

Neutral Citation No. - 2024:AHC-LKO:66712

Court No. - 13

Case :- APPLICATION U/S 482 No. - 8208 of 2024

Applicant :- Pawan Khera

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy./Prin. Secy.
Deptt. Of Home Lko. And Another

Counsel for Applicant :- Aditya Vikram Singh, Abhishek
Chaubey, Nadeem Murtaza, Praveen Kumar Yadav, Varsha Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Saurabh Lavania, J.

1. Heard Shri Nadeem Murtaza, learned counsel assisted by Shri Praveen Kumar Yadav, Shri Abhishek Chaubey and Ms. Varsha Tripathi, learned counsel for the applicant, learned Government Advocate Dr. V.K. Singh assisted by Shri S.P. Tiwari, learned A.G.A. for the State and Shri Shivendra Shivam Singh Rathore, Advocate.
2. The applicant has sought the following main relief(s) by means of present application under Section 528 Bharatiya Nagrik Suraksha Sanhita, 2023 (in short "BNSS") :-

“For quashing of the impugned order, dated 02.07.2024, passed by Special Juge MP/MLA/Additional Sessions Judge, Court No.19, Lucknow in Criminal Revision No.39/2024 (Pawan Khera V. State of U.P.) whereby the revision petition of the applicant assailing dismissal of Discharge Application has been dismissed.

AND

For quashing of the impugned order, dated 30.01.2024, passed by the learned Chief Judicial Magistrate, Lucknow whereby charges have been framed against the applicant of Criminal Case No.34136 of 2023 (State of U.P. V. Pawan Khera), arising out of Case Crime No.65/2023, under

Sections 153A, 500, 504, 505(2), 153B(1), 505, 505(1)(B) of Indian Penal Code, Police Station Hazaratganj, District Lucknow;

AND ALSO

Quashing of the entire proceedings and consequential proceedings of Criminal Case No.34136 of 2023 (State of U.P. vs. Pawan Khera), arising out of Case Crime No.65/2023, under Sections 153A, 500, 504, 505(2), 153B (1), 505, 505(1)(B) I.P.C., Police Station Hazratganj, District Lucknow, pending in the Court of Chief Judicial Magistrate, Lucknow.”

3. Dr. V.K. Singh, learned Government Advocate for the State raised the preliminary objection regarding the maintainability of the present application for the relief sought. The objection has been raised on the basis of remedies earlier availed by the applicant.
4. It is stated, based upon the remedies earlier availed by the applicant, in nutshell, that the applicant on one pretext or other is avoiding the proceedings before the trial court by instituting cases before the Hon'ble Apex Court as also before this Court and in this manner, the present application is not maintainable for the reliefs sought. The prayer is to dismiss the application on the aforesaid aspect of the case.
5. Shri Nadeem Murtaza, learned counsel for the applicant stated that the remedy provided under Section 482 Cr.P.C. now repealed, *pari materia* to Section 528 of BNSS can be availed by the concerned, if cause arises and there is no bar to approach this Court, if fresh cause arises and the applicant in the present case has approached this Court for three reliefs which relate to quashing of entire proceedings as also quashing of order framing charge dated 30.01.2024 as also for quashing/setting aside the order dated 02.07.2024 passed in Criminal Revision No.39 of 2024 (*Pawan Khera Vs. State of U.P.*) which was filed

challenging the order dated 05.01.2024 passed by Chief Judicial Magistrate, Lucknow (in short 'Magistrate') on an application preferred by the applicant seeking discharge under Section 239 Cr.P.C.

6. In order to conclude the issue pertaining to maintainability of this application, it is relevant to indicate some relevant facts.
7. An FIR was lodged by opposite party no.2 on 20.02.2023 registered as FIR/Case Crime No.0065 of 2023 at Police Station Hazaratganj, District Lucknow and taking note of the allegations levelled therein against the applicant, the same was lodged under Sections 153-A, 500, 504, 505(2) I.P.C.
8. Thereafter, upon completion of investigation, Charge sheet No.1 of 2023 was submitted by the Investigating Officer (in short 'I.O.') on 08.04.2023 under Sections 153-A, 500, 504, 505(2), 153B(1), 505, 505(1)(b) I.P.C.
9. After submission of charge sheet, indicated above, the Chief Judicial Magistrate, Lucknow (in short 'Magistrate'), took cognizance and summoned the accused applicant vide order dated 11.04.2023.
10. As stated, the applicant was apprehended, but not sent to judicial custody in relation to an FIR lodged at Assam making similar allegations as levelled in FIR in issue and the applicant was released on account of interference of Hon'ble Apex Court.
11. Vide order dated 23.02.2023 passed by the Hon'ble Apex Court in the Writ Petition (Criminal) Diary No(s).8222/2023 (*Pawan Khera Vs. The State of Assam & Anr.*) the interim protection was granted, as appears from the order annexed at page 88 of the paper book. The order dated 23.02.2023 reads as under.

“UPON hearing the counsel the Court made the following

ORDER

1. The petitioner is the Chairperson of the Media and Publicity Department of the Indian National Congress. He held a press conference on 17 February 2023 in Mumbai. On 20 February 2023, a complaint was lodged at the Hazratganj Police Station in Lucknow, which was converted into an FIR bearing No 65/2023 for offences punishable under Sections 153A, 500, 504 and 505(2) of the Indian Penal Code 1860. On 20 February 2023, another FIR bearing No.86/2023 was at Varanasi for offences punishable under Sections 153A, 295A and 505 of IPC. Today (23 February 2023), the petitioner was deboarded from an Indigo Flight travelling from Delhi to Raipur on the ground that he was to be arrested by the Assam Police.

2. A communication has been addressed by St Lakhindra Saikia of Haflong Police Station Dima Hasao, Assam to the SHO. Police Station, Domestic Airport, New Delhi stating that the petitioner is required to be apprehended in connection with Haflong PS Case No. 19 of 2023 for offences punishable under Sections 153A/153B(1)/500/504/505(1)(b)/505(2) and 120B of IPC

3. The jurisdiction of this Court under Article 32 of the Constitution has been invoked for diverse reliefs, including :

(i) quashing of the complaints;

(ii) in the alternative, transfer and clubbing of the FIRs at one jurisdiction; and

(iii) restraint on all coercive steps and to provide security to the petitioner and his family.

4. We have heard Dr Abhishek Manu Singhvi, senior counsel appearing on behalf of the petitioner; in support of the application for urgent interim reliefs. Ms Aishwarya Bhati, Additional Solicitor General, appears for the State of Assam with Mr. Shuvodeep Roy.

5. Since the proceedings were mentioned for urgent orders, this Bench has been constituted.

6. At the outset, we have indicated to counsel for the petitioner that a petition under Article 32 cannot be entertained for quashing the FIRs since the petitioner has an

alternate remedy under Section 482 of the Code of Criminal Procedure 1973 before the jurisdictional High Court. Moreover, the petitioner will have to seek regular bail before the competent court.

7. Dr Abhishek Manu Singhvi submits that the petitioner would not press the prayer for quashing of the FIRs since the petitioner would be advised to pursue the remedies which are available to him in accordance with law before the appropriate High Court. However, the petition has been pressed for clubbing of the FIRs in one jurisdiction since it has been urged that the gravamen of all the FIRs lodged presently at Lucknow, Varanasi and Dima Hasao) is one and the same, namely, the press conference at which certain objectionable words were used. Dr Singhvi has stated that the petitioner has since clarified that the use of the language was inadvertent, though inappropriate, and that he would not stand by the use of such language. However, Dr Singhvi states that the petitioner tenders an unconditional apology.

8. Apart from the above submission, it has been urged that the words taken at their face value, as reflected in the FIRs, do not establish any offence punishable under the Sections of the IPC which have been invoked, including Sections 153A 153B. 295, 500, 504 and 505 of IPC. Learned senior counsel also urged that recourse to the power of arrest under Section 41A CrPC was not warranted where the offence is punishable for a term not exceeding seven years.

9. Ms Aishwarya Bhati, Additional Solicitor General, on the other hand, submitted, after adverting to the live replay of the offending video, that the expression which was used by the petitioner was not unintentional and, on the contrary, a deliberate attempt to denigrate a constitutional functionary has been made. The Additional Solicitor General has also urged that the petitioner, having been arrested at Delhi Airport, would be produced before the court of the competent jurisdiction for transit bail and the petitioner may seek his remedies before that Court.

*10. We are inclined to entertain the petition confined to the issue as to whether the FIRs should be clubbed in one and the same jurisdiction. Such a course of action has been previously adopted by this Court in **Arnab Ranjan Goswami v Union of India**.*

11. We have also noticed the submission which has been urged by senior counsel appearing on behalf of the petitioner

that the words taken at their face value as reflected in the FIRs do not establish an offence punishable under the provisions which have been invoked in the FIRs.

12. We pass the following ad-interim order:

(i) Issue notice on the prayer of the petitioner for transferring and clubbing of the FIRs which have been registered in respect of the press conference in question in one jurisdiction;

(ii) For that purpose, notice shall issue, at this stage, to the States of Assam and Uttar Pradesh;

(iii) Ms Aishwarya Bhati, Additional Solicitor General, appearing with Mr Shuvodeep Roy, accepts notice on behalf of the State of Assam. Liberty to serve the Standing Counsel for the State of Uttar Pradesh, in addition;

(iv) In order to enable the petitioner to apply for regular bail before the Jurisdictional court, upon the FIRs being transferred to one jurisdiction, we direct that the petitioner shall be released on interim bail by the court of the competent Magistrate at Delhi where he is to be produced this evening;

(v) The above order is passed in connection with Haflong PS Case No 19 of 2023; and

(vi) The above order shall remain in operation till 28 February 2023:

13. List the Petition on 27 February 2023.”

- 12.** Thereafter on 27.02.2023, the following order was passed by Hon’ble Apex Court in Writ Petition (Criminal) No.74 of 2023 filed by the applicant.

*“UPON hearing the counsel the Court made the following
ORDER*

1. Mr Tushar Mehta, Solicitor General appearing for the State of Assam states that the State would file its counter affidavit in the matter within this week. Ms Garima Prasad, Additional Advocate General for the State of Uttar Pradesh states that the State of UP would also place a counter affidavit on the record in the meantime.

2. Dr Abhishek Manu Singhvi, senior counsel appearing on behalf of the petitioners would file the rejoinder affidavit before the next date of listing.

3. List the Petition on 3 March 2023.

4. The ad-interim order passed on 23 February 2023, shall continue to remain in operation till the next date of listing.”

13. In the aforesaid petition, the Hon’ble Apex Court on 03.03.2023 extended the interim order favourable to the applicant and posted the matter for 17.03.2023. Again on 17.03.2023 the matter was adjourned to 20.03.2023 and interim order favourable to the applicant was extended. On 20.03.2023, the Hon’ble Apex Court disposed of the Writ Petition (Criminal) No.74 of 2023 with liberty to the parties to raise all the contentions before the jurisdictional court. The order dated 20.03.2023 reads as under.

“UPON hearing the counsel the Court made the following

ORDER

1. The details of the FIRs which have been registered against the petitioner are set out below

(i) FIR No 65 of 2023 registered at PS Hazratganj, Lucknow on 20 February 2023.

(ii) FIR No 86 of 2023 registered at PS Cantt, Varanasi on 20 February 2023: and

(iii) FIR No 19 of 2023 registered at PS Haflong, Dima Hasao, Assam on 22 February 2023.

*2. By the order of this Court dated 23 February 2023, the petition was entertained confined to the issue as to whether the FIRs which were registered against the petitioner should be clubbed in one and the same jurisdiction. Such a course of action has been previously adopted by this Court in **Arnab Ranjan Goswami v Union of India, (2020) 14 SCC 2012.***

3. Notice was accordingly issued on the prayer of the petitioner for transferring and clubbing of the FIRs which were registered in respect of the press conference in question in one jurisdiction.

4. On 23 February 2023, this Court issued the following interim directions:

"(iv) In order to enable the petitioner to apply for regular bail before the jurisdictional court upon the FIRS being transferred to an jurisdiction, we direct that the petitioner shall be released on interim bail by the court of the competent Magistrate at Delhi where he is to be produced this evening;

(v) The above order is passed in connection with Haflong PS Case No 19 of 2023."

5. The above order was directed to remain in operation till 28 February 2023 and has since been extended on 27 February 2023 and 3 March 2023

6. Mr Muhammad Ali Khan, counsel appears for the petitioner.

7. Pursuant to the notice to the States of Uttar Pradesh and Assam, Mr Tushar Mehta, Solicitor General of India along with Ms Aishwarya Bhati, Additional Solicitor General of India appears on behalf of the States of Uttar Pradesh and Assam. Ms Garima Prashad, Additional Advocate General assisted Mr Tushar Mehta, Solicitor General for the State of Uttar Pradesh.

8. During the course of the hearing, counsel appearing on behalf of the petitioner has reiterated that the petitioner stands by the unconditional apology which was tendered on his behalf by Dr Abhishek Manu Singhvi, senior counsel who appeared on 23 February 2023.

9. The first FIR was registered at PS Hazratganj, Lucknow. We order and direct that the subsequent FIRs registered at PS Cantt, Varanasi, Uttar Pradesh and at PS Haflong. Dima Hasao, Assam, shall stand transferred to PS Hazratganj, Lucknow, Uttar Pradesh.

10. The ad interim order which was passed by this Court on 23 February 2023 (extended by the orders dated 27 February 2023 and 3 March 2023) shall stand extended till 10 April 2023. The petitioner would be at liberty to apply for regular bail before the jurisdictional court. All the contentions of the parties are left open to be urged before the jurisdictional court

11. The Petition is accordingly disposed of.

12. Pending applications, if any, stand disposed of."

14. The applicant, after the order dated 20.03.2023 passed by Hon'ble Apex Court, approached this Court by means of Crl. Misc. Writ Petition No.2565 of 2023 (*Sh. Pawan Khera Vs. State of U.P. Thru. Prin. Secy. Home and Others*). The petition was entertained by this Court as appears from the order dated 06.04.2023, which reads as under.

“(1) Heard Sri J. N. Mathur, learned Senior Advocate assisted by Sri Karan Sharma, Sri S. M. Abid, Sri Rohit Kaliyar, Sri Mohit Siwach and Sri Sheeran M. Alvi, learned counsel for the petitioner and Sri Shiv Nath Tilhari, learned A.G.A. for the State Respondents.

(2) This petition has been filed with the following main prayers:-

"(A) Quash FIR No. 0065 of 2023 dated 20.02.2023 under Section 153-A, 500, 504 and 505 (2) of the Indian Penal Code, 1860, Police Station - Hajarat Ganj, District Central Lucknow and entire proceedings including investigation and also transferred FIRs bearing numbers FIR No. 86 of 2023 registered at PS Cantt. Varanasi dated 20.02.2023; FIR No. 19 of 2023 registered as PS Haflong, Dima Hasao, Assam on 22.02.2023 and entire proceedings arising out of it;

(B) Stay the entire proceedings of FIR No. 0065 of 2023 dated 20.02.2023 under Sections 153-A, 500, 504 and 505 (2) of Indian Penal Code, 1860, Police Station- Hazrat Ganj, District- Central Lucknow, and also transferred FIRs bearing FIR No. 86 of 2023 registered at PS Cantt. Varanasi dated 20.02.2023; FIR No. 19 of 2023 registered as PS Haflong, Dima Hasao, Assam on 22.02.2023 otherwise the applicant shall suffer irreparable loss and injury."

(3) Issue notice to the respondents No. 4, 5 and 6 returnable at an early date.

(4) The petitioner shall take steps within one week.

(5) Sri J. N. Mathur, learned Senior Advocate has taken this Court through the bare facts of the case and the Orders passed by the Supreme Court on 23.02.2023 in Writ Petition (Criminal) Diary No(s). 8222 of 2023 filed under Article 32 of the Constitution before the Supreme Court and the Order dated 20.03.2023 passed by the Supreme Court finally disposing of such Writ Petition with a direction for clubbing of three F.I.R.s registered at Lucknow, Varanasi and Assam

treating the F.I.R. registered on 20.02.2023 as the leading case.

(6) Learned Senior Counsel has informed this Court that although in the F.I.R. registered at Assam there was several other Sections that were invoked by the informant, respondent no. 6. The Investigating Officer has issued a notice to the petitioner under Section 41 (A) of the Cr.P.C. under Sections 153-A, 153-B(1)/ 500/504/505(1)(b)/505(2) I.P.C. and directed him to make his statement in pursuance of such notice dated 30.03.2023. The petitioner has also got his statement recorded at Delhi.

(7) It has been argued by the learned counsel for the petitioner that on removal of Sections 295 and 120-B from the purview of investigation it seems that there is no imminent threat of arrest of the petitioner; but still the petitioner prays that the investigation itself be quashed as it is oppressive and not made out from a bare perusal of the allegations in the F.I.R.

(8) This Court having perused the final order passed by the Supreme Court on 20.03.2023 finds that the Court had already given the petitioner interim protection and also the option for applying of regular bail before the jurisdictional Court. Hence there is no need to grant any interim order as of now.

(9) Let counter affidavits be filed by the State Respondents and the private respondents by the next date of listing.

(10) List this case on 04.05.2023.”

15. At this stage, on being asked, learned Counsel for the applicant stated that the said writ petition is still pending, but the same has now become infructuous in view of subsequent development in the case.
16. After the aforesaid, the applicant again approached this Court by way of filing *Application u/s 482 No.7810 of 2023 : (Pawan Khera Vs. State of U.P., Thru. Addl. Chief Secy. Home/Prin. Secy, Home, Lko. And Another)*. Indisputably, this application was filed seeking following main reliefs :-

“1. To quash the entire proceedings and consequential proceedings of Criminal Case No. 34136 of 2023 (State of U.P v. Pawan Khera), arising out of Case Crime No. 65/2023 under sections 153A, 500, 504, 505(2), 1538 (1), 505, 505(1)(b) Indian Penal Code (hereinafter "IPC"), Police Station Hazratganj, District Lucknow, pending in the court of Chief Judicial Magistrate, Lucknow.

2. To quash the impugned summoning order, dated 11.04.2023, passed by the Chief Judicial Magistrate, Lucknow in Criminal Case No. 34136 of 2023 (State of U.P v. Pawan Khera), whereby after taking cognizance on the Charge-sheet, dated 08.04.2023, filed in Case Crime No. 65 of 2023 under sections 153A, 500, 504, 505(2), 1538 (1), 505, 505(1)(b) IPC, Police Station Hazratganj, District Lucknow, the Chief Judicial Magistrate, Lucknow has summoned the Applicant to stand trial under respective sections:

3. To quash the Impugned Charge-sheet bearing no. 01/2023, dated 08.04.2023, arising out Case Crime No. 65 of 2023 under sections 153A, 500, 504, 505(2), 153B(1), 505, 505(1)(b) IPC, filed by the police of Police Station Hazratganj, District Lucknow against the applicant.”

17. Vide order dated 17.08.2023, this Court, upon due consideration, decline to accede the prayer sought by the applicant in the Application u/s 482 No.7810 of 2023 after considering the various pronouncements on the issue including the order dated 20.03.2023 of the Hon’ble Apex Court, quoted above, in Writ Petition (Criminal) No.74 of 2023 filed by the applicant. The relevant paragraphs of the order dated 17.08.2023 read as under.

*“18. In a recent judgment of **Central Bureau of Investigation Vs. Aryan Singh etc.** in Criminal Appeal No. 1025-1026 of 2023 decided on 10.04.2023, the Hon'ble Apex Court has categorically held that mini trial is not to be conducted while exercising the powers under Section 482 Cr.P.C.*

In para 4.1 of the said judgment, Hon'ble Apex Court held as under:

“4.1 From the impugned common judgment and order passed by the High Court, it appears that the High Court has dealt with the proceedings before it, as if, the High Court was conducting a mini trial and/or the High Court was considering the applications against the judgment and order passed by the learned Trial Court on conclusion of trial. As per the cardinal principle of law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the powers under Section 482 Cr.P.C., the Court is not required to conduct the mini trial.”

19. Moreover, the evidences collected by the Investigating Officer cannot be evaluated by this Court in the present proceedings on the basis of pleadings, counter affidavit as well as rejoinder affidavit.

20. Indisputably, Hon'ble Supreme Court vide order dated 20.03.2023, while disposing of the Writ Petition (Criminal) No. 74 of 2023 filed by the applicant-petitioner, has clearly directed the applicant to raise all the contentions before the jurisdictional court, which is the court of learned Chief Judicial Magistrate, Lucknow and in pursuance of the said order, the applicant may appear before the jurisdictional court and raise all his grievances before the court below.

21. In view of the above facts and discussions, the application has no merit and is, accordingly, dismissed.”

- 18.** The applicant, being dissatisfied, by the order of this Court dated 17.08.2023 again approached the Hon'ble Apex Court by means of Special Leave to Appeal (Cri.) No(s).13143/2023 and the same was dismissed vide order dated 04.01.2024. The said order reads as under.

“UPON hearing the counsel the Court made the following

ORDER

1. We are not inclined to interfere with the impugned judgment and order passed by the High Court. The special leave petition is, accordingly, dismissed.

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

19. The applicant in between preferred an application dated 17.08.2023 seeking discharge under Section 239 Cr.P.C. and the same was rejected vide order dated 05.01.2024 passed by the Magistrate, in Criminal Case No.34136 of 2023 (*State Vs. Pawan Khera*) arising out of Case Crime No.65 of 2023.
20. Challenging the order dated 05.01.2024, the applicant approached the District & Sessions Judge, Lucknow by means of Criminal Revision No.39 of 2024.
21. It is apt to mention here that during pendency of the proceedings, the trial court on 30.01.2024 framed the charges against the applicant.
22. The Revisional Court dismissed the Criminal Revision No.39 of 2024 vide order, under challenge, dated 02.07.2024.
23. On the issue of maintainability, this Court took note of the recent pronouncement of Hon'ble Apex Court in the case of **Bhisam Lal Verma Vs. State of Uttar Pradesh and Another**, reported in **2023 SCC OnLine SC 1399**. The relevant portion of the same is extracted hereinunder :-

“8. On behalf of the petitioner, Mr. Pradeep Kumar Singh Baghel, learned senior counsel, would argue that a second petition is maintainable under Section 482 Cr.P.C.. He relied on the judgment of this Court in Superintendent and Remembrancer of Legal Affairs, West Bengal vs. Mohan Singh, (1975) 3 SCC 706. Therein, it was held that a subsequent application under Section 561-A of the Code of Criminal Procedure, 1898, presently Section 482 Cr.P.C, would be maintainable in changed circumstances. It was affirmed that a subsequent application, which is not a repeat application squarely on the same facts and circumstances, would be maintainable. To the same effect was the more recent decision of this Court in Anil Khadkiwala vs. State (Government of NCT of Delhi), (2019) 17 SCC 294. Earlier, in S.M.S. Pharmaceuticals Ltd. vs. Neeta Bhalla, (2007) 4 SCC 70, this Court held that

when the first petition under Section 482 Cr.P.C was withdrawn with liberty to avail remedies, if any, available in law, the High Court would not be denuded of its inherent jurisdiction under Section 482 Cr.P.C. on being petitioned again and the principle of res judicata would not stand attracted. Again, in Vinod Kumar, IAS. vs. Union of India, 2021 SCC OnLine SC 559, a 3-Judge Bench of this Court observed that dismissal of an earlier petition under Section 482 Cr.P.C would not bar filing of a subsequent petition thereunder in case the facts so justify.

9. Mr. S. Nagamuthu, learned amicus curiae, would however point out that entertainment of the second petition in Mohan Singh (supra) was held permissible as the circumstances obtaining at the time of the subsequent petition were clearly different from what they were at the time of the earlier one and that was the distinguishing factor which saved the second petition. He would further point out that, in Simrikhia vs. Dolley Mukherjee and Chhabi Mukherjee, (1990) 2 SCC 437, this Court cautioned that the inherent jurisdiction under Section 482 Cr.P.C cannot be invoked to override the bar of review under Section 362 Cr.P.C. Reference was made to Sooraj Devi vs. Pyare Lal and another, (1981) 1 SCC 500 which held that the inherent power of the Court could not be exercised for doing that which is specifically prohibited by the Code of Criminal Procedure, 1973. He also drew our attention to R. Annapurna vs. Ramadugu Anantha Krishna Sastry, (2002) 10 SCC 401, wherein a quash petition under Section 482 Cr.P.C. was dismissed on 28.01.1995 and without mentioning the same, another petition was filed under Section 482 Cr.P.C. with a similar prayer. Noting that the second petition was not made on the strength of anything which had developed after 28.01.1995 but only on the facts which subsisted prior to that date, this Court held that the second petition was not maintainable, as the High Court did not have the power to upset the order dated 28.01.1995 which had attained finality.

10. In S. Madan Kumar vs. K. Arjunan, 2006 SCC OnLine Mad 94, the Madras High Court observed that a person who invokes Section 482 Cr.P.C. should honestly come before the Court raising all the pleas available to him at that point of time and he is not supposed to approach the Court with installment pleas. It was further observed that there may be a change of circumstances during the course of criminal proceedings which would give scope for the

person aggrieved to invoke the inherent jurisdiction of the Court, but when he is posted with all the facts and circumstances of a case, he cannot withhold part of it for the purpose of filing yet another petition seeking the same relief.

11. We are in complete agreement with these observations of the Madras High Court. Though it is clear that there can be no blanket rule that a second petition under Section 482 Cr.P.C. would not lie in any situation and it would depend upon the facts and circumstances of the individual case, it is not open to a person aggrieved to raise one plea after the other, by invoking the jurisdiction of the High Court under Section 482 Cr.P.C., though all such pleas were very much available even at the first instance. Permitting the filing of successive petitions under Section 482 Cr.P.C. ignoring this principle would enable an ingenious accused to effectively stall the proceedings against him to suit his own interest and convenience, by filing one petition after another under Section 482 Cr.P.C., irrespective of when the cause therefor arose. Such abuse of process cannot be permitted.

12. In the case on hand, the filing of the charge sheet and the cognizance thereof by the Court concerned were well before the filing of the first petition under Section 482 Cr.P.C., wherein challenge was made only to the sanction order. That being so, the petitioner was not at liberty to again invoke the inherent jurisdiction of the High Court in relation to the charge sheet and the cognizance order at a later point of time. The impugned order passed by the Allahabad High Court holding to this effect is, therefore, incontrovertible on all counts and does not warrant interference.”

24. Upon due consideration of the aforesaid facts, particularly, the reliefs sought by the applicant in the earlier Application u/s 482 No.7810/2023, quoted in para 16 of this judgment, and reliefs sought by the applicant in this application, quoted in para 2 of this judgment, this Court finds that instant application for relief no.3 is not maintainable.
25. In so far as relief nos.1 and 2 are concerned, this Court is of the view that the present application be dismissed with liberty to

the applicant to file a fresh application for the reasons that the applicant has not challenged the order dated 05.01.2024 passed by the Magistrate.

26. Accordingly, the present application is *rejected* with liberty to the applicant to approach the Court again with proper pleadings, reliefs and documents in support thereof.

Order Date :- 25.09.2024

Anand/-