

*** "REPORTABLE"**
HIGH COURT OF DELHI AT NEW DELHI

+ Crl.M.C. 3710/2007

Date of decision: February 06, 2009

GEETIKA BATRA Petitioner
! Through : Mr. Pawan Kumar, Advocate
Mr. Sheel Kumar, Advocate.

Versus

\$ O.P. BATRA & ANR Respondents
^ Through : Mr. B.R. Sharma, Advocate.

%

CORAM:
HON'BLE MS. JUSTICE ARUNA SURESH

- (1) Whether reporters of local paper may be allowed to see the judgment?
- (2) To be referred to the reporter or not? Yes
- (3) Whether the judgment should be reported in the Digest ? Yes

J U D G M E N T

ARUNA SURESH, J.

1. By way of this petition filed under Section 482 Code of Criminal Procedure (hereinafter referred to as 'Cr.P.C.') the petitioner Geetika Batra has assailed the order of the trial court dated

22.08.2007 passed in Complaint Case No.63/1/2006 whereby the petitioner was summoned for offences punishable under Sections 182/211/499/500 Indian Penal Code (hereinafter referred to as 'IPC').

2. Factual matrix of the case is that, petitioner was married to Rohit Batra on 18.11.2000. Due to matrimonial disharmony between the two, petitioner filed a complaint on 27.6.2001 before the Crime Against Women (CAW) Cell, Ashok Vihar. The said matter was reconciled somewhere in July or September, 2001 and thereafter petitioner started living with her husband; Rohit Batra. A son was born out of the wedlock of the parties on 21.09.2001. In August, 2002 Rohit Batra got employment at Bombay and the couple shifted to Bombay where petitioner lived with him. She came to Delhi on 25.5.2003 due to alleged cruelties inflicted upon her by her husband. After coming back to Delhi, she again filed a complaint with CAW Cell on 17.7.2003. A day before the petitioner returned to Delhi, her husband Rohit Batra had lodged a complaint at Police Station Turbe, Bombay

on 24.5.2003. On receipt of the second complaint an FIR being FIR No.504/2003 under Sections 498-A/406/34 IPC was registered at Police Station Mangolpuri. Accused persons (respondents herein) applied for anticipatory bail on 06.09.2003 and they were finally granted anticipatory bail on 8.10.2003.

3. After their release on bail, respondent filed the impugned complaint on 10.11.2003 against the petitioner in the trial court for offence punishable under Sections 182/211/499/500 IPC. The learned trial court vide its order dated 22.8.2007 took cognizance of the offence and summoned the petitioner to face trial as per law.
4. Mr. Pawan Kumar, learned counsel for the petitioner has urged that the FIR was registered on the basis of first complaint dated 27.6.2001 as is apparent from the reading of the FIR and not on the second complaint filed on 17.7.2003 by the petitioner and therefore the trial court erred in observing that there was sufficient material to

establish that petitioner had made a second complaint before the CAW Cell leveling serious allegations against the respondents despite her undertaking dated 13.7.2001 and got an FIR registered for offences under Sections 406/498-A/34 IPC levelling almost similar allegations against the respondents as were levelled in the first complaint. It is further argued that the trial court did not adopt right approach in observing that prima facie it was clear that the petitioner (accused in the complaint) was habitual of making complaints against the respondents (complainant) with a view to compel the respondents to succumb to her point of view and demands without any consideration to the seriousness or veracity of her complaints and consequently summoning the petitioner to face trial.

5. It is further argued by the learned counsel for the petitioner that under Section 195 IPC a private complaint filed by the respondents could not have been entertained by the Magistrate as he had no power to take cognizance of an offence punishable

under Sections 172 to 188 IPC except on the complaint in writing of that court or some other court to which that court is subordinate where such offence is alleged to have been committed in, or in relation to, any proceeding in any court. It is further submitted that as Magistrate had no jurisdiction to take cognizance of the said two offences, a complaint under Sections 499/500 IPC must also fail. He has referred to '***M.L.Sethi vs. R.P. Kapur & Anr., AIR 1967 SC 528***'; '***Bhagwanti & Ors. vs. Attar Singh, MANU/DE/0098/1967***'; '***Kamlapati Trivedi vs. State of West Bengal, AIR 1979 SC 777***'; '***Pepsi Foods Lts. & Anr. vs. Special Judicial Magistrate & Ors., AIR 1998 SC 128***'; and '***Daulat Ram vs. Rajinder Motwani, 1992 (3) Crimes 876***'.

6. Mr. B.R. Sharma, learned counsel for the respondents has urged that the provisions of Section 195 Cr.P.C. are not attracted and do not apply to the facts and circumstances of the case, averred in the complaint as no judicial proceedings

were conducted in the FIR and the court had not taken cognizance of offences under Sections 406/498-A/34 IPC before filing of the impugned complaint and that, therefore, the respondents were within their rights to file a complaint against the petitioner and the court had the jurisdiction to take cognizance of the offences punishable under Sections 182/211/499/500 IPC and summon the petitioner to face trial. He has referred to ***“CREF Finance Ltd. vs. Shree Shanthi Homes Pvt. Ltd. & Anr., AIR 2005 SC 4284”***, ***“Abdul Rehman & Ors. vs. Anees-Ul-Haq & Ors., 2008 III AD (Delhi) 637”*** and ***“Devarapalli Lakshminarayana Reddy & Anr. vs. V. Narayana Reddy & Ors., 1976 (3) SCC 252”***.

7. The short point to be determined by this court is, whether in this case cognizance of the complaint which included the offences punishable under Sections 211/182 IPC filed by the respondents against the petitioner was rightly taken by the Magistrate.

8. FIR in question was registered at Police Station Mangolpuri on 30.08.2003. FIR, therefore, was registered after second complaint was filed by the petitioner on 17.7.2003 in CAW Cell. As per this complaint, the sequence of occurrence of offence started from 18.11.2002 onwards. First information from CAW Cell was received at Police Station on 30.08.2003. Perusal of this FIR clearly indicate that it is based on the first complaint filed by the petitioner on 27.6.2001. There is no reference to the second complaint dated 17.7.2003. In the FIR the incidents narrated are of the year 2000. In the second complaint, petitioner has leveled allegations against the respondents and her husband for the period from 1.8.2001 when she started living with her husband by virtue of a compromise, till the period she left the company of her husband on 25.5.2003 and came back to Delhi, where after she filed the second complaint dated 17.7.2003. Though, in the second complaint she has referred to the first complaint at various places to emphasis upon the mental and physical cruelty

to which she was subjected by her husband Rohit Batra and the respondents as well as sister-in-law Smt. Pooja and Pooja's husband Shri D.K. Barik.

9. After the registration of the FIR accused named in the FIR including the respondents filed an application seeking anticipatory bail in the court of learned Additional Sessions Judge (ASJ) Delhi on 6.9.2003. Vide order of the even date the learned ASJ was pleased to grant interim relief to the respondents till 23.9.2003. On 23.9.2003 interim protection was further extended to 27.9.2003 and thereafter to 8.10.2003. On 8.10.2003 respondents were granted anticipatory bail by the learned ASJ. During the pendency of the anticipatory bail application some orders were purportedly passed by the court directing the Investigating Officer to operate the locker of the parties in the presence of the complainant, take out the jewelry articles lying therein, making inventory of the same and the court also issued search warrants to enable the Investigating Officer to execute its order. It was after disposal of the anticipatory bail application

that complaint was filed by the respondents against the petitioner for commission of offences under Sections 182/211/499/500 IPC.

10. In dealing with this question of law, the court has to keep in mind the important aspect that the relevant time at which the legality of the cognizance taken has to be judged is the time when cognizance is actually taken under Section 190 Cr.P.C., the only provision for taking cognizance of offences contained in the Cr.P.C. Under Section 190 Cr.P.C. a Magistrate is empowered to take cognizance of an offence upon receiving a complaint of facts which constitute such offence, upon a report in writing of such facts made by a police officer or upon information received from any person other than a police officer or upon his own knowledge or suspicion that such offence has been committed. A Magistrate, therefore, in exercise of his power under Section 190 Cr.P.C. could take cognizance of the offences which according to him were prima facie made out from the facts narrated in the complaint. Section 195

which follows Section 190 put some limitations on the unfettered powers of the Magistrate to take cognizance of an offence under Section 190. Power of the Magistrate to take such cognizance is, therefore, subjected to the provisions contained in Section 195 Cr.P.C.

11. Section 195 Cr.P.C. being relevant for the purposes of disposal of this petition is reproduced below:-

“195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.

(1) No court shall take cognizance-

(a)

(i) Of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860), or

(ii) Of any abetment of, attempt to commit, such offence, or

(iii) Of any criminal conspiracy to commit, such offence,

Except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;

(b)

(i) Of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any court, or

(ii)

(iii)

(2)

(3) In clause (b) of sub-section (1), the term "court" means a Civil, Revenue or Criminal Court, and includes a tribunal constituted by or under a Central, provincial or State Act if declared by that Act to be a court for the purposes of this section.

(4)

12. Thus, it is clear that sub Section (1) of Section 195 Cr.P.C. bars a Court from taking cognizance of an offence specified in clauses (a) and (b) except, when the stipulations laid down in these clauses are satisfied. For an offence under Section 211 IPC, there is a mandatory direction to the court not

to take cognizance of any offence punishable under this Section, when such offence is alleged to have been committed in, or in relation to any proceeding in any Court, except on the complaint in writing of such court or of some other court to which such court is subordinate.

13. Sub-Section (1) of Section 195 Cr.P.C. thus clearly limits the power of the court to take cognizance under Section 190 Cr.P.C. Therefore, it is at the stage when a Magistrate is taking cognizance of an offence under Section 190 Cr.P.C. that he must examine the facts of the complaint before him and determine whether his powers are not limited or taken away by Section 195 Cr.P.C. The Magistrate in the present case, was required to examine whether his power of taking cognizance of the offences was limited by the provisions of Section 195 (1) Cr.P.C. to determine whether cognizance of the complaint charging respondents with commission of an offence under Section 182/211 IPC could or could not have been taken by him as the said offences were alleged to have been

committed in or in relation to proceedings in a court. If he found that it was so he was required to examine if a complaint in writing by such or some other court to which such court was subordinate was necessary before he could take cognizance of the said offences. The Magistrate in this case failed to examine whether his powers of taking cognizance of the offence was limited by the provision of Section 195 (1) Cr.P.C. and whether a complaint in writing for the alleged offences under Sections 182/211 IPC was necessary to be filed by such court or some other court to which such court was subordinate.

14. Under these circumstances, this court has to examine whether on the date when cognizance of the offence was taken by the Magistrate, such cognizance was barred under Section 195(1) Cr.P.C. because offences punishable under Section 182/211 IPC were included in the complaint and were alleged to have been committed by the respondents in relation to judicial proceedings in a court of law.

15. There are three situations which are likely to emerge while examining the question whether there is any proceedings in any court, namely, there might not be any proceeding in any court at all, secondly, proceeding in a court might actually be pending at the relevant time when cognizance is sought to be taken of the offence punishable under Section 211 IPC and thirdly, there might have been proceedings which had already been concluded though there might not be any proceedings pending in any court when cognizance of offence under Section 211 IPC is taken. It is only in second and third situation that Section 195 (1) Cr.P.C. would apply. The fact that proceedings had been concluded would not be material because Section 195(1) does not require that proceedings in any court must actually be pending at the time when the question of applying the bar arises if the offence under Section 211 IPC is alleged to have been committed in relation to those proceedings.

16. Section 195 Cr.P.C. has been intensively interpreted by the Supreme Court in ***“M.L. Sethi***

Vs. R.P. Kapur & Anr., AIR 1967 SC 528, in

the following manner:-

“11. In the interpretation of this clause (b) of sub-s. (1) of s. 195, considerable emphasis has been laid before us on the expression "in or in relation to", and it has been urged that the use of the expression "in relation to" very considerably widens the scope of this section and makes it applicable to cases where there can even in future be a proceeding in any Court in relation to which the offence under s. 211, I.P.C., may be alleged to have been committed. A proper interpretation of this provision requires that each ingredient in it be separately examined. This provision bars taking of cognizance if all the following circumstances exist, viz., (1) that the offence in respect of which the case is brought falls under s. 211, I.P.C.; (2) that there should be a proceeding in any Court; and (3) that the allegation should be that the offence under s. 211 was committed in, or in relation to, such a proceeding. Unless all the three ingredients exist, the bar under s. 195(1)(b) against taking cognizance by the Magistrate, except on a complaint in writing of a Court, will not come into operation. In the present case also, therefore, we have to see whether all these three ingredients were in existence at the time when the Judicial Magistrate at Chandigarh proceeded to take cognizance of the charge under s. 211, I.P.C., against the appellant.

12. There is, of course, no doubt that in the complaint before the Magistrate a charge under s. 211, I.P.C., against the appellant was included, so that the first ingredient clearly existed. The question on which the decision in the present case hinges is whether it can be held that any proceeding in any Court existed when that Magistrate took cognizance. If any proceeding in any Court existed and the offence under s. 211, I.P.C., in the complaint filed before him was alleged to have been committed in such a proceeding, or in relation to any such proceeding, the Magistrate would have been barred from taking cognizance of the offence. On the other hand, if there was no proceeding in any Court at all in which, or in relation to which, the offence under s. 211 could have been alleged to have been committed, this provision barring cognizance would not be attracted at all.

13. In this case, as we have already indicated when enumerating the facts, the complaint of which cognizance was taken by the Judicial Magistrate at Chandigarh was filed on April 11, 1959, and at that stage, the only proceeding that was going on was investigation by the Police on the basis of the First Information Report lodged by the appellant before the Inspector-General of Police on December 10, 1958. There is no mention at all that there was, at that stage, any proceeding in any Court in respect of that F.I.R. When examining the question whether there is any proceeding in any Court, there are three situations that can be

envisaged. One is that there may be no proceeding in any Court at all. The second is that a proceeding in a Court may actually be pending at the point of time when cognizance is sought to be taken of the offence under s. 211, I.P.C. The third is that, though there may be no proceeding pending in any Court in which, or in relation to which, the offence under s. 211, I.P.C., could have been committed, there may have been a proceeding which had already concluded and the offence under s. 211 may be alleged to have been committed in, or in relation to, that proceeding. It seems to us that in both the latter two circumstances envisaged above, the bar to taking cognizance under s. 195(1)(b) would come into operation. If there be a proceeding actually pending in any Court and the offence under s. 211, I.P.C., is alleged to have been committed in, or in relation to, that proceeding, s. 195(1)(b) would clearly apply. Even if there be a case where there was, at one stage, a proceeding in any Court which may have concluded by the time the question of applying the provisions of s. 195(1)(b) arises, the bar under that provision would apply if it is alleged that the offence under s. 211 I.P.C., was committed in, or in relation to, that proceeding. The fact that the proceeding had concluded would be immaterial, because s. 195(1)(b) does not require that the proceeding in any Court must actually be pending at the time when the question of applying this bar arises.

14. In the first circumstance envisaged above, when there is no proceeding pending in any Court at all at the time when the applicability of s. 195(1)(b) has to be determined, nor has there been any earlier proceeding which may have been concluded, the provisions of this sub-section would not be attracted, because the language used in it requires that there must be a proceeding in some Court in, or in relation to, which the offence under s. 211, I.P.C. is alleged to have been committed. In such a case, a Magistrate would be competent to take cognizance of the offence under s. 211 I.P.C., if his jurisdiction is invoked in the manner laid down in s. 190 of the Code of Criminal Procedure.

17. Keeping in mind the principles underlying the provisions of Section 195 Cr.P.C. it is to be seen if under the facts and circumstances of this case there were any proceedings before the court after the registration of the FIR within the meaning of Section 195 and before filing of the complaint by the respondents. Admittedly, the charge sheet has been filed subsequent to the filing of the impugned complaint and the court took cognizance of the offences under Section 406/498-A IPC against the respondents on 28.1.2005. After the registration of

the FIR respondents filed an application seeking anticipatory bail under Section 438 Cr.P.C. before the learned ASJ on 6.9.2003. The learned ASJ adjourned the application for consideration for 23.9.2003 and stayed the arrest of the respondents to enable the respondents to return the dowry articles. On 23.9.2003, the learned ASJ while extending the interim protection granted to the respondents passed the following order:-

“.....Sh. Sharma had handed over the key of the locker to the Investigating Officer at the instruction of the Court.

The IO is instructed to approach the bank authorities and operate the locker and then to recover the dowry articles of the complainant. The articles such as one ginni (gold), one silver katori, one pendel with chain, which belong to Rohit Batra, are to be returned to applicant through the medium of the court, if found there in the locker. Adj. for recovery of the dowry articles and for disposal of the application for 27.9.03. Till then the applicants be not arrested. Copy of this order be given to the IO so that he may operate the locker for effecting the recovery of the dowry articles.”

18. Thus a judicial order was passed directing the

Investigating Officer to approach the bank authorities and operate the locker, recover the dowry articles of the complainant, some articles detailed in the order were ordered to be returned to the respondents through the medium of the court, if found in the locker. The interim protection was extended till 27.9.2003 to ensure that the Investigating Officer could operate the locker for effecting recovery of the dowry articles. Hence, a judicial order indeed was passed by the learned ASJ.

19. On 27.9.2003 it was reported to the court by the Investigating Officer that locker was operated under the instruction of the court from where he recovered various ornaments and seized them. Investigating Officer sought further time from the court for seizure of the remaining articles from possession of the respondents. The court granted time to the Investigating Officer to recover the dowry articles by associating the petitioner with the directions to the respondents to cooperate in the recovery. Court was pleased to adjourn the bail

application for 8.10.2003 to ensure recovery of dowry articles and for disposal. It was when the court was informed that most of the dowry articles had been recovered and custodial investigation was not required that the anticipatory bail application was allowed.

20. While preparing recovery memo dated 24.9.2003 of the ornaments recovered from the locker, the Investigating Officer has specifically referred to the court's order for operation of the locker No.241, Central Bank, Malviya Nagar and for seizure of the ornaments lying there. Reference to the directions is also found in seizure memo dated 6.10.2003 when the house of the respondent O.P. Batra was searched by the Investigating Officer.

21. Learned counsel for the respondents has submitted that these proceedings cannot be considered as proceedings before a court and also that complaint was filed after the respondents were granted anticipatory bail, provisions of Section 195 Cr.P.C. therefore do not create any bar on the jurisdiction

of the trial court to take cognizance of offence under Section 182/211 IPC. He further argued that offence under Section 499/500 IPC does not fall within the ambit of Section 195 Cr.P.C. and the court, therefore, rightly took cognizance of the offence and summoned the petitioner.

22. I do not find myself in agreement with the contentions of the learned counsel for the respondents.

23. Proceedings before a court do not mean proceedings conducted in a case filed by the police or in a private complaint after taking cognizance of the offences if facts so narrated made out a cognizable offence to be tried by the Magistrate. Court proceedings mean any proceedings before a court of law relating to the subject matter of the complaint wherein the court passes or is required to pass a judicial order. The learned ASJ while considering the anticipatory bail application of the respondents, not only considered the application but, also passed judicial orders to ensure the

operation of the locker in the Central Bank, Malviya Nagar as well as recovery of dowry articles and other documents from the house of respondent Mr. O.P. Batra on identification by the complainant. These proceedings in no manner can be termed as proceedings conducted during the investigation of the case. Even if respondents had been granted anticipatory bail and the proceedings before the learned ASJ were complete, since the impugned complaint related to the subject matter of the FIR in which the respondents had applied for their release on bail, provisions of Section 195 Cr.P.C. would bar the jurisdiction of the trial court to take cognizance of offences under Section 211/182 IPC on a private complaint filed by the respondents in the absence of any complaint from the concerned court where such proceedings were conducted or by any other court superior to that court.

24. In "***Kamlapati Trivedi's case (supra)***" in similar circumstances where the appellant was released on bail and a question arose if order releasing the appellant on bail and the one ultimately

discharging him of offence complained of amounted to proceedings before a court, it was held that order releasing the appellant on bail amounted to proceedings before a court within the meaning of Section 195 Cr.P.C.

25. In '***Daulat Ram's case (supra)***', where an anticipatory bail application was pending adjudication, and the Magistrate took cognizance of the offence on a private complaint it was held that since the proceedings were pending by way of petitioner's applying for anticipatory bail and the court had granted anticipatory bail prior to 4.2.1987; the date when Magistrate took cognizance of the offence made out in the private complaint, the complaint filed by the complainant under Section 211 IPC was hit by the provisions of Section 195 (1) (b) of Cr.P.C.
26. The said complaint was filed by the complainant not only under Section 211 Cr.P.C. but also under Section 500 IPC, the entire complaint was found to be not maintainable.

27. In the present case respondents had applied for anticipatory bail and were successful in obtaining anticipatory bail order in their favour from the court of the learned ASJ in case FIR No.504/2003, Police Station Malviya Nagar, under Sections 498-A/406/34 IPC and they filed the impugned complaint after obtaining the bail order in their favour. The offence under Section 211 IPC which is subject matter of the complaint against the petitioner is said to have been committed in relation to those proceedings. Both the orders resulted directly from the information lodged by the petitioner with the police against the respondents and other accused persons. Under these circumstances, there cannot be any other conclusion except that the said offences must be recorded as one committed in relation to those proceedings, the requirement of clause (a) and (b) of Section 195 Cr.P.C. being fully attracted.
28. In ***Devarapalli Lakshminarayana Reddy 's case (supra)*** where an order was passed by the court under Section 156 (3) Cr.P.C. directing the police

officers to hold investigation. It was held that the said order of the Magistrate does not tantamount to taking of cognizance of an offence by the Magistrate within the meaning of Section 190 (1) (a) of Cr.P.C. As the facts are distinguishable, this case is of no help to the respondents.

29. In '***CREF Finance Ltd.'s case (supra)***, the court considered in a private complaint as to at what stage, the Magistrate can be said to have taken cognizance of an offence and proceed further. In this case, since the complaint itself was filed after the proceedings before the court were complete, I need not go into the question as to at what stage cognizance of offence can be taken by the Magistrate. Admittedly, in this case cognizance was taken by the court vide impugned order dated 22.8.2007 as is obvious from the last operative paragraph of the order and the trial court concluded that prima facie it was clear that respondent (petitioner herein) was habitual of making complaints against complainant (respondents herein) with a view to compel the

respondents to succumb to her point of view and give into her demands without any consideration to the seriousness or veracity of her complaints and prima facie he found sufficient material against the respondent (petitioner herein) in respect of offences alleged against her by the complaint.

30. ***Abdul Rehman & Ors.'s case (supra)*** is of no help to the respondents. In the said case a complaint was filed by the petitioner against the respondents with the Crime Against Women Cell and the respondents and others filed an application for grant of anticipatory bail in the court of learned ASJ. Ultimately, the FIR was registered and on coming to know registration of the FIR, respondent No.1 filed criminal complaint alleging that the petitioner had made a false allegation against the respondents and therefore they should be summoned for the offences under Section 211/500 IPC read with Section 109/114/34 IPC. It was under these circumstances that the court observed that no judicial proceedings whatsoever had taken place so far in any court of law and the matter was still

pending inquiry investigation. Therefore, it was observed that offence under Section 211 IPC could not be said to have been made out and there was no question of statement of role having been played by the petitioner for which a complaint could not have been filed under Section 193 and 195 IPC.

31. In the present case, it was after registration of the FIR that the respondents had applied for anticipatory bail wherein some other judicial proceedings also took place and it was after the grant of bail that the complaint was filed and therefore proceedings before the court within the meaning of Section 195 Cr.P.C. were held. This has resulted into a complete bar on the jurisdiction of the court to take cognizance of offence under Section 211 IPC in a private complaint filed by the respondents. The Magistrate should have carefully considered the material before him under the circumstances of this case to see if the limitation of Section 195 (1) Cr.P.C. was applicable or not and if it was applicable if it was necessary for him to see if any complaint was received from the court

concerned or by any other court superior to the said court. The order of the trial court does not reflect that he considered the provisions of Section 195 (1) Cr.P.C. before summoning the petitioner for offences including offence under Section 211 IPC. The Magistrate erred in his approach to the facts of the case and passed the impugned order without any application of mind.

32. Summoning of an accused in a complaint is a serious matter and, therefore, the order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. The Magistrate failed to examine the nature of allegations made in the complaint and the evidence both oral as well as documentary placed on record in support of the complaint to come to a conclusion if he should proceed to summon the petitioner for offence under Sections 182/211/499/500 IPC.

33. Hence, for the reasons stated above, the petition is allowed. Complaint Case No.63/1/2006 and the

impugned order dated 22.08.2007 passed in the said complaint are hereby quashed. Petitioner is accordingly discharged.

Pending applications also stand disposed of.

Attested copy of the order be sent to the trial court.

(ARUNA SURESH)
JUDGE

February 06, 2009
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