THE HIGH COURT OF ORISSA: CUTTACK

No. XI-18/2025/10153(30)**/ Dtd.**19.06.2025

From;

Asanta Kumar Das,
Registrar General

To,

The District & Sessions Judge,..... (All)

Sub: **Forwarding of Judgment dated 16th May, 2025 passed in Criminal Appeal Nos. 2656-2657 of 2025 (Raghunath Sharma & Ors Vrs. State of Haryana & Anr.) by the Hon'ble the Supreme Court of India regarding justified use of powers under Section 482 of the Code of Criminal Procedure, 1973**

Sir,

With reference to the subject cited above, I am directed to forward herewith a copy of the Judgment dated 16th May, 2025 passed in Criminal Appeal Nos. 2656-2657 of 2025 (Raghunath Sharma & Ors Vrs. State of Haryana & Anr.) by the Hon'ble the Supreme Court of India regarding justified use of powers under Section 482 of the Code of Criminal Procedure, 1973 for your information and to request you to communicate the same to all the Judicial Officers working within your judgeship for their information and necessary guidance.

Yours faithfully,

ASANTA KUMAR DAS
Digitally signed by ASANTA KUMAR DAS
Date: 2025.06.19 14:13:05 +05'30'

REGISTRAR GENERAL

Encl.: As above.

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. 2656-2657 OF 2025
(Arising out of SLP(Crl.) Nos.8101-8102 of 2019)

RAGHUNATH SHARMA & ORS. ...APPELLANTS

VERSUS

STATE OF HARYANA & ANR. ...RESPONDENT

WITH

CRIMINAL APPEAL NOS. 2658-2659 OF 2025
(Arising out of SLP(Crl.) Nos..... of 2025
@ Diary No.34946 of 2019)

AND

CRIMINAL APPEAL NOS. 2660-2661 OF 2025
(Arising out of SLP(Crl.) Nos.10274-10275 of 2019)

J U D G M E N T

SANJAY KAROL J.,

Criminal Appeals @ SLP(Crl.)Nos.8101-8102/2019 :

Leave Granted.

2. These appeals by special leave, call into question the correctness and legality of the judgment and orders dated 8th October 2018 passed by the High Court of Punjab and Haryana at Chandigarh in CRM No.11903 of 2018 in CRM No.M-23727 of 2015 and dated 29th April 2019 in CRM No.13134 of 2019 in CRM No.M-23727 of 2015, whereby FIR No.432 of 2014 dated 15th July 2014 which had earlier been quashed and set aside vide order 21st March 2016, was restored to file and concerned authorities were directed to restart the investigation. In other words, the order of quashment was recalled. Further, a review against this order of recall was also dismissed *vide* order dated 29th April 2019.

3. These appeals present a question of justified use or lack of the powers under Section 482 of the Code of Criminal Procedure, 1973[1] using which the High Court restored First Information Report previously quashed.

4. The genesis of the dispute is an agreement to sell entered into between the parties dated 21st May 2013, an agreement dated 25th May 2013, and the Memorandum of Understanding dated

[1] Hereinafter 'Cr.P.C.'

15th August 2013 as also agreement to sell dated 3rd January 2014. Various disputes arose in regard to these agreements and finally, with the intervention of elders and others, a fresh agreement to sell dated 15th April 2015 was entered into in supersession of all other agreements. Accordingly, the sale consideration was decided at Rs.2,25,00,000/-. Various methods were decided upon to transfer part of the said amount totalling to Rs.35 lakhs. The remaining Rs.1,90,00,000/- was to be paid at the time of registry along with interest @ 1% per month. Also, pursuant to the fresh agreement to sell a compromise deed dated 14th July 2015 was inked with a view to bring all litigations between the parties to an end. Consequently, the order dated 21st March 2016 which quashed the proceedings came to be passed. The order is extracted in toto as under :

> "This petition has been preferred under Section 482 of the Code of Criminal Procedure for quashing of FIR No.432 dated July 15, 2014, under Sections 406, 420 of IPC, registered at Police Station Sector 10, Gurgoan, District Gurgaon **(Annexure P-1)** along with all consequential proceedings arising out of the same on the basis of compromise dated July 14, 2015 **(Annexure P-2).**
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> 2. In compliance of order dated September 07, 2015, statement of the parties have been recorded by the trial Court. Report of learned Judicial Magistrate, 1st Class, Gurgaon, has been received, in which it has been categorically observed that parties have arrived at compromise without any pressure or coercion from any quarter. Even otherwise, matter involved is personal in nature, which has been amicably put at rest.

> 4. Consequently, instant petition stands allowed, and FIR No.432, dated July 15, 2014, under Sections 406, 420 of IPC, registered at Poli Station Sector 10, Gurgaon, District Gurgaon and all other subsequent proceedings arising therefrom are quashed qua the petitioners."

5. It, however, appears that the spirit of the compromise deed was lost upon the parties as soon after the order dated 21st March 2016, the complainant, namely, Krishan Kumar Gandhi filed an application dated 10th September 2016 praying for revival of the FIRs. *Vide* order dated 24th September 2016 said prayer was rejected. On 27th March 2018, another prayer of a similar nature seeking the revival of the FIRs was made before the High Court. By way of the impugned judgment and order dated 8th October 2018, the revival of the FIRs was ordered.

6. Aggrieved, the appellants are before us. We have heard the learned counsel for the parties and perused the record and written submissions filed.

7. The scope and ambit of Section 482 Cr.P.C. has engaged this Court on numerous occasions [Ref: ***State of Karnataka v. L. Muniswamy***[2]; ***Sunder Babu v. State of Tamil Nadu***[3]; ***Vineet Kumar v. State of U.P.***[4]; ***Ahmad Ali Quraishi & Anr. v. State of Uttar Pradesh & Anr.***[5].] The observations made in ***State of***

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[2] (1977) 2 SCC 699
[3] (2009) 14 SCC 244
[4] (2017) 13 SCC 369
[5] (2020) 13 SCC 435

Karnataka v. M. Devendrappa[6] by a Bench of three Hon'ble Judges encapsulate the purpose of this power most aptly in the following terms :

> "**6.** Exercise of power under Section 482 of the Code in a case of this nature is the exception and not the rule. The section does not confer any new powers on the High Court. It only saves the inherent power which the Court possessed before the enactment of the Code. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely, (*i*) to give effect to an order under the Code, (*ii*) to prevent abuse of the process of court, and (*iii*) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognizes and preserves inherent powers of the High Courts. All courts, whether civil or criminal possess, in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice on the principle *quando lex aliquid alicui concedit, concedere videtur et id sine quo res ipsae esse non potest* (when the law gives a person anything it gives him that without which it cannot exist). While exercising powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised *ex debito justitiae* to do real and substantial justice for the administration of which alone courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent abuse. It would be an abuse of process of the court to allow any action which would result in

[6] (2002) 3 SCC 89

injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto."

8. Chapter XXVII of the Cr.P.C. deals with 'judgment'. It defines what a judgment is; in what language it should be delivered; its contents; effect (arrest, payment of compensation, release, etc.). Section 362 provides that a Court shall not, once it has signed the judgment or final order disposing of a case, alter or review the same, except to correct an error clerical or arithmetic.

9. The scope of this power has been discussed in several judgments of this Court.

9.1 ***Sanjeev Kapoor v. Chandana Kapoor***[7] discusses the scope of this power in the following terms:

"19. The legislative scheme as delineated by Section 369 of the Code of Criminal Procedure, 1898, as well as legislative scheme as delineated by Section 362 of the Code of Criminal Procedure, 1973 is one and the same. The embargo put on the criminal court to alter or review its judgment is with a purpose and object. The judgments of this Court as noted above,

[7] (2020) 13 SCC 172

> summarised the law to the effect that criminal justice delivery system does not clothe criminal court with power to alter or review the judgment or final order disposing of the case except to correct the clerical or arithmetical error. After the judgment delivered by a criminal court or passing of the final order disposing of the case the court becomes functus officio and any mistake or glaring omission is left to be corrected only by appropriate forum in accordance with law."

9.2 In ***Hari Singh Mann v. Harbhajan Singh Bajwa***[8], this Court observed:

> "**10.** Section 362 of the Code mandates that no court, when it has signed its judgment or final order disposing of a case shall alter or review the same except to correct a clerical or an arithmetical error. The section is based on an acknowledged principle of law that once a matter is finally disposed of by a court, the said court in the absence of a specific statutory provision becomes functus officio and disentitled to entertain a fresh prayer for the same relief unless the former order of final disposal is set aside by a court of competent jurisdiction in a manner prescribed by law. The court becomes functus officio the moment the official order disposing of a case is signed. Such an order cannot be altered except to the extent of correcting a clerical or an arithmetical error. ..."

9.3 It is clear from the above extracts that Section 362 Cr.P.C. provides for a fairly limited scope of the exercise of such power. Next, what is required to be seen is whether the phrase, "*Save as*

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[8] (2001) 1 SCC 169

otherwise provided by this Code" permits such alterations under Section 482 Cr.P.C.

9.3.1 In terms of the Old Code, i.e., the Code of Criminal Procedure, 1898 this Court in ***Sankatha Singh v. State of U.P.***[9] through Raghubar Dayal, J., observed that :

> "7. A criminal appeal cannot be dismissed for the default of the appellants or their counsel. The court has either to adjourn the hearing of the appeal to enable them to appear, or should consider the appeal on merits and pass the final order. Shri Tej Pal Singh was aware of this as his order itself indicates. He did not dismiss the appeal for default. He himself perused the judgment of the Magistrate and the record and did consider the merits, as he says in his order "I find no ground for any interference". The mere fact that he had not expressed his reasons for coming to that opinion does not mean that he had not considered the material on record before coming to the conclusion that there was no case for interference. His omission to write a detailed judgment in the circumstance may be not in compliance with the provisions of Section 367 of the Code and may be liable to be set aside by a superior court, but will not give him any power to set it aside himself, and rehear the appeal. Section 369, read with Section 424 of the Code, makes it clear that the appellate court is not to alter or review the judgment once signed, except for the purpose of correcting a clerical error."

9.3.2 In ***Sooraj Devi v. Pyare Lal***[10], it was categorically held that :

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[9] 1962 SCC OnLine SC 165
[10] (1981) 1 SCC 500

> "5. The appellant points out that he invoked the inherent power of the High Court saved by Section 482 of the Code and that notwithstanding the prohibition imposed by Section 362 the High Court had power to grant relief. Now it is well settled that the inherent power of the court cannot be exercised for doing that which is specifically prohibited by the Code (*Sankatha Singh* v. *State of U.P.* [AIR 1962 SC 1208 : 1962 Supp 2 SCR 817 : (1962) 2 Cri LJ 288]). It is true that the prohibition in Section 362 against the court altering or reviewing its judgment is subject to what is "otherwise provided by this Court or by any other law for the time being in force". Those words, however, refer to those provisions only where the court has been expressly authorised by the Code or other law to alter or review its judgment. The inherent power of the court is not contemplated by the saving provision contained in Section 362 and, therefore, the attempt to invoke that power can be of no avail."
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> (Emphasis supplied)

9.3.3 The position in ***Sooraj Devi*** (supra) stands referred to/followed in ***Simrikhia v. Dolley Mukherjee***[11]; ***State of Punjab v. Davinder Pal Singh Bhullar***[12]; ***Gian Singh v. State of Punjab***[13]; and ***Telangana Housing Board v. Azamunnisa Begum***[14].

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[11] (1990) 2 SCC 437
[12] (2011) 14 SCC 770
[13] (2012) 10 SCC 303
[14] (2018) 7 SCC 346

9.3.4 The law, therefore, is no longer *res integra*. The exception to this position has been reorganized in ***Davinder Pal Singh Bhullar*** (supra) in the following terms :

> "46. If a judgment has been pronounced without jurisdiction or in violation of principles of natural justice or where the order has been pronounced without giving an opportunity of being heard to a party affected by it or where an order was obtained by abuse of the process of court which would really amount to its being without jurisdiction, inherent powers can be exercised to recall such order for the reason that in such an eventuality the order becomes a nullity and the provisions of Section 362 CrPC would not operate. In such an eventuality, the judgment is manifestly contrary to the audi alteram partem rule of natural justice. The power of recall is different from the power of altering/reviewing the judgment. However, the party seeking recall/alteration has to establish that it was not at fault...."

The 'exceptions' of ***a)*** the violation of *audi alteram partem*; and ***b)*** abuse of process of law which would affect the jurisdiction of the Court to deal with the matter and, in such cases the exercise of the inherent powers under the code has been approved by a Bench of three Judges in ***New India Assurance Co. Ltd. v. Krishna Kumar Pandey***[15]. These aren't the circumstances of the present case.

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[15] (2021) 14 SCC 683

10. It can be seen from the above pronouncements that the role of the Court, after a judgment has been delivered, is circumscribed by the law itself. In the present facts, the only provision of law, that permits an alteration in the judgment, in its own terms, was not resorted to. What was done was a review of the judgment quashing the proceedings. That, in the considered view of this Court, was not permissible.

10.1 ***State of M.P. v. Man Singh***[16], with reference to a decision rendered by a three-Judge Bench in ***State of Kerala* v. *M.M. Manikantan Nair***[17], makes this position clear as follows :

> "7. It is well settled law that the High Court has no jurisdiction to review its order either under Section 362 or under Section 482 CrPC [*State of Kerala* v. *M.M. Manikantan Nair*, (2001) 4 SCC 752 : 2001 SCC (Cri) 808] . The inherent power under Section 482 CrPC cannot be used by the High Court to reopen or alter an order disposing of a petition decided on merits [*State* v. *K.V. Rajendran*, (2008) 8 SCC 673 : (2008) 3 SCC (Cri) 600 : 2009 Cri LJ 355] . After disposing of a case on merits, the Court becomes functus officio and Section 362 CrPC expressly bars review and specifically provides that no court after it has signed its judgment shall alter or review the same except to correct a clerical or arithmetical error [*Hari Singh Mann* v. *Harbhajan Singh Bajwa*, (2001) 1 SCC 169 : 2001 SCC (Cri) 113] . Recall of judgment would amount to alteration or review of judgment which is not permissible under Section 362 CrPC. It cannot be validated by the High Court invoking its inherent powers [*Sooraj*

[16] (2019) 10 SCC 161
[17] (2001) 4 SCC 752

Devi v. *Pyare Lal*, (1981) 1 SCC 500 : 1981 SCC (Cri) 188 : AIR 1981 SC 736]."

(Emphasis supplied)

11. Again, in ***Narayan Prasad v. State of Bihar***[18] this Court reiterated that once a judgment has been passed, the powers under Section 482 Cr.P.C. do not permit its alteration or review. Such power is meant solely to secure the ends of justice and it cannot be taken to mean doing something that is expressly prohibited by statute.

12. In view of the above discussion of law, the conclusion is that the impugned judgment was passed by the High Court without any authority or basis. Once the criminal cases had been quashed, under Section 482 Cr.P.C. on the ground of compromise entered into between the parties, one of the parties violating terms thereof is a ground entirely foreign to law, to once again invoke such powers and recall the order of quashing. Violations of a term of a compromise have their own avenues of law from which they can be enforced.

13. The appeals, therefore, succeed and are, accordingly, allowed. The impugned judgment and orders, as described in para 2, and the consequences flowing from such revival, shall stand set aside and quashed.

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[18] (2019) 14 SCC 726

14. At the end, we may record our surprise that the High Court adopted the course it did without reference to the well-established position of law, as demonstrated above. We summarize the findings/issue directions, as follows :

1. The bar under Section 362 Cr.P.C. is *almost* absolute;

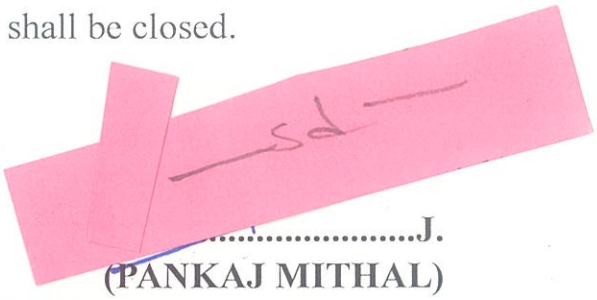
2. The only exceptions to the bar, which would then permit the invocation of inherent powers, would be if it is necessary to meet the ends of justice; or to remedy the abuse of the process of law. Other than the above two circumstances, such inherent powers do not permit the doing of what stands prohibited by the text of the statute;

3. To clarify, it may be stated that when a Court finds itself in such extraordinary circumstances, the reasons for exercising such power should be recorded, justifying the invocation thereof.

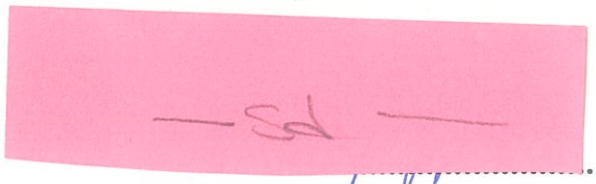
15. We direct the Registry to circulate a copy of this judgment to all High Courts, for necessary dissemination to all concerned. It is our hope that lending clarity, coupled with the necessary information being supplied would curb such unjustified use of power.

16. In view of the discussion made in Criminal Appeals @ SLP(Crl.)Nos.8101-8102 of 2019, matters connected therewith, i.e., Criminal Appeals @ Special Leave Petitions @ Diary No.34946/2019 and Criminal Appeals @ SLP(Crl.)Nos.10274-10275/2019, shall also stand similarly disposed of.

Pending applications, if any, shall be closed.



.....J.
(PANKAJ MITHAL)



.....J.
(SANJAY KAROL)

New Delhi;
16th May, 2025.