

**(2021) 08 SHI CK 0115**

**In the High Court Of Himachal Pradesh**

**Case No :** Criminal Miscellaneous Petition (Main) No.350 Of 2021

Manoj Kumar And Others

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

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**Date of Decision :** 11-08-2021

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 245, 320, 482  
Indian Penal Code, 1860 — Section 120B, 420

**Citation :** (2021) 08 SHI CK 0115

**Hon'ble Judges :** Anoop Chitkara, J

**Bench :** Single Bench

**Advocate :** Sanjeev Bhushan, Rajesh Kumar, Nand Lal Thakur, Kunal Thakur, Ram Lal Thakur, Tanzin

**Final Decision :** Allowed

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## **Judgement**

FIR No.,Dated,Police Station,Sections

350/2021,24.10.2019,"Tapri, District Kinnaur,

H.P",420 & 120 B of the IPC.

from approaching the court even at an earliest (sic earlier) point of time when the Magistrate takes cognizance of the offence and summons the,,,

accused to appear to contend that the very issuance of the order of taking cognizance is invalid on the ground that no offence can be said to have,,,

been made out on the allegations made in the complaint petition. It has been held in a number of cases that power under Section 482 has to be,,,

exercised sparingly and in the interest of justice. But allowing the criminal proceeding to continue even where the allegations in the complaint petition,,,

do not make out any offence would be tantamount to an abuse of the process of court, and therefore, there cannot be any dispute that in such case",,,

power under section 482 of the Code can be exercised.,,,

6. In *Girish Sarwate v. State of A.P.*, 2005(1) R.C.R.(Criminal) 758, the Full Bench of Andhra Pradesh High Court observed that the High Court need",,,

not wait for completion of investigation and taking cognizance by the Magistrate.,,,

CONCLUSION:,,,

7. In the present case, the offence under Section 420 IPC is not compoundable under Section 320 CrPC. However, this Court has inherent powers",,,

under Section 482 of the Code of Criminal Procedure to interfere in this kind of matter. Given the entirety of the case and judicial precedents, I am of",,,

the considered opinion that the continuation of these proceedings will not suffice any fruitful purpose whatsoever.,,,

8. Although, the withdrawal of FIR would be through District Magistrate as a routine procedure. However, the High Court's inherent jurisdiction under",,,

Section 482 of the CRPC, to intervene in such kind of matter, and it is not the requirement of law that the cancellation has to be approved only through",,,

the District Magistrate. Inherent Jurisdiction of the High Court under section 482 CrPC can always be exercised, depending upon the facts and",,,

circumstances. The parties are likely to live together for a lifetime, and intervention would create a cordial environment for peaceful relations between",,,

them.,,,

9. In *Himachal Pradesh Cricket Association v State of Himachal Pradesh*, 2018 (4) Crimes 324, Honâ??ble Supreme Court holds â??[47]. As far as",,,

Writ Petition (Criminal) No. 135 of 2017 is concerned, the appellants came to this Court challenging the order of cognizance only because of the",,,

reason that matter was already pending as the appellants had filed the Special Leave Petitions against the order of the High Court rejecting their",,,

petition for quashing of the FIR/Chargesheet. Having regard to these peculiar facts, writ petition has also been entertained. In any case, once we hold",,,

that FIR needs to be quashed, order of cognizance would automatically stands vitiated.â??",,,

10. In *Shakuntala Sawhney v Kaushalya Sawhney*, (1979) 3 SCR 639, at p 642, Honâ??ble Supreme Court observed that the finest hour of Justice",,,

arises propitiously when parties, who fell apart, bury the hatchet and weave a sense of fellowship or reunion.",,,

11. Given above, because of the compromise, this is a fit case where the inherent jurisdiction of the High Court under Section 482 of the Code of",,,

Criminal Procedure is invoked to quash the proceedings mentioned above. The FIR mentioned above is quashed, and all the consequential proceedings",,,

are also quashed and set aside. The bail bonds are accordingly discharged. All pending application(s), if any, stand closed.",,,

12. In the facts and circumstances peculiar to this case, the petition is allowed in the aforementioned terms.",,,

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