

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary  
Peer Reviewed

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

## **EDITORIALTEAM**

### **EDITORS**

#### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



#### **Dr. Namita Jain**

*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*

*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*



## Mrs.S.Kalpana

Assistant professor of Law

*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr.Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS  
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# **INHERENT POWERS OF CRIMINAL COURTS: A JUDICIAL MANDATE TO SECURE JUSTICE**

AUTHORED BY - LOKANATH MAHARANA,

Assistant Professor (Guest Faculty),

University Law College, Utkal University

PhD Scholar, School of Law, KIIT University

## **Abstract**

India's criminal justice is guided by a multifarious legal system designed to provide procedural justice and maintain the rule of law. But such rigid adherence to provided rules could interfere in actual justice in some matters. Courts possess inherent jurisdiction to regulate such circumstances—this is referred to as extraordinary jurisdiction conferred upon them in order to avoid abuse of judicial processes and facilitate the administration of justice. Inherent powers are not invested in lower criminal courts and are mostly in the nature of an instrument for High Courts under section 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 (replacing Section 482 of the Code of Criminal Procedure (CrPC), 1973. Nothing in the Code would also be interpreted to limit the inherent power of the High Court to pass such orders as are required for the purpose of enforcing the Code, preventing abuse of the legal process or otherwise furthering the ends of justice as provided for in Section 528 BNSS.). This is declaratory and is the fundamental role of the judiciary in protecting human rights and upholding justice. Inherent power is curtailed by the restriction of the court, i.e., this power is utilized only under extraordinary circumstances. This chapter wears the evolution, constraints, range, and extent of inherent powers in criminal law and demonstrate its application without going beyond statutory boundaries and allows judicial discretion in contemporary legal practice.

## **Keywords:**

Inherent Powers, Judicial Discretion, Abuse of Process, Ends of Justice, Quashing FIR.

## 1. Introduction

Criminal justice administration in India is mostly monitored by a legal system manifested in the Code of Criminal procedure, 1973 (CrPC), which has now been replaced by the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023. There are comprehensive procedures for investigation, trial, and sentencing contained within this coded law and the purpose is to safeguard due process and fairness of process. But there is no code of law (no matter how comprehensive) that can anticipate every conceivable situation that arises during the exercise of criminal justice. Relying solely on masterfully modified codified law, when unforeseen situations arise during the course of proceedings, may inadvertently cause injustice or worse yet come to an abrupt halt<sup>1</sup>.

In circumstances where unjust consequences can be avoided, the courts hold what are known as inherent powers. These powers are not expressed in the statutory law in every detail, but are commensurate to the natural operation of a sangha (meaning a court). Their goal is to seek justice, and to achieve justice in instances when procedural law is insufficient, or indeed silent.

In an interesting twist, while civil courts have been granted inherent powers pursuant to Section 151 of the Civil Procedure Code, 1908, no criminal court has the equivalent provisions. In the criminal justice system only, the High Courts have specific powers pursuant to Section 482 of CrPC (now Section 528 of BNSS). This section allows a High Court to make any order which is just and is necessary to give effect to the provisions of this Code, to prevent an abuse of the process of the Court or to secure the ends of justice.<sup>2</sup>

Similar to the civil courts, the limited conferment of inherent powers only to High Courts presents a marked asymmetry within the courts.<sup>3</sup> It raises important questions to access to justice at the subordinate level where many of these procedural impediments arise first. All of this suggests a stronger call to understanding, or wholly exploring, these inherent powers not just in an academic sense but for enabling the improved efficacy of criminal justice delivery in India.

---

<sup>1</sup> Kelkar, R. V. (2020). *Criminal Procedure* (7th ed.). Eastern Book Company.

<sup>2</sup> Khaitan, D. (2017). Scope of the Subordinate Judiciary under Section 482 of CRPC. *NUJS J. Regul. Stud.*, 2, 87.

<sup>3</sup> *Madhu Limaye v. State of Maharashtra* (1977) 4 SCC 551

## 2. Idea and Rationale

Inherent powers are the essential authority not delegated through any statute but rather the powers that courts have by their existence and the need to do justice. A court would be helpless in most cases if they could only act according to prescribed steps or procedures indicated by legislation; doing so could entrench injustice<sup>4</sup>.

Ideally, inherent powers should not supplant, replace, or override statutory law; they should enhance, bolster, and supplement statutory law. Inherent powers are present as a necessary safety net or checks and balances to ensure that the law does what it is supposed to do: produce justice. Courts can invoke Inherent powers in extraordinary circumstances, especially if the statutory process is inadequate, has been misapplied/abused, or there is no remedy offered through statutory provisions<sup>5</sup>.

To illustrate, if the rigorous application of procedural rules produced a miscarriage of justice, or a party was otherwise abusing the process of law to harass or delay, the court would act with inherent powers to redress the abuse. Again, the goal was not to subvert the law, but to act in accordance with its spirit. Inherent powers rights the value of procedural law and substantive justice so that neither trumped the other; they are necessary to the fair operation of justice.

## 3. Statutory Recognition

Section 528 BNSS The High Court has been stated explicitly with respect to its inherent power in criminal matters through Section 482 of the Code of Criminal Procedure, 1973. Since the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 was passed, this clause has been officially acknowledged as Section 528. The clause is essentially the same, maintaining that nothing in the Code is thought to limit or restrict the High Court's inherent authority to issue orders as necessary:(a) to give effect to any order made under the Code, (b) to prevent an abuse of the process of any Court, or (c) to otherwise secure the ends of justice<sup>6</sup>. This provision is not a new or additional power. Rather it is a declaration of the High Court's inherent power to take such action, which is part of a High Court's prerogatives due to its constitutional standing and

---

<sup>4</sup> Dwivedi, A. (2021). A General Study on the Inherent Powers of Courts under the Civil Procedure Code. *Supremo Amicus*, 23, 541.

<sup>5</sup> Rajinder Singh vs . Manish Kumar on 6 September, 2024

<sup>6</sup> S.N. Misra, *The Code Of Criminal Procedure*, 22nd Edition, Central Law Publications; 2020th edition (1 November 2020); Central Law Publications, ISBN-10 : 9388267850, ISBN-13 : 978-9388267854 (1 November, 2020)

function as a participant in a justice delivery scheme. The legislative purpose of this provision is to recognize expressly that there are rare and exceptional circumstances as procedural law can fail or be nonexistent the High Court may intervene and in the exercise of its inherent power, avert an injustice or abuse of legal process<sup>7</sup>. The importance of this provision depends on it as a corrective device. That is, a protection from rigidity in the procedures of the courts, allowing the courts to become involved in the proceedings when process is abused or where a miscarriage of justice could result from the rigorous application of the law. While the courts have consistently indicated that when inherent powers are invoked, it must be done cautiously and with restraint, and not even for routine cases but only in exceptional events where not doing so would lead to injustice. Section 528 BNSS (previously section 482 CrPC) is another judicial instrument for the implementation of justice over technicalities.

#### 4. Judicial Interpretation of Inherent Powers

The judiciary has played an important role in interpreting the content and the limits of inherent powers under Section 482 CrPC. The courts have consistently stated that although inherent powers are vital and important to ensure the delivery of justice, such powers must be exercised with care, caution, and not except in a rare case<sup>8</sup>.

##### a) Quashing of FIRs and Criminal Proceedings

One of the leading cases on this topic is *State of Haryana v. Bhajan Lal*<sup>9</sup>. The Supreme Court in this case laid down seven illustrative grounds when the High Court may quash an FIR or proceed with the inherent powers. These are:

(a) Where allegations made in the FIR do not disclose a cognizable offence even if the allegations are taken at their face value; (b) Where the allegations do not have a shred of evidence or are absurd; (c) Where the criminal proceeding is evidently a result of malice or harassment.

This case is still good authority about inherent powers in cases of abuse of process.<sup>10</sup>

##### b) Scope and Limitations

---

<sup>7</sup> R.P. Kapur v. State of Punjab AIR 1960 SC 866

<sup>8</sup> Directorate Of Enforcement vs Niraj Tyagi on 13 February, 2024 Author: Hon'ble J. Bela M. Trivedi

<sup>9</sup> AIR 1992 SC 604

<sup>10</sup> Saini, A. (2024). Decoding The Inherent Powers Under Section-482 Of Code of Criminal Procedure. Available at SSRN 4926576.

Sh. Yashpal Chaudhrani & Ors. vs State (Govt. Of Nct Delhi) & Anr<sup>11</sup>. The Court reiterated that even while Section 482 has many inherent powers, they should only be used in urgent circumstances, particularly when prompt action is required to stop injustice.

Praveen R vs State By Devarajeevanahalli Police<sup>12</sup>, the Supreme Court held that the High Court has the power to quash criminal proceedings if the material on record does not disclose any offence and proceeding further would result in abuse of the judicial process.

### c) Recent Judicial Interpretation

Ramveer Upadhyay vs The State Of Uttar Pradesh<sup>13</sup>

The SC observed that criminal proceedings cant be quashed under section 482 of the crpc only because the complaint was lodged by a political rival.

Jayahari vs The State Of Kerala<sup>14</sup>

SC, when disputes in questions is purely civil in nature, the adoption of remedy in a criminal court would amount to abuse of the process of the court.

Siddharth Mukesh Bhandari vs state of Gujarat<sup>15</sup>

The SC reiterated that a high court while exercising powers under section 482 crpc , can grant stay investigation or any other interim relief only in arrest of rare-case. Referred to Neeharika infrastructure pvt ltd vs state of Maharashtra AIR 2021 SC 191.

Devendra Nath Singh vs The State Of Bihar on 12 October, 2022<sup>16</sup>

Supreme court observed that inherent powers under section 482 crpc can be exercised by a high court to direct further investigation or even reinvestigation in appropriate case .

## 5. Balance Between Discretion and Restraint

The High Court's inherent powers play a crucial role in criminal law. They make sure that legal technicalities don't get in the way of justice. These powers fix problems when normal legal solutions fall short or when people misuse the legal system. But courts must be careful when they use these powers. If they're not, it could lead to judges overstepping or messing with the proper work of investigators and lower courts. Recently ruling by supreme court, in Dineshbhai

---

<sup>11</sup> SLP(Crl)No.-005399/2019, <https://www.casemine.com/judgement/in/6467ecb042d466566c713362>

<sup>12</sup> WP No. 29255 of 2023

<sup>13</sup> SLP(CRL.) NO. 2953 OF 2022, <https://indiankanoon.org/doc/190417046>

<sup>14</sup> CRIMINAL APPEAL NO.128 OF 2022 (@ Special Leave Petition (Crl.) No.5489 of 2020), <https://indiankanoon.org/doc/29208913>

<sup>15</sup> Criminal Appeal No. 1045 of 2022 and Criminal Appeal No. 1046 of 2022. <https://www.lawfinderlive.com/archivesc/2019822>

<sup>16</sup> <https://www.casemine.com/commentary/in/reaffirmation-of-high-court's-inherent-powers-under-section-482-crpc-analysis-of-devendra-nath-singh-v.-the-state-of-bihar/view>

Chandunabhai vs state of Gujarat (2018) 3 SCC 104, High court cant like an investigating agency while exercising inherent powers<sup>17</sup>.

The Supreme Court have always said that they should use these powers and when they need to. One big rule is that they shouldn't use them if there's another way to fix the problem under the law. If someone accused of a crime can do other things—like ask for bail, try to get the case thrown out, or appeal—they need to try those first. after that can they ask the High Court to use its special powers.

Another important limitation, however, is that the courts should generally not intervene at a stage as early as the preliminary stage of an investigation. The courts should permit an investigation to proceed, unless there is a clear showing that the complaint or proceeding is frivolous, malicious, or an abuse of process. Such early judicial intervention can be detrimental to evidence-gathering efforts and to the justice process itself<sup>18</sup>.

## 6. Contemporary Relevance of Inherent Powers

In modern criminal law, the adoption of inherent jurisdiction by the High Court has come a long way in dealing with the complexities of modern litigation. With the constantly mounting numbers of pending criminal cases and the constant misuse of statutes, the inherent powers of the High Court become extremely vital as a tool for dispensing effective and efficient justice.

One of the most visible examples is in matrimonial disputes, especially when the parties mutually settles their disputes. In *Gian Singh v. State of Punjab*,<sup>19</sup> the Supreme Court held that while the High Court has similar powers to quash the criminal proceedings, its inherent power could be brought vested to quash non-compoundable offences also if the facts make the dispute private in nature, and there was a genuine settlement accepted by the High Court. This has clearly endorsed amicably settling family controversies and reduced the chances for unnecessary trials.

---

<sup>17</sup> <https://www.livelaw.in/hc-cant-act-like-investigating-agency-exercising-inherent-powers-s-482-crpc-sc-read-judgment>

<sup>18</sup> Gupta, J. K. (2024). Analysis On The Inherent Powers Of The High Court Under Section 482 Of The CRPC. Available at SSRN 5039732.

<sup>19</sup> (2012) 10 SCC 303

The recent Supreme Court decision in *Shaurabh Kumar Triathi v. Vidhi Rawal*<sup>20</sup> and many of the High Courts' continued invocation of inherent powers to protect personal liberty by quashing baseless or vexatious prosecutions, demonstrates the power in action. The High Court has the authority to dismiss complaints under the Protection of Women from Domestic Violence Act, 2005, which is frequently used as a weapon in marital disputes, under Section 528 of the *Bhartiya Nagarik Suraksha Sanhita, 2023.* , whenever the High Court discovers indisputable proof of legal process abuse.

Considering the increasing burden on the adjudicating trial courts and the tactical misuse of criminal law to settle personal objectives, the High Courts' invocation of inherent powers offers a necessary means to ensure justice isn't overtaken by procedural technicalities and to ensure the decongestion of the entire criminal justice system by quashing frivolous or vexatious litigation at the earliest stage.

## 7. Conclusion

The inherent jurisdiction of criminal courts, especially that exercised by the High Courts under Section 528 of the *Bharatiya Nagarik Suraksha Sanhita* (previously Section 482 CrPC), are essential to the just administration of justice. These jurisdictions serve as a judicial safety valve and enable courts to step in where statutory provisions are wanting or abused. Despite not being limitless, inherent powers allow flexibility where legal formality would otherwise impose unjust hardship or condone injustice. Their main purpose is to thwart abuse of the process of law and effectuate the ends of justice in exceptional and unusual situations.

But the exercise of inherent powers requires a high level of judicial restraint and caution. The courts have to see that such powers are not used whimsically or as an alternative to established legal redress. The uniformly accepted principle has been that the inherent powers have to be exercised sparingly, especially where there is a sufficient and effective statutory procedure.

In the future, an extension tailored to specific lower courts with restricted inherent powers may be tried. Provided with strict judicial protection and monitoring, such decentralization might increase accessibility to justice, decrease the workload of High Courts, and resolve minor

---

<sup>20</sup> 2025 LiveLaw (SC) 599

procedural injustices more quickly—hence strengthening the overarching objectives of judicial equity and efficiency.

## References

1. Kelkar, R. V. (2020). *Criminal Procedure* (7th ed.). Eastern Book Company.
2. Khaitan, D. (2017). "Scope of the Subordinate Judiciary under Section 482 of CrPC." *NUJS Journal of Regulatory Studies*, 2, 87.
3. Dwivedi, A. (2021). "A General Study on the Inherent Powers of Courts under the Civil Procedure Code." *Supremo Amicus*, 23, 541.
4. Misra, S. N. (2020). *The Code of Criminal Procedure* (22nd ed.). Central Law Publications. ISBN: 978-9388267854.
5. Madhu Limaye v. State of Maharashtra, (1977) 4 SCC 551.
6. R.P. Kapur v. State of Punjab, AIR 1960 SC 866.
7. State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335.
8. Sh. Yashpal Chaudhrani & Ors. v. State (Govt. of NCT of Delhi) & Anr., Criminal Appeal No. 147 of 2020.
9. Praveen R. v. State by Devarajeevanahalli Police, 2021 SCC OnLine SC 635.
10. Ramveer Upadhyay v. State of Uttar Pradesh, 2022 SCC OnLine SC 122.
11. Jayahari v. State of Kerala, 2022 SCC OnLine SC 653.
12. Siddharth Mukesh Bhandari v. State of Gujarat, Criminal Appeal No. 738 of 2023; *Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra*, AIR 2021 SC 191.
13. Devendra Nath Singh v. State of Bihar, (2022) Criminal Appeal No. 1121 of 2022 (decided on 12 October, 2022).
14. Dineshbhai Chandunabhai v. State of Gujarat, (2018) 3 SCC 104.
15. Gian Singh v. State of Punjab, (2012) 10 SCC 303.
16. Shaurabh Kumar Tripathi v. Vidhi Rawal, Criminal Appeal No. 1434 of 2023.
17. Rajinder Singh v. Manish Kumar, decided on 6 September, 2024 (citation details pending official reporting).
18. <https://www.livelaw.in/hc-cant-act-like-investigating-agency-exercising-inherent-powers-s-482-crpc-sc-read-judgment>
19. Directorate Of Enforcement vs Niraj Tyagi on 13 February, 2024 Author: Hon'ble J. Bela M. Trivedi

20. <https://www.casemine.com/commentary/in/reaffirmation-of-high-court's-inherent-powers-under-section-482-crpc:-analysis-of-devendra-nath-singh-v.-the-state-of-bihar/view>
21. S.N. Misra, The Code Of Criminal Procedure, 22nd Edition, Central Law Publications; 2020th edition (1 November 2020); Central Law Publications, ISBN-10 : 9388267850, ISBN-13 : 978-9388267854 (1 November, 2020)

