

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION Nos.9127 & 9153 of 2014

COMMON ORDER:

Against the proceedings in P.R.C.No.13 of 2014 on the file of the Additional Judicial First Class Magistrate, Karimnagar, the 2 quash petitions are filed i.e., one by A.3/petitioner in Crl.P.No.9127 of 2014 and the other by A.4/petitioner in Crl.P.No.9153 of 2014, to quash the PRC proceedings pending against them and to pass such other orders including for stay and pending disposal of the PRC proceedings, interim stay of further proceedings were granted vide Crl.P.M.P.Nos.8839 & 8867 of 2014 respectively in the 2 quash petitions and the same having been extended from time to time, are in force. These quash petitions supra are maintained showing the Superintendent of Police, CID, WPC, Hyderabad as the 1st respondent and the State of Telangana rep. by the Public Prosecutor as 2nd respondent. The de-facto complainant, Smt. E.Srivalli is no other than the wife of deceased E.Ramesh, and it is on her applications to oppose the quash petitions she was impleaded as 3rd respondent vide orders of this Court respectively dated 23.09.2014 in respective Crl.P.M.P.Nos.10112 and 10356 of 2014.

2. The brief facts of the case are that one Arukolu @ Buggala Srinivas (A.1), a press reporter and in-charge of Telugu Daily Newspaper by name Sahasam and R/o.Vidyanagar, Godavarikhani, allegedly murdered the deceased E.Ramesh, ID Party police constable No.2943 of Godavarikhani I Town Police Station. The charge sheet filed by the CID police indicates the same by showing the A.1 as prime accused for the offence punishable under Section 302 IPC and Sections 27 and 30 of Indian Arms Act and other accused Nos.2 to 7 including the petitioners/A.3 and A.4 for the offences punishable under Sections 201, 217 and 218 read with 34 IPC.

Amongst the 7 accused, A.2 to A.5 are the police officials and A.6 and A.7 are the medical officers and of whom A.5, Circle Inspector Godavarikhani II Town Police Station was succeeded in impugning the PRC proceedings, vide order in CrI.P.No.4140 of 2014 dated 11.07.2014, holding there is absolutely no allegation in the charge sheet to link the 5th accused with the commission of the offence thereby prosecution cannot be continued from the police final report pending as PRC.No.13 of 2014 against him. The State impugning the said order of quashing the proceedings against A.5 sought for special leave before the Apex Court with delay condonation and delay having been condoned, the petition for special leave to appeal in CrI.M.P.No.344151 of 2016 was ended in dismissal on 11.03.2016 holding no ground to interfere.

3. Coming back to the further facts, a chain snatching case was reported at Rameshnagar within the limits of Godavarikhani I Town Police Station on the evening of 09.02.2010 and the Sub Inspector of Police, I Town Police Station, Godavarikhani (LW.15 of the charge sheet) registered it as crime No.25/2010 under Section 379 IPC and issued FIR. The deceased Ramesh, ID party constable working in the police station was informed by the Sub Inspector (LW-15) over phone at about 7.21 P.M. to search for movements of offenders in crime No.25/2010 in the areas of Vitalnagar and Tilaknagar. The deceased accordingly appears to have proceeded to Vitalnagar immediately before 07.30 PM and within no time on the same day, to say a few minutes after the telephone call, which indicates the deceased was alive and last had conversation with the Sub Inspector, and at about 07.40 PM, one Guggilla Ravindra @ Ravi (LW.16), while passing through the Open Cast Project (OPC-III), Coal Handling Plant (CHP), Bunker, noticed the deceased Ramesh in a pool of blood and informed the same to Chirala Ravi @ Chicken centre Ravi (LW-73), who in turn passed the information to Erragolla Srinivas (LW-3), elder brother of

the deceased, who in turn passed the information to another brother of the deceased by name Erragolla Krishna Murthy (LW-2) and by 08.00 PM or so they proceeded to the scene of offence. A.5, Motla Venkataramana, Circle Inspector, Godavarikhani II Town Police Station, one of the police officer concerned for investigation, came to the spot and preserved the scene of offence for investigation forming opinion that it was a murder case. Thereafter, the other police officials reached the scene of offence including the family members of the deceased i.e., LWs.1 to 4 supra. A.4 (one of the quash petitioners) in CrI.P.No.9153 of 2014 by name Md. Habeeb Khan, DSP, who reached the scene by about 09.00 PM and made a preliminary enquiry of the dead body of the deceased constable and opined that it seems to be a road accident and informed the public and press personnel there of they will investigate in all angles and directed LW.40, Khaja Ameeruddin, SI Traffic, Ramagundam, to collect blood stains and to picturize the scene of offence with a video coverage. Thereafter, the dead body was shifted to the government hospital in a private ambulance and the police personnel were present at the hospital and A.3, CI Traffic by name Vidyasagar (quash petitioner in CrI.P.No.9127 of 2014) asked LW.40, SI Traffic, Khaja Ameeruddin, to register the same as crime under Section 304-A IPC at about 09.30 PM., but A.3-Vidyasagar, Traffic CI having received the report from wife of the deceased (R.3) by name E. Srivalli @ Nagamani, registered the crime No.25/2010 at 00.01 hours on 10.02.2010 of the occurrence few hours before i.e., at about 07.30 PM on previous day i.e., 09.02.2010 under Section 304-A IPC. The de-facto complainant is not the scribe of the report, but for her husband's brother Krishna Murthy (LW.2).

4. The contents of the report speaks that the deceased working as ID party constable in Godavarikhani I Town Police Station, on that day 09.02.2010 evening at 07.00 PM for tracing the assailants of the chain snatching case, went on his motorcycle AP 15 P 5134, however found died lying at BT road left side of CHP bunker of (OCP-III) and

she came to know that he might have died by falling from motorcycle and their relatives went there and found him died lying in a pool of blood and it appears the occurrence took place between 07.30 PM to 08.00 PM and hence to take action. In the original FIR after clause No.13 underneath the 4 columns to the English printed format, it is there as read over to the claimant/informant, admitted to be correctly recorded and a copy given to the complainant, free of cost and obtained signature of the de-facto complainant. The police officials requested the Doctors A.6 and A.7 to conduct post mortem examination and the Doctors refused to conduct at the night hours and thereby on next day morning they conducted the Post mortem examination covered by photos. It shows from the charge sheet that the A.2-Rajendra Prasad, DSP Peddapalli, who came with his gun man to the Government Hospital discussed with the de-facto complainant-LW.1 and one of the brothers of the deceased-LW.2 for writing the written complaint to say the deceased as if died due to accident and A.2 supra in fact directed the A.1 there to scribe the complaint who started but could not and it is LW.2-Krishna Murthy one of the brothers of the deceased that wrote the complaint at about 01.00 AM of the intervening night of 09.02.2010 from which the A.3, CI Vidyasagar cause issued FIR. A perusal of the FIR shows it is A.3, Vidyasagar, CI Traffic of Ramagundem Police Station, that issued FIR and taken up the investigation and after inquest and post-mortem examination were conducted on 10.02.2010 morning, the dead body was handed over to the wife and brothers of the deceased and thereafter it was cremated. LW-133, who was the Motor Vehicle Inspector, inspected the bike on 11.02.2010 and issued a report stating that there are no mechanical defects and there is no damage caused to the vehicle except breaking of left indicator and clutch. On 27.02.2010, A.3-Vidyasagar collected the bone ash of deceased and sent for analysis report and the LW.104 of Regional FSL, given his report showing there is no poisonous substance on the bone ash of the

deceased.

5. It is in this scenario, the Superintendent of Police, Karimnagar on 03.03.2010 entrusted the investigation of the case from the hands of the Traffic Police, to the Circle Inspector of Police, Huzurabad (LW.139), who has taken up the investigation from the A.3, on 05.03.2010 and sent the material collected at the Post-mortem report to the Professor of Osmania Medical Hospital, Hyderabad, (LW.134) on 12.03.2010. Said Professor on 17.03.2010 given his opinion report stating that the injuries of the deceased were seems to be fire arm injuries and the FSL report from Karimnagar that reached the (LW.139), the 2nd Investigating Officer, CI, Huzurabad that discloses from the FSL report of no bullet or pellet substance on bone ash and then (LW.139) supra sent a request to the Doctors A.6 and A.7 and they opined that it was due to shock and haemorrhage due to fire arm injuries and it is based on the report, LW.139 supra filed alteration memo dated 28.03.2010 before the concerned Magistrate Court altering the section of law from Section 304-A IPC to Section 302 IPC and Section 27 of the Arms Act and issued the altered FIR/memo to all concerned. The Superintendent of Police, Karimnagar had also directed the A.4, DSP Md. Habeeb Khan to register the crime and on instructions of the Superintendent of Police, Karimnagar, A.4, DSP, issued a letter to A.5, Motla Venkataramana (quash petitioner in CrI.P.No.4140 of 2014 allowed as referred supra), to register the crime under Section 302 IPC and Section 27 of the Arms Act and accordingly, crime No.37 of 2010 was registered on 02.04.2010 at 10.30 AM. Thereafter, LW.139 supra, as per the instructions of SP of Police, Karimnagar, took up investigation and arrested the A.1 on 03.04.2010 and based on his disclosure statement of he and the deceased were friends earlier and they were maintaining relationship with police officials and from that acquaintance he developed with police personnel, he resorted to illegal activities and involved in 2

murder crimes vide crime No.256/2008 of PS Godavarikhani for murder of Putta Sarada and crime No.204/2009 of PS Godavarikhani for murder of Ch. Prasanth and at that time the A.2 was working as Inspector of Police, Godavarikhani and he influenced the A.2 to delete his role from the accusation in filing final report and the same was came to know by the deceased being friend of A.1 and further A.1 borrowed an amount of Rs.13,000/- from deceased and failed to pay for which the deceased was threatening A.1 either to repay or to bring to light his involvement in the above murder case and saved by managing the police. It is from which, A.1 developed grudge against the deceased and waiting for opportunity and on that day 09.02.2010 at about 07.30 PM while he was returning from 8-Incline Colony of his sister's house to Godavarikhani, he noticed the deceased was sitting and talking over phone on his bike, then the deceased stopped A.1 and asked to return his money and there was altercation and immediately A.1 took his P.32 pistol and fired on the deceased at his left side of his face and immediately deceased fell down with bike and sustained bleeding injury and then A.1 telephoned A.2 and informed about the offence and A.2 assured A.1 of he will monitor the issue and A.1 left the scene.

6. It is pursuant to the disclosure statement of A.1 about the facts, the 2nd Investigating Officer, LW.139 supra, seized material objects of the deceased and also examined some more witnesses and sent for expert opinion and also seized the mobile phone of A.1 and sent for expert opinion and thereafter basing on the involvement of A.2 to A.5, the Additional Director of Police, CID, AP, Hyderabad at that stage issued memo vide C.No.3402/C/15/CID/2010 dated 30.04.2010 directing LW.140 i.e., Superintendent of Police, CID, WPS, Hyderabad, (respondent No.1 in quash petitions) to take up the investigation. The Superintendent of Police, CID, Hyderabad, took up further investigation and having made further investigation by verifying

the earlier one, filed the charge sheet on 18.05.2010 and again on 07.03.2014 filed additional charge sheet after obtaining sanction from the Government stating that A.2 to A.7 are punishable for the offence under Sections 201, 217 and 218 read with Section 34 IPC, for their knowing and also having reason to believe that A.1 committed the murder of the deceased Ramesh caused disappearance of evidence of murder with common intention of screening the evidence to save him from legal punishment and being the public servants, knowingly disobeyed the directions of law as to the way in which they were to conduct themselves as public servants to save A.1 from punishment and for preparation of incorrect records and converting the murder case as if an accident case. The record shows from the first charge sheet dated 18.05.2010 in all 138 were witnesses examined and from the additional charge sheet, 2 more witnesses were examined. It is the final report that was taken cognizance in allotting the PRC number to commit the case to the court of sessions after securing presence and the accused were summoned and appeared and at that stage the quash petitions are filed.

7. The contentions of the quash petitioners/A.3 and A.4 are that so far as A.3 concerned, he was the Inspector of Police, Traffic at Ramagundam by then. He denied the allegation of he cause drafted the complaint to sign by wife of the deceased in order to screen the offender A.1 from lawful punishment. It is contended that as seen from the complaint of crime No.25/2010, it was drafted by Godavarikhani I Town CI by name Narender, LW.54. The confession statement of A.1 was recorded by the Inspector of Police, Huzurabad, the 2nd Investigation officer, (LW.139) shows it was also drafted by LW.54 and it shows only the nexus between LW.54 and A.2 and nothing against A.3 and A.4. The further contention is the report of inquest conducted by A.3 clearly discloses the reason for death was deceased was having wound below left eye with the description of size of wound

noted in column No.13 and it is after conducting the inquest, the dead body was sent for PME to Government Hospital, that was conducted by team of Doctors and from direction of superior police officers, the investigation subsequently entrusted to LW.139, Inspector of Huzurabad, who altered the section of law of crime No.25/2010 of Godavarikhani Traffic Police Station on 28.03.2010 after receiving medical opinion on the death of deceased E.Ramesh, from Section 304-A IPC to 302 IPC and as per directions of higher officials, A.4 directed the Law and Order police, Godavarikhani to register the offence under Section 302 IPC vide crime No.37/2010 and accordingly, A.5, M.Venkataramana, CI II Town Police Station, Godvarikhani, registered the crime No.37/2010 under Section 302 IPC against A.1. As per the directions of the SP, Karimnagar, who entrusted the investigation to LW.139, Inspector Huzurabad and who has taken up investigation and arrested A.1 and from his disclosure seized the cell phone of him and other information and later the investigation was entrusted to LW.140, R.1 in quash petitions, SP of CID, filed the charge sheet. From the above, it is the submission that there is nothing to say any intention or knowledge about murder of deceased by A.1 to screen the evidence of murder by any of the accused to make them liable for any of the offences.

8. It is contended that a reading of the charge sheet and the statements of witnesses relied in the charge sheet, accusation is from doubts entertained against the petitioners for not registering the crime under Section 174 Cr.P.C. on suspicion of death of the deceased, but directly under Section 304-A IPC that too when Section of law can be altered at any time and there is nothing to show the A.3 or A.4 helped A.1 to screen the evidence to escape from lawful punishment. Thereby contends that none of the offences under Sections 201, 217 and 218 read with Section 34 IPC that are applicable to A.3 to A.7. It is also the contention that as per Section 154 Cr.P.C., every information relating to commission of a cognizable offence, if given orally to an

officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe and a copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant. Having received the information which discloses a cognizable offence by reducing the same into writing that was entered the said information in the book prescribed by the State Government in registering the crime No.25/2010 in proceeding with the said investigation, there is no offence committed by any of the accused and also not taking the investigation as if the information received is otherwise to suspect the commission of offence, when empowered to investigate has to sent report to the Magistrate and proceed with investigation. Even from reading of Sections 156 and 157 Cr.P.C. and in the present case, A.3 having received the information of cognizable offence how can be questioned for not registering the crime under Section 174 Cr.P.C. and registered under Section 304-A IPC that too when the circumstances as observed by A.3 and A.4 at the scene of offence seems to be outcome of road accident and the bike also damaged at 2 parts i.e., left side clutch and left side indicator were broken even from motor vehicle inspector's report i.e., of LW.133 and that too the deceased just few minutes before breathed last as per the directions of LW.15 went on his bike to enquire into the Godavarikhani I Town Police Station, chain snatching crime and found with bike in a pool of blood and there was no external injury on the face of deceased as observed in the inquest report to have basis to suspect that it is a road accident, in coming to conclusion initially to register the crime and to investigate. No doubt as stated by A.4, DSP even covered by press of going to be investigated in different angles including from statement of witnesses i.e., LWs.59 to 69 and physical examination and PME

with photos, there is exit wound of the facial bones are lumatic bones of any bullet entry into facial bones, *prima facie* to say the registration of crime under Section 304-A IPC is according to law and no acts against the procedure prescribed by law that committed therefrom much less for not registered under Section 174 Cr.P.C. Even the wife of the deceased whose statement cause reduced to writing also from the opinion states as road accident as her husband left sometime before from the house on the bike in setting the law in motion. In this case, A.3 though registered crime No.25/2010 under Section 304-A IPC initially for the same is only the Traffic Police Station in Godavarikhani though there are 5 Law and Order regular Police Stations for the traffic police got same powers to register the crime within the territorial jurisdiction to investigate and conducted inquest panchanama and referred the dead body for PME after photographed and with the scene of offence panchanama and PME also videographed and collected blood stains and earth stains etc., sent for FSL examination and Motor Vehicle Inspector also examined the vehicle and Forensic Science laboratory, Warangal, report also received of bone ash collected of deceased to get over poisonous substance and found nill. It was as per the directions of SP, Karimnagar, at that stage from the investigation entrusted to LW.139, Inspector of Huzurabad and there is no opportunity to A.3 to alter the section of law in between because the medical opinion was given on 28.03.2010 and thus, it cannot be said any of the petitioners/A.3 and A.4 screened any evidence to save the accused A.1 from the complicity to the crime, but for having no knowledge about A.1 involved in the murder of the deceased.

9. It is also the contention referred to Nayasutras covered by 16 rules as to Pramana means right to knowledge, prameya means object of right knowledge, samsaya means doubt, prayojana means purpose, drstanta means familiar instance, siddhanta means established tenet,

avayava means members, tarka means confutation, nirnaya means ascertainment, vada means discussion, jalpa means wrangling, vitanda means cavil, hetvabhasa means fallacy, chala means quibble, jati means futility and nigrahasthana means occasion for rebuke; that had the principles applied to the present case, there is no material placed by the prosecution before the Court of law to sustain the accusation in the final report to charge them under Sections 201, 217 and 218 read with 34 IPC, much less for framing a charge on committal and there is no direction of law much less disobeyed to attract the offence under Section 217 against the petitioners amongst A.2 to A.7 and there is no framing of incorrect record or writing with intention to save any person from punishment or from forfeiture of property pursuant to any direction of law to attract Section 218 IPC even, much less screening of any evidence to save accused to attract Section 201 IPC. It is the contention therefrom that they discharged their duties according to law in receiving the report, registration of crime and investigation of the case and it is pending investigation from the directions of the superiors the investigation is changed and only on further investigation from interrogation of A.1 from his alleged disclosure showing complicity he was arrayed by alteration of section of law and there is from the prior investigation nothing causing disappearance of the evidence or false information to attract Section 201 IPC.

10. It is also the contention that so far as A.3, it is as per the directions contemplated by Section 36 Cr.P.C. he received the report and registered the crime and taken up investigation and the charge sheet filed with accusation under Sections 201, 217 and 218 read with 34 IPC no way attracts against him, that A.3 conducted investigation also by receiving instructions of SP, Karimnagar, memo 63/D3/DCRB/2010 on the lines of injury below the left eye of the deceased appears like a bullet entry wound examined by doctor by way of PME in detail for the possibility of any bullet getting lodged in

the skull or spine portion in the neck and to search the cremation place minutely to locate bullet if any including in the ashes and forwarded the photos of deceased and PME report to Forensic Department of KMC Warangal for analyzing the incident and obtain opinion and collect the incoming and outgoing call details of cell phone used by the deceased for the last few days before death, to analyse the same for clues and verify, also as to whether deceased was suffering from any disease like B.P. etc, or consuming medicines for any reason and to verify whether the deceased was involved in any civil disputes or land issues or finance issues etc., and having any enemies and informed the development of this case to superior officers from time to time without fail and he complied with the same and it is later as per the instructions of the SP, Karimnagar, he handed over further investigation to LW.139-Inspector of Police, Huzurabad by saying superior officers are having knowledge about crime No.25/2010 of Godavarikhani Traffic PS registered for the offence under Section 304-A IPC is under investigation. It is also the contention of 2 FIRs issued one crime No.25/2010 and other crime No.37/2010, are no way sustainable.

11. It is also the contention so far as A.4 concerned that he supervised the investigation as per the AP Police Manual order No.52 by discharging of his duties lawfully, having reached the scene of offence on came to know, inspected it to make sure of all clues are collected and for examination of witnesses by IO and discussed from the evidence available the further investigation for evidence to be collected and case dairies to be written promptly. It is the contention that thereby when A.3 and A.4 discharged their duties in lawful manner and the Godavarikhani is A-Grade Municipality and as per police manual order, the traffic offences have to be registered by the traffic police and in entrusting the investigation to the traffic police no way deviates to the mandate of law and it is nothing but lawful discharge of

duties in asking for registration of crime by traffic police and in monitoring and supervising as superior police officer. It is contended further that from that stage there was entrusting of investigation to LW.139, Inspector Huzurabad, as per the directions of the Superintendent of Police, to examine in different lines and thereby no motive or intention can be attributed against them and none of the offences for which the charge sheet filed attracts against them for taking cognizance in allotting PRC to commit to the Court of session by the learned Magistrate and thereby same is liable to be quashed so far as the petitioners/A.3 & A.4. They also placed reliance upon the order in the quash petition obtained by A.5 and the petition under SLP to impugn the same before the Supreme Court was not granted by the same made final saying equal concession is available to them in seeking to quash the PRC proceedings.

12. Whereas it is the contention of the counsel for the de-facto complainant (wife of the deceased) and also the Public Prosecutor representing the State for the Superintendent of Police of CID, who are the respondents to the quash petitions that there is a substantial material in sustaining the accusation in the charge sheet for the unfair investigation and knowingly instead of registering the crime under Section 302 IPC or 174 Cr.P.C., cause registered the crime under Section 304-A IPC hastily, despite there is injury to the left frontal area of the deceased in converting the brutal murder crime as if a road accident crime and in cause managing without enabling the facts known to the victim (the wife of the deceased) and in manipulating her mind and obtaining report to their tunes to screen the prime accused A.1, that A.1 was not even examined as part of the investigation by A.3 and A.4, that shows there is screening of him from the crime by diverting attention by such unfair investigation right from obtaining report from wife of deceased and thereby the unfair investigated police officers cannot be perpetuated to save from the clutches of law, as it is a part of their duty to investigate fairly and impartially and that too, in a

grave crime and same is nothing but screening of evidence punishable under Section 201 IPC, apart from Sections 217 and 218 equally attract and having aware of the commission of the offence of brutal murder by A.1 in screening the evidence to save him and they are no other than the abettors to the crime and merely because SLP filed against A.5, was dismissed before admission impugning the allowing of quash petition of A.5 by this Court, same benefit cannot be applied to other accused, particularly, to the petitioners/A.3 and A.4 for they stand in different footing to A.5 and thereby sought for dismissal of the quash petitions.

13. Heard and perused the material on record, including written submissions and proposition placed reliance by the counsel for the petitioners/accused and also by the Public Prosecutor and the counsel for de-facto complainant.

14. Now the points that arise for consideration are:

1) Whether there are any grounds to quash the proceedings of PRC so far as petitioners/A.3 and A.4 concerned, for any of the offences as per the charge sheet filed against them, taken cognizance as pre trial case to commit to the Court of Session by the learned Magistrate, viz., for the offences punishable under Sections 201, 217 and 218 read with 34 IPC?

2) To what result?

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Point No.1:-

15. Before coming to further discussion of the facts, from what are referred supra in nutshell, so also with reference to the statements of witnesses, right from the statement of the wife of the deceased in setting the law in motion with subsequent development during investigation and the role of the accused persons, particularly, the

quash petitioners/A.3 and A.4, it is necessary to consider the scope and ingredients of the 3 penal sections 201, 217 and 218 IPC.

“15(a). 201. Causing disappearance of evidence of offence, or giving false information to screen offender:—Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false; if a capital offence.—shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; if punishable with imprisonment for life.—and if the offence is punishable with 1[imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; if punishable with less than ten years’ imprisonment.—and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

Illustration A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.”

15(b). The scope of law on Section 201 IPC is very clear by several expressions, more particularly, from the expressions of the Apex Court in **Palvinder Kaur vs The State Of Punjab**^[1] and **Kalawati And Another vs The State Of Himachal Pradesh**^[2] and **Nathu Lal Vs. State of Bihar**^[3]. In fact section 201 IPC is intended to reach the acts to which Section 193 to 195 do not extend. Those sections are aimed at punishment for false evidence, giving or fabricating false evidence with intent to procure conviction, where as Section 201 IPC aims at the screening of guilty person from punishment i.e., laid down in **Palvinder** and **Kalawati** Supra, more over Section 193 to 195 referred to the stage of enquiry and trial with regard to offence, while Section 201 IPC postulates the prior stage

underlying the object being to ensure that no proceedings can be stalled against offender respecting the offence involved in question. Same is laid down by the Apex Court in **Nathu Lal** supra. It is also laid down therein and also reiterated in the subsequent expression of the Apex Court in **Arbind Singh And Krishna Nandan Vs. State Of Bihar**^[4] that *mens rea* on the part of the accused is an essential element. The Apex Court earlier in **Roshan Lal Vs. State of Punjab**^[5] categorically observed that to constitute the offence under Section 201 IPC, from reading of 1st part of the section itself says, it must be proved firstly that an offence has been committed, secondly that accused has know or has reason to believe that the offence has been committed, thirdly that with such knowledge or belief, the accused must either cause any evidence of commission of evidence to disappear or given any information respecting the offence, which he knows or believes to be false, fourthly the accused must have acted with the intention of screening the offender from legal punishment. Unless the 4 ingredients made out from the investigation, the offence no way constitutes to charge the accused for the same. No doubt the punishment depends on the gravity of the offence which was committed, as can be seen from the further part of Section 201 IPC. Thus, the object underlying Section 201 IPC is two fold i.e., to punish the person causing disappearance of the evidence of offence committed with the intention of screening the offender from punishment and secondly to punish the persons giving false evidence respecting an offence with the aforesaid object.

15(c). In the case on hand, it is not the allegation of any of the accused with such knowledge or belief gave any information respecting to that offence of murder of deceased by A.1, but for any evidence of the commission of the offence caused to disappear with the intention of screening the offender A.1 from legal punishment for the murder committed under Section 302 IPC, right from obtaining

report from wife of the deceased as if it is an accidental death of the deceased as if deceased himself fallen down while riding the bike and died if any for which question of attracting Section 304-A IPC does not arise, but for if at all to register the same or to make the GD entry only under Section 174 Cr.P.C. at best for further preliminary enquiry if it no way discloses any commission of offence by any other person but for self of deceased with any suspicion from the further preliminary enquiry, if makes out a cognizable offence thereafter with reference to the GD entry to be made under the Police Act, 1944 as laid down by the Constitution Bench expression of the Apex Court in **Lalita Kumari**

Vs. Government of U.P. ^[6]. Here from the 3rd ingredient of with such knowledge or belief accused caused any evidence of the commission of that offence to disappear (having known or had reason to believe commission of such offence which has been committed), was it did with the intention of screening the offender from legal punishment?

The core expression used in the Section is any evidence as to the commission of the offence that caused to disappear, refers to evidence in its extensive sense used in the Evidence Act but to evidence in its primary sense of anything i.e., likely to make the crime evidence such as of wounds or blood stains or fabricated documents or similar material objects indicating that an offence has been committed if same is caused to disappear.

15(d). The meaning of the word 'caused' clearly envisages some active subject on the part of the doer of the Act in the matter of causing disappearance of evidence relating to a particular offence for that the person charged as accused must be proved to have actively participated in the matter of disappearance of evidence and not merely suffered the same to happen. Undisputedly, on information, the accused Nos.3 to 5 or any of them came to the scene of offence and preserved the scene of offence and after report of the wife of the deceased about suspicion on manner of occurrence-(if it is her

voluntary version) in registering the crime, shifted the dead body after conducting inquest and scene observation and also by photographing the scene of offence, to the government hospital mortuary for conducting PME to that extent there is no screening of evidence much less to save any known or unknown culprit of any alleged murder, but for to consider the developments from the allegation of report cause obtained lately after deliberations and inducement and misrepresentation on knowing it is an occurrence of murder, as if a road accident and the other allegation instead of registering the crime under Section 302 IPC registered under Section 304-A IPC as cognizable offence under Section 154 Cr.P.C. from said alleged involuntary report of de-facto complainant, and made attempts to screen the evidence too hastily to cause the PME if possible on that night itself but in vain, from the Doctors expressed inability to do at night but for on next morning, said PME undisputedly covered by video coverage as can be seen from the record.

15(e). In relation to the allegations, coming to the scope of Section 217 & 218 IPC. Sections 217 & 218 IPC reads as follows:

“217. Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture.--

Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or subject him to a less punishment than that to which he is liable, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

218. Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture.-- Whoever, being a public servant, and being as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby

save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.”

15(f). So far as Section 217 concerned, it must be shown that there must be an intentional disobedience of law by public servant and such disobedience must be with intention to save, knowledge that he will thereby (a) save a person from legal punishment, or (b) save any property from forfeiture or charge to which it is liable by law. Before a person can be convicted under the Section it must be shown that there is a positive direction of law as to the way in which he has to conduct himself as the public servant for this direction found in some positive is in a statute or some rule or regulation, which has the force of law. No doubt the Apex Court in Prahalad Sharma Vs. State in CrI.A.No.132 of 1958 dated 12.02.1958 held that where a police officer in charge of the police station on receiving information about a murder of new born child not only did not record the report as a cognizable offence to register under Section 154 Cr.P.C., but also advised the culprit to remove the mother of the deceased child to another village, it was therefrom held the police officer has committed the offence under Section 217 IPC. Here FIR is registered undisputedly for the offence under Section 304-A but for to say could have been registered under Section 302 IPC or for any doubt under Section 174 Cr.P.C. and thus that itself alone is not sufficient to attract the ingredients of the Section. It is to further see whether got knowledge or any information about the deceased was murdered in cause registering the FIR only under Section 304-A IPC and even knowing or come to know during investigation or after registration of crime about A.1 is the assailant, who murdered the deceased, with any suspicion even to save him did not choose to even secure his presence to interrogate or to investigate on that line, but for to save him by managing to file final report as if it is

a road accident case under which the deceased died accidentally.

15(g). Even to attract Section 218, it attracts for intentional preparation of a false record with the object of saving or injuring any person or property. The occurrence of records is of the highest importance to the State and to the public in making this a penal provision for conduct and actions. The intention with which the public servant prepared the false record is essential. It is the Act mentioned in the Section is thereby essential to make him punishable. Even these Sections 217 and 218 IPC are distinct to offence under Section 193 defined in Section 192 for the reason this Section 218 deals with intentional preparation of false record by a public servant with the object of saving of any person or property or injuring any person or property; whereas Section 192 deals with judicial proceedings and false evidence intended to be used in judicial proceedings as laid down by the Apex Court in **Kamala Prasad Singh Vs. Hari Nath Singh**^[7]. It is not the mere preparation of a record found to be incorrect or false, but knowingly and deliberately preparing which he knows to be incorrect either to save a person or property or to injure a person or property as also held in **Raghubansh Lal Vs. State of Uttar Pradesh**^[8]. If the police officer had made the false entry in the diary and manipulated the other records with a view to save the accused from legal punishment that might be inflicted on him, it attracts the offence as laid down in **Maulud Ahmad vs State Of Uttar Pradesh**^[9] that false preparation of record with the intention to save the accused is enough and not actual use of the record even.

15(h). From the above coming to the expressions placed reliance by both sides on the scope of Section 201 IPC, one is **Palvinder** supra, where it was held in Para 5, referring to the ingredients of Section 201 IPC that to establish the charge under Section 201 IPC, it is essential to prove that the offence has been

committed, mere suspicion that it has been committed is not even sufficient, that the accused knew or reason to believe that such offence has been committed and with the requisite knowledge and with the intention to screen the offender from legal punishment causes the evidence thereto to disappear and gives false information respecting each offence knowing or having reason to believe the same as false. It was further held that where the accusation was that deceased Jaspal singh's death was caused by administration of potassium cyanide, it is for the prosecution to establish the same affirmatively. It is the submission therefrom that the prosecution must establish herein that the deceased was murdered at the gunshot either by A.1 or any other and either accused Nos.2 to 7 knowingly or having reason to believe the same to screen A.1 therefrom cause disappeared the evidence or gave false information or accused given false information knowing or reason to believe the same as false and the same is contended as lacking in the case on hand.

15(i). Coming to the other decision placed reliance for the offence under Section 218 is **Raghubansh Lal** Supra. Where at Para 4, it was held that the High Court found that accused knew of litigation between Mahura Kuar and Adit Pande and in spite of this he made an incorrect entry which makes out the ingredients of knowingly framed the record in an incorrect manner to do favour to one and to cause injury to the other of the 2 parties. However, in order to sustain the conviction it is not sufficient that the entries are incorrect for also essential that entry should have been made with the intention mentioned in Section 218. On facts it was therein observed that evidence proving necessary intention is lacking in the case for no direct evidence even from circumstantial evidence which is meagre to support any conclusion as to the intention with which the appellant made the entry complained of in reversing the finding of the High Court and acquitting the accused by the Apex Court.

15(j). Coming to the other contention raised by the accused against 2 FIRs, one is FIR in crime No.25/2010 registered for offence under Section 304-A IPC on the statement of the wife of the deceased and the other from the change of investigation officer by the superior police officer as per direction by entrusted to another Inspector of Police of Huzurabad i.e., LW.139 in altering the Section of law and registered other crime No.37/2010 for the offence under Section 302 IPC. Though the accused placed reliance in this regard that the 2nd FIR is bad in law, referring to the expression of the Apex Court in **T.T. Antony Vs. State of Kerala**^[10]; it mainly deals with the investigation once commenced and subsequent registration of FIR has no sanctity of Section 154 Cr.P.C. but of Section 161/162 Cr.P.C. as a subsequent statement and the 2nd FIR and fresh investigation was held irregular and unwarranted in those facts. Here contrary to it there is another expression of the Apex Court so far as registration of 2 FIRs concerned that is placed reliance by counsel for the de-facto complainant vis-à-vis the public prosecutor which is **Kari Choudhary Vs. Sita Devi**^[11] where it was held from the rival versions in respect of the same episode, there would normally take the shape of two different FIRs and investigation can be carried on under both of them by the same IO. Even that apart, the report submitted to the Court styling it as FIR.No.208/1998 need be considered as an information submitted to the court regarding the new discovery made by the police during investigation that person not named in FIR.No.135/2008 are the real culprits and quashing of the proceedings merely on that ground of final report already made in FIR.No.135/2008 is held unwarranted and too technical; that too police got power under Section 173 (8) Cr.P.C. to make further investigation in respect of the alleged offence in spite of filing final report on a previous occasion on new or further facts came to light to consolidate and take as one final report to say thereby it is only an irregular one. Further in subsequent expression of the

Supreme Court that in **State Rep. by Inspector of Police, Vigilance & Anti Corruption, Tiruchirapalli, T.N. Vs. V.Jayapaul**^[12], it was held even on source information or knowledge or from crime detected without having any report by any defacto complainant or victim, police can register crime and investigate *suo motu* and the person who registered the crime *suo motu* from that information within his knowledge or which he come across and the same person investigating the crime is no way held im-permissible or invalid one and thereby same is not liable to be quashed. Even in other earlier expression of the Apex Court in **Superintendent of Police, CBI and others Vs. Tapan KR. Singh**^[13], it was held while setting aside the order of the High Court in quashing the crime proceedings for the offence under Section 13 of the Prevention of Corruption Act, 1988, that the High Court fell into an error thinking that the information received could not be treated as FIR since allegation was vague inasmuch as it was not stated as to from whom the said sum was demanded and accepted by accused, nor was it stated that such demand or acceptance was motive or reward for doing or forbearing to do any official act, or for showing or forbearing to show in exercise of his official function, favour or disfavour to any person or for rendering, attempting to render any service or disservice to any person or therefrom to held there is no basis for police officer to suspect the commission of offence. The Apex Court held in this context that FIR need not be an encyclopaedia by disclosing all facts and details relating to offence reported. An informant may lodge a report about the commission of offence though he may not know the details of the assailant or victim etc or how the occurrence taken place, even for the informant need not be an eye witness and what is of significance is that the information from whatever source given must disclose the commission of a cognizable offence and the same provide a basis for police officer to suspect the commission of a cognizable offence and at

that stage it is not enough if there is basis of giving suspicion of the commission of a cognizable offence to further prove to satisfy therefrom whether be convicted or a cognizable offence has been positively committed, but for reason to suspect from basis of information received of a cognizable offence might have been committed to record and register FIR and start investigation for not necessary even to ascertain truthfulness of the information. Further in the three Judge Bench expression of the Apex Court in **Upkar Singh vs Ved Prakash & Ors**^[14] it was held categorically that registration of the 2 FIRs is not a bar, but for after investigation to file one final report if they are related to one crime. It is needless to say several subsequent expressions also in that line of registration of 2 FIRs in relation to same offence for different versions not a bar to investigate but for to file one final report ultimately therefrom if relates to one and otherwise it relates to distinct occurrences to file separate final reports. It is to say from the above that what is laid down in TT Anthony Supra is explained further by the subsequent Constitution Bench expression and reiterated by several subsequent expressions and some of which are **Sneh Gupta Vs. Devi Sarup and others**^[15], **Aziza Begum Vs. State of Maharashtra**^[16] and **Vinay Tyagi Vs. Irshad Ali @ Deepak**^[17] making distinction between initial investigation and final report and any supplemental final report from further investigation though further or fresh or *denovo* investigation or re-investigation after first final report filed before the Court and when and when not it can be done.

15(k). From the above coming to the case on hand, here it is not a *denovo* investigation in crime No.37/2010 much less after filing any final report from the crime No.25/2010 registered, but for to say for no final report undisputedly in crime No.25/2010, the 2nd FIR at best be treated as memo altering Section of law for continuation of the

investigation in respect of the same crime, but for change of section of law from the factual development in investigation disclosed basis for the altered section of law. Thereby merely because it is registered as 2nd FIR, it is not a basis to contend the crime is liable to be quashed. It is for the reason every citizen has a right to get his or her complaint properly be investigated which is a question of equal protection of law i.e., covered by the guarantee under Article 14 of the Constitution of India which is a kin to ensure equal access to justice as held in *Aziza and Sneh Gupta Supra* and more particularly coming to the duty and limitation of the Court, it is the duty of the Court to prevent any injustice to any of the parties to the lis, however, it cannot exercise its jurisdiction to allow the proceedings to be used to work as substantial injustice and the Court should be keen in favour of advancing cause of justice when a case is disclosing from the record for so doing since justice and reason is heart of legislation as held in **M.P. Steel Corporation Vs. Commissioner of Central Excise**^[18].

15(l). This Court also dealt with the issue in detail on maintainability of 2nd FIR and same is not a ground to quash by referring to most of the expressions *Supra* in CrI.P.No.341 of 2015 covered by crime No.201/2014 of I Town PS Nandyal, AP. From the above now coming to the other expression placed reliance by the accused in **State of Bihar R.P. Singh Vs. J.A.C. Saldanha**^[19], in this expression, it was held that there is a clear and well demarcated submission of activity in the field of crime detection and crime punishment. Investigation of an offence is the field exclusively reserved for the executive through police department, the superintendence over which vests in the State Government. The police (executive) in charge with a duty to keep the vigilance over law and order and to prevent crime and if offence alleged to have been committed, duty bound to investigate into the offence and bring the

offender to book. Once it registered crime for an offence having been committed, it is the duty to investigate and collect evidence for purpose of filing final report for proving the offence. Once that is completed to submit final report before the Court under Section 173 Cr.P.C. to take cognizance of offence by court under Section 190 Cr.P.C. and after final report comes to know any further information they can investigate further under Section 173 clause (8) Cr.P.C. Thus, by informing well defined and well demarcated function in the field of crime detection and its subsequent adjudication between the police and Magistrate as also laid down way back in King emperor Vs. Khwaja Nazir Ahmad (1944 (71) IND appeal 203) at page No.213 by the Privy Council and it is also held in **SM Sharma Vs. Bipen Kumar Tiwari**^[20], the Court should be quite loath to interfere at the stage of investigation, a field of activity reserved for police and the executive. In fact in the Privy Council expression of Khwaja Nazir Ahmad, it was held that such a power of the executive is not an absolute one and the court of law where it is necessary to sub serve the ends of justice can interfere and same is also reiterated by following it and several other expressions including **R.P. Kapoor Vs. Sardar Pratap Singh Kairon**^[21] and **Madhavrao Jiwaji Rao Scindia and Ors. v. Sambhajirao Chandrojirao Angre and Ors.**^[22], and SM Sharma, Saldanha & TT. Antony Supra in the well laid down expression of the Apex Court in State of Haryana Vs. Bajan Lal (1992 Supplement 1 SCC 335).

16. From the above coming back to the facts further, it no way requires the repetition of statement of the de-facto complainant no other than the wife of the deceased recorded in registering the crime. Coming to the statement during investigation of the said de-facto complainant wife of the deceased that was recorded on 21.05.2010, she stated that her husband earlier worked in Siricilla Police Station and later in 2008 transferred to Godavarikhani I Town Police Station,

wherein worked for sometime as gunman to Inspector of Police and later as constable in the ID Party and that on 09.02.2010 at about 05.00 PM he told her that he is going to Police Station and at 08.00 PM her uncle P.Venkatesh came to her house and informed that her husband met with a small accident and immediately, she and her uncle on his motorcycle went to his co-sister and found the house locked and came to know that her brother in law, Krishnamurthy and co-sister Renuka went to the place of accident and she was also informed her husband was shifted to the government hospital and went to government hospital along with her mother-in-law, younger co-sister Laxmi and younger mother-in-law on a sumo and found her husband died and she noticed blood stains on face and cloths and hole injury on left cheek and at that night she and her relatives were at hospital. It is stated by her that Rajendra Prasad, DSP, Peddapalli, A.2, who is close to their family visited the hospital and informed that her husband died due to BP and his nerves were broken and she believed the words of the DSP. She stated further that every day said DSP was talking to her husband over phone and wife of DSP by name Suhasini, working as Principal in Government College, also used to call to attend their works and at that time Vidyasagar, Inspector Traffic Police Station, A.3 and one Venkata Ramana, Inspector of II Town Police Station and another Inspector of I Town Police Station and DSP, Godavarikhani by name Habeeb Khan, A.4 and other police personnel, print media came to the hospital and all consoled her and informed her that her husband died as if due to BP and also informed that if her husband's death converts into an accidental death, then she can get insurance amount.

17. The statement of her was recorded on 21.05.2010, which is 3 ½ months after the occurrence dated 09.02.2010 and in her statement she stated that it was the report earlier that cause prepared by her brother-in-law to which she is signatory in registering the crime for the offence under Section 304-A IPC. What she now states is her

brother-in-law Krishna Murthy (LW-2) informed on the date of occurrence 09.02.2010 at about 11.00 PM that at the behest of A.2, A.1 murdered her husband. Her further version in the statement is that the DSP, Habeeb Khan/A.4, Vidyasagar/A.3 and Venkata Ramana/A.5 convinced her that her husband died due to BP, though he has no BP, with an evil intention and obtained a false report from her brother-in-law and took her signature. On its face it appears to be difficult to believe by any man of prudence of such conduct had it been informed by her brother-in-law before her signing of report of her husband murdered by A.1, at the behest of A.2, DSP, for her brother-in-law reported it as if an accidental death and her signing the same and wherein it is not even her version of the murder was at the behest of quash petitioners/A.3 and A.4 or A.5, but for of A.2 and it was committed by A.1.

18. Coming to the statement of brother-in-law-LW.2 (Krishna Murthy)-who is working as a clerk in Singareni Company OCP-III since 1997, what he stated is his brother Ramesh was working as constable and on 09.02.2010 at about 08.00 PM, his brother Srinivas telephoned to him by weeping saying everything happened and when he questioned what happened and when in what regard and asked to pass on phone to person nearby if he could not respond and the person nearby informed over the phone that at OCP-III, CHP Bunker there is an accident. He felt that the accident and the injuries is to his brother Srinivas and not the other brother Ramesh and that he and his wife rushed to OCP-III, CHP Buner and found the dead body of his constable brother Ramesh and the dead body is lying with Hero Honda as if he has fallen while sitting on the Hero Honda and at the left side of the road and there is pool of blood and the bike was lying on the side stand and the key of the vehicle was there as it is and on the face left side underneath eye region, there is an injury and by the time he reached, the II Town Inspector Venkata Ramana (A.5) and

some constables are there and the II Town CI Venkataramana (A.5), he i.e., Krishna Murthy and his brother Srinivas and his wife, while weeping trying to hold the dead body, Venkataramana (A.5) prevented them saying not to touch the body and it is a murder case. That in the meantime, the DSP Habeeb Khan (A.4) and Inspector-Vidyasagar (A.3) came there and when they were weeping and saying their brother Ramesh was beaten to death by somebody, the DSP-A.3 moved the head of the deceased, verified and stated that there are no head injuries and he might have been died due to high BP and his nerves might have been damaged. That in the meantime, I Town Inspector Godavarikhani also came and the press people, TV people also came and the dead body was videographed and photographed and at about 09.30 PM, the dead body of Ramesh was shifted to government hospital and he accompanied the dead body in the ambulance and the dead body was thereafter kept at the government hospital mortuary on a stretcher. That the DSP Habeeb Khan (A.4) and CI Vidyasagar (A.3) came and the DSP asked ward boy of the hospital to bring water in a bucket and clean the body, for which the ward boy refused to bring water and clean the body, however, the DSP cause cleaned the body with water through constable and meantime duty Doctor Sathyanarayana Reddy (A.6) came and verified the dead body and stated on the body there are no injuries, but for an injury underneath the eye region and meantime Rajendra Prasad-DSP, Peddapalli (A.2) came to the hospital and seen the dead body and A.1-Buggala Srinivas was also there and the DSP, Habeeb Khan (A.4), Vidyasagar (A.3) at the portico of the hospital were talking to A.1 and the Rajendra Prasad-DSP, (A.2) called Krishna Murthy (LW.2) while he was weeping and stated that his brother was not doing well and earlier once he cause treated him in an hospital for BP and from that he died and tried to console him and even he (LW.2) replied to the DSP, (A.2) of his brother Ramesh was beaten and killed by somebody, Rajendra Prasad-DSP, (A.2) consoled saying if report is given with the

version of he died in accident, they can get insurance benefit and warned saying if stated as somebody beaten him to death they could get no insurance benefits and persuaded him to prepare a report to that effect and Habeeb Khan-DSP, A.4 and Vidyasagar-CI, A.3, were also there and he informed A.2, Rajendra Prasad, DSP, that cannot write the contents and then he asked A.1 there to cause prepare the report so and Sreenu (A.1) started preparing the report and after few lines written by him, stating he is unable to write, left the place. That he and his friends Mahesh and Satish went to Ramagundam Traffic Police Station and drafted the petition and the Traffic CI, Vidyasagar, A.3 made corrections saying if that is the version they can get no insurance benefits and asked him (LW.2-Krishnamurthy) to talk to DSP, (A.2) and after talking to DSP-A.2 over phone, he stated he instructed Vidyasagar- A.3 as to how to prepare the report and he will dictate for the witness (LW.2-Krishnamurthy) to scribe the report and thereby what A.3 has dictated, he has written in preparing the report and he obtained signature of the de-facto complainant (wife of deceased) and handed over at about 11.30 PM in the night and his friends present there were also asked to sign as punch witnesses to inquest. He (LW.2) further stated that they stayed in the hospital for that night and on the next morning i.e., on 10.02.2010, the Doctors came and conducted post-mortem on the body of the deceased and handed over the body at about 10.00 AM and again after receiving phone call the body packed was again taken back to mortuary and taken photos and repacked and handed over and the DSP-Habeeb Khan A.4, CI Vidyasagar-A.3, Narender- Godavarikhani I Town CI and NTPC-CI-Tajuddin kept garlands on the body of the deceased and it is about 02.30 PM on 10.02.2010 the body was cremated and it is on the 5th day and 11th day ceremonies of his brother Ramesh, Rajendra Prasad-A.2 along with his wife came and attended. After 12th day of his brother breathed last, the Traffic CI Vidyasagar (A.3) called him to give prescriptions of the treatment undergone by his deceased brother

Ramesh for BP and he stated that he had no BP and there was no treatment undergone by him, for which he warned saying unless he give the same he could be an accused and collected the prescription of the treatment undergone by his brother for some fever. On the 5th day ceremony, DSP, A.2 and his wife came and assured to provide job to wife of the deceased by seeing that she could complete her intermediate also and given Rs.5,000/-. As per the information he received A.1 at the instigation of A.2, killed by causing gunshot wounds. Earlier while Rajendra Prasad, A.2 was working as CI of Godavarikhani, Buggala Srinivas, A.1 involved in the murder cases and A.2 collected money from A.1 to save him from that case, his brother Ramesh knows the same and therefrom A.1 developed enmity and they thought that the same he can reveal at any time which create danger to them from his brother Ramesh and thereby the DSP, A.2 instigated A.1 and therefrom his brother was murdered by A.1 and the Traffic Inspector Vidyasagar, (A.3) created as if it is accidental death and obtained the report. The said statement of LW.2 was also dated 21.05.2010 i.e., 3 ½ months after the original report. These 2 statements of LWs.1 and 2 i.e., the defacto complainant by name Srivalli and the brother of the deceased by name Krishna Murthy were recorded by the Superintendent of Police, CID, WPC, Hyderabad. It appears crime No.37/2010 registered by altering section of law having taken up for further investigation on the instruction of SP, Karimnagar by LW.139, Inspector of Huzurabad by name S.Mahender, the investigation of the case was handed over to CID.

19. Coming to the earlier statement of crime No.25/2010, investigated by A.3, of the de-facto complainant wife of the deceased and said Krishna Murthy it is with version as if accident. In fact in the explanation supra from the subsequent statement they explained that it is at the instructions of A.2, A.3 and A.4, it was so done and not a voluntary one though from the beginning it is their version that the

deceased was killed which they came to know it is handwork of A.1 at the instigation of A.2. No doubt the quash petition filed by A.5, Venkataramana as stated already, was allowed vide order dated 11.07.2014 in CrI.P.No.4140 of 2014. The allegation so far as A.5 concerned is not that he was also one of the instigators along with A.3 and A.4. What was held in allowing the quash petition by this Court i.e., another Bench in the petition supra, the complicity of A.5 only is he reached the scene of offence after the brother of deceased Srinivas reached the scene of offence and shouted at not to touch the body on the ground that as it is a murder case and further that he directed Krishna Murthy another brother of the deceased also not to touch the body as it is a murder case. The Sub Inspector of Police LW.40 reached the scene of offence by the time A.5, Venkata Ramana reached and there again A.5 present at the mortuary. From the recitals, there are no allegations much less of any overt act against A.5 and there is also no reference against A.5 and thereby the allegation is held unsustainable so far as A.5 concerned for his no complicity. The conclusion is correct that is thereby SLP was not even entertained by the Apex Court it is for the reason A.5, M.Venkata Ramana is not a perpetrator, as it is stated by him that there is a suspected murder of the deceased constable. However, so far as A.3 and A.4 are concerned as referred supra, their role is there in alleged misguidance and obtaining report and particularly so far as A.4 under the guise of the investigation guidance to A.3 under his control, as the CI Traffic, for the A.4 to entrust investigation to the A.3-Traffic Inspector. No doubt in the written arguments of the accused it is stated that the police standing orders speak that so far as A-Grade municipality like Godavarikhani, where there is traffic police station and regular crime police stations, the investigation to be conducted within jurisdiction is to entrust to the traffic police of accidental cases. Here from the report of the de-facto complainant, it is an accidental death in registering crime No.25/2010 dated 09/10-02-2010 i.e., after intervening night of

00.01 hours for the report received at 11.30 PM after occurrence of 07.30 PM and within no time the wife of the deceased and brothers and the police officials including A.1 to A.4 reached there at the scene of offence at least by 08.00 PM if not before. It is not even to obtain a report from bare facts as to the body was lying there in a pool of blood but for as if suspected to be a road accident. Once such is the case, when there is no indication from the inquest and scene observation of if at all road accident for somebody dashed the vehicle, but for the fall while riding by deceased, the question of registering it for the offence under Section 304-IPC does not arise and in the absence of which, it could be registered only under Section 174 Cr.P.C. if not at best from the police Act, 1861, Section 44, to make an entry in the dairy to be kept for that purpose as laid down by the Apex Court in **Lalita Kumari** Supra that FIR is mandatory under Section 154 Cr.P.C, if the information disclose commission of cognizable offence and no preliminary enquiry is permissible in such situation, but for such information does not disclose a cognizable offence and indicates necessity for enquiry to conduct a preliminary enquiry to ascertain whether cognizable offence is disclosed or not. If such enquiry discloses commission of cognizable offence, an FIR must be registered. If preliminary enquiry ends in closing the complaint/report, a copy of the entry of such closure must be supplied to the first informant, within one week by disclosing reasons, if any for such closure. However, for non-registration of FIR in a cognizable offence disclosed, action must be taken against erring police. The preliminary enquiry is meant to verify the veracity or otherwise of the information but to ascertain whether the information reveals a cognizable offence or not and the preliminary enquiry to be conducted depending upon the facts and circumstances of each case which may be in matrimonial or family disputes, commercial offences, medical negligence case and corruption cases and where there is abnormal delay or latches in reporting occurrence for over 3 months with satisfactory explanation for

the delay though same is not exhaustive, however the preliminary enquiry to be made within 7 days and it shall reflect in the general diary by the entry in the general diary/station dairy/daily dairy is the record of all information received in the police station. The Apex court directed all information relating to cognizable offence, whether resulting in FIR or leading to an enquiry, must be mandatorily and meticulously reflected in the said diary and the decision to conduct a preliminary enquiry must beyond it recorded as reflected, as mentioned above.

20. No doubt **Lalita Kumari** Supra says if taken on face value the report given by the wife of the deceased that was shown scribe by the brother of the deceased in saying at the instigation of IO, A.3 Inspector Traffic by name Vidyasagar as if an accidental death case. Here from perusal of the dead body when it is not an accidental death caused by other intervening vehicle, the question of claiming compensation does not arise unless there is a personal accident claim coverage for the injured or deceased while riding the bike. In fact a perusal shows if there is intervention of another person or other vehicle, the question of the deceased lying on the vehicle in sitting position by vehicle stood on the left side stand does not arise, unless shown he lost breath while driving from any health condition. It could not be the case from there is bleeding injury below eye region to show he was attacked by somebody and otherwise while riding bike & kept lying by putting left side stand of vehicle he could not die from any simple injury sustained on left side below eye region in that course.

When such is the case, the question of registering the FIR under Section 304-A IPC does not arise. Even coming to the contention referring to **Satvinder Kaur Vs. State** ^[23] what the Apex Court held is the statutory duty of the police under Section 154 to 157 Cr.P.C. to register the crime and take up investigation and what Section 156(2) speaks is no proceeding of a police officer in any such case shall at

any stage be called in question on the ground that case was one which such officer was not empowered under the Section to investigate nor pending investigation same is the ground to seek for quash under Section 482 Cr.P.C. This cannot be taken shelter by any of the accused persons in saying instead of entrusting to regular police the entrustment by A.4 to A.3, Traffic police if at all to found fault but for to say the police standing orders enable in the A-Grade Municipal areas from the traffic police stations existing within its jurisdiction to entrust investigation to the traffic police inspector for the offence under Section 304-A IPC. This can be justified had it been a voluntary report from the wife of the deceased de-facto complainant through the brother of the deceased, but for their version in saying it is outcome of the deception played by the accused persons 3 & 4 by joining hands with A.2 for A.1 killed the deceased at the instigation of A.2 to screen the accused persons by misguiding them to give report as if it is an accidental death to claim insurance, which is also nothing but abdication of the statutory positive duty of receiving report of actual truth and not to misdirect to give a false report and in registering the report with false and misguidance to save the real culprit and even under the guise of claiming insurance, to benefit the victim family unlawfully by causing loss to the insurer as if an accidental case by converting the murder case. Once such is the allegation, it is difficult for the Court to quash the proceedings of the PRC.

21. It is no doubt the Court under Section 482 Cr.P.C. got the inherent powers to sub serve the ends of justice and prevent abuse of process and where the offence is a civil nature or where from the reading of the FIR it no way discloses any offence or even from the investigation no case makes out, like for A.5 in the present PRC proceedings covered by CrI.P.No.4140 of 2014. However, so far as the petitioners/A.3 and A.4, it is not as such for they are not standing at par or in the same position of A.5 from what is discussed above. The

1st respondent representing by the Public Prosecutor and the 3rd respondent defacto complainant to the quash petitions placed reliance on **Padal Venkata Rama Reddy @ Ramu vs Kovvuri Satyanarayana Reddy & Ors**^[24] where it is held at para 11 onwards that though High Court has inherent power and its scope is very wide, it is a rule of practice that it will only be exercised in exceptional cases, for section 482 Cr.P.C. is a sort of reminder to the High Courts that they are not merely court of law, but also courts of justice and possess inherent powers to remove injustice and the powers are partly administrative and partly judicial and they are necessarily judicial when they are exercisable with respect to a judicial order and for securing the ends of justice and the jurisdiction under Section 482 Cr.P.C. is discretionary and therefore court may refuse to exercise the discretion, if a party has not approached with clean hands. In a proceeding under Section 482 Cr.P.C. High court will not enter into the findings of fact, particularly when the matter has been considered by the court below, though inherent power includes to quash FIR, investigation or any criminal proceeding pending before the High court or any court subordinate to it and with wide magnitude to secure the ends of justice or to prevent to abuse of process of court and to make such orders as may be necessary to give effect to any order under this code depending upon the facts of a given case.

22. In **Inder Mohan Goswami V. State of Uttaranchal**^[25] the Apex Court observed that the inherent powers of the High Court under Section 482 Cr.P.C are though wide that has to be exercised sparingly with great caution and to exercise ex-debito justitia that is to do real and substantial justice for the administration of which the Courts exist, and for not to allow to use the prosecution is an instrument of harassment or private vendetta or with a motive to pressurize the accused to terms and the powers too could not be exercised to stifle a legitimate prosecution and Court should refrain from giving prima facie

decision in a case where entire facts are incomplete and hazy, more so, when the evidence has not been collected and produced before the Court and the issue involved are of such a magnitude that they cannot be seen in the true perspective without sufficient material, though no hard and fast rule can be laid down for exercise of the extraordinary jurisdiction. It is observed that Court should balance with personal liberty, the societal interest and a warrant for arrest of accused should not be issued without proper scrutiny of facts from complaint or F.I.R in application of judicial mind and where dispute is a pure civil in nature or from reading of F.I.R the ingredients of offence are absent, the proceedings can be quashed.

23. Having regard to the above there are no grounds to quash the PRC proceedings pending against the petitioners/A.3 & A.4. It is made clear that any of the observations in this order will no way influence the mind of the learned Sessions Judge-cum-trial Judge in considering any defence of accused including for any seeking for discharge to decide on own merits.

24. Accordingly and in the result, the quash petitions are dismissed.

25. The interim stay granted against the committal proceedings pending before the learned Magistrate stand vacated.

Pending Miscellaneous Petitions stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 24.06.2016
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- [\[1\]](#) AIR 1952 SC 354
 - [\[2\]](#) AIR 1953 SC 131
 - [\[3\]](#) AIR 1979 SC 1249
 - [\[4\]](#) AIR 1994 SC 1068

- [\[5\]](#) AIR 1965 SC 1413
- [\[6\]](#) LAWS (SC) 2013-11-15
- [\[7\]](#) AIR 1968 SC 19
- [\[8\]](#) AIR 1957 SC 486
- [\[9\]](#) 1964 (2) Cr.L.J 71 (SC)
- [\[10\]](#) 2001(6) SCC 187
- [\[11\]](#) 2002 (1) SCC 714
- [\[12\]](#) (2004) 5 SCC 223
- [\[13\]](#) 2003 (6) SCC 175
- [\[14\]](#) 2004 13 SCC 292
- [\[15\]](#) 2009 (6) SCC 194
- [\[16\]](#) 2012 1 SCC 195
- [\[17\]](#) 2013 5 SCC 762
- [\[18\]](#) 2015 (7) SCC 58
- [\[19\]](#) 1980 (1) SCC 554
- [\[20\]](#) 1970 (3) SCR 946
- [\[21\]](#) AIR 1961 SC 1117
- [\[22\]](#) (1988) 1 SCC 692
- [\[23\]](#) 1999 (8) SCC 728
- [\[24\]](#) 2011 (12) SCC 437
- [\[25\]](#) (2007) 12 SCC 1