THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION Nos.5451 & 5500 of 2016

COMMON ORDER:

Both these criminal petitions are filed under Section 482 Cr.P.C to quash the proceedings in C.C.Nos.226 & 227 of 2014 on the file of II AJCJ-cum-XIX Metropolitan Magistrate at Miyapur, Cyberabad, against the petitioners/Accused Nos. 1 & 3.

The parties and the allegations in both the criminal petitions in the subject issue are one and the same, but, the second respondent is distinct, hence both the revisions can be decided by common order.

For convenience sake, I would like to advert to the facts as narrated in Crl.P.No.5500 of 2016

Crl.P.No.5500 of 2016

The second respondent filed private complaint before the II AJCJ-cum-XIX Metropolitan Magistrate at Miyapur, Cyberabad, against four accused for the offences punishable under Sections 415, 416, 417, 418, 419, 420, 423, 463, 471 r/w 120-B IPC, alleging that one Gummala Narayana Swamy was the original owner of Ac.11-11 guntas in Nizampet village, Qutbullapur Mandal, Ranga Reddy District. He died leaving behind his two sons namely Gummala Balakrishna and Gummala Venkatratnam. Gummala Venkatratnam died and he is survived by his sons

Chandrashekar, Suryashekar, Uday Shekar and Madhushekar. Gummala Balakrishna also died and he is survived by his three sons namely Bharatratnam, Padma Rao (A-3) and Amarnath (A-4). Bharatratnam also died leaving behind his son Satish (A-2) and two others. Uday Shekar representing the branch of Gummala Venkatratnam, and Saraswathi representing the branch of Bharatratnam entered into an agreement of sale. For some reason or the other, the agreement holders could not proceed with the transaction and therefore the original owners as well as the agreement holders executed an Agreement of Sale-cum-General Power of Attorney in favour of T.Ramasubba Reddy (2nd respondent). Pursuant to the Agreement of Sale-cum-General Power of Attorney, T.Ramasubba Reddy parted considerable amount. The mother of the Gummala Satish (A-2) also executed an undertaking that she would get the necessary documents executed by Gummala Satish (A-2). Pursuant to the undertaking, Gummala Satish (A-2) executed ratification deeds ratifying the Agreement of Sale-cum-General Power of Attorney executed in favour of T. Ramasubba Reddy. Subsequently, the Gummala Satish (A-2) initiated criminal proceedings as well as civil proceeding questioning the ratification deeds. Thereupon, the T. Ramasubba Reddy filed a complaint before the IX-Metropolitan Magistrate, Cyberabad at Kukatpally. For better appreciation, paras 7 and 8 of the complaint are referred, which read as hereunder:-

> "The complainant submits that the accused No.1 handed over ratification deeds purported to have been signed and executed by accused No.2 and handed over the said document to Gummala Uday Sekhar, GPA Holder for presentation before Sub-Registrar's Officer (Medchal). The statements of accused No.1 were believed by the complainant and the GPA Holder Gummala Uday Sekhar. On 30-5-2007 the ratification deeds purporting to have been executed by accused No.1 and were registered in accordance with law through GPA Holder Sri Gummala Uday Sekhar as instructed by A.1. The complainant being a bona fide purchaser had no reason to suspect accused No.1. The GPA Holder was also kept in dark about accused No.2 signing the documents. The complainant submits that accused No.2 is knows of all the happenings in these transactions as and when they have taken place. Accused No.2 is a beneficiary of sale consideration given by the complainant to the accused No.1. Accused No.2 got issued a legal notice on 23-10-2010, disowning execution of Ratification Deeds on 30-5-2007. The complainant, on 24-11-2010, got issued reply notice to accused No.2 and marked copies of the reply notice to his mother – accused No.1. The complainant is a purchaser for consideration of the property referred to above. In view of accused No.2 staying in United States of America, accused No.1 has represented the interest of late Bharataratnam derived benefit and executed documents with an undertaking to get ratification deeds executed. In discharge of such undertaking, accused No.1 and accused No.2 in active collusion have induced, convinced the complainant to take ratification deed with forged signature and get them registered through the GPA Holder – Gummala Uday Sekhar……………"

Sri Patti Srinivasulu, learned counsel for the petitioners contended that, the proceedings against one of the accused i.e. A-2 in Crime No. 97 of 2011 on the file of K.P.H.B. Police Station, Cyberabad, for the same offences were quashed by this Court in Crl.P.Nos.579 & 605 of 2012, on the ground that that complaint is based on the Agreement of Sale-cum-General Power of Attorney executed by Gummala Uday Sekhar in favour of the second respondent. All through, it is the case of the petitioners that ratification deeds pressed into the service of the second respondents are not executed by him and A-2 initiated criminal proceedings as well as civil proceedings, disputing the genuineness of the ratification deeds. This Court held that, the complaint filed by the second respondent is only a counter blast to the proceedings which are already initiated against him by the second accused therein. Therefore, continuation of the proceedings against the petitioner in Crime No.97 of 2011 on the file of K.P.H.B. Police Station, Cyberabad, amounts to abuse of process of law and quashed the proceedings against A-2.

On the strength of the judgment in Crl.P.Nos.579 & 605 of 2012, learned counsel for the petitioners contended that the allegations made in the charge sheet would not constitute any offences, muchless, offences punishable under Sections 415, 416, 417, 418, 419, 420, 423, 463, 471 r/w 120-B IPC. Moreover, the complaint is filed as a counter blast to the proceedings already initiated both in civil and criminal courts by the second respondent against both the petitioners.

Learned counsel for the petitioners contended that the order passed by this Court in Crl.P.Nos.579 & 605 of 2012 will not come in the way of this Court to decide the petition and based on the material collected during investigation by the Investigation Agency, including reference of the disputed signatures to the expert for comparison and his opinion thereon. Moreover, when the allegations made in the complaint on its face value would constitute offences referred supra, this Court cannot exercise its inherent jurisdiction under Section 482 Cr.P.C to quash the proceedings in C.C.No.227 of 2014, since exercise of such jurisdiction is not a matter of routine and it is a matter of exception and such power has to be exercised only in rarest of the rate cases and prayed to dismiss the criminal petition.

In view of the contentions raised before this Court, it is necessary to advert to the allegations made in the present petitions.

The main contention raised in the petition appears that the allegations made in the complaint do not constitute an offence punishable under Section 420 IPC, as the main ingredient to constitute the offence under Section 420 IPC is 'Cheating and dishonestly inducing delivery of property', whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into valuable security.

To constitute an offence punishable under Section 420 I.P.C, there must be a false representation and dishonest concealment of fact either in the representation made by him or in the document obtained to hold the person guilty of the offence of cheating. It has to be shown that his intention was dishonest at the time of making promise and proof of such cheating depends upon the evidence available on record adduced by the parties before this Court. When the accused made part payment, based on bogus receipts, it would constitute an offence punishable under Section 420 I.P.C.

The distinction between 'cheating' and 'breach of contract' is explained by the Supreme Court in ***International Advanced Research Centre for Powder Metallurgy and New Materials (ARCI) and Ors. vs. Nimra Cerglass Technics (P) Ltd. and Ors.***[1], wherein, the Apex Court held that making of a false representation is one of the essential ingredients to constitute the offence of cheating Under Section 420 Indian Penal Code. In order to bring a case for the offence of cheating, it is not merely sufficient to prove that a false representation had been made, but, it is further necessary to prove that the representation was false to the knowledge of the accused and was made in order to deceive the complainant. Distinction between mere breach of contract and the cheating would depend upon the intention of the accused at the time of alleged inducement. If it is established that the intention of the accused was dishonest at the very time when he made a promise and entered into a transaction with the complainant to part with his property or money, then the liability is criminal and the accused is guilty of the offence of cheating. On the other hand, if all that is established that a representation made by the accused has subsequently not been kept, criminal liability cannot be fastened on the accused and the only right which the complainant acquires is the remedy for breach of contract in a civil court. Mere

[1] 2016 (1) SCC 348

breach of contract does not give rise to criminal prosecution for cheating unless fraudulent or dishonest intention is shown at the beginning of the transaction.

In view of the distinction drawn by the Apex Court in the judgment referred supra, cheating and breach of contract are distinct.

Undisputedly, a private complaint was filed by the second respondent for various offences mentioned supra and the same was referred by the Magistrate to the police by exercising power under Section 161 Cr.P.C by order dated 01.02.2011. On receipt of reference, the police registered a crime against the petitioners and others for the offences mentioned supra. In Crime No.97 of 2011, F.I.R was issued and the investigation was taken up in the matter by the K.P.H.B. Police. During investigation, the police examined only one witness and recorded statement and also referred the disputed signatures and admitted signatures of the petitioners and others. After obtaining the thumb impressions and specimen signatures of Gummala Saraswati for comparison with certified copy of ratification deed No.22820/2006 and original receipt dated 22.03.2015 for the purpose of investigation, the Investigating Agency forwarded the material to Director, FSL, Red Hills, A.P for comparison and opinion of an expert. The expert examined the specimen signatures of A-1 Saraswati which were obtained in the open court with the disputed signatures, examined and found some variations in the signatures and opined that the person who wrote the red enclosed signatures marked as S-1 to A-45 also wrote the red enclosed signatures marked as Q-1 to Q-9, Q-12 to Q-15. The expert also expressed his opinion that it is not possible to offer any opinion on the red enclosed signatures marked as Q-10, A-11 on the basis of present standards and filed charge sheet before the Magistrate.

The statement of the second respondent recorded by the police is placed on record by the learned counsel for the petitioner. According to the allegations made in the statement, the document contained the signatures of Gummala Saraswati and Gummala Satish, and when the second respondent requested for ratification deed on 23.03.2015, the same was executed on 04.03.2005. Later, Gummala Saraswati, the first petitioner herein/A-1 informed that she did not sign on the ratification deed and the signature of Gummala Satish appearing on the document is not that of hear son Gummala Satish and filed a complaint before the Magistrate. Thus, the contention that the signatures on the ratification deed were not that of these petitioners. But, the opinion of the expert is consistent with the standard signatures obtained by the first petitioner/A-1 which were in the Court and on comparison, the expert opined that Q-1 to Q-9, Q-12 to Q-15 were written by the same person. Therefore, the opinion of expert goes against the contention of the learned counsel for the petitioners that they did not sign on the ratification deed.

In any view of the matter, it is clear that there is a dispute with regard to execution of documents in respect of movable property by the first petitioner/A-1 allegedly forging the signatures of the petitioners 1 & 2. The offences allegedly committed by the petitioners are punishable under Sections 415, 416, 417, 418, 419, 420, 423, 463, 471 r/w 120-B IPC.

Section 415 IPC defines the offence 'cheating' and Section 416 IPC defines cheating by personation. Section 417 IPC deals with punishment for cheating. Section 418 IPC deals with cheating with knowledge that wrongful loss may ensure to person whose interest offender is bound to protect and Section 419 IPC deals with punishment for cheating by personation. Section 420 IPC deals with cheating and dishonestly inducing delivery of property. Section 423 IPC deals with dishonest or fraudulent execution of deed of transfer containing false statement of consideration and Section 463 IPC defined forgery. Section 464 IPC dealt with making a false statement and Section 471 IPC dealt with using as genuine a forged document.

Here, in this case, the petitioners/A-1 & A-3, did not induce the second respondent by making any promise, but simply they denied the execution of ratification deed while denying signatures appearing on the ratification deed. Therefore, denial of signatures on the document i.e. ratification deed produced by Gummala Satish(A-2) against whom the proceedings in crime stage were quashed would not constitute an offence punishable under Section 420 IPC.

Section 420 of I.P.C. deals with punishment for the offence of 'cheating'. Cheating is defined under Section 415 of I.P.C and it is as follows:

> **"415. Cheating:-** Whoever by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat".

The essential ingredients to constitute the offence of cheating are:

(i) There should be fraudulent or dishonest inducement of a person by deceiving him;

(ii) (a) The person so deceived should be induced to deliver any property to any person, or to consent that any person shall retain any property; or (b) The person so deceived should be intentionally induced to do or omit to do anything which he would not do or omit if he were not so deceived; and

(iii) In cases covered by (ii) (b), the act or omission should be one which causes or is likely to cause damage or harm to the person induced in body, mind, reputation or property.

In ***V.Y.Jose v. State of Gujarat***[2] the Apex Court laid down following ingredients to constitute cheating.

> "An offence of cheating cannot be said to have been made out unless the following ingredients are satisfied:
>
> (i) deception of a person either by making a false or misleading representation or by other action or omission;
>
> (ii) fraudulently or dishonestly inducing any person to deliver any property; or
>
> (iii) To consent that any person shall retain any property and finally intentionally inducing that person to do or omit to do anything which he would not do or omit.
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> For the purpose of constituting an offence of cheating, the complainant is required to show that the accused had fraudulent or dishonest intention at the time of making promise or representation. Even in a case where allegations are made in regard to failure on the part of the accused to keep his promise, in absence of a culpable intention at the time of making initial promise being absent, no offence under Section 420 of the Indian Penal Code can be said to have been made out.
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> An offence of cheating may consist of two classes of cases:
> (1) where the complainant has been induced fraudulently or dishonestly. Such is not the case here;
>
> (2) When by reason of such deception, the complainant has not done or omitted to do anything which he would not do or omit to do if he was not deceived or induced by the accused."

[2] (2009) 3 SCC 78

To take cognizance of the offence against the petitioners for the offence punishable under Section 420 IPC, the petitioners have to *prima facie* establish the basic ingredients referred above to constitute an offence punishable under Section 420 IPC. In the present case, the petitioners did not execute any document according to them and did not induce any person with a dishonest intention to part with any property and cheated them. In such case, the petitioners cannot be proceeded for the offence punishable under Section 420 IPC.

The other offence allegedly committed by the petitioners is punishable under Section 416 IPC. Section 416 IPC dealt with 'cheating by personation' and Section 419 IPC dealt with punishment for cheating by personation. According to it, if a person is said to "cheat by personation" by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is. Here, in this case, the peititoners/A-1 & A-3 did not project themselves as similar persons, unknowingly substituting the person for another. Therefore, the question of proceeding against the petitioners for the offence punishable under Section 419 IPC does not arise in this case. Therefore, I find no *prima facie* material to proceed against these petitioners for the offence punishable under Section 419 IPC.

The other offence allegedly committed by the petitioners is punishable under Section 417 IPC. i.e. 'punishment for cheating'. The definition of word 'cheating' is extracted in earlier paragraphs and in the present case, absolutely there is nothing to constitute an offence punishable under Section 416 IPC, since the petitioners did not dishonestly induce the second respondents to deliver any property to any person which is signed or sealed. Thereby, I find no *prima facie* material to proceed against these petitioners for the offence punishable under Section 417 IPC.

Section 418 IPC deals with cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect. Here, in this case, Gummala Satish (A-2) against whom the proceedings were quashed earlier by this Court, was the person who furnished the ratification deed containing the signatures of these petitioners. But, the petitioners did not produce any document, thereby, question of cheating the second respondent by these petitioners with the knowledge that they are likely thereby to cause wrongful loss to the second respondent whose interest in the transaction to which the cheating relates, he was bound, either by law, or by a legal contract, to protect, does not arise. In the absence of any allegations that these petitioners produced the ratification deed, to cheat the second respondent with the knowledge to cause wrongful loss, they cannot be proceeded for the offence punishable under Section 418 IPC. As discussed in the earlier paragraphs, the petitioners did not cheat the second respondent and thereby I find no *prima facie* material against these petitioners for the offence punishable under Section 418 IPC.

Section 423 IPC deals with dishonest or fraudulent execution of deed of transfer containing false statement of consideration. Here, in this case, Gummala Satish (A-2) allegedly purchased the ratification deed as if, it is executed by these petitioners. But, these petitioners did not execute any document containing false statement of consideration. The allegations made both in the private complaint and charge sheet would not disclose that these petitioners have executed or became a party to the ratification deed, which purports to transfer or subjects to any charge of any property, or any interest therein, containing any false statement related to consideration for realization of such transfer or charge. In the absence of any allegations to constitute such offence, the petitioners cannot be proceeded for the offence punishable under Section 423 IPC.

Section 463 IPC defined the offence 'forgery' and according to it, whoever makes any false document or false electronic record or part of a document, or electronic record with intent to cause damage or injury to the public or to any person, or to support any claim or title, or to cause by person to apart with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed commits forgery.

In **Sushil Suri v. C.B.I. & another**[3], the Supreme Court culled out basic elements to constitute the offence of 'forgery' and they are as follows:

(i) the making of a false document or part of it and

(ii) such making should be with such intention as is specified in the Section viz.

   a. to cause damage or injury to

      i. the public, or

      ii. any person; or

   b. to support any claim or title; or

   c. to cause any person to part with property; or

   d. to cause any person to enter into an express or implied contract; or

   e. to commit fraud or that fraud may be committed.

After completion of investigation, the Investigating Agency filed charge sheet. As alleged by the second respondent, the charge sheet did not disclose that the petitioners made any false documents or false electronic record or part of a document making of a false document or part of it to cause damage or infringe the rights of the second respondent. In such case, it is difficult to conclude that there is a *prima facie* material against these petitioners to constitute an offence punishable under Section 463 IPC, so as to punish them for the offences punishable under Section 471 IPC i.e. using as genuine a forged document or

[3] AIR 2011 SC 1713

electronic record. At best, Gummala Satish (A-2) is a person who allegedly personated the petitioners and furnished the original ratification deed before the petitioners who purchased the property from him, being the General Power of Attorney Holder and Accused No.2 is liable to be proceeded for those offences, but not these petitioners.

On close perusal of the allegations made in the charge sheet, it discloses that the second respondent believed that Accused No.1-Gummalla Saraswati and her family members along with Chandrashekar, Suryashekar, Uday Shekar and Madhushekar are the legal heirs of Gummalla Narayana Swamy are the owners of property covered by Sy.Nos.140,141,142,254 and 403, situated at Nizampet Village, Quthbullapur Mandal, Ranga Reddy District and one of the heirs/owners of the above said land viz., Gummalla Uday Sekhar s/o late Gummalla Venkataratnam was given General Power of Attorney concerning the above lands by the co-owners. On assurance given by the heirs of Gummalla Narayanaswamy, the second respondent negotiated with the possessors viz., Kammari Sivaiah and Rukka Reddy and after due negotiations for sale and purchase of property, finalized all the terms and conditions and on 21.03.2005 the heirs of Gummalla Narayanaswamy including Accused No.1 have executed and acknowledged receipt of total sale consideration amounting to Rs.40,81,00,000/-. The General Power of Attorney Holder-Uday Sekhar and Gummala Saraswati (A-1) on 24.03.2005 have executed undertaking in favour of the second respondent to the effect that, whereas the executant Gummalla Saraswathi w/o late G. Bharatha Ratnam is presently now at Hyderabad also endorses the undertaking for no objection to alienate the property to the second party and promises to get ratified the executed agreement for sale on 22.03.2005. Gummala Saraswati (A-1) having received her share of sale consideration is legally obligated and bound to discharge the obligation of getting the ratification deed from Gummala Satish (A-2) executed four ratification deeds purporting to have been executed by A-1 and were registered in accordance with law through GPA holder, Gummala Uday Sekhar. Thus, they committed grave offences punishable under offences punishable under Sections 415, 416, 417, 418, 419, 420, 423, 463, 471 r/w 120-B IPC.

But, as discussed in the earlier paragraphs, at best, the person who produced the document i.e. A-2-Gummala Satish alone is responsible for the alleged offences, but not these petitioners, since they did not furnish any document in the name and style as ratification deed. If for any reason, the document was not executed by these petitioners and created by Gummala Satish (A-2), against whom the proceedings were quashed, he alone is responsible for the acts of these petitioners. Therefore, the proceeding against these petitioners for the offences stated supra, would amount to abuse of process of law.

The power of this Court under Section 482 Cr.P.C is inherent and notwithstanding anything contained in the provisions of

Cr.P.C be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under Cr.P.C, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

In **State of Haryana** v. **Bhajan Lal**[4] this Court considered in detail the provisions of Section 482 and the power of the High Court to quash criminal proceedings or FIR. This Court summarized the legal position by laying down the following guidelines to be followed by High Courts in exercise of their inherent powers to quash a criminal complaint:

> (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] 1992 Supp. (1) SCC 335

(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.

In **(Mrs.) Dhanalakshmi v. R. Prasanna Kumar and others**[5], the Supreme Court dealt with the scope of Section 482 of Cr.P.C and it reads as under:

"Section 482 of the Code of Criminal Procedure empowers the High Court to exercise its inherent powers to prevent abuse of the process of Court. In proceedings instituted on complaint exercise of the inherent power to quash the proceedings is called for only in cases 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 is taken by the

[5] AIR 1990 SC 494

> Magistrate it is open to the High Court to quash the same in exercise of the inherent powers under Section 482. It is not, however, necessary that there should be a meticulous analysis of the case, before the trial to find out whether the case would end in conviction or not. The complaint has to be read as a whole. If it appears on a consideration of the allegations, in the light of the statement on oath of the complainant that ingredients of the offence/offences are disclosed, and there is no material to show that the complaint is mala fide, frivolous or vexatious. in that event there would be no justification for interference by the High Court.

In **Mukesh and others v. State for NCT of Delhi and others**[6], the Supreme Court opined that it is settled legal proposition that FIR is not an encyclopedia of the entire case. It may not and need not contain all the details. Naming of the accused therein may be important but not naming of the accused in FIR may not be a ground to doubt the contents thereof in case the statement of the witness is found to be trustworthy. The court has to determine after examining the entire factual scenario whether a person has participated in the crime or has been falsely implicated. The informant fully acquainted with the facts may lack necessary skill or ability to reproduce details of the entire incident without anything missing from the same. Some people may miss even the most important details in narration. Therefore, in case the informant fails to name a particular accused in the FIR, this ground alone cannot tilt the balance of the case in favour of the accused.

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[6] (2017) 6 SCC 1

In **State of Haryana** v. **Bhajan Lal**[7] this Court considered in detail the scope of provisions of Section 482 and the power of the High Court to quash criminal proceedings or FIR. The Apex Court summarized the legal position by laying down the following guidelines to be followed by High Courts in exercise of their inherent powers to quash a criminal complaint which are mentioned supra.

In ***State of Karnataka*** v. ***L. Muniswamy and Ors.***[8], the Supreme Court while considering scope and jurisdiction of the High Courts under Section 482 Cr.P.C, has held as under:

> "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."

In **R.P. Kapur v. State of Punjab**[9], the Apex Court held as follows:

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[7] 1992 Supp. (1) SCC 335
[8] AIR 1977 SC 1489
[9] AIR 1960 SC 866

> (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;
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> (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;
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> (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 (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.

In view of the guidelines laid down by the Apex Court in the judgments referred supra, if the facts on its face value are taken into consideration, it constitutes an offence, *prima facie* if proved. The Court cannot interfere, except when the Court comes to a conclusion that it is an out come of abuse of process of law.

Therefore, when the allegations made in the charge sheet disclosed commission of an offence punishable under the provisions of the Indian Penal Code, this Court cannot exercise its inherent power to quash the proceedings.

One of the contentions raised by the parties before this Court is that, civil suits are pending before the Civil Court and when civil suits are pending, filing present petition by these petitioners is nothing but abuse of process of this Court. But, no plaint copies are brought on record for perusal of this Court to verify and find out any civil litigation is pending in respect of the same claims covered by the calendar cases. Even if, civil litigation is ignored, still, I find no *prima facie* material to proceed against these petitioners, since the allegations made in the complaint do not constitute any of the offences referred supra *prima facie*.

In the result, the proceedings in C.C.No. 227 of 2014 on the file of II AJCJ-cum-XIX Metropolitan Magistrate at Miyapur, Cyberabad, against the petitioners/Accused Nos. 1 & 3 are hereby quashed and Crl.P.No.5500 of 2016 is allowed.

Consequently, miscellaneous applications pending if any, shall stand closed. No costs.

Crl.P.No.5451 of 2016

In view of the detailed order passed in Crl.P.No.5500 of 2016, the proceedings in C.C.Nos.226 of 2014 on the file of II AJCJ-cum-XIX Metropolitan Magistrate at Miyapur, Cyberabad, against the petitioners/Accused Nos. 1 & 3 are quashed and this criminal petition is also allowed.

Consequently, miscellaneous applications pending if any, shall stand closed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Dated:05.01.2018

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