



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1114 OF 2026
(Arising out of SLP (Crl.) No. 10669 of 2025)

MD. MASHOOD & ORS.

APPELLANT(S)

VERSUS

THE STATE OF UP & ORS.

RESPONDENT(S)

O R D E R

1. Leave granted.
2. Petitioner(s) approached the High Court by preferring a Writ Petition under Article 226 of the Constitution of India, seeking quashment of the FIR in Crime No. 166 of 2025 under Sections 191(2), 115(2), 131, 352, 351(3) of Bharatiya Nyaya Sanhita, 2023 registered at Police Station Crossing Republic, District Ghaziabad.
3. The dispute between the parties concerns access to burial ground at public graveyard (Qabristan) at Village Dundahera, Ghaziabad.
4. After registration of FIR, petitioner(s) approached the High Court for quashing of FIR, but the High Court without considering the merits of the challenge, disposed of the Writ Petition by directing the concerned Police to follow the order passed by the Supreme Court in the matter

of *Arnesh Kumar vs. State of Bihar*¹ and the Investigating Officer shall conduct the investigation and conclude the same within 60 days.

5. In our considered view, when petitioner(s) have sought quashing of the FIR, the High Court ought to have considered the merits of the matter and decided the same one way or the other, considering the material available and the applicable law.

6. It is apposite to refer to the observations made by this Court in the matter of *Pradeep Kumar Kesarwani vs. State of Uttar Pradesh & Anr.*² In para 20:-

"20. The following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section [482](#) of the [Cr.P.C.](#):-

(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?

(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

If the answer to all the steps is in the affirmative, judicial conscience of the High Court

1. (2014) 8 SCC 273

2. 2025 SCC OnLine SC 1947

should persuade it to quash such criminal - proceedings, in exercise of power vested in it under Section [482](#) of the [Cr.P.C.](#) Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused. [(See: *Rajiv Thapar v. Madan Lal Kapoor* (Criminal Appeal No. 174 of 2013)]”.

7. In the matter of *Pradnya Pranjal Kulkarni vs. State of Maharashtra & Anr.*³, this Court has held thus in para 9:

“9. However, in the present case, certainly the Division Bench could have examined the grievance of the petitioner for quashing of the FIR together with the charge-sheet following it, as well as the cognisance taking order, if any, since its jurisdiction under Section 528 of the BNSS was also invoked and the relief claimed could have been suitably moulded subject, of course, to the requisite satisfaction of the court that an order of quashing is warranted on facts and in the circumstances. We have no hesitation to hold that the Division Bench did have the jurisdiction to pass such an order as per the “Sitting List”.

8. In view of the above settled legal position, wherein this Court has held that once a petition under Article 226 of the Constitution of India and/or Section 482 of Code of Criminal Procedure, 1973, and/or Section 528 of Bharatiya Nyaya Sanhita, 2023 is preferred, the same should be decided on merits, rather than dismissing the same as infructuous or by directing the Police to follow *Arnesh Kumar vs. State of Bihar* (supra).

9. Accordingly, the impugned order is set aside and the matter is remitted back to the High Court for considering afresh on merits.

10. Till the matter remains pending before the High Court, no coercive steps shall be taken against the petitioner(s).

11. Accordingly, the Criminal Appeal is disposed of.

12. Pending application(s), if any, shall stand disposed of.

.....J.
[PRASHANT KUMAR MISHRA]

.....J.
[N.V. ANJARIA]

NEW DELHI;
25th February, 2026