinary daily business which is also confirmed from the record as submitted. The Court can certainly take into account the aforementioned facts/documents while exercising power u/s 482 Cr.P.C. as has been discussed earlier and as held in the case of Harshendra Kumar D. vs. Rabatilata Koley and Others, (2011) 3 SCC 351.

75. Inherent powers of High Court under Section 482 Cr.P.C. are meant to act ex debito justitiae to do real and substantial justice, for the administration of which alone it exists, or to prevent abuse of the process of the Court. These inherent powers can be exercised in the following category of cases: (i) to give effect to an order under the Code; (ii) to abuse of the process of the court; and (iii) to otherwise secure the ends of justice.

76. Now applying the ratio laid down in the above referred several judgments, only in the circumstances that the registration of the case itself is an abuse of process of law, inherent powers can be exercised to prevent abuse of process of law. This Court finds that this case stands to the category when the registration of case itself is an abuse of process of law.

77. This Court while invoking inherent powers under Section 482 Cr.P.C. can always interfere in considering the present facts of the case where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

78. In the exercise of this wholesome power, the High Court is entitled to quash a proceeding 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. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of

justice are higher than the, ends of mere law though justice has got to be administered according to laws made by the, legislature. The compelling necessity for making these observations is that without a proper realization of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction.

79. It is a settled canon of law that this Court has inherent powers to prevent the abuse of its own processes, that this Court shall not suffer a litigant utilizing the institution of justice for unjust means. Thus, it would be only proper for this Court to deny any relief to a litigant who attempts to pollute the stream of justice by coming to it with his unclean hands. Similarly, a litigant pursuing frivolous and vexatious proceedings cannot claim unlimited right upon court time and public money to achieve his ends.

80. It is well settled that inherent powers under Section 482 Cr.P.C. have to be exercised to secure the ends of justice, to prevent abuse of process of any Court and to make such orders as may be necessary to give effect to any order under the Cr.P.C. depending upon the facts of given case. In the instant case, it appears that there is miscarriage of justice, thus relying upon the Judgement of Hon'ble Apex Court in the matter of State of West Bengal and others (supra) as well as in the interest of justice and to protect the interest of applicants, who are victimised of false accusations due to personal grudge of opposite party no.2, who has managed the FIR and other documents at Bijnor while he was present at Dehradun and as the opposite party no.2 has filed several cases, not only against the applicants, but other persons also, normally this Court would have directed to investigate the matter by the C.B.I., but seeing the conduct of the opposite party no.2, the matter is being decided finally.

81. In the facts of the present case, where it has been established that the opposite party no.2 has not approached the Court with clean hands, noticing his conduct before this Court of initially agreeing to amicably settle the disputes, later changing his stand, exerting pressure upon the Court to decide the matter finally and also approaching the Hon'ble Apex Court without waiting for final decision in the matter and where circumstances go to show that FIR has been lodged for settling monetary dispute, this Court finds it to be a fit case for exercising power under Section 482 Cr.P.C. Keeping in mind that criminal prosecution is a serious matter; it affects the liberty of a person, no greater damage can be done to the reputation of a person than dragging him in a criminal case, continuance of prosecution would be nothing but an abuse of the process of law and will be a mental trauma to the applicants, it becomes necessary for this Court to invoke inherent powers under Section 482 Cr.P.C. in present facts and circumstances of his case.

82. Therefore, in view of above discussion, this Court finds a good ground for quashing the impugned summoning order as well as entire proceedings of the aforesaid case.

83. Accordingly, the summoning order dated 07.03.2022 passed by Additional Chief Judicial Magistrate, Court No.1, District-Bijnor as well as the entire proceedings of F.R. Case No.63/2021 (Misc. Case No.87/2022) (Pramod Kumar Baliyan vs. Praveen Singh and others), arising out of Case Crime No.419/2021, under Sections 326, 307, 323, 324, 504, 506, 120B IPC, Police Station-Haldaur,

District-Bijnor are hereby quashed.

84. The present application under Section 482 Cr.P.C. is, accordingly, allowed. There shall be no order as to costs.

85. A copy of this order be certified to the lower court forthwith.

(Manju Rani Chauhan, J.) Order Date :- 02.12.2022 Jitendra/Rahul/-