HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION Nos.8266, 8267 AND 8268 OF 2016

COMMON ORDER:

These criminal petitions, under Section 482 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), are filed to quash the proceedings in Cr.No.50 of 2016 of Saifabad Police Station, Hyderabad, registered against the petitioners for the offences punishable under Sections 406, 409, 420, 468, 471 of Indian Penal Code, 1860 (for short 'I.P.C.').

One Pasumarthy Venu Madhav, the second respondent herein, lodged a complaint on 22.01.2016 alleging that he is the Managing Director of M/s. Material Software India Private Limited. He appointed one Mr.K.Shanthan Kumar, petitioner in Crl.P.No.8266 of 2016 as office in-charge to look after over all affairs of the Company in his absence, as he is carrying on business in U.S.A. He obtained L.I.C. policy bearing No.602138737 from Kukatpally Branch, Hyderabad, and paid premium for a period of 3 years @ Rs.2,00,000/- per year, later discontinued payment of premium, thus he paid total amount of Rs.6,00,000/- under the policy towards premium, referred to supra. While he was in U.S.A., the said K.Santhan Kumar, K.Jhansi Rani and K.Venu Gopal conspired together and connived with the officials of Life Insurance Corporation of India, Kukatpally Branch, submitted loan papers by forging his signatures, and the officials of Life Insurance Corporation of India, Kukatpally Branch, without verifying the signatures of the second respondent sanctioned loan of Rs.4,00,000/- without his knowledge.

K.Santhan Kumar, who received a cheque from Life Insurance Corporation of India, has credited the same in personal account of the second respondent bearing No.3312500300000801, Karnataka Bank, Dilsukh Nagar Branch, in furtherance of evil desire, K.Santhan Kumar forged his signatures and withdraw money to a tune of Rs.4,00,000/- from his account. As a result he was served notice for repayment of loan amount with interest accrued thereon. Thus, these petitioners, K.Santhan Kumar, K.Jhansi Rani and K.Venu Gopal and others hatched a plan and withdraw the amount. It is further contended that these petitioners hatched the plan to withdraw money from Metlife India Insurance Corporation Limited and succeeded in their plan and totally withdrawn an amount of Rs.23,00,000/- by submitting false, fabricate and forged documents. Thus, these petitioners committed a serious offence referred to supra.

During May, 2015 the second respondent visited India and on verification the affairs of the Company, the petitioner in Crl.P.No.8266 of 2016, K.Santhan Kumar, did not respond properly and on further verification, he came to know about misappropriation, forgery etc. Therefore, lodging the above complaint with the Police, Saifabad Police Station, Hyderabad, against these petitioners raising several contentions.

Mr.K.Santhan Kumar mainly contended that he was a power of attorney holder of the second respondent from 2008 to manage affairs of the Company- M/s. Material Software System India Limited and the acts would have done by him are not as Manager, but as Office in-charge. He was acting in the Company in the capacity of General Power of Attorney, there was no dishonest intention on his part, he has no connection whatsoever with the alleged offence. It is further contended that the diversion of the funds through Bank transaction are baseless. In fact, they have been done only on the instruction of the second respondent to the petitioner school by name and Style as Cambridge at Barkatpura, Hyderabad, to adjust the funds, which were delayed by the respondent for payment of salaries, thus, the said K.Shanthan Kumar had to pay from his pocket, school accounts. He denied the alleged borrowing of loan from the L.I.C. and Metlife by forgery of application, and that the amount received from L.I.C. and Metlife were credited to the account of the second respondent, and that he never misappropriated.

It is also further contended that the petitioner in Crl.P.Nos.8266 of 2016 approached this Court in Crl.P.No.5819 of 2015 to quash the proceedings in Cr.No.122 of 2015 of Central Crime Station, Hyderabad, registered against him for the offence punishable under Section 409 of I.P.C. and it was allowed quashing the proceedings in the above crime. But when the matter is carried to the Supreme Court, refused to grant stay and hence, the present complaint was lodged. Thus, the petitioner has nothing to do with the alleged offence.

The petitioner in Crl.P.No.8267 of 2016, K.Jhansi Rani, w/o. Santhan Kumar, who is the petitioner in Crl.P.No.8266 of 2016 would contend that she has no role and nothing was referred about her role in the complaint lodged with the Police and in fact, the petitioner has no personal acquaintance with the complaint in

Cr.No.50 of 2016 of Saifabad Police Station. She admitted that Santhan Kumar is her husband and GPA of the second respondent. He is acting only as a GPA holder in pursuance of the authorization given by the second respondent to the said Santhan Kumar and that she has nothing to do with the above offence and prayed to quash the proceedings in Cr.No.50 of 2016 of Saifabad Police Station, Hyderabad.

K.Venu Gopal, the petitioner in Crl.P.No.8268 of 2016, contended that he is no way concerned with the affairs of the Company and there is no whisper about the role played by him, but the second respondent appointed Venu Gopal in the year 2004 by appointment letter dated 24.02.2004 and he resigned to his service in the Company, in the year 2010, since then he had no connection with the affairs of the Company. Thus, he has nothing to do with any offence allegedly committed by him and prayed to quash the proceedings in Cr.No.50 of 2016 of Saifabad Police Station, Hyderabad.

During hearing, learned counsel for the petitioners in these petitions would contend that the said Jhansi Rani and Venu Gopal are nothing to do with the affairs of the company and, at best, Santhan Kumar is only General Power of Attorney holder, being an agent of the second respondent, he attended the affairs of the Company in India. Therefore, he did commit no offence, much less the forgery, misappropriation etc., that apart the second respondent lodged a complaint against the petitioners in Cr.No.122 of 2015 of Central Crime Station at Hyderabad for similar and identical offence. When the proceedings were quashed, the present complaint was lodged as abuse of process of the Court and prayed to quash the proceedings, since such an abuse is impermissible under law and in such case, the court can exercise jurisdiction under Section 482 of Cr.P.C.

It is further contended that the other accused i.e. K.Jhansi Rani is wife of K.Santhan Kumar. She never played any role either as an employee or in any capacity, dealing with the affairs of company of the second respondent, thereby, she has nothing to do with the affairs of the Company. Similarly, the petitioner in Crl.P.No.8268 of 2016, K.Venu Gopal, who worked as an employee for some time from 2004-2010, resigned to his employment and later he has nothing to do with the affairs of the Company. Therefore, the petitioners, K.Jhansi Rani and K.Venu Gopal have no role to play with the affairs of the Company, thereby question of committing forgery and misappropriation would not arise at this stage and lodged the said complaint as an abuse of process of the court and prayed to quash the proceedings against these three petitioners.

Learned counsel for the second respondent contended that F.I.R. is not an encyclopedia of facts and it is only an information about cognizable offence to police, to set the criminal law into motion and unless the entire material is before the Court, the Court cannot quash the proceedings at the threshold, when the investigation is not yet commenced, such power is exercised to quash the proceedings under Section 482 Cr.P.C. it amounts to stifle a legitimate prosecution. Therefore, mere quashing of the proceedings in Cr.No.122 of 2015 of Central Crime Station, Hyderabad, in Crl.P.No.5819 of 2015 would not disable the Police to proceed with the investigation, since the offence allegedly committed by the petitioners in the other offences pertaining to different incident and whereas the present complaint is regarding the withdraw of amount from Metlife and obtaining loan from L.I.C. of India, Kukatpally Branch, by forging documents. Therefore, quashing of the proceedings in Cr.No.122 of 2015, Central Crime Station, Hyderabad, has nothing to do with the issue before this Court in the present case and prayed to dismiss these criminal petitions.

As seen from the allegations made in the complaint, the second respondent engaged services of K. Santhan Kumar, the petitioner in CRL.P. No.8266 of 2016, to look after the affairs of the Company by executing the GPA, and this fact is admitted by the second respondent even in the complaint lodged with the police. The General Power of Attorney dated 25.03.2008 filed along with Crl.P.No.8266 of 2016 would show that the second respondent, Pasumarthy Venu Madhav S/o.P.Srinivasa Rao appointed the petitioner, K.Shanthan Kumar S/o.Naganatham as lawful power of attorney to act on his behalf and to execute all or any of the following acts.

> "1) to open bank accounts in my, in my firms and company's names, avail bank loans by executing necessary loan documents, clear the bank loans, transfer the loan accounts from one Bank to another, take delivery of the securities and deposit the securities wherever they are required. To furnish all the papers and details those are required by the Bank.
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> 2) To accept all communications from the Bank and for providing the necessary information to the Bank from time

> to time and acknowledge and confirm the balances in the loan account and for executing the necessary acknowledgment of debt as and when required.
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> 3) to draw, accept, endorse, retire the bills of exchange, promissory notes, cheques and other negotiable instruments.
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> 4) to collect the money due to me, to my firm and my company and pass on necessary receipts/ documents.
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> 5) To manage the assets by hiring them out and collect the rents.
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> 6) Initiate legal proceedings, refer the matters to the arbitrator where ever required, settle the matters outside the courts by compromise etc."

And he also agreed to ratify and confirm what ever acts and deeds and things lawfully and bonafide done by Shanthan Kumar. However, the second respondent did not authorize Shanthan Kumar to sell and transfer any of his properties.

On strict construction of the authorization i.e. general power of attorney admittedly executed by the second respondent in favour of Shanthan Kumar, the petitioner in Crl.P.No.8266 of 2016, is permitted to do certain acts specified in the General Power of Attoney dated 28.03.2008. He was authorized to avail bank loans and clear loans executing necessary document etc., but here the allegation made against Shanthan Kumar, the petitioner in Crl.P.No.8266 of 2016, is that he obtained loan from L.I.C. under the policy No.602138737 at Kukatpally Branch, Hyderabad, by submitting forged document and credited the loan amount of Rs.4,00,000/- to the account of the petitioner/ K.Shanthan Kumar and later misappropriated the same. The alleged act of obtaining loan from L.I.C. by K.Shanthan Kumar, the petitioner in

Crl.P.No.8266 of 2016 is not an authorized act. Therefore, the second respondent did not agree to ratify such act of Santhan Kumar. If really the said Shanthan Kumar, forged the signature of the second respondent and obtained loan and misappropriated, without any authorization, even as per GPA, certainly it would amount to an offence.

K.Shanthan Kumar, the petitioner in Crl.P.No.8266 of 2016, contended that he credited loan amount to the account of second respondent and utilized for the second respondent. Such fact is a disputed question of fact, which cannot be gone into while deciding the petition filed under Section 482 of Cr.P.C. The other contention is that he along with two others withdrawn an amount of Rs.23,00,000/- by submitting false and fabricated documents from Metlife India Insurance Company Corporation Limited.

The petitioner in Crl.P.No.8266 of 2016, K.Shanthan Kumar, was not authorized to operate accounts with the insurance company, but he admittedly withdrawn amount, allegedly for payment of salaries of the employees in Cambridge School, at Barkatpura, as per the allegations made in the petition itself. Thus the petitioner, K.Shanthan Kumar, *prima facie* acted beyond the authorization given by the second respondent dated 25.03.2008 and thus these acts were not ratified by the second respondent. Thus, the alleged acts done by the petitioner, K.Shanthan Kumar allegedly by submitting forged documents and forging signatures of the second respondent and misappropriation of the same would certainly amount to an offence punishable under the provisions of I.P.C. Thus, the allegations made in the complaint dated

22.01.2016 against Shanthan Kumar, taking on its entirety, *prima facie,* constitutes an offence punishable under Section 468 of I.P.C. as it is beyond the authorization given to him by power of attorney dated 25.03.2008.

The other two petitioners, K.Jhansi Rani and Venu Gopal specifically contended that they have nothing to do with the incident and K.Jhansi Rani is the wife of Shanthan Kumar, she neither connected with the affairs of the Company nor with the affairs of the second respondent in any manner except the relationship with K.Shanthan Kumar as wife. Except making bald allegations in the last paragraph of page 1 of the complaint, no specific allegation is made against K.Jhansi Rani and K. Venu Gopal in drawing money from Metlife India Insurance Company Limited, and L.I.C. of India, Kukatpalli Branch. When they are not employees as on the date of alleged incident, they cannot be saddled with any liability.

On the other hand, except a bald allegation in last paragraph of the complaint, without disclosing the date and time of commission of the offence i.e. diversion of Rs.23 lakhs from Metlife India Insurance Company Limited by the petitioners in Crl.P.Nos.8267 and 8268 of 2016, K.Jhansi Rani and K.Venu Gopal. In the absence of any details, based on bald allegations, more particularly, they are no connection with the financial affairs of the Company or the personal affairs of the second respondent, the alleged acts committed by them is not based on any material.

Even according to the petitioner in Crl.P.No.8268 of 2016, K.Venu Gopal, he was initially appointed by the second respondent in the year 2004 as an employee in the Company and later he resigned to his service in the year 2010. But he did not produce any scrap of paper to prove that he has resigned to his service in the Company of the second respondent, while admitting that he was appointed as an employee. But on the ground of resignation to the employment, the proceedings against the said K.Venu Gopal cannot be quashed. However, no role in the affairs of the Company was attributed to the said K.Venu Gopal. Therefore, bald allegations against K.Venu Gopal and K.Jhansi Rani, the petitioners in Crl.P.No.8268 and 8267 of 2016 respectively would not constitute an offence and based on such bald allegations, the investigation cannot be allowed to proceed further.

It is also contended by the counsel for the petitioners that earlier a similar and identical complaint in Cr.No.122 of 2015 of Central Crime Station, Hyderabad, was lodged by the second respondent, it was quashed by this Court. But the offence allegedly committed by the petitioners in the said crime is totally distinguishable from the offence allegedly committed by the petitioners.

Therefore, quashing of FIR No.122 of 2015 of Central Crime Station, Hyderabad, is not a ground to quash the proceedings in Cr.No.50 of 2016 of Saifabad Police Station, Hyderabad.

Section 482 of Cr.P.C. saves the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under the Code or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. It is an obvious proposition that when a court has authority to make any order, it must have also power to carry that order into effect. If an order can lawfully be made, it must be carried out; otherwise it would be useless to make it. The authority of the court exists for the advancement of justice, and if any attempt is made to abuse that authority so as to produce injustice, the court must have power to prevent that abuse. In the absence of such power the administration of law would fail to serve the purpose for which alone the court exists, namely to promote justice and to prevent injustice.

The essential object of the criminal law is to protect society against criminals and law breakers. For this purpose, the law holds out threats of punishments to prospective lawbreakers as well as attempts to make the actual offenders suffer with prescribed punishment they committed and at the same time, the procedure is intended to protect the innocent people from unlawful prosecutions at the threshold itself, to avoid peril of facing trial. Thus, Section 482 of Cr.P.C. vests unbridled power on the courts to exercise its jurisdiction to give effect to an order under the Code or to prevent abuse of the process of Court or to otherwise secure the ends of justice. The Code also controls and regulates the working of the machinery set up for the investigation and trial of offences. On the one hand it has to give adequately wide powers to make the investigation and adjudicatory processes strong, effective and efficient, and on the other hand, it has to take precautions against errors of judgment and human failures and to provide safeguards against probable abuse of powers by the police or judicial officers. This often involves a "nice balancing of conflicting considerations, a delicate weighing of opposing claims clamouring for recognition and the extremely difficult task of deciding which of them should predominate". Thus, the Code obviously conferred power under Section 482 of Cr.P.C. to quash the proceedings in crime by conferring inherent power on the High Courts of all the States being higher court of the State.

Section 482 of Cr.P.C. makes it clear that the provisions of the Code are as intended to limit or affect the inherent powers of the High Courts. Obviously the inherent power can be exercised only for either of the three purposes specifically mentioned in the section. Such inherent power cannot naturally be invoked in respect of any matter covered by the specific provisions of the Code. It cannot also be invoked if its exercise would be inconsistent with any of the specific provisions of the Code. It is only if the matter in question is not covered by any specific provision of the Code, the power under Section 482 Cr.P.C. can come into operation, and the court can exercise subject to other limitations Therefore, the power under Section 482 of Cr.P.C. can be exercised subject to the following conditions:

> "1. The jurisdiction is completely discretionary. The High Court can refuse to use the power.
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> 2. The jurisdiction is not limited to cases that are pending before the High Court. It can consider any case that comes to its notice (in appeal, revision or otherwise).
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> 3. This power can be invoked only in an event when the aggrieved party is being unnecessarily harassed and has no other remedy open to it.
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> 4. The High Court, under section 482, does not conduct a trial or appreciate evidence. The exercise of this power (although it has a wide scope) is limited to cases that

compel it to intervene for preventing a palpable abuse of a legal process.

5. The High Court has the power to provide relief to the accused even if s/he has not filed a petition under section 482.

6. This power cannot be exercised if the trial is pending before the apex court and it has directed the session judge to issue a non- bailable warrant for arresting the petitioners.

7. The power under Section 482 is not intended to scuttle justice at the threshold but to secure justice.

8. This power has to be exercised sparingly with circumspection and in the rarest of rare cases, but cannot be held that it should be exercised in the rarest of rare cases – The expression rarest of rare case may be exercised where death penalty is to be imposed under Section 302 of IPC but this expression cannot be extended to a petition under Section 482 CrPC.

9. So long as inherent power of Section 482 CrPC is in statute, the exercise of such power is not impermissible.

10. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of Court or quashing of these proceedings would otherwise serve the ends of justice.

11. Where the accused would be harassed unnecessarily if the trial is allowed to linger when prima facie it appears to Court that the trial would likely to be ended in acquittal.

12. In proceedings instituted on complaint, exercise of inherent powers under Section 482 CrPC to quash the proceedings is called for only in a case where the complaint does not disclose any offence or is frivolous, vexatious or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same.

> 13. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.
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> 14. All Courts, whether civil or criminal possess, in the absence of any express provisions, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice."

The law is settled on the powers as to when such inherent power under Section 482 Cr.P.C. can be exercised and cannot be exercised in various perspective pronouncements of the Apex Court. The leading case on this aspect is **STATE OF HARAYANA V. BHAJANLAL**[1], wherein the Apex Court laid down the following seven guidelines:

> "(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
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> (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
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> (3) Where the allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
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> (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non- cognizable offence, no investigation is permitted by a police officer

[1] 1992 Supp.(1) SCC 335

without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

Earlier to the Judgment in **BHAJANLAL'S** case, in **R.P. KAPUR VS. STATE OF PUNJAB**[2] the Apex Court laid down the following guidelines:

"(i) Where institution/continuance of criminal proceedings against an accused may amount to the abuse of the process of the court or that the quashing of the impugned proceedings would secure the ends of justice;

(ii) where it manifestly appears that there is a legal bar against the institution or continuance of the said proceeding, e.g. want of sanction;

(iii) where the allegations in the First Information Report or the complaint taken at their face value and accepted in their entirety, do not constitute the offence alleged; and

[2] AIR 1960 SC 866

(iv) where the allegations constitute an offence alleged but there is either no legal evidence adduced or evidence adduced clearly or manifestly fails to prove the charge."

The same principle was reiterated in **PADAL VENKATA RAMA REDDY @ RAMU v. KOVVURI SATYANARAYANA REDDY & ORS.[3]** In the said Judgment, the Apex Court categorically held that inherent power can be exercised to prevent abuse of the process of court where the court finds that the ends of justice may be met by quashing the proceedings.

Keeping in mind the broad guidelines laid down by the Apex Court in various Judgments, the High Court is bound to decide the petitions before it filed under Section 482 Cr.P.C. exercising such power sparingly in exceptional circumstances.

When the complaint filed by the second respondent sets out the relevant facts and alleges that the documents have been forged and fabricated only to be used as genuine to make a fraudulent and illegal claim over the land owned by complainant, such allegation is made in the complaint would constitute an offence prima facie against the accused. In such case, the court cannot quash the proceedings by exercising jurisdiction under Section 482 of Cr.P.C. vide Judgment of the Apex Court in **C.P.SUBHASH V. INSPECTOR OF POLICE, CHENNAI AND OTHERS[4]**.

In **M. VISWANATHAN VS M/S.S.K.TILES & POTTERIES PRIVATE LIMITED AND OTHERS[5]** the Apex Court held that when there is a triable issue and the allegations relating to creating of a

[3] 2011(12) SCC 437
[4] 2013 11 SCC 559
[5] (2008) 16 SCC 390

false agreement purporting to terminate original agreements and pilferage of records relating to a private limited company gives rise in the complaint were not adjudicable solely by civil court or company Law Board. Therefore, such proceedings cannot be quashed by exercising jurisdiction under Section 482 of Cr.P.C.

In **STATE OF A.P. v. ARAVAPALLY VENKANNA AND ANR[6]**. the Apex Court in clear terms expressed its opinion that inherent power should not be exercised to stifle a legitimate prosecution and to exercise such power at the threshold, to quash the proceedings in crime, must be exercised in very exceptional circumstances.

After analyzing the material on record to find out the material already in existence or to be collected during investigation would be sufficient for holding the concerned accused persons guilty has to be considered of the accused persons guilty has to be considered at the time of trial. At the time of framing the charge it can be decided whether prima facie case has been made out showing commission of an offence and involvement of the charged persons. At that stage also evidence cannot be gone into meticulously. A similar view was expressed by the Apex Court in **STATE OF ORISSA AND ANR. v. SAROJ KUMAR SAHOO[7], AMIT KAPOOR v. RAMESH CHANDER AND ANOTHER[8]** and held that power under Section 482 of Cr.P.C. is based upon the maxim *quando lex liquid alicuiconcedit, conceder videtur id quo res ipsa esse non protest*, i.e., when the law gives anything to anyone, it also gives all those things without which the thing itself would be unavoidable. Section 482 of Cr.P.C. confers very wide power on

[6] AIR 2009 SC 1863
[7] (2005) 13 SCC 540
[8] (2012) 9 SCC 460

the Court to do justice and to ensure that the process of the Court is not permitted to be abused.

In **STATE OF W.B. v. SWAPAN KUMAR GUHA**[9] the Apex Court held that if the F.I.R. does not disclose the commission of a cognizable offence, the Court would be justified in quashing the investigation on the basis of the information as laid or received.

Thus from the law declared by the Apex Court, where the F.I.R. does not disclose any cognizable offence, this court can exercise power under Section 482 Cr.P.C. and quash he proceedings. Even in **BHAJAN LAL's** case referred to supra, guidelines 1, 5, 6 and 7 clearly stated about the power that can be exercised by the Court. According to guideline No.1 where the allegations made in the complaint or F.I.R. on its face value taking in its entirety, *prima facie*, would not constitute an offence, the court can exercise power under Section 482 of Cr.P.C. Similarly when the complaint was lodged as an abuse of process of the court or to wreak vengeance against a particular individual, considering the material on record, the court can quash the proceedings against such of the persons against whom no allegation is made which constitute an offence on its face value.

In the present facts of the case, there were a specific allegations against the petitioner in Crl.P.No.8266 of 2016, K.Shanthan Kumar, who acted beyond the powers conferred upon him, more particularly, obtaining loan of Rs.4,00,000/- from L.I.C. at Kukatpally Branch on the policy No.602138737 and receiving Rs.23 lakhs from Metlife India Insurance

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[9] (1982) 1 SCC 561

Company Limited by furnishing forged and false documents, being the power of attorney holder, would constitute an offence, since he was not authorized to deal with the insurance company. Such act if proved he is liable for punishment for the offence allegedly committed by him. Therefore, by applying guideline No.1 in **BHAJAN LAL**'s case and other guidelines laid down by the Apex Court in other judgments referred to supra, it is difficult for this court at this stage i.e., at the threshold to quash the proceedings in Cr.No.50 of 2016 of Saifabad Police Station and that apart in view of the Judgment of the Apex Court in **SAROJ KUMAR SAHOO's** case and **ARAVAPALLY VENKANNA'**s case referred to supra, the power under Section 482 of Cr.P.C. should not be exercised by the High Court to stifle a legitimate prosecution and High Court being the highest Court of a State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy , more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard and fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage. While exercising jurisdiction under Section 482 of the Cr.P.C., it is not permissible for the Court to act as if it was a trial Court. Even when charge is framed at that stage, the Court has to only prima facie be satisfied about existence of sufficient ground for proceeding against the accused. For that limited purpose, the Court can evaluate material and documents on records but it cannot appreciate evidence. The Court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused.

Therefore, it is difficult to quash the proceedings against the petitioner in Crl.P.No.8266 of 2016, K.Shanthan Kumar, at the threshold, in view of specific allegations made against him regarding forgery, misappropriation, falsification of documents etc., as those allegations would constitute an offence on its face value. Hence, the proceedings against the petitioner in Crl.P.No.8266 of 2016 cannot be quashed.

The specific case of the petitioners in Crl.P.Nos.8267 and 8268, K.Jhansi Rani and K.Venu Gopal is that they are no way concerned with the alleged offence except making a bald allegations in the last page of the complaint. No specific role played by K.Jhansi Rani and K.Venu Gopal was disclosed in the entire complaint including date of commission of offence etc. In such case, the Court cannot be a silent spectator and allow vengeful prosecutions against such innocent persons.

The Apex Court in **STATE OF KARNATAKA VS. L.MUNISWAMY & ORS.**[10] highlighted the powers of the High Court to exercise jurisdiction under Section 482 Cr.P.C. and held that In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the

[10] AIR 1977 SC 1489

proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the legislature. The compelling necessity for making these observations is that without a proper realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice between the State and its subjects it would be impossible to appreciate the width and contours of that salient jurisdiction.

The inherent power is to be exercised *ex debito justitiae*, to do real and substantial justice, for administration of which alone Courts exist. Wherever any attempt is made to abuse that authority so as to produce injustice, the Court has power to prevent the abuse. It is, however, not necessary that at this stage there should be a meticulous analysis of the case before the trial to find out whether the case ends in conviction or acquittal. (Vide Mrs. Dhanalakshmi vs. R. Prasanna Kumar & Ors. AIR 1990 SC 494; Ganesh Narayan Hegde vs. S. Bangarappa & Ors. (1995) 4 SCC 41; and M/s Zandu Pharmaceutical Works Ltd. & Ors. vs. Md. Sharaful Haque & Ors. AIR 2005 SC 9).

In view of the law declared by the Apex Court in **L.MUNISWAMY**'s case, when a complaint was lodged without any details so as to connect the petitioners, K.Jhansi Rani and K.Venu Gopal, based on bald allegations, they cannot be proceeded in Cr.No.50 of 2016 for the alleged grave and serious offences.

In fact, it is not the case of the second respondent at any stage that these two persons are concerned with the affairs in the business or with the personal affairs of the second respondent. Therefore, based on such bald allegations without any details, if the investigation agency is allowed to investigate into the offence, allegedly committed by K.Jhansi Rani and K.Venu Gopal, it would amount to abuse of process of the Court. If the investigation is permitted without any material by this court, it is nothing but to failure to exercise jurisdiction which conferred on the court by the Code and consequently, I find that it is a fit case to quash the proceedings in Cr.No.50 of 2016 against the petitioners in Crl.P.No.8267 and 8268 of 2016, since there are no specific allegations regarding role played by them in the commission of the such offence referred above and they are not connected with either business or the personal affairs, of the second respondent, to avoid abuse of process of the court and to meet the ends of justice. Keeping in mind the very object of incorporating Section 482 Cr.P.C. conferring power on the court to prevent such abuse and vengeful prosecutions against any particular individual by disgruntled the complainant.

In view of foregoing discussion, the proceedings in Cr.No.50 of 2016 of Saifabad Police Station against K.Jhansi Rani and

K.Venu Gopal, petitioners in Crl.P.Nos.8267 and 8268 of 2016, are quashed while declining to quash the proceedings against K.Shanthan Kumar, petitioner in Crl.P.No.8266 of 2016.

Accordingly, Crl.P.No.8266 of 2016 is dismissed while allowing the Crl.P.Nos.8267 and 8268 of 2016.

Miscellaneous petitions, if any, pending in these criminal petitions shall stand closed.

M. SATYANARAYANA MURTHY, J

19-12-2016
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