

# Section 482 CrPC

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*This article is written by [Danish Ur Rahman S.](#) This article broadly discusses the inherent powers of the High Court under Section 482 of the CrPC and the applications of such inherent powers. This article will further explain under which circumstances the inherent powers would be used and the limitations while invoking such inherent powers.*

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## Introduction

The High Courts and the Supreme Court of India are Constitutional Courts, and an individual could approach them if any of his rights are violated. The inherent powers

under [Section 482](#) of the [Code of Criminal Procedure, 1973](#) (hereinafter referred to as "The Code" or "CrPC") are vested only with the High Courts, this is because in criminal matters there are so many chances of miscarriage of justice and to prevent this and give remedies to the aggrieved parties the inherent powers are given to a more superior and experienced Court like the High Court. Section 482 of the Code is one of those remedies that the High Court provides to the aggrieved parties that come before it. There are various types of powers like statutory power and inherent power. The difference between the inherent powers and the statutory power is that the inherent powers are not granted by any statute or legislation but exist by virtue of mere existence. The inherent powers are the powers which are existing from the beginning, and they are essential and permanent.

If an agency or a thing is said to possess inherent powers, then it means that such inherent powers are deeply rooted in the existence of such an agency or such a thing. Inherent powers are neither given nor granted; they just exist from the beginning. When the Court deals with any non-liquet situations of the Code during the proceeding, the inherent powers are useful at that time. The Code is exhaustive due to these inherent powers because if the Code fails to provide for any specific circumstance then the High Court can fill that gap through inherent powers. **For Example:** If the High Court has the inherent powers as mentioned in Section 482 of the Code of Criminal Procedure, 1973, it means that the High Court has its inherent powers due to its mere existence and not that such inherent powers are granted by the parliament through legislations or by any other means.

Section 482 of the Code is very similar to Article 142 of the Indian Constitution which are the inherent powers of the Supreme Court, this is because of its broad nature. Both the provisions, though they are short in the text, have a wide ambit by preventing even the slightest miscarriage of justice.

## History of inherent powers of the High Court

The inherent powers of the High Court under the Code were not originally recognized during its enactment in the year 1973. The inherent powers of the High Court were first recognized in the Preceding Code, that is, [Code of Criminal Procedure of 1898](#). Even the preceding Code did not have the provision of inherent powers of the High Court from the beginning. It was added by the Amendment Act of 1923.

Section 156 of the [Code of Criminal Procedure \(Amendment\), Act, 1923](#) added a new provision [561A in the Code, 1898](#), that gave the High Courts the inherent powers. Section 482 of the Code, 1973 is the exact reiteration of Section 561A of the Code.

Section 561A was added to the Code of 1898 to enable the High Courts to render complete justice where the illegality was overwhelming, by exercising their inherent powers. Therefore, the inherent powers are used to secure the ends of justice. So, if the High Court exists, then the inherent powers of that High Court will also automatically exist.

# Inherent powers of the High Court under Section 482 CrPC

Section 482 of the Code is a saving clause, and it does not give any new power to the High Court, but just declares its inherent powers. Section 482 of the Code states that nothing in the Code can affect or limit the inherent powers of the High Court to make any order as may be necessary-

- To give effect to any order under the Code;
- To prevent abuse by any court while processing this Code;
- To secure the ends of justice

## Nothing instead of Notwithstanding

Section 482 is a saving clause which means the inherent powers in this Section were not granted but saved, if the High Court exists, then the inherent powers also exist; nothing in the entire Code can affect those inherent powers.

Even though Section 482 disables any provisions of the Code to affect or limit the inherent powers of the High Court, it does not mean that Section 482 is superior to all other provisions of the Code. This is because the Section has the word 'nothing' instead of 'notwithstanding'. The word 'nothing' in a provision states that the provision is a saving clause, and the word 'notwithstanding' in a provision states that the provision is an overriding power. So when the word 'notwithstanding' is used in a Section, then that Section would have an overriding impact on all the other provisions.

The word 'nothing' when used in a Section of the Code, then that Section won't have an overriding impact, but instead, the Section will not face any conflict from any other provision of the Code. The application of the inherent powers under Section 482 of the Code takes place only when all the explicit provisions of the Code do not provide express power to give an order to give effect to any order under the Code, to prevent abuse by any court while processing this Code, and to secure the ends of justice.

## When can the inherent powers be exercised

Though the Code is said to be exhaustive, it cannot be, because as time changes the crime and the procedure that deals with it also changes. The Code is a manifestation of [Article 21](#) of the [Indian Constitution, 1949](#) which states "*Right to life and personal liberty*". Thus, the life or personal liberty of a person can be lawfully curtailed by following the procedure given in the code, however, the concept of liberty and life is dynamic as it changes with time and thus the Code also needs to be dynamic, this is done through the inherent powers. In cases when there are inadequate or no provisions available in the Code regarding any order and such order is necessary to secure the ends of justice, the High Court can then exercise its inherent powers.

Normally the High Court would adjudicate criminal cases through the help of express provisions available in the Code, but the High Court would exercise its inherent powers in the following cases

- If there is no provision present in the Code for any specific order;
- When there is a provision, but it is ineffective;
- When the Court has passed an order through the express provisions of the Code, but such order is ineffective or insufficient;
- When the parties concerned are misusing the provisions of the Code

The inherent powers of the High Court are for securing the ends of justice and the exercising of the inherent powers is the discretion of the High Court, and hence the High Court can refuse to exercise its inherent powers if the parties approach the court with malicious intent. The whole purpose of the Code and Section 482 which declares the inherent powers of the High Court is to ensure the meeting of the ends of justice. The Code ensures the balance of rights between the State and the accused, and the same is ensured by Section 482.

Section 482 and all the other provisions of the Code are complementary to each other. The provisions of the Code won't affect the inherent powers, and the inherent powers will not be applied if there are any explicit provisions available to pass any order.

When the entire Code is referred to, but it could be seen that there is no power conferred by the Parliament, and the power is now required to meet the ends of justice, then the inherent powers would be exercised by the High Court. If the High Court by using its inherent power passes an order that conflicts with the other provisions, then such order is not valid as Section 482 goes hand in hand with the other provisions of the Code. Non-liquet situations are those matters that are not clear, and hence when it is not clear to the High Court while interpreting the Code during deciding a case, the High Court can always use the inherent powers to remove the ambiguity.

## Reasons for vesting inherent powers to the High Court only

The first and foremost essential part of the inherent powers mentioned in Section 482 of the Code is that the inherent powers are vested only in the hands of the High Court. This means that the inherent powers can be exercised only by the Honourable High Courts of the country.

The reason behind the inherent powers available only to the High Court is that the Code deals with criminal proceedings, therefore there is a high societal impact of any order passed for criminal matters. Since the individual's fundamental rights are affected, the inherent powers are vested only with the superior and experienced court, the High Court.

## When inherent powers are to be exercised

Section 482 has some objectives according to which the High Court has to use its inherent powers to decide the cases before it. Section 482 of the Code gives the following objectives which would guide the High Court to use its inherent powers:

- To prevent the abuse of the process of any Court;
- To secure the ends of justice; and
- To give effect to an order under the Code.

So, it is in the above three scenarios where the High Court can use its inherent powers, which means that the High Court is not empowered to exercise its inherent powers apart from these inherent powers.

## To prevent the abuse of the process of any Court

This objective is used by the High Court while using its inherent powers when there is an abuse by any of the subordinate courts during any of its processes. It may be possible for any Court to abuse its power during any of its processes while adjudicating a criminal case, at that particular point in time it is the duty of the High Court to use its inherent powers to prevent that abuse by the Court. **For example:** If multiple FIRs of the same offence have been lodged against the accused, the High Court can quash the FIRs by using its inherent powers to prevent the abuse of the process of the Court.

In the case of *Balbir Singh v. State of Orissa (1994)*, a person was accused of smuggling ganja in his van, and he was prosecuted under the [Narcotic Drugs and Psychotropic Substance Act, 1985](#) (N.D.P.S Act), and the only ground against him was a weak extra-judicial confession of a co-accused. The High Court quashed the proceedings as it would amount to an abuse of the process of the Court to continue such a case.

## To secure the ends of justice

This objective has a very wider nature than the other two objectives, as there is no clear definition that defines the words "ends of justice". So whenever the High Court thinks that it has to secure the ends of justice then it can use its inherent powers under Section 482 to secure the ends of justice, and it is completely the High Court's discretion to choose when it is applicable to secure the ends of justice. While exercising its inherent powers to secure the ends of justice, the High Court should consider [Article 21](#) which gives the fundamental right to life and personal liberty to the citizen, so that the fundamental right of the citizen is not violated. The Court must be reasonable, fair, just, and equitable to secure the ends of justice.

In the case of *Sulochana Devi Agarwala v. District Magistrate (1992)*, the Orissa High Court held that "Ends of justice" is a wide expression. The Court further stated that securing the ends of justice is more important than securing the ends of mere law, even though justice is administered by laws. The considerations of securing the ends of justice differ from case to case, and a solid formula cannot be enacted for the same purpose.

## To give effect to an order under the Code.

There may be some situations where, even if there are explicit provisions available in the Code to pass an order, the High Court could not give effect to such an order. An additional or an ancillary order has to be passed by the High Court to give effect to the respective order. The High Court can use its inherent powers under Section 482 to give effect to such an order. **For example:** The High Court can use its inherent powers to give effect to an order under the Code by ordering re-investigation.

The case of *Sakiri Vasu v. State of Uttar Pradesh (2007)*, raised the issue of whether the judicial magistrate can exercise the inherent powers declared in Section 482 of the Code. The Division bench held that the judicial magistrate does not have inherent powers and only the High Court can accept the application of the inherent powers, but the judicial magistrate has implied incidental or ancillary powers. This means that the magistrate to make the previous order effective can make an incidental order.

## What are inherent powers of the High Court under Section 482 CrPC

The High Court under Section 482 of the Code possesses wide inherent power. The High Court has used these various inherent powers in many decisions while deciding cases under Section 482 of the Code.

## The inherent power to expunge remarks

The inherent power of expunging remarks is exercised by the High Court to fulfill the objective of preventing the abuse of the process of any Court. The objectionable remarks of a subordinate Court in its judgment can be expunged by the High Court by using its inherent powers under Section 482 of the Code if they are not justified. Even if the matter has yet to be brought before the High Court in a regular appeal or a regular revision, the High Court can expunge the remarks in appropriate cases to secure the ends of justice.

The High Court will interfere and expunge remarks in the judgment of a subordinate court if such remarks are libellous and irrelevant. As the High Court is the apex Court of the State in exercising its criminal jurisdiction, it can exercise its inherent power to secure the ends of justice and that power extends to expunction or ordering an expunction of irrelevant remarks.

The High Court can always exercise its inherent power to expunge remarks made against a person who is neither a witness nor a party to the criminal proceeding. It is important to consider that remarks which are to be expunged must be irrelevant and unjustifiable.

In the case of *Raghubir Saran v. State of Bihar (1963)*, Justice Mudholkar and Justice Subbarao of the Supreme Court held that when a party who has been aggrieved by the irrelevant remarks and who wants it to be expunged must fully satisfy the Court that the respective passage is wholly irrelevant and unjustifiable. The aggrieved person should further satisfy the Court that such a remark would cause serious harm to him and that it won't affect the reasons for the judgment.

In the case of *Javvathi Sessa Rao v. State of Andhra Pradesh (1994)*, the Andhra Pradesh High Court exercised its inherent powers to expunge adverse and harsh remarks made by the sessions judge against the investigating officer by holding that such remarks were not warranted.

In the case of *Sualal Yadav v. State of Rajasthan (1963)*, the Rajasthan High Court held that while expressing opinions on the conduct of witnesses and parties, the judges should observe and focus on not violating the following principles to be just, fair, and relevant. The following principles are listed below:

- The concept of *audi-alteram partem* – no person should be condemned unheard;
- While passing remarks on the conduct of the parties and witnesses, the magistrate or the Judge should not go beyond the record, meaning if some remarks are not acceptable to be put in a record, they should be avoided;
- The criticism or the remarks passed should be made with clear-headedness or sobriety and with a due sense of responsibility.

Thus, it is important for a judge who is making harsh remarks to comply with the above-listed principles. In the case of *Sanjay Rana v. State of Madhya Pradesh (1992)*, the High Court of Madhya Pradesh by using its inherent powers expunged the remarks of a Magistrate who condemned the conduct of a person, who was not even a witness but whose name was merely referred by a witness and the person was not even given a chance to be heard.

## Expunging remarks and independence of the Judiciary

It is important to give judges and magistrates full liberty towards their expression to safeguard the interests of the independence of the judiciary. If a Judge or a Magistrate is expressing his opinions on the conduct of parties or witnesses, the High Court should be very careful in guarding the independence of the Magistrates and Judges subordinate to it, to pass such opinions. The limitations on the remarks expressed by a Judge are as important as giving independence to the Judge. A High Court Judge needs to express his opinions as the Sessions Judge to safeguard the prestige of the Judiciary.

In the case of *K.P. Tiwari v. State of Madhya Pradesh (1993)*, the Madhya Pradesh High Court passed scathing and harsh remarks against the learned Sessions Judge while condemning his integrity. The Supreme Court of India expunged such remarks made by the Madhya Pradesh High Court against the Sessions Judge, as such remarks would amount to destroying the Judiciary from within.

## Limitations of the expunging powers

The inherent powers of the High Court to expunge remarks are broad, but not unlimited. The High Court has the inherent power to expunge relevant remarks, but it cannot alter the judgment altogether. If there is an application before the High Court to expunge remarks that are made in any of the subordinate courts, the High Court will not matter the judgment if the remarks that are to be expunged form an integral part of the judgment.

In the case of *Raghubir Saran v. State of Bihar (1964)*, the Patna High Court stated a proper way to expunge remarks of a judgment of a Subordinate Court. The High Court held that even though the judgment of a lower Court may be wrong, or it may be even perverse, the proper way to consider this problem is through appeal before a superior Court like the High Court and through judicially correcting such judgment.

This can be done by the High Court exercising its inherent power under Section 482 of the Code. But that power should be used only in the rarest of rare cases where the interest of the party concerned would be irrevocably affected.

## The inherent power of quashing criminal proceedings

The inherent powers of the High Court to safeguard the interest of justice would require the High Court to use such inherent powers and quash a criminal proceeding. The inherent power can be used by the High Court even at the stage where the police have just lodged an FIR.

In the case of *Balwant Singh, B.K.O. Hamidpura v. Dy. Food and Supplies Controller, Amritsar (1974)*, Punjab and Haryana High Court held that if there is an FIR filed but that FIR does not prima facie constitute an offence, cognizable or non-cognizable, the continuance of the criminal proceeding would not be in the interest of justice. So the High Court should interfere and quash the criminal proceedings to secure the ends of justice.

Continuance of the criminal proceeding, even if the FIR does not constitute an offence either cognizable or non-cognizable, amounts to harassment of a citizen and such harassment is not in the interest of justice. So the High Court should exercise its inherent powers when such powers are needed to assist a citizen to protect his rights.

The inherent power of quashing the criminal proceeding by the High Court is of wide amplitude, but it has to be used capriciously where there is no explicit provision in the Code to quash such criminal proceedings. The High Courts and the Supreme Court through various decisions have given several circumstances where the High Court can exercise its inherent powers to quash the Criminal Proceedings.

In the case of *RP Kapur v. State of Punjab (1960)*, the High Court of Punjab and Haryana held that the inherent powers can be exercised by the High Court to quash criminal proceedings in appropriate cases either to prevent the abuse of the process of any Court or otherwise to secure the ends of justice. In RP Kapur's Case, the High Court summarized three categories of cases where the inherent jurisdiction of the High Court under Section 482 of the Code can be exercised to quash the criminal proceedings pending in subordinate Courts. The Court held that if the institution or continuation of the criminal proceeding against an accused person is not in the interest of justice or would amount to the abuse of the process of any Court, the High Court can quash the criminal proceedings in the following cases:

- If there is a legal bar against the institution or continuance of criminal proceeding against an accused person who is alleged to have committed the offence, the inherent powers exercised by the High Court in quashing such criminal proceeding is justified on the ground that there is an explicit legal bar.
- If the First Information Report (FIR) against the accused person does not constitute the offence that was alleged even if they were accepted in entirety and are accepted at face value. In such cases, the High Court by using its inherent power to quash a criminal proceeding can quash such criminal proceedings. The High Court is expected to use its inherent jurisdiction to quash a criminal proceeding, as it would be unjust to the accused person to continue such proceedings even if the allegations in the FIR do not constitute an offence that was alleged.
- If the FIR against the accused person does constitute an offence that was alleged to have been committed by the accused, but there is no evidence to prove such charge as mentioned in the FIR or the evidence given fails to prove the charge, then the High Court can use its inherent powers and quash such criminal proceedings.

In the case of *K.S. Narayana v. Gopinathan (1981)*, the Madras High Court held that the High Court must quash criminal proceedings to prevent the accused from the agony of an unnecessary trial.

Despite the criterion mentioned in R.P. Kapur's Case, some pre-requisite to consider while quashing the criminal proceeding in a subordinate Court were given by the Punjab and Haryana High Court in the case of *Vinod Kumar Seth v. State of Punjab (1982)*. These conditions are summarized below:

- If there is no reasonable suspicion that could disclose that there is a commission of a cognizable offence, even if the FIR is accepted to be true;
- If the evidence or materials collected in an investigation, subsequently after the filing of the First Information Report, further could not disclose the commission of a cognizable offence;
- When securing the ends of justice, the proceedings are quashed as the institution or continuation of such investigation may amount to an abuse of power by the Police.
- Even if the allegations in the FIR and the evidence or materials collected in an investigation give rise to a suspicion of a cognizable offence, the High Court can still quash the criminal proceedings if the investigation took place with a mala fide intention.

## State of Haryana v. Bhajan Lal (1992)

The case of *State of Haryana v. Bhajan Lal (1992)*, is a landmark case where the Supreme Court of India laid down seven conditions where the High Court can use its inherent powers to quash an FIR, a complaint, or criminal proceedings against an accused.

The Supreme Court, in the case of *State of Haryana v. Bhajan Lal (1992)*, gave special consideration to the limit in which the inherent powers are to be exercised by the High Court. The Apex Court held that the inherent powers to quash a criminal proceeding should be used very sparingly and in the rarest of rare cases. The main reason for laying down the



conditions by the Supreme Court on the High Courts in exercising their inherent jurisdiction is to prevent the High Courts from arbitrarily exercising such inherent powers.

The conditions laid down in this case do not apply just to cases decided under Section 482 of the Code, but also to cases decided under the High Court's writ jurisdiction under [Article 226 of the Indian Constitution](#). The 7 conditions where the FIR, complaint, or chargesheet can be quashed are summarized as follows:

1. When the allegations in the FIR or the complaint do not *prima facie* constitute any offence or make out any case against the accused, even if the allegations made under the FIR or the complaint are taken at their face value and are also accepted in their entirety.
2. If the allegations in the FIR along with other material or evidence associated with the FIR do not constitute or disclose a cognizable offence that would justify an investigation under [Section 156\(1\)](#) of the Code. But an order from the magistrate under [Section 155\(2\)](#) of the Code is an exception to this. The inherent power is applicable when the police officer without any order from the magistrate starts investigating a cognizable offence under Section 156(1), but the inherent powers will not affect the investigation of a non-cognizable offence ordered by a magistrate under Section 155(2)
3. When the evidence collected in support of the undisputed allegations given in the FIR or the complaint does not constitute or disclose any offence against the accused.
4. When the allegations in the FIR constitute or disclose only the commission of a non-cognizable offence instead of a cognizable offence.
5. If the allegations that are made in the FIR or the complaint are so absurd and unreasonable, it would be improbable for a prudent man to ever conclude that there could be a ground for a criminal proceeding to take place against the accused.
6. When there is an explicit legal bar or when there is an efficacious redress available in the provisions of the Code or any concerned act to institute or continue a criminal proceeding against an accused person.
7. When the criminal proceeding is instituted with a *mala-fide* intention and when such criminal proceeding is made with an ulterior motive to wreak vengeance on the accused and cause him harm due to private and personal grudge.

So, the main criteria here while the High Court is using its inherent powers to quash a criminal proceeding is that there should not be a *prima facie* offence constituted or disclosed against the accused person. If the FIR or the complaint could constitute an offence against the accused, the High Court shall not exercise its inherent powers to quash a criminal proceeding.

In the case of the [State of Uttar Pradesh v. O.P. Sharma \(1996\)](#), the Supreme Court stated that the High Court committed a grave error by quashing the FIR and the criminal proceeding even though there was a *prima facie* offence made out. The Supreme Court by going further set aside the order passed by the High Court.

## The inherent power of quashing of FIR

The High Court does not have the jurisdiction to invoke its inherent powers to quash an FIR if the guidelines are not followed as prescribed by the Supreme Court of India in the case of [State of Haryana v. Bhajan Lal](#). The Supreme Court of India also has supervisory jurisdiction similar to Section 482 of the Code to quash an FIR where the matters relating to a special leave petition are defined under Articles [136](#) and [142](#) of the Indian Constitution.

It is not uncommon to see a false or an additional FIR filed against the accused. There may be some instances where an innocent person is harassed by a false FIR due to a personal grudge even though there has been an FIR lodged at the Police Station. The High can quash FIRs if a subsequent FIR is lodged for the same offence. However, In the case

of *Tarak Dash Mukharjee & Ors. v. State of Uttar Pradesh & Ors*, a bench of Supreme Court consisting of Justice Ajay Rastogi and Justice Abhay S Oka has held that registering multiple FIRs by the same informant for the same set of facts and allegations, Articles 21 and 22 cannot be invoked. In the case of *Tarak Dash Mukharjee & Ors. vs. State of Uttar Pradesh & Ors (2022)*, there were two different FIRs lodged against the accused. The second FIR was filed 4 years after the first one, and facts and allegations in the second FIR were the same and against the same accused. The Supreme Court of India quashed and set aside the second FIR, the charge sheet based on the second FIR, and the summoning order passed by the court of Additional Chief Judicial Magistrate.

## The inherent power of allowing compromise of non-compoundable offences

There are two types of offences: (i) Compoundable offences; and (ii) Non-compoundable offences. This division is based on the possibility of compromising the offence between the parties. Compoundable offences are those offences that could be compromised between the parties, and non-compoundable offences are those offences that could not be compromised by the parties. In compoundable offences, the complainant compromises with the opposite party and agrees to take back all the charges levied upon the accused.

Compoundable offences are offences that lack moral turpitude, they do not cause a huge impact on society and hence compromising such offences is allowed in the Indian criminal system. If an offence is compromised between the parties, it would amount to the acquittal of the accused. Section 320 of the Code deals with compoundable offences. The Section gives an elaborate list of offences under *Indian Penal Code, 1860*, that can be compounded or compromised. Section 320 of the Code alone deals with the compounding of offences, which means there is no other provision that deals with the compounding or compromising of offences. Section 320(9) prohibits compounding of any offences except as provided in Section 320 of the Code.

As Section 320 of the Code prohibits the compounding of offences except as provided in the Section itself, the inherent powers can be used to compromise non-compoundable offences. The inherent powers under Section 482 of the Code could not be exercised by overriding any provisions of the Code, and hence the inherent powers could not be exercised to compromise non-compoundable offences.

In the case of *Mohan Singh v. State of Rajasthan (1993)*, the accused was charged and convicted under Section 326 of the Indian Penal Code, 1860 (Voluntarily causing grievous hurt by dangerous weapons or means), which is a non-compoundable offence. An application under Section 482 of the Code to invoke the High Court's inherent jurisdiction was filed before the Rajasthan High Court seeking permission to compromise the offence. The Rajasthan High Court held that it could not permit the compromise of the offence, which is a non-compoundable offence, as there is an explicit bar under Section 320(9) of the Code. But there are exceptions to this. The High Court could exercise its inherent power to compromise non-compoundable offences if such offences are more of a private nature, like offences arising out of matrimonial disputes.

In the case of *Daggubati Jayalakshmi v. State of Andhra Pradesh (1993)*, where the wife sought permission from the Andhra High Court to compromise with her husband and draw the case against her husband by compromising the offences under Section 498A, 323, 494, 109 of the Indian Penal Code, 1860. The Andhra Pradesh High Court allowed permission to compromise the offences between the parties. The High Court in the case of *Daggubati Jayalakshmi*, further stated that in exceptional cases, especially in the matrimonial cases, the High Court may grant permission to the parties to compromise a non-compoundable offence along with other compoundable offences. As the matrimonial cases are private and have less impact on society, the High Court allows the parties to compromise non-compoundable offences in such matters.

In *Inspector of Police, CBI v. B. Raja Gopal (2002)*, the High Court held that if the case was in the penultimate stage and when there was a trial in progress, the High Court could not quash the criminal proceedings against the accused. The proceedings could not be quashed even if the parties compromised and the accused paid back the money which was defrauded from a bank.

The case of *State of Madhya Pradesh v. Laxmi Narayan (2019)*, is a landmark judgment from the Supreme Court of India which laid down a few guidelines on the High Court while invoking its inherent jurisdiction in permitting the parties to compromise non-compoundable offences. The guidelines are summarized as follows:

- The High Court has to consider whether the crime committed is against society or an individual. The High Court should not use its inherent power to allow the parties to compromise offences that have a great impact on society. Offences like Rape, Murder, Dacoity, etc., should never be allowed to compromise.
- The High Court should consider whether the offence is civil in nature or criminal in nature. If the offences primarily arise out of marital disputes, commercial disputes, or family disputes where the parties have compromised between themselves, the High Court should quash such proceedings by using its inherent powers.
- The High Court should not quash criminal proceedings if the parties are trying to compromise more serious or heinous crimes. **For example:** If the offence is an attempt to murder under [Section 307](#) of the Indian Penal Code, the High Court has to consider the seriousness of the injury or the type of weapon used during the attack. While granting permission to the parties to compromise non-compoundable offences, the High Court should refrain from quashing criminal proceedings of severe and heinous crimes.
- Even if the offence committed is of a private nature without impacting the society at large, the High Court should consider the conduct and antecedent of the accused; whether the accused tried to abscond or how the accused managed to get into a compromise with the complainant, etc.
- If the offences that are sought to be compounded is an offence that falls under a special statute like the [Prevention of Corruption Act, \(1988\)](#), [the Arms Act, \(1959\)](#), [the Schedule Caste and the Scheduled Tribes \(Prevention of Atrocities Act\), 1989](#), etc, the High should refrain from quashing criminal proceedings of such offences.

There is an exception to the last guideline. In the case of *Ram Avtar v. State of Madhya Pradesh (2021)*, the accused was charged and convicted under the [Schedule Caste and the Scheduled Tribes \(Prevention of Atrocities Act\), 1989](#) read with [Section 34](#) of the Indian Penal Code for making slur remarks on the accused caste. The appellant challenged before the High Court, but the High Court dismissed the plea.

The appellant submitted the matter before the Supreme Court, stating that the parties had settled the matter. The question arose as to whether permission could be given to the parties to compromise an offence that is an offence under a special statute like the [Schedule Caste and the Scheduled Tribes \(Prevention of Atrocities Act\), 1989](#).

The Supreme Court of India held that the mere fact that the offence falls under a special statute does not refrain the High Court from using its inherent power under [Section 482](#) of the Code to grant permission to the parties to compromise a non-compoundable offence.

## The inherent power of directing investigation

Under appropriate circumstances, the High Court can use its inherent powers under [Section 482](#) of the Code to direct further investigation or even reinvestigation. [Section 173\(8\)](#) of the Code, which deals with a further investigation that should be forwarded to the magistrate, does not affect the High Court's inherent powers under [Section 482](#) of the Code.

In the case of *Devendra Nath Singh v. State of Bihar & Ors (2022)*, the Supreme Court held that though the basic power to direct further investigation is provided in Section 173(8), the High Court can direct further investigation or even reinvestigation if the High Court feels that the investigation is not going in the proper direction or to secure the ends of justice.

## The inherent power of quashing complaints.

The High Court has the inherent power to quash complaints under Section 482 of the Code. The guidelines prescribed for the quashing of FIR in the case of the State of *Haryana v. Bhajan Lal* also apply to the quashing of complaints. The High Court should follow the guidelines mentioned in the case while quashing complaints.

In the case of *G. Sagar Suri v. State of Uttar Pradesh (2000)*, the Supreme Court held that when there is already a complaint against the accused, then there can be no second complaint to prosecute the accused and the same can be quashed. There was a complaint under Section 138 of the *Negotiable Instruments Act, 1881* against the accused, and a complaint under Sections 406 and 420 of the IPC was placed against the accused. The Supreme Court held that the second complaint is liable to be quashed under Section 482 of the Code.

## The inherent power to grant cost to meet litigation

The High Court can grant cost to meet litigation by exercising its inherent powers under Section 482 of the Code in appropriate cases. The High Court's inherent power to grant cost to meet litigation is extraordinary, and this extraordinary power should be used in extraordinary circumstances and in a judicious manner. This inherent power is used by the High Court to secure the ends of justice.

In the case of *Mary Angle v. State of Tamil Nadu (1999)*, six persons were accused under the Prohibition of Dowry Act as they demanded dowry from the complainant, the accused approached the High Court to quash their criminal proceedings under Section 482 of the Code, the High Court dismissed the petition and ordered to grant Rs.10000 from each of the accused to the complainant as the accused have dragged the case for more than eight years. The Supreme Court of India confirmed that the High Court has the power to grant cost to meet litigation under Section 482 to secure the ends of justice.

## Other inherent powers of the High Court under Section 482 CrPC

Other inherent powers of the High Court under Section 482 of the Code of Criminal Procedure include quashing the chargesheet, passing directions to register the case, and quashing any order passed by the subordinate Courts. The inherent powers of the High Court cannot be used to interfere with the investigation by the police and to prevent the arrest of an accused during the time of investigation. This rule was introduced in the case of *Ram Lal Yadav v. State of Uttar Pradesh (1989)*.

## General principles governing inherent power of High Courts

Certain general principles govern the inherent powers of the High Court under Section 482 of the Code and in the landmark case of *Parbat Bhai Ahir v. State of Gujarat (2017)*, the Supreme Court set ten principles regarding the inherent powers of the High Court:

1. The Section 482 of the Code does not provide any new powers to the High Court, the provision just recognizes and preserves the High Court's inherent powers. The inherent

- powers can be used, to give effect to any order under the Code, to secure the ends of justice, and to prevent an abuse of the process of any subordinate court.
2. In matters of compounding a compoundable offence, Section 320 of the Code governs the Court to do so, but Section 482 is exercised to compound non-compoundable offences. The quashing of the FIR or a criminal proceeding on the ground that there is a settlement between the parties is different for compoundable and non-compoundable offences.
  3. The High Court while exercising its inherent powers to quash a criminal proceeding or complaint should exercise by evaluating whether the ends of justice would justify such a quash.
  4. Though the inherent powers have a wide ambit, they are to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any Court.
  5. The quashing of a complaint or an FIR on the ground that the parties have settled the dispute should be solely based on facts and circumstances of the case, and no elaboration of principles can be formulated.
  6. The inherent powers while quashing a criminal proceeding because the parties settled the dispute, the High Court should give due regard to the nature and gravity of the offence. More heinous offenses like murder, rape, and dacoity should not be quashed as they are not private but have a huge impact on the society.
  7. The inherent power, to quash criminal cases which has a predominant element of a civil dispute, stands in a distinct way as compared to the quashing of criminal cases with serious offences.
  8. The inherent powers while quashing a criminal proceeding because the parties settled the dispute include all the offences which have essential civil nature, like commercial, financial, mercantile, and partnership-related offences.
  9. In the above case, the High Court may quash the criminal proceeding on the ground of settlement between the parties, as the continuation of a criminal proceeding would cause oppression.
  10. The High Court can decline to quash the criminal proceedings based on the principles under (8) and (9) by a mere compromise between the parties if the accused is involved in any financial or economic fraud.

## Sections 482 and 397 CrPC

As discussed above the inherent powers under Section 482 of the Code should be sparingly used when there are no explicit provisions in the Code, and also the powers under Section 482 shall not be used when there is an explicit bar as the Section is not an overriding provision but a saving clause.

[Section 397](#) of the Code calls for the High Court and the Sessions Judge to exercise their revisionary jurisdiction. The power of revision can be used by the High Court or the Court of Session for proceedings in any inferior court within their jurisdiction.

During such examination, the High Court or the Sessions Judge may direct an execution or suspension of any sentence or an order, or if the accused is in confinement he can be released on bail. The Section further states that the revision power is not exercisable for interlocutory order in any appeal, trial, or other proceeding.

If the revision application is filed in the High Court or a Sessions Court, no further application shall be accepted by the other Court. Ex: If the High Court receives an application from a person under Section 397, no further application shall be entertained by the Sessions Court from the same person.

Normally, if there is an explicit remedy available through a revision under Section 397, then the inherent powers could not be used. In the case of [Gajendra Singh v. State of Rajasthan \(1994\)](#), the Rajasthan High Court held that proceedings initiated under Section 482 are not

maintainable if there is an alternate remedy available under which a revision can be filed under Section 397 of the Code.

The bar on inherent jurisdiction is available when there is an alternative remedy available under Section 397(1) of the Code, however, there is no bar on the inherent powers is not applicable as there is a bar under Section 397(2). The bar under Section 397(2) is only against the revisionary jurisdiction of the High Court, and not to the inherent powers of the High Court.

In the case of *Devendra Dutt v. State, 1989 CrLJ 177 (Del)*, the inherent power is not repelled by Section 397 of the Code through overlapping and revisional powers. The inherent powers of the High Court under Section 482 of the Code are not affected by the revisional power.

Even though Section 397(2) provided an explicit bar that no revision would lie in the matters of an interlocutory order, Section 397 does not bar the inherent jurisdiction of the High Court. In the case of *Ram Prakash v. State of Himachal Pradesh (1978)*, the Himachal Pradesh High Court held that interlocutory order can be revised by the High Court by exercising the inherent powers in cases where there is a miscarriage of justice or illegal exercise of jurisdiction. In the case where a Sessions Judge passed an order on an application made by a person under Section 397 of the Code, the High Court even suo moto was prohibited from revising that order in favor of the person who made the application. The inherent powers of the High Court shall not be exercised to override the provisions under Section 397(3) of the Code. As there is an express bar for further proceedings by the same person in the High Court.

## Section 482 CrPC and speedy trial

Section 482 of the Code along with Article 21 of the Indian Constitution insists on speedy trial in matters of criminal proceedings. As delays in criminal proceedings are an injustice to the accused, and the inherent powers are to be used to meet ends of justice, the inherent powers under Section 482 should be exercised for a speedy trial.

In the case of *A.R. Antulay v. R.S. Nayak (1992)*, the Supreme Court of India held that every delay in the proceedings does not amount to harm to the accused's rights. Inordinate long delay results in a presumption that the accused's fundamental right is infringed. If the right to speedy trial of an accused is infringed, then the proceedings pending against him should be quashed. The Apex Court held in the case that Section 482 of the Code is an adequate remedy for the speedy trial.

In the case of *Madan Mohan Saxena v. State of UP (2022)*, where there was an unexplained delay of 18 years of criminal proceedings for the offence of theft of electricity under the *Electricity Act, 2004*, and the fundamental right to speedy trial of the accused is also infringed. The Allahabad High Court quashed the criminal proceedings against the accused to secure the ends of justice, as the continuance of the proceedings against the accused is unwarranted.

In the case of *Akhtar Ali v. State of Uttar Pradesh (1994)*, the Allahabad High Court quashed the criminal proceedings against the accused, who was facing trial for Criminal Breach of Trust for more than 21 years. The High Court stated that it was a clear violation of Article 21 of the Indian Constitution and that further delay in proceedings would be unjust to the accused, and hence the criminal proceedings were quashed.

## Comparison between Section 482 CrPC and Article 226 of the Indian Constitution

Article 226 of the Indian Constitution and Section 482 of the Code both are used by the High Courts to ensure justice for individuals. Section 482 of the Code recognizes the inherent powers of the High Court, whereas Article 226 gives the High Court the power to

exercise writ jurisdiction or to pass any order to ensure justice. Article 226 of the Indian Constitution has a wider scope than that of Section 482 of the Code

Article 226 of the Indian Constitution is used by the High Court to enforce any fundamental rights or to give remedy to the individual for the violation of his fundamental rights and legal rights. Section 482 of the Code is used to pass an order to meet the ends of justice, to give effect to any order under the code, and to prevent the abuse of the process of any court.

The power to issue writs for the enforcement of fundamental rights by the High Court under Article 226 of the Indian Constitution is not limited to any particular law, Article 226 can be used against any type of law, whereas the High Court can invoke the inherent jurisdiction under Section 482 only related to the provisions of the Code of Criminal Procedure.

The inherent powers of the High Court under Section 482 of the Code can be exercised only when there are no other remedies available in the Code. The power to issue writs under Article 226 should be invoked by the High Court only when there is no alternative remedy available. If the petitioner has any other remedy available, including the inherent powers, the writ petition under Article 226 will not be imposed. Hence, when a litigant has the option of both Section 482 of the Code and Article 226 of the Indian Constitution, the litigant should choose to seek remedy from the inherent powers of the High Court under Section 482 CrPC.

## Inherent powers in the Code of Civil Procedure

[Code of Civil Procedure, 1908](#) (CPC) also have a saving clause that declares the inherent powers of the Court. [Section 151](#) of the CPC defines and saves the inherent powers of the High Court. The objectives as to when the Court can exercise its inherent powers under Section 151 of the CPC are the same as given in Section 482 of the Code:

- To prevent the abuse of the process of any Court;
- To secure the ends of justice; and
- To give effect to an order under the Code.

The difference between the inherent powers under Section 151 of the Code of Civil Procedure and the inherent powers under Section 482 of the Code is the Court which exercises such inherent powers. Unlike in the Code where the High Court alone possesses the inherent powers, the inherent powers in the CPC are available to any Court. So any Court irrespective of its hierarchy can use its inherent powers under Section 151 of the CPC to uphold the above-listed objectives.

The reason behind inherent powers under Section 482 of the Code are available only to the High Court is because cases with a criminal background have more impact on society than cases with a civil background. Thus, a more superior and experienced Court like the High Court needs to interfere in criminal matters where its inherent powers are used.

## Limitations of the inherent powers

The inherent powers of the High Court under Section 482 of the Code are very broad but are not unlimited. There are certain limitations to the inherent powers of the High Court, which are listed below:

- Inherent powers under Section 482 can only be exercised in cases when no other legal remedy is available in the whole Code. If the Court could grant remedy from any other provisions of the Code, the inherent powers under Section 482 could not be invoked.
- The Court will never act as an investigating authority in any situation while exercising its inherent powers under Section 482 of the Code.



- The Court could not conduct a mini-trial while exercising the inherent jurisdiction under Section 482 of the Code. As preventing the abuse of the process of any court is an objective of Section 482, the High Court would not act arbitrarily and would never cut down the normal procedures of trial from a trial Court.
- The Parliament cannot add any new or specific powers to the inherent powers. As the inherent powers are not granted, and they are vested in the High Court, it is not possible to add any new inherent powers.

## Landmark cases on Section 482 CrPC

### Mohd Umair vs. The State (N.C.T.) Delhi & Ors (2021)

#### Facts of the Case:

The facts of the [case](#) are as follows, the complainant was asked by his neighbour to deliver some items to his house. On the way to the house of his neighbour, the complainant saw that the accused was arguing with the complainant's mother, and the complainant urged the accused to stop arguing with his mother, but there arose a conflict between the accused and the complainant, and it is stated that the complainant slapped the accused and when the crowd gathered the accused left the place. After some time, the accused stabbed the complainant as he was embarrassed about getting slapped by the complainant. An FIR was registered against the accused, and he was charged with an attempt to murder under Section 307 of the Indian Penal Code. The accused was released on bail. A petition was filed before the High Court to invoke the inherent jurisdiction of the High Court under Section 482 of the Code to quash the criminal proceeding against the accused.

#### Issues raised in this case:

The main issue was whether the High Court has the inherent power to quash the criminal proceeding of a more serious offence like an attempt to murder (Section 307 I.P.C) if the parties have compromised the offence.

#### Judgment of the case

The High Court of Delhi held that the criminal proceedings against the accused could be quashed if the parties had entered into a compromise, even if the offence was a more serious offence like an attempt to murder. The High Court considered the fact that the accused was just 21 years old, and he had his whole life before him. Since both the accused and the complainant live in the same area, a compromise would be better. The High Court further stated that though the High Court should refrain from allowing the parties to compromise a more serious offence like an attempt to murder, the Court should act in a just way so that the accused could prevent unnecessary proceedings. The High Court quashed the criminal proceedings against the accused by levying a fine of Rs. 1 Lakh and one month of community service at Gurudwara Bangla Sahib.

### Central Bureau of Investigation vs. Aryan Singh (2023)

#### Facts of the Case:

The facts of the [case](#) are as follows: Aryan Singh and another filed a discharge petition before the trial court, but the petition was dismissed based on merits. Hence, aggrieved by the order, the accused applied to the Punjab and Haryana High Court and the High Court quashed the criminal proceedings along with all the subsequent proceedings. The case was transferred to CBI, and the CBI submitted that initially the name of Aryan Singh was not named in the fresh FIR, but after the investigation a charge sheet was filed against Aryan Singh, and he is one of the accused involved in the offence, so they filed an appeal before the Supreme Court of India against the order passed by the High Court.



The High Court, while quashing the criminal proceedings and all the other subsequent proceedings arising out of the same, observed that the investigation against the accused is malicious and that the charges are not proved against the accused. The petitioner's (C.B.I) main contention was that the High Court had quashed the criminal proceedings as if they were conducting a mini-trial. Further, they claimed that the Court's observation of the charges not being proved is absurd as the charges are to be proved during trial procedure in the Trial Court. The petitioner urged in the Supreme Court that the High Court has exceeded its inherent powers under Section 482 of the Code by conducting a mini-trial.

### Issues raised in this case:

In this case, the issue was whether the High Court used its inherent powers to quash a criminal proceeding under Section 482 of the Code by conducting a mini-trial.

### Judgment of the case

The Supreme Court of India held that the High Court erred in observing that the investigation is malicious against the accused because the investigation has been passed to the CBI and the accused has been charge-sheeted. The trial is supposed to be conducted before a trial Court and the High Court has exceeded its inherent powers by conducting a mini-trial. The Supreme Court set aside the order of the High Court to quash the criminal proceedings against the accused and directed the trial Court to conduct the trial within the prescribed time limit given to it. The appeals were accepted and the High Court's order was set aside.

## Conclusion

The inherent powers under Section 482 of the Code are a unique provision in the Indian criminal law system. It differentiates the power of the High Court from the power of the other subordinate courts in respect of superiority. The inherent powers of the High Court have safeguarded the rights of so many accused persons who were longing for justice. The objectives of Section 482 are to be used, to aid the High Court in exercising the inherent powers in a more just and reasonable way. The High Courts and the Supreme Court of India through various decisions have crafted a series of guidelines and principles as to when the inherent powers are to be exercised. The inherent powers of the High Court are a unique remedy available to the aggrieved party wherein even after referring to the whole Code if the High Court could not give a specific remedy, it can however use its inherent powers to get such remedy.

## Frequently Asked Questions (FAQs)

### Can you appeal against an order passed by the High Court under Section 482?

The orders passed under Section 482 are not passed in the High Court's original jurisdiction, and hence no appeal lies against the High Court's order under Section 482. In the case of *M. Abubacker Kunju v. R. Thulasidas (1994)*, the Kerala High Court, held that the inherent powers under Section 482 of the Code are supervisory. The inherent powers are exercised in respect of proceedings pending in the Courts subordinate to the High Court or pending before itself, and thus the inherent powers under Section 482 are not passed in the High Court's original jurisdiction. Hence, there are no appeals against an order passed under Section 482 of the Code.

### Can the High Court while exercising its inherent powers under Section 482 of the Code interfere with the investigation?

The High Court does not have the power to interfere with the investigation. In the case of *Ram Lal Yadav v. State of Uttar Pradesh (1989)*, a seven-judge bench of the Allahabad High Court held that the High Court has no inherent powers under Section 482 of the Code to interfere with the investigation with the police and put a stay on the arrest of the accused.

## Can the inherent powers be used to quash a criminal proceeding because there is a pending civil suit between the same parties?

The High Court by using its inherent powers under Section 482 of the Code cannot quash a criminal proceeding merely because there is a civil suit pending between the same parties. In the case of *Kamala Devi Agarwal v. State of West Bengal (2002)*, the Supreme Court of India held that the criminal proceeding could not be quashed because of a pending civil suit. The quashing is not possible even if the civil suit is pending in a higher court. The Apex Court stated that there is no substance in arguing that a magistrate should not proceed with a legitimate legal proceeding just because there is a civil suit pending in the High Court.

## Can the High Court grant bail by exercising its inherent powers under Section 482 of the Code?

The High Court does not have any inherent power to grant bail to the accused while exercising inherent powers granted to it under Section 482 of the Code. In the case of *Ram Nivas v. State of Uttar Pradesh (1990)*, the Allahabad High Court held that the High Court cannot grant bail to the accused by exercising its inherent powers under Section 482 of the Code as there are explicit provisions in the Code to grant bail.

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