



INHERENT POWERS OF THE HIGH COURT

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INTRODUCTION

Inherent powers are described as those powers that are not mentioned or seen anywhere in the code. It can also be referred to as inherent jurisdiction of the high court. This can only be exercised in lieu of a proper case in either of the two conditions:

- 1.To prevent the abuse of the process of any other court
- 2.To secure the ends of justice.

these inherent powers are only to be used in exceptional cases.

Powers under Section 482 of the Criminal Procedure Code are expansive, ranging from the ability to dismiss a FIR to the ability to halt an investigation or criminal proceedings before the High Court or any Courts subordinate to it. Depending on the specifics of the case at hand, the court may utilize its discretionary powers to guarantee the objectives of justice, prevent the abuse of any court's process, and issue such orders as may be necessary to give effect to any order under this Code. Using its authority under section 482 of the Criminal Procedure Code, the court can always avoid a miscarriage of justice if it becomes aware of one. All other parts of the Code that would limit or restrict these abilities are null and void. However, these innate abilities should be used with restraint and caution.

It is well established that a party may only invoke the inherent rights granted by section 482 when the party has exhausted all other available remedies and NOT when a particular remedy is given by statute. The High Court will not exercise its powers under this provision if there is a more appropriate alternative remedy available, especially if the petitioner does not attempt to pursue such remedy.

When making decisions under Section 482, High Courts should keep in mind the two goals outlined in *Narinder Singh v. State of Punjab*, 2014, 6 SCC 466.

1. It is important to prevent court procedure abuse.
2. Bring about the desired results of justice.
3. As required by a Code order.

STATUTE AND PROVISION

Chapter 37 of the Code of Criminal Procedure, 1973, is named "Miscellaneous," and Section 482 addresses the Court's inherent powers. The rules for dismissing criminal cases are spelled forth in the law here. Article 482 of the Criminal Code states;

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

The powers that are central to or defining features of the Supreme Court are discussed in this section. In accordance with this provision, the court may issue any order necessary to achieve justice. The court is also given the authority to dismiss lower court proceedings and to dismiss FIRs. "Quash" means "to overthrow or abate or vacate or make void," as defined by Black's Law Dictionary. To put it another way, when a criminal procedure is quashed, the legal machinery that was activated by the filing of a FIR or Complaint is halted.

The language of Section 482 of the Cr.P.C. is verbatim that of Section 561-A of the Code of Criminal Procedure, 1898. The High Courts were unable to provide complete justice even in circumstances where illegality was obvious, therefore this provision was added by the Code of Criminal Process (Amendment) Act of 1923. The Constitution of India, in Article 21, grants the High Court the inherent powers specified in Section 561 - A of the 1898 Code.

The High Court has the authority to create regulations governing the process of exercising the inherent powers, as granted to it by the Constitution.

When exercising its authority under Section 482 Cr.P.C., the High Court exercises both its administrative and judicial functions. While the High Courts were unable to provide comprehensive justice even though in a certain case the illegality was obvious and apparent, this section was added by the Code of Criminal Process (Amendment) Act of 1923.

To "give effect to an order under CrPC," "prevent abuse of the process of the court," and "achieve the objectives of justice," are the three situations where the inherent jurisdiction may be exercised, according to the Supreme Court's decision in *State of Karnataka v. Muniswamy* AIR 1977 SC 1489.

"The clause is a type of reminder to the High Courts that they are not merely courts of law, but also courts of justice and possess inherent powers to remedy injustice," the Hon'ble Allahabad High Court went on to say.

Because of its elevated status above lower courts, the High Court possesses unalienable inherent power. When they may be used to enforce a court order and further the interests of justice, they must be considered judicial powers. The high court's discretionary jurisdiction under Section 482 means it can decline to hear a case if a party doesn't come to it with clean hands.

CASE ANALYSIS

Prashant Bharti v. State of NCT of Delhi, 2013 9 SCC 293.

The following issues were brought before the High Court to examine the validity of a motion for quashing the criminal proceedings raised by an accused under Section 482 of the CrPC. If the court finds that all of the following questions can be answered "yes," it will exercise its authority under Section 482 of the Criminal Procedure Code and dismiss the case.

1. Is the evidence presented by the prosecution solid, plausible, and undeniable; that is, is it of high quality?
2. The material relied upon by the accused must be such that a reasonable person would be persuaded to reject and condemn the factual foundation of the charges as untrue; otherwise, the material is insufficient to reject and overturn the factual assertions included in the complaint.
3. To what extent the prosecution/complainant has contradicted the material relied upon by the accused, and/or whether the material is such that it cannot be reasonably refuted by the prosecution/complainant.
4. Is it possible that carrying on with the trial would amount to a misuse of the judicial system's resources, defeating the goals of justice?

- *Parbatbhai Ahir v. State of Gujarat* (4 October 2017)

This case involved the Supreme Court summarising the principles that govern the authority of the High Court under Section 482 of the Criminal Procedure Code, based on a number of previous decisions.

1. To avoid an abuse of any court's process and to further the goals of justice, the High Court's inherent powers are preserved under Section 482. Nothing in this clause grants any new authority. Only the High Court's inherent powers are acknowledged and protected.
2. Invoking the High Court's jurisdiction to quash a First Information Report or a criminal prosecution on the grounds that a settlement has been reached between the offender and the victim is not the same as invoking jurisdiction to compound an offence. Section 320 of the Code of Criminal Procedure, 1973 regulates the court's discretion when compounding a crime. Section 482's power to quash applies even if the offence cannot be compounded.
3. While deciding whether or not to use its jurisdiction under Section 482, the High Court must consider whether or not the interests of justice would justify the exercise of the inherent power.
4. The High Court's inherent power is vast, but it must be used for its intended purpose: advancing the cause of justice.
5. So that justice system misuse can be avoided.
6. No complete explanation of principles can be developed about whether or not a complaint or First Information Report should be dismissed on the ground that the perpetrator and victim have settled the issue, as the decision ultimately revolves around the facts and circumstances of each instance.
7. The High Court must consider the seriousness of the crime when deciding whether or not to exercise its discretion under section 482, and again when deciding whether or not to accept a defendant's claim that the disagreement has been resolved. Even if the victim or the victim's family has reached a settlement with the offender, the victim's or offender's criminal record should not be expunged if the offender committed a particularly heinous or serious crime, such as murder, rape, or dacoity. Criminal acts of this sort are not minor or isolated, but rather have far-reaching consequences for society as a whole. In such situations, the decision to proceed with the trial is based on the paramount interest in punishing those responsible for significant crimes.
8. A criminal case may involve a civil dispute to a greater or lesser extent, especially when compared to more serious crimes. When it comes to using their innate power to suppress, they are on an entirely different playing field.
9. In proper circumstances, quashing may apply in criminal trials involving offences arising from commercial, financial, mercantile, partnership, or similar transactions having a basically civil flavour where the parties have settled the dispute.
10. A criminal procedure may be dismissed by the High Court if, after considering the parties' settlement, it becomes clear that a conviction is extremely unlikely and that continuing with the prosecution would amount to oppression and prejudice.
11. Even yet, there is an additional qualification to the rule described in (viii) and subsequent sentences. When the state's finances and economy are at stake, the repercussions of an economic crime go much beyond the scope of a dispute between private parties. If the criminal is engaged in conduct that is similar to financial or economic fraud or misdemeanour, the Supreme Court would be within its rights to refuse to invalidate the conviction. The financial or economic system will be judged by the complaint's effects.

- State of Haryana v. Bhajan Lal

1. a two-judge bench of India's Supreme Court carefully studied the provisions of section 482 and the authority of the High Court to quash criminal proceedings or FIR. As a summary of the law, the Supreme Court has established the following rules that High Courts must abide by when using their inherent authority to dismiss a criminal charge.

2. When there is no clear crime or case against the accused based on the FIR's claims alone.

3. In cases where a Magistrate's order is required to conduct an inquiry under Section 155(2) of the Code, the police may not conduct an investigation under Section 156(1) of the Code unless the allegations in the FIR and any other materials attached to the FIR disclose a cognizable offence.

4. Where there is insufficient evidence to convict the accused based on the claims in the FIR.

5. The claims in the FIR must amount to a cognizable criminal in order for a police officer to investigate; if they amount to a non-cognizable offence, however, the officer is not authorised to do so without a Magistrate's order, as provided for in Section 155(2) of the Code.

6. When the claims in the FIR are so far-fetched that no reasonable person could possibly believe them and proceed with the case anyhow.

7. Where there is a specific provision in the Code or the concerned Act, providing effective redress for the grievance of the aggrieved party and/or 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, with regard to the institution and continuance of the proceedings.

8. If there is clear evidence that malevolent intent was present during a criminal proceeding, or if the proceeding was started with the specific goal of exacting revenge on the accused or showing him disrespect, the court should dismiss the case.

The rules established are a litmus test to determine whether or not the court has the authority to dismiss the case. When an allegation is made in the FIR and the evidence collected does not disclose the commission of any offence, when the offence constituted is non-cognizable, when the allegations are so absurd or such that a prudent man would not make them, when the FIR does not disclose a cognizable offence which would justify an investigation by police officers, and when the FIR does not disclose a cognizable offence which would justify an investigation by police officers.

APPLICATION OF STATUTORY PROVISIONS

Section 498A was written to aid the most victimised group, the wives of abusive males. A number of recent examples highlight the frequent misuse of this provision. Due to the severity of the issue, many NGOs emerged to lobby for the abolition of Section 498.

If there is little prospect of conviction or the case was filed for political reasons, the Supreme Court of India has repeatedly ruled that the proceedings under Section 498 - A of IPC should be annulled. This is the case because there are a number of examples in which the real motivation for the lawsuit is to settle old scores.

Case law addressing the dismissal of legal proceedings in similar situations is cited below.

In *Sushil Kumar Sharma v. Union of India*, the Supreme Court of India stated, "...The goal of the provision is the avoidance of the dowry issue." This was on July 19, 2005. But, as the petitioner has pointed out, many instances have emerged where the complaints are not genuine and have filed the cases with oblique intent. Even if the accused person is found not guilty at trial, that does not always erase the shame they felt leading up to the trial. Sometimes bad press makes things much worse..."

The Supreme Court's decision to quash proceedings in matrimonial cases to secure the ends of justice in *B S Joshi v. State of Haryana*, 2003 (4) SCC 675 was based on the fact that, even though the offences alleged were not compoundable, the special facts and circumstances of the case required the Court to exercise its powers under Section 482.

In the matter of *Girish Pandey v. State of Delhi*, the Delhi High Court relied on the decision in *B S Joshi v. State of Haryana* to dismiss criminal charges brought under Section 498 - A of the Indian Criminal Code (20 October 2016). Additionally, the Supreme Court ruled in *Geeta Mehrotra v. State of Uttar Pradesh* (17 October 2012) that a lack of specific evidence supporting claims made against the husband is sufficient to dismiss criminal proceedings brought under Section 498-A of the Indian Penal Code.

Yet, if any person (Indian citizen) is being harassed by improper prosecution, the High Court is obligated to intervene even at this early stage of a criminal case in a lower court. This would be the case in normal circumstances, but also when there are remarkable ones.

According to the Supreme Court's discussion in *Madhu Limaye v. Maharashtra*, The intrinsic power preserved in Section 482 is unaffected by anything in the Code, not even Section 397. Nothing in Section 397 (2) can limit or hinder the use of the inherent power of the High Court where the impugned interlocutory order obviously results in a scenario which is an abuse of the process of the court for the purpose of accomplishing the goals of justice.

It was further determined in *Madhu Limaye v. Maharashtra* that the High Court's inherent jurisdiction will be exercised in accordance with the following principles:

- 1.If the law already provides a remedy for the aggrieved party, then the aggrieved person should not resort to the use of force.
- 2.To prevent the misuse of any court's process and further the goals of justice, its usage should be restrained.
- 3.This power cannot be used to circumvent the prohibitions of law that are embedded in other parts of the law.
- 4.Although the Supreme Court has made some steps to define the scope of the High Court's authority, it is impossible to do so with absolute precision.
- 5.A two-judge bench of India's Supreme Court examined section 482 and the authority of the High Court to quash criminal proceedings or FIR in the seminal case *State of Haryana v. Bhajan Lal*. As a summary of the law, the Supreme Court has established the following rules that High Courts must abide by when using their inherent authority to dismiss a criminal charge.

6. When there is no clear crime or case against the accused based on the FIR's claims alone.
7. In cases where a Magistrate's order is required to conduct an inquiry under Section 155(2) of the Code, the police may not conduct an investigation under Section 156(1) of the Code unless the allegations in the FIR and any other materials attached to the FIR disclose a cognizable offence.
8. Where there is insufficient evidence to convict the accused based on the claims in the FIR.
9. The claims in the FIR must amount to a cognizable criminal in order for a police officer to investigate; if they amount to a non-cognizable offence, however, the officer is not authorised to do so without a Magistrate's order, as provided for in Section 155(2) of the Code.
10. When the claims in the FIR are so far-fetched that no reasonable person could possibly believe them and proceed with the case anyhow.
11. Where there is a specific provision in the Code or the concerned Act, providing effective redress for the grievance of the aggrieved party and/or 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, with regard to the institution and continuance of the proceedings.
12. If there is clear evidence that malevolent intent was present during a criminal proceeding, or if the proceeding was started with the specific goal of exacting revenge on the accused or showing him disrespect, the court should dismiss the case.

LIMITATIONS

Given the breadth of the High Court's inherent authority under Section 482, its use should be restrained and carefully considered to prevent its abuse. Finally, the court may only apply this provision if it finds that doing so is warranted by the standards set forth in this subsection.

The following cases from the courts have established the bounds within which Section 482 may be used:

The Supreme Court has ruled in numerous cases, including *Dr. Monica Kumar & Anr. v. State of Uttar Pradesh*, that Section 482 must be applied "ex debito justitiae" (as a matter of right) in order to provide real and substantial justice.

The High Court will not make any factual determinations in a Section 482 process, especially if the subject has been resolved by a concurrent finding of facts. The following cases illustrate this point:

The Supreme Court ruled in *State of Bihar and another v. K.J.D. Singh* that "the inherent power under Section 482 needs to be employed for the goals of the justice and should not be arbitrary exercised to cut short the normal course of a criminal prosecution."

The practise of suspending criminal proceedings and police investigations is discouraged by *Pendian, J. in Janta Dal v. H.S. Chowdhary* save in extraordinary instances, and the current case was not one of those unusual cases, he ruled.

The Supreme Court ruled in *R.P. Kapoor v. the State of Punjab* that the High Court's "Inherent power" cannot be used to address issues that are already addressed by the Criminal Procedure Code.

If the court has no alternative viable remedy and no specific remedy is given by statute, it may employ its inherent powers under Section 482. The court cannot use this authority if the litigant has access to some other remedy and has chosen not to pursue it.

To conclude, the court has no authority to conduct its own investigation. The Supreme Court made it clear in the case of *Dineshbhai Chandubhai Patel v. State of Gujarat* that the High court cannot perform the functions of either an investigating agency or an appellate court in order to determine whether or not the FIR's factual contents disclose any prima facie cognizable offences.

CONCLUSION

Yet, it is important to recognize that the power so allocated is so broad and can be easily misconstrued, despite the fact that Section 482 Cr.P.C has a very broad reach and is an integral aspect of the operation of the High courts in order to fulfil the end of justice. Thus, it is crucial that the courts employ it prudently and in accordance with the rules established by the High Courts and the Supreme Court.

The current version of Section 482 is the result of numerous amendments made to adapt to shifting social mores and evolving legal needs. The Supreme Court's precedents and precedent-setting rules have been essential in preventing the misuse of this authority by attorneys.

The purpose of Criminal Procedure Code section 482 is twofold: to prevent the filing of false complaints and to strengthen the jurisdiction of the High Courts.

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