

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.1430 of 2016

Arising Out of PS.Case No. -39 Year- 2014 Thana -MAHILA PS District- JEHANABAD

- =====
1. Anil Kumar Verma son of Late Sarju Prasad Verma resident of Mohalla Maurya Vihar Colony, West Side of B.M.P.- 16, P.O & P.S.- Phulwarisarif, District- Patna at Present posted as Branch Manager, State Bank of India, Gardhpura Branch, District- Begusarai.
 2. Arvind Kumar Choudhary son of Shyam Narayan Choudhary resident of Village Damodarpur, P.S- Bhawanganj, District- Begusarai the then Accountant, State Bank of India, Gardhpura Branch and District- Begusarai at present Posted at S.B.I. Mansi Branch Manager.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Rani Devi Wife of Ajay Kumar Bharti Resident of Village- Naima, P.S.- Ghosi (Okari O.P.), District- Jehanabad.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kaushlendra Kr. Sinha, Adv
Mr. Sunil Kr. Singh, Adv.

For the Opposite Party/s : Mr. Ram Anurag Singh (APP)

For the OP No.2 : Mr. Subodh Kumar Mishra, Adv.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
CAV ORDER

7 09-10-2018 Heard learned counsel for the petitioners, learned
APP as well as learned counsel for OP No.2.

2. Petitioners are aggrieved by an order dated 28.08.2015 passed by Sri A. K. Shukla, Judicial Magistrate-1st Class in Complaint Case No. 674/2015 whereby and whereunder petitioners have been summoned to face trial for an offence punishable under Section 376/34 IPC. At an initial stage showing the date of occurrence to be 14.06.2014, a written report was filed at the end of O.P. No.2, Rani Devi on 20.06.2014 whereupon



Jehanabad Mahila PS Case No. 39/2014 was registered under Section 376/34 of the IPC wherein, after concluding investigation, the Investigating Officer had submitted final report divulging the allegation to be untrue. During intermediary stage, protest petition was filed whereupon informant/O.P. No.2 was noticed vide order dated 25.05.2015 and subsequently thereof, vide order dated 10/07/2015, the final report was accepted and the case was directed to proceed on the protest petition treating it to be a complaint registering Complaint Case No. 674/2015 and then thereafter, the matter has been transferred to the court of Amit Kumar Shukla, Judicial Magistrate-1st Class, Jehanabad for conduction of an enquiry as provided under Section 202 CrPC, under Section 92(2) of the CrPC and during course thereof, it is evident that witnesses were examined and lastly, by the order impugned the petitioners have been summoned to fact trial, the subject matter of instant petition.

3. Allegation so attributed against the petitioners is that the husband of the informant is an employee of the State Bank of India and is presently posted at Garhpura Branch, District-Begusarai as an Assitant. Petitioners No.1, Anil Kumar Verma is the Branch Manager while petitioner No.2, Arvind Kumar Choudhary is the Accountant. While Informant was staying with



her husband at Garhpura both the accused used to visit as a result of which, they became known to each other. Few days back, informant has come to her Sasural lying at village- Naima where she was staying. Then, it has been alleged that on 14.06.2014 at about 9:00 PM, Anil and Arvind, they both came at her house and said that they have come nearby in order to participate in a marriage ceremony. As night has fallen, so they have come to stay at her house. They both slept in her guest room. At about 11:00 PM, they both called her on the pretext of fetching water whereupon, informant carried a jug full of water with a glass. As soon as, she entered inside the room, she was caught hold of by both of the accused who gagged her mouth, forcibly threw her on the bed and then, committed rape upon her one by one. Then thereafter, they threatened that in case of raising alarm at her end, they will oust her husband from the job as well as will also got him behind the bar. She became silent out of fear as well as shame whereupon, she had not disclosed the event either to her husband or to her father-in-law or mother-in-law. Anyhow, after two days, she informed her mother who informed her husband. Her husband inquired from her and then, he came along with her parents and then, written report has been filed.

4. It has been submitted at the end of both the



petitioners that their status has properly been identified. It is further evident that place of posting of petitioners happens to be more than 200 KMs away from the place of informant. It is further evident that none of the witnesses had disclosed including the complainant that petitioners were knowing since before about her native place as well as about her presence. Apart from this, there happens to be absence in the complaint petition to the effect that petitioners have come over vehicle which during course of statement has been introduced though, without any Registration No. It happens to be out and out an imaginable story and the motive for filing of aforesaid case is an intentional one. Husband of the O.P. No.2 has set up the O.P. No.2 to launch this case in order to coerce the petitioners to withdraw themselves with the departmental as well as criminal proceeding having been launched against the husband of O.P. No.2 as, the husband of O.P. No.2 has misappropriated huge amount and for that, petitioner no.1, Anil Kumar Verma had submitted a report on 05.06.2014 whereupon, an enquiry has been set up by the Head Office on 19.06.2014 and petitioner no. 2, Arvind Kumar Choudhary had furnished relevant papers. Considering the same, the husband of O.P. No.2 got the things managed and then, the instant case has been filed on 20.06.2014 showing the date of occurrence as 14.06.2014.



5. Also submitted that the manner whereunder witnesses have made statement before the learned lower court during course of an enquiry on its face, suggest that in order to fabricate a case, they have been improperly utilized.

6. On the other hand, learned APP as well as learned counsel for the O.P. No.2 have submitted that at the time of taking cognizance in accordance with 190 of the CrPC, only *prima facie* material has to be seen which the learned lower court perceived, found and has passed the order impugned which happens to be in accordance with law. It has also been submitted that the defence of the accused is a subject matter of trial and so, whatsoever plea has been raised at their end, may be a good defence but, not for the present purpose rather for the purpose of the trial. So, the present petition under the banner of Section 482 CrPC is not at all maintainable.

7. After having meticulous examination of the materials available on the record, it is evident that place of occurrence lies within the jurisdiction of Jehanabad. Native place of both the petitioners have not been disclosed. They have been identified as Manager as well as Accountant of the SBI, Garhpura Branch lying within the jurisdiction of Begusarai District. That means to say, accused happens to be outside jurisdiction of the



court. In such a situation, how the court has to proceed, Section 202 CrPC takes care of. For better appreciation the same is quoted below:-

“202. Postponement of issue of process.

(1) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance or which has been made over to him under section 192, may, if he thinks fit, postpone the issue of process against the accused, and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding: Provided that no such direction for investigation shall be made,--

(a) where it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session; or

(b) where the complaint has not been made by a Court, unless the complainant and the witnesses present (if any) have been examined on oath under section 200.

(2) In an inquiry under sub- section (1), the Magistrate may, if he thinks fit, take evidence of witnesses on oath: Provided that if it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session, he shall call upon the complainant to produce all his witnesses and examine them on oath.

(3) If an investigation under sub- section (1) is made by a person not being a police officer, he shall have for that investigation all the powers conferred by this Code on an officer- in- charge of a police station except the power to arrest without warrant.”

8. The aforesaid eventuality has been subject to consideration before the *Hon’ble Apex Court in Aroon Poorie v.*



Jayakumar Hiremath as reported in (2017) 7 SCC 767 wherein it has been held as follows:-

“The above apart, from the materials on record it appears that the appellant-accused in the present appeals have and maintain residence beyond the local jurisdiction of the learned trial court. Under the provisions of Section 202(1) CrPC, it was, therefore, mandatory for the learned Magistrate to hold an inquiry either by himself or direct an investigation by the police prior to the issuance of process. Admittedly, the same had not been done. If the aforesaid mandatory provisions of Section 202(1) CrPC had not been followed, the learned trial court would not have the jurisdiction to issue process/summons as has been done.”

9. In ***Parbatbhai Aahir @ Parbatbhai Bhimsinghbhai v. State of Gujarat*** as reported in (2017) 9 SCC 641, the mode of exercise of power vested to the High Court under Section 482 of the CrPC after discussing the earlier decisions culled upon under para-16 which is as follows:-

16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

16.1. [Section 482](#) preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

16.2. The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While



compounding an offence, the power of the court is governed by the provisions of [Section 320](#) of the Code of Criminal Procedure, 1973. The power to quash under [Section 482](#) is attracted even if the offence is non-compoundable.

16.3. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under [Section 482](#), the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

16.4. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

16.5. The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

16.6. In the exercise of the power under [Section 482](#) and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

16.7. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where



parties have settled the dispute;

16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

16.10. There is yet an exception to the principle set out in propositions (16.8) and (16.9) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.

10. In *Ashok Kumar Gupta v. State of Uttar Pradesh* as reported in (2017) 11 SCC 239 wherein, though cognizance has been taken under different sections but, after steps having been taken at the end of petitioner against the complainant for initiation of criminal proceeding and in the aforesaid background, it has been held as follows:-

“4. The appellant sought quashing of the said complaint on the ground that the criminal was a counterblast to the notice of dishonour of cheque upon which a summoning order had been passed and proceedings under Section 138 of the Negotiable Instrument Act 1881 were initiated by the appellant. The appellant relied on notice of dishonour, a copy of Criminal Complaint No. 135 of 2010 filed on 16.10.2010 and order of the Court dated 04.11.2010. Reliance has been placed on the judgments of this Court in *Eicher Tractor Ltd v. Harihar Singh* (2008) 16 SCC 763, *Mahindra and Mahindra Financial Services Ltd v. Rajiv Dubey* (2009) 1 SCC 706, apart from *Zandu Pharmaceutical Works Ltd v. Mohd.*



Sharaful Haque (2005) 1 SCC 122.

5. It is submitted that while it is true that in quashing proceedings, the Court could not go into disputed version, but in the present case, the proceedings are clear abuse of process of law.

6. On being asked, the learned counsel for the State fairly stated that the complaint appeared to be absurd. None has entered appearance on behalf the complainant.

7. After hearing the learned counsel for the parties and perusing the records, we are satisfied that the complaint filed by the complainant is clear abuse of the process of law.

8. Accordingly, we allow this appeal and quash the proceedings against the appellant.

11. In similar kind of allegation having been attributed to petitioner, Vineet Kumar in the background of financial dispute having amongst the husband of the complainant as well as petitioner, the *Hon'ble Apex Court in Vineet Kumar v. State of Uttar Pradesh as reported in (2017) 13 SCC 360*, after dealing with the factual aspect, proceeded to adjudicate and while quashing the order, decided the ambit and scope of Section 482 CrPC. In the facts and circumstance of the case, for better appreciation, the same is quoted hereinbelow:-

22. Before we enter into the facts of the present case it is necessary to consider the ambit and scope of jurisdiction under [Section 482](#) Cr.P.C. vested in the High Court. [Section 482](#) Cr.P.C. saves the inherent power of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.



23. This Court time and again has examined scope of jurisdiction of High Court under [Section 482](#) Cr.P.C. and laid down several principles which govern the exercise of jurisdiction of High Court under [Section 482](#) Cr.P.C. A three-Judge Bench of this Court in [State of Karnataka vs. L. Muniswamy and others](#), 1977 (2) SCC 699, held that the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the 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. In paragraph 7 of the judgment following has been stated:

“7....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 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.”

24. The judgment of this Court in [State of Haryana and others vs. Bhajan Lal and others](#), 1992 Supp (1) SCC 335, has elaborately considered the scope and ambit of [Section 482](#) Cr.P.C. Although in the above case this Court was considering the power of the High Court to quash the entire criminal proceeding including the FIR, the case arose out of an FIR registered under



[Section 161](#), [165](#) IPC and [Section 5\(2\)](#) of the Prevention of Corruption Act, 1947. This Court elaborately considered the scope of [Section 482](#) Cr.P.C./ [Article 226](#) in the context of quashing the proceedings in criminal investigation. After noticing various earlier pronouncements of this Court, this Court enumerated certain Categories of cases by way of illustration where power under 482 [Cr.P.C.](#) can be exercised to prevent abuse of the process of the Court or secure ends of justice.

25. Paragraph 102 which enumerates 7 categories of cases where power can be exercised under [Section 482](#) Cr.P.C. are extracted as follows:

“102. In the backdrop of the interpretation of the various relevant provisions [of the Code](#) under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under [Article 226](#) or the inherent powers under [Section 482](#) of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(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.

(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.

(3) Where the uncontroverted 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.

(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 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.”

26. A three-Judge Bench in [State of Karnataka vs. M. Devenderappa and another](#), 2002 (3) SCC 89, had occasion to consider the ambit of [Section 482](#) Cr.P.C. By analysing the scope of [Section 482](#) Cr.P.C., this Court laid down that authority of the Court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice the Court has power to prevent abuse. It further held that Court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of Court or quashing of these proceedings would otherwise serve the ends of justice. Following was laid down in paragraph 6:

“6.....All courts, whether civil or criminal possess, in the absence of any express provision, 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 on the principle *quando lex aliquid alicui concedit, concedere videtur et id sine quo res ipsae esse non potest* (when the law gives a person anything it gives him that without which it cannot exist). While exercising powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised *ex debito justitiae* to do real and substantial justice for the administration of which alone courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. 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.”

27. Further in paragraph 8 following was stated:

“8.....Judicial process should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death. The scope of exercise of power under [Section 482](#) of the Code and the categories of cases where the High Court may exercise its power under it relating to cognizable offences to prevent abuse of process of any court or otherwise to secure the ends of



justice were set out in some detail by this Court in [State of Haryana v. Bhajan Lal](#).”

28. [In Sunder Babu and others vs. State of Tamil Nadu](#), 2009 (14) SCC 244, this Court was considering the challenge to the order of the Madras High Court where Application was under [Section 482](#) Cr.P.C. to quash criminal proceedings under [Section 498A](#) IPC and [Section 4](#) of Dowry Prohibition Act, 1961. It was contended before this Court that the complaint filed was nothing but an abuse of the process of law and allegations were unfounded. The prosecuting agency contested the petition filed under [Section 482](#) Cr.P.C. taking the stand that a bare perusal of the complaint discloses commission of alleged offences and, therefore, it is not a case which needed to be allowed. The High Court accepted the case of the prosecution and dismissed the application. This Court referred to the judgment in Bhajan Lal case (supra) and held that the case fell within Category 7. Apex Court relying on Category 7 has held that Application under [Section 482](#) deserved to be allowed and it quashed the proceedings.

29. 25. In another case in [Priya Vrat Singh and others vs. Shyam Ji Sahai](#), 2008 (8) SCC 232, this Court relied on Category 7 as laid down in [State of Haryana vs. Bhajan Lal](#)(supra). In the above case the Allahabad High Court had dismissed an Application filed under [Section 482](#) Cr.P.C. to quash the proceedings under [Section 494](#), [120-B](#) and [109](#) IPC and [Section 3](#) and [4](#) of Dowry Prohibition Act. After noticing the background facts and parameters for exercise of power under [Section 482](#) Cr.P.C. following was stated in paragraphs 8 to 12:

“8. Further, it is pointed out that the allegation of alleged demand for dowry was made for the first time in December 1994. In the complaint filed, the allegation is that the dowry torture was made sometime in 1992. It has not been explained as to why for more than two years no action was taken.

9. Further, it appears that in the complaint petition apart from the husband, the mother of the husband, the subsequently married wife, husband’s mother’s sister, husband’s brother-in-law and Sunita’s father were impleaded as party. No role has been specifically



ascribed to anybody except the husband and that too of a dowry demand in February 1993 when the complaint was filed on 6-12-1994 i.e. nearly after 22 months. It is to be noted that in spite of service of notice, none has appeared on behalf of Respondent 1.

10. The parameters for exercise of power under [Section 482](#) have been laid down by this Court in several cases.

11. “19. The section does not confer any new power on the High Court. It only saves the inherent power which the Court possessed before the enactment [of the Code](#). It envisages three circumstances under which the inherent jurisdiction may be exercised, namely, (i) to give effect to an order under [the Code](#), (ii) to prevent abuse of the process of court, and

(iii) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognises and preserves inherent powers of the High Courts. All courts, whether civil or criminal, possess, in the absence of any express provision, 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 on the principle *quando lex aliquid alicui concedit, concedere videtur id sine quo res ipsa esse non potest* (when the law gives a person anything it gives him that without which it cannot exist). While exercising powers under the section, the Court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised *ex debito justitiae* to do real and substantial justice for the administration of which alone courts exist. Authority of the court exists for advancement of justice and if any attempt is made to



abuse that authority so as to produce injustice, the court has power to prevent abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice.

20. As noted above, the powers possessed by the High Court under [Section 482](#) of the Code are very wide and the very plenitude of the power requires great caution in its exercise. Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The 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.” [See [Janata Dal v. H.S. Chowdhary](#), [Raghubir Saran \(Dr.\) v. State of Bihar](#) and [Minu Kumari v. State of Bihar](#), SCC p. 366, paras 19-20.]

12. The present case appears to be one where Category 7 of the illustrations given in [State of Haryana v. Bhajan Lal](#) is clearly applicable.

12. Then thereafter, the factual aspect has been dealt with right from paras 30 to 40.4 wherein the Apex Court had occasion to see that after initiation of legal action by the petitioner Vineet Kumar, a case of rape has been instituted by the wife later



on and further concluded under para-41 which is as follows:-

41. Inherent power given to the High Court under [Section 482](#) Cr.P.C. is with the purpose and object of advancement of justice. In case solemn process of Court is sought to be abused by a person with some oblique motive, the Court has to thwart the attempt at the very threshold. The Court cannot permit a prosecution to go on if the case falls in one of the Categories as illustratively enumerated by this Court in [State of Haryana vs. Bhajan Lal](#). Judicial process is a solemn proceeding which cannot be allowed to be converted into an instrument of operation or harassment. When there are material to indicate that a criminal proceeding is manifestly attended with mala fide and proceeding is maliciously instituted with an ulterior motive, the High Court will not hesitate in exercise of its jurisdiction under [Section 482](#) Cr.P.C. to quash the proceeding under Category 7 as enumerated in [State of Haryana vs. Bhajan Lal](#), which is to the following effect:

“(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.” Above Category 7 is clearly attracted in the facts of the present case. Although, the High Court has noted the judgment of the [State of Haryana vs. Bhajan Lal](#), but did not advert to the relevant facts of the present case, materials on which Final Report was submitted by the IO. We, thus, are fully satisfied that the present is a fit case where High Court ought to have exercised its jurisdiction under [Section 482](#) Cr. P.C. and quashed the criminal proceedings.

13. From the annexure available on the record, it is crystal clear that with regard to criminal activity of the husband of



O.P. No.2, the petitioner no.1 had already taken proper steps informing the superior whereupon, departmental enquiry was initiated, followed with institution of a criminal case, pointing out instant prosecution to be frivolous one.

14. As such, the order impugned is set aside. Petition is allowed.

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(Aditya Kumar Trivedi, J)

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