THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.11755 of 2017

ORDER:

This criminal petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in F.I.R.No.06 of 2017 registered with CID, Andhra Pradesh, Amaravathi, Mangalagiri Police Station, for the offences punishable under Sections 403, 406, 409, 420 and 477 (A) read with 34 of Indian Penal Code (for short "I.P.C.").

The petitioners are accused Nos.1 and 2 in the above crime, respondent No.2 is the defacto complainant, who lodged report with the police making certain allegations against the petitioners, which are extracted hereunder for better appreciation:

> "Unauthorized sale of property belonging to the Church of South India Trust Association, Chennai without the permission of CSITA. The said property belongs to the Christian Minorities which was sold with fake link documents and unauthorized GPA. The GPA has to be given by the Church of South India Trust Association duly signed by Directors other than the honorary directors and registered paying the stamp Duty. The said property 5 Acres in Eluru opposite railway station was sold for 17 crores but was wrongly misinterpreted that the property was sold for 3 cores, and in turn purchased a land in Eluru which is a B Form land nearly 14 Cores was swallowed by Bishop and his followers.
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> Vidyanagar church property of 62 Acres worth approximately 200 Cores was sold by Valuri Eyalia who is bishops benami to others as the whole amount it cores was received by the Bishop Govada Daivasirwadam. The Bishop has not taken any legal action for canceling the sale deed till today and avoided informing the CSITA, Chennai, His followers have shared the money along with the Bishop.
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> Bishop Govada Daivasirwadam swallowed cores of rupees collected as deposits from the shop lease holders which were not deposited in the church bank accounts. These money is shared by him and his followers 1. GS Sudir, the secretary of the Diocese who is his nephew. 2.Gall Pramila Kumari, Asst Secretary, 3.Rev. Ratnaraj, Treasurer CSI KG Diocese, Dasari Christopher property secretary, Eluru, Mr Solomon, Chief Accountant,

CSI, KG Diocese, Rev and Advocate G Emmanuel, Pandu Jagadish executive member, Chinthalapudi, Rev V Chandrashekhar, of Visakhapatnam, Indupalle Sunita, secretary CSI St Pauls Basalica Vijayawada, V Emmanuel Executive Member of KG Diocese Visanapeta, Vijayawada, G.Prabudarshan Director Probodha Book Centre, Vijayawada, Anand Rao Samuel Executive Member, Chinthalapudi, Sudir Dutt Secretary, St Andrew Cathedral Machilipatna, Blessington Projects in charge, Machilipatnam, Kukala Lazarus Pastor, Ragavapuram, Rev Indupalle Karunadhi, Pastor CSI St. Pauls Basalica, Vijayawada have been involved in the above crimes.

Krishna Godavari and Costal Andhra Pradesh budget is 4 Cores, they have never showed any proper financial statements. This Bishop in his 10 years in the CSITA, and 13 years in the CSI has misappropriated cores of foreign funds received from different parts of the world. The same will be witnessed by the employee Ch MV Bhaskar and Sebastian who worked for 15 years who will disclose the facts.

The Church of South India Krishna Godavari Diocese should not have more than 5 bank accounts on different Heads. But they have 20 banks accounts in different parts of the Diocese, they open account, deposit cheques withdraw the money through office peon and staff and close have accounts in Vijayawada, deposited of 5 cores from money acquired by selling Kavulur lands and selling Burma teak from all bishops houses in Machilipatnam, Eluru and Gudivada saying they may fall any time.

The above said persons have committed offence by cheating the church members and committed breach of trust by collecting Lakhs of rupees as membership fee to excise their franchise and later denied one month before elections.

The Bishop and other have been accused in 43 criminal cases for misappropriation of more than 100 cores by the Serious Fraud Investigation Office, ordered by the Government of India.

The Bishop violated the Memorandum of Articles, Articles of Association and CSI constitution."

On the strength of the report lodged by the respondent No.2, C.I.D. police registered the above crime for the offences referred above and issued F.I.R.

Questioning the said F.I.R., the present quash petition is filed on various grounds mainly contending that CSITA is a company registered under the Companies Act, 1956 and its working is governed by the provisions of its Memorandum of Association and Articles of Association and a set of rules known as "***Synod Rules for the Management of Movable and Immovable Properties***" for the management of Movable and Immovable Properties lying within the jurisdiction of the 23 Dioceses of the CSI, but the CID police has no jurisdiction to investigate into the case.

The respondent No.2 was removed from the basic membership of the Krishna-Godavari Dioceses and the Church of South India in the 32nd meeting of Dioceses council held on 14th, 15th and 16th January 2017 at Machilipatnam. Therefore, he has no locus standi to lodge report and that the respondent No.2 was not designated as Director Elect of the Church of South India Trust Association since the Companies Act does not recognize such designation.

The report lodged with the police was due to personal grudge against the petitioners on account of removal from membership of CSITA, when the complaint is filed to wreck vengeance, the proceedings are liable to be quashed.

It is also contended that a bare reading of the entire report lodged with the police reveals that there is no iota of evidence or truth in the allegations and at best it would give raise to civil litigation, but the respondent No.2 gave colour of criminal offence to the civil wrong, on this ground the F.I.R. is liable to be quashed.

The other grounds raised in the petitioner are that the petitioners never executed any document pertaining to the property of Church of South India Association and in fact, the petitioner No.1 himself filed a complaint with the Collector in respect of the alienation of the land, therefore, the petitioners cannot be prosecuted for the offences referred above.

The allegations made in the report with the police are false on the face of the record and when a complaint is lodged without any material to establish *prima facie* that these petitioners committed any offence contrary to the settled rules for management of Movable and Immovable properties, the investigation against these petitioners cannot be proceeded as it would cause mental harassment.

Finally, it is contended that the respondent No.2 filed suit O.S.No.132 of 2007 on the file of Principal Junior Civil Judge, Machilipatnam against the petitioner No.1 and others including Church of South India Trust Association to get himself reinstated to the post of Secretary, CSITA when he was removed as he was acting contrary to the interest of Church of South India Trust Association. He also field I.A.No.258 of 2007 and 366 of 2007 in O.S.No.132 of 2007 to get reinstated to the post of Secretary, CSITA and restrain one D.Prabhakar Rao from holding the post of Secretary, CSITA, but the said petitions were dismissed on 09.05.2008. Respondent No.2 along with others also filed O.S.No.1637 of 2008 on the file of I Additional Junior Civil Judge, Vijayawada to declare the Circular dated 23.09.2008 issued by defendant No.1 therein i.e. CSI, Krishna Godavari Diocese as null and void and not binding on the plaintiffs therein and restoring the plaintiffs in the electoral body list, membership of churches among other reliefs. Respondent No.2 also filed I.A.No.1114 of 2008 in

O.S.No.1637 of 2008 on the file of I Additional Junior Civil Judge, Vijayawada seeking temporary injunction, and the same was dismissed on 30.12.2008. He also filed other suits, which are pending for adjudication on contest. The respondent No.2 having failed in all his attempts to get favourable order resorted to this litigation to wreck vengeance against the petitioners, therefore, the proceedings have to be quashed and prayed to quash the entire proceedings.

During hearing Sri J.Prabhakar, learned counsel for the petitioners contended that none of the allegations would constitute offence punishable under Sections 403, 406, 409, 420 and 477 (A) read with 34 of I.P.C., apart from that the respondent No.2 resorted to this criminal prosecution having failed in his attempts to wreck vengeance against the petitioners, in such case the investigation, without any material, cannot be permitted. The management of movable and immovable properties of Church of South India is governed by "Synod Rules for the Management of Movable and Immovable Properties". If any rules are violated, there is a procedure to take necessary action, but instead of resorting to such action, the respondent No.2 lodged report with the police making serious allegations as an arm-twisting method to bring these petitioners to his terms. Even otherwise, the High Court of Madras in C.R.P.No.3739 of 2016 passed order with regard to property disputes of Church of South India and held that Company Law Board has got jurisdiction and the Company Law Board also took up the cases and they are pending for adjudication, in such case C.I.D. is incompetent to investigate into the offence and prayed to quash the proceedings.

Learned Public Prosecutor for the State of Andhra Pradesh contended that merely because the Company Law Board having jurisdiction, when the petitioners committed cognizable offences punishable under Penal Code, it would not preclude the police from investigating into the offences allegedly committed by the petitioners and the acts of the petitioners would gave raise to both civil wrong and criminal offence; both the civil wrong and criminal are different in its essence and consequences, in a civil suit the Court pass appropriate decree and judgment, such decree is executable in a Court of law, whereas in criminal proceedings, the consequences are serious in nature and if the Court found that the accused is guilty of any offence, the Court convict them by imposing sentence of imprisonment or fine based on the nature of offence. Therefore, merely on the ground that civil proceedings are pending, the criminal proceedings cannot be quashed.

Learned Public Prosecutor for the State of Andhra Pradesh further contended that the investigation is not yet completed and the investigation is at threshold and the Court cannot exercise its inherent jurisdiction when the facts are incomplete and hazy irrespective of magnitude of criminal offence. Therefore, the Court cannot exercise its inherent jurisdiction at this stage. It is also contended that in case after due investigation, the investigating agency finds that there is no material to proceed against the petitioners, it may file a final report closing the proceedings and if for any reason, the investigating agency was able to collect evidence to constitute an offence during investigation, it may file charge sheet for various offences based on evidence. Thus, when the investigation is not yet commenced, the question of quashing proceedings at fetus stage is nothing but interfering with the investigation stifling the legitimate prosecution and prayed to dismiss the petition.

Considering rival contentions and perusing the material available on record, the points that arise for consideration are:

(1) ***Whether the allegations made in the report lodged with the police by the respondent No.2 would constitute any offence punishable under Sections 403, 406, 409, 420 and 477 (A) read with 34 of I.P.C. prima facie, if not the proceedings in F.I.R.No.06 of 2017 on the file of CID Police Station, Amaravathi, Mangalagiri be quashed?***

(2) ***Whether the C.I.D. Police are competent to investigate into the case in view of the jurisdiction that conferred on the Company Law Board, if so, whether the F.I.R.No.06 of 2017 on the file of CID Police Station, Amaravathi, Mangalagiri be quashed?***

P O I N T Nos.1 and 2:

The main contention of the learned counsel for the petitioners is that due to bitter enmity between the respondent No.2 and petitioners, he filed complaint with false allegations. But the scope of jurisdiction of this Court under Section 482 of Cr.P.C. is limited and this Court at this stage cannot appreciate the facts on record, but verify and conclude that if the allegations made in the complaint *prima facie* constitutes any cognizable offence, the Court shall not quash the proceedings since the powers of this Court are limited to give effect to the orders passed under the Code, to prevent abuse of process of Court or to secure the ends of justice.

Time and again, the scope of powers of this Court under Section 482 of Cr.P.C. were highlighted by the Apex Court in long line of perspective pronouncements, which are as follows:

In "***R.P. Kapur v. State of Punjab***[1]", the Apex Court laid down the following principles:

> (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
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> (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.

Section 482 of the Code of Criminal Procedure empowers the High Court to exercise its inherent power 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 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

[1] AIR 1960 SC 866

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 as held by the Apex Court in ***"Mrs.Dhanalakshmi v. R.Prasanna Kumar[2]"***

In "***State of Haryana v. Bhajan Lal***" (referred supra) the Apex Court considered in detail the powers of High Court under 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:

> (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

[2] AIR 1990 SC 494

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.

The powers of this Court at the stage of F.I.R. are limited and this Court can verify the F.I.R. and other material, if any, produced before the Court and decide whether such allegations would constitute any offence, but this Court cannot appreciate the evidence and cannot record whether the allegations would constitute any specific offence or not.

In ***"Ghanshyam Sharma v. Surendra Kumar Sharma[3]"*** the Apex Court held that the High Court cannot decide the provision under which the offence falls; it may be under the provisions cited in the impugned charge sheet or under the provision High Court felt was attracted, but it is for the trial Court to decide that on the evidence produced before it.

[3] (2014) 13 SCC 401

In another judgment "***Umesh Kumar v. State of Andhra Pradesh***[4]" the Apex Court is of the view that at the stage of exercising power under Section 482 of Cr.P.C. the High Court could examine the charge sheet, case diary and other material in the charge sheet which by no means can be termed as substantive evidence. However, in exercise of power under Section 482 of Cr.P.C., it is not permissible for the High Court to appreciate the evidence as it can only evaluate material documents on record to the extent of its prima facie satisfaction about the existence of sufficient ground for proceedings against the accused and the court cannot look into materials, the acceptability of which is essentially a matter for trial. Any document filed along with the petition labelled as evidence without being tested and proved, cannot be examined. Law does not prohibit entertaining the petition Under Section 482 Code of Criminal Procedure for quashing the charge sheet even before the charges are framed or before the application of discharge is filed or even during its pendency of such application before the court concerned. The High Court cannot reject the application merely on the ground that the accused can argue legal and factual issues at the time of the framing of the charge. However, the inherent power of the court should not be exercised to stifle the legitimate prosecution but can be exercised to save the accused to undergo the agony of a criminal trial.

Jurisdiction under Section 482 of the Code has to be exercised with a great care. In exercise of its jurisdiction High Court is not to examine the matter superficially. It is to be seen if a

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[4] (2013) 10 SCC 591

matter, which is essentially of civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law as held in ***"G.Sagar Suri v. State of UP[5]"***

In catena of perspective pronouncements of Apex Court, the Apex Court while deciding both criminal and Civil liabilities held that some acts may give raise to civil liability or criminal liability and in such case on the ground that the allegations would attract civil liability, the Court cannot quash the proceedings. Therefore, on the ground that the allegations would attract only civil liability, this Court cannot quash the proceedings.

In "***Pratibha Rani v. Suraj Kumar[6]"*** the question arose that when the civil as well as criminal remedy is available to a party, can a criminal prosecution be completely barred. In this case, the matter related to the Stridhan property. The complainant alleged that her husband, father-in-law and other relatives misappropriated her jewellery and other valuable articles entrusted to them by her parents at the time of marriage. The complainant alleged that these dowry articles were meant for her exclusive use; that the accused misbehaved and maltreated her and ultimately he turned her out without returning the dowry articles. The accused filed a criminal miscellaneous petition under Section 482 for quashing the Criminal proceedings and the High Court quashed the same. The accused contended that the dispute was of a civil nature and no criminal prosecution would lie. Under that circumstance, the Supreme Court held that there are a large

[5] (2000) 2 SCC 636
[6] (1985) 2 SCC 370

number of cases where criminal law and civil law can run side by side. The two remedies are not mutually exclusive but clearly coextensive and essentially differ in their content and consequence. The object of the criminal law is to punish an offender who commits an offence against a person, property or the State for which the accused, on proof of the offence, is deprived of his liberty and in some cases even his life. This does not, however, affect the civil remedies at all for suing the wrongdoer in cases like arson, accidents, etc. It is an anathema to suppose that when a civil remedy is available, a criminal prosecution is completely barred. The two types of actions are quite different in content, scope and import.

Similar view was also expressed by the Apex Court in "***Trisuns Chemical Industry vs. Rajesh Agarwal and Other***[7]".

If these two principles are applied to the present facts of the case, when serious allegations are made, which attract the offences punishable under Sections 403, 406, 409, 420 and 477-A read with 34 of I.P.C. merely on the ground that there were disputes between the petitioners and respondent No.2, the proceedings cannot be quashed by exercising power under Section 482 of Cr.P.C.

Undisputedly, investigation in the present case is at the fetus stage, in such case, it is difficult to quash the proceedings as held in "***State of Orissa v. Saroj Kumar Sahoo***[8]**",** wherein the Apex Court held that the inherent powers under Section 482 Cr.

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[7] 1999(8) SCC 686
[8] (2005) 13 SCC 540

P.C. should not be exercised by the High Court 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. 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.

In "***Kurukshetra University v. State Of Haryana***[9]", the Supreme Court took a serious view about quashing the proceedings by the High Court while exercising power under Section 482 Cr.P.C and observed as follows:

> "It surprises, us in the extreme that the High Court thought that in the exercise of its inherent powers under Section 482 of the CrPC, it could quash a First Information Report. The police had not even commenced investigation into the complaint filed by the Warden of the University and no proceeding at all was pending in any court in pursuance of the F.I.R. It ought to be realized that inherent powers do not confer an arbitrary jurisdiction on the High Court to act

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[9] AIR 1977 SC 2229

> according to whim or caprice. That statutory power has to be exercised sparingly, with circumspection and in the rarest of rare cases."

In view of the law declared by the Apex Court in "***State of Orissa v. Saroj Kumar Sahoo" and "Kurukshetra University v. State Of Haryana"*** (referred supra) when the investigation is at fetus stage, this Court cannot interfere with the process of investigation and quash the proceedings by exercising power under Section 482 of Cr.P.C.

Learned counsel for the petitioners mainly contended that the dispute is purely civil in nature and that the CSITA is registered under the Companies Act, thereby the C.I.D. has no power to investigate into such offence and the Court cannot take cognizance of any offence. Copy of Memorandum of Articles and Articles of Association, report of Sridhar Pamarthi, Registrar of Companies, dated 12.01.2016 are placed on record, in the said report of Sridhar, it was stated that the Registrar of Companies has received several complaints making various allegations against M/s Church of South India Trust Association, a company registered under Section 26 of the Indian Companies Act, 1913 and 4th person mentioned therein is Mr.Boddu Yohan, Ex.Diocese Secretary, No.2-155, Syndicate Bank Officers' Colony, Ballempari Street, Syndicate Bank Officers' colony, Ramavarappadu, Vijayawada, but this document at best disclosed about the pendency of summons, complaints etc. against various persons in different cases for various offences.

The National Company Law Tribunal passed order dated 18.11.2016 in C.A.No.12 of 2016, wherein the Tribunal decided the preliminary objection about the maintainability of the petition filed by the respondent, who is neither a member of respondent No.1 company nor 24 members, who had given consent to file the company petition are members of respondent No.1 company, and directed the erstwhile committee to hand over all the documents and books of accounts and other records of respondent No.1 company to the Registry in a sealed cover within a week from the date of pronouncement of the order, so that the record could be handed over to the Chairman for regulating the day to day affairs and running the management of respondent No.1 company till further orders. Later, the matter carried to the High Court of Madras in C.R.P.No.3739 of 2016, and the Madras High Court granted interim stay of operation of the order regarding handing over of papers.

In any view of the matter, M/s CSITA is a registered company under the Companies Act and merely because it is a registered company, the jurisdiction of C.I.D. is not ousted to investigate into any offence and apart from that the serious allegations made in the report by the respondent No.2 against the petitioners have to be investigated into to find out the truth in such allegations regarding sale of large extent of property to third parties and misappropriation of crores of foreign funds to unearth truth in the allegations since CSITA is only corporate body and nobody is bothering about misuse or misappropriation of funds and property belonging to CSITA.

Learned counsel for the petitioners would draw the attention of this Court to Chapter II of CSI Synod Rules, which deals with immovable properties, to contend that none of the parties is competent to deal with the property. According to Clause II to Chapter II of CSI Synod Rules that the Church of South India Trust Association or other Trust Association approved by the Synod of the Church of South India are the holding bodies of all immovable properties of the Church of South India. Immovable properties in the various Dioceses of the CSI are administered, supervised and preserved by the Attorneys of the Church of South India Trust Association, in the Dioceses The Church of South India Trust Association normally issues Power of Attorney to four person in a Diocese of whom any two can jointly act on behalf of the Church of South India Trust Association. However, in all transactions where immovable property is involved, it shall be obligatory on the part of the Bishop/Commissary or one of the other Attorneys nominated by him specifically for each registration to be one of the signatories. The Diocesan Executive shall nominate four names including the name of the Bishop, Diocesan Secretary, Diocesan Treasurer and one other to be appointed as Attorney by the Church of South India Trust Association. The power so granted is valid for two years at a time from the date of issue. Taking advantage of this rule, it is contended that the petitioners are not competent to deal with the property of the CSITA. The respondent No.2 contended that in violation of this rule, the petitioners transacted with the immovable property of the CSITA and committed serious offence punishable under Sections 403, 406, 409, 420 and 477 (A) read with 34 of I.P.C.

When a serious allegation is made alleging misappropriation of both movable and immovable properties of CSITA furnishing details, the Court cannot quash the proceedings as the investigation is not yet taken up by the investigating agency. If for any reason, the petitioners did commit no offence and no material is found against the petitioners to attract any one of the offences, for which F.I.R. was issued, certainly the Investigating agency will file a final report closing the F.I.R. and the question of prosecuting the petitioners for those offences in such case would be a misapprehension and based on such misapprehension, this Court cannot scuttle the power of investigating agency at the threshold to investigate into such offence when a serious allegations of misappropriation of foreign funds and sale of property of the Church of South India are made.

In "***Amit Kapoor v. Ramesh Chander***[10]" the Apex Court summarized the principles to be considered for proper exercise of jurisdiction, particularly with regard to quashing of a charge either in exercise of jurisdiction under Section 397 or Section 482 of Cr.P.C. or together, as the case may be, they are as follows:

> "1) Though there are no limits on the powers of the Court under Section 482 of the Code but the more the power, the more due care and caution is to be exercised in invoking these powers. The power of quashing criminal proceedings, particularly, the charge framed in terms of Section 228 of the Code should be exercised very sparingly and with circumspection and that too in the rarest of rare cases.
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> 2) The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents submitted therewith prima facie establish the offence or not. If the allegations are so patently absurd and inherently improbable that no prudent person can ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the Court may interfere.

[10] (2012) 9 SCC 460

3) The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.

4) Where the exercise of such power is absolutely essential to prevent patent miscarriage of justice and for correcting some grave error that might be committed by the subordinate courts even in such cases, the High Court should be loathe to interfere, at the threshold, to throttle the prosecution in exercise of its inherent powers.

5) Where there is an express legal bar enacted in any of the provisions of the Code or any specific law in force to the very initiation or institution and continuance of such criminal proceedings, such a bar is intended to provide specific protection to an accused.

6) The Court has a duty to balance the freedom of a person and the right of the complainant or prosecution to investigate and prosecute the offender.

7) The process of the Court cannot be permitted to be used for an oblique or ultimate/ulterior purpose.

8) Where the allegations made and as they appeared from the record and documents annexed therewith to predominantly give rise and constitute a 'civil wrong' with no 'element of criminality' and does not satisfy the basic ingredients of a criminal offence, the Court may be justified in quashing the charge. Even in such cases, the Court would not embark upon the critical analysis of the evidence.

9) Another very significant caution that the courts have to observe is that it cannot examine the facts, evidence and materials on record to determine whether there is sufficient material on the basis of which the case would end in a conviction, the Court is concerned primarily with the allegations taken as a whole whether they will constitute an offence and, if so, is it an abuse of the process of court leading to injustice.

10) It is neither necessary nor is the court called upon to hold a full-fledged enquiry or to appreciate evidence collected by the investigating agencies to find out whether it is a case of acquittal or conviction.

11) Where allegations give rise to a civil claim and also amount to an offence, merely because a civil claim is maintainable, does not mean that a criminal complaint cannot be maintained.

12) In exercise of its jurisdiction under Section 228 and/or under Section 482, the Court cannot take into consideration external materials

given by an accused for reaching the conclusion that no offence was disclosed or that there was possibility of his acquittal. The Court has to consider the record and documents annexed with by the prosecution.

13) Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but is an opinion formed prima facie.

14) Where the charge-sheet, report under Section 173(2) of the Code, suffers from fundamental legal defects, the Court may be well within its jurisdiction to frame a charge.

15) Coupled with any or all of the above, where the Court finds that it would amount to abuse of process of the Code or that interest of justice favours, otherwise it may quash the charge. The power is to be exercised ex debito justitiae, i.e. to do real and substantial justice for administration of which alone, the courts exist."

In view of the issue involved in this petition, it is relevant to refer the law declared by the Apex Court in various judgments.

In "***Jehan Singh v. Delhi Administration***[11]" it was held that where at the date of filing the petition under Section 561-A (old Code equivalent to Section 482 of the Code), no charge sheet has been laid and the matter is only at the stage of investigation by police, the court cannot, in exercise of its inherent jurisdiction under Section 561-A interfere with the statutory powers of the police to investigate into the alleged offence and quash the proceedings, Even assuming that the allegations in the F.I.R are correct and constitute an offence so as to remove the legal bar to institute proceedings the court cannot at that stage appraise the evidence collected by the police in their investigation. So any petition under Section 561-A at such a stage is premature and

[11] AIR 1974 SC 1146

incompetent.

Earlier to the judgment rendered in "***Jehan Singh v. Delhi Administration***" (referred supra), in "***King Emperor v. Nazir Ahmad***[12]" "***State of West Bengal v. S.N. Basak***[13]" similar view was expressed.

Relying on the principles laid down by the Privy Council in the above said judgment, the Apex Court in "***State of Bihar v. J.A.C. Saldanha***[14]" held that there is a clear cut and well demarcated sphere of activity in the field of crime detection and punishment. Investigation of an offence is the field exclusively reserved for the executive through the police department, the superintendence over which vests in the State Government. Once it investigates and finds an offence having been committed, it is its duty to collect evidence for the purpose of proving the offence once that is completed and the investigating officer submits report to the court requesting the court to take cognizance of the offence under S. 190 of the Code, its duty comes to an end. On cognizance of the offence being taken by the court there commences the adjudicatory function of the judiciary to determine whether an offence has been committed.

Similarly in "***V.K. Murugan v. State***[15]" the Madras High Court while dealing with identical case held as follows:

> "This petition under S. 482 of Crl. P.C. contains a very curious prayer that I should quash, by invoking S. 482, Crl. P.C, the F.I.R. which has been registered by the respondent who is the Inspector of Police, Virudhunagar. The decision in Kurukshetra University, v. State of Haryana will apply to the facts of the case now before me. In the case now

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[12] AIR 1945 PC 18 : 58 L.W. 57
[13] AIR 1963 SC 447
[14] 1980 Cri. L. J. 98 (S.C)
[15] 1980 T.N.L.J. 158

before me only an F.I.R. has been lodged. It is for the police to investigate into it. At this stage the petitioner cannot ask for the F.I R to be quashed. This petition is therefore dismissed."

The High Court in exercise of its inherent powers under Section 482 Cr.P.C. cannot quash the F I.R., more so when the police had not even commenced the investigation and no proceeding at all is pending in pursuance of the said F.I.R. as held in "***Durai Raj v. State Represented by the Sub-Inspector of Police***[16]".

In view of the principles culled out from the law declared by various Courts referred above, there is direct interdict on the powers of this Court to interfere with the investigation by exercising power under Section 482 of Cr.P.C.

In "***State of Bihar v. J.A.C. Saldanha***" (referred supra) the Apex Court held that adjudicatory functions of the judiciary to determine whether an offence has been committed, commences only on cognizance of the offence being taken by the court. Now at this stage to exercise the powers vested with this Court under Section 482 Cr.P.C. cannot be resorted to especially when the matter is being actually investigated into and that it is also the case of the respondent that a prima facie case has been made out with respect to the petitioner herein. Under these circumstances, bearing in mind the principles laid down by the Supreme Court in the above decisions, this Court has to exercise its power sparingly in exceptional circumstances to quash the proceedings.

In "***Eastern Spinning Mills and Virendra Kumar Sharda v. Rajiv Poddar***[17]" the Apex Court expressed displeasure for

[16] 1980 L.W. Cri. 36
[17] AIR 1985 SC 1668

granting injunction. Few facts of the judgment are relevant at this stage. The High Court in the proceedings before it filed by the accused, an injunction order was passed by the High Court by which investigating police officers are restrained from taking any step or any action or conducting investigation in pursuance of two F.I.Rs lodged by the complainant therein. The Apex Court while deciding legality of such order held that the order had the effect of interfering and staying investigation of offences by investigating officer performing statutory duty under the Cr.P.C. It is absolutely unnecessary to make reference to the decision of the Court and they are legion which have laid down that save in exceptional case where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences. And frankly such is not the case. This is a routine case where information of an offence or offences has been lodged, investigation commenced, search and seizure followed and the suspects arrested.

The High Court of Madras also expressed similar view in "***Munuswamy vs. Sub Inspector of Police, Peralam Police Station, East Thanjamr District***[18]" and held that such power cannot be exercised to quash the proceedings since it amounts to interference with the investigation.

The Apex Court in "***State of H.P. v. Pirthi Chand***[19]" and "***State of Orissa v. Saroj Kumar Sahoo"*** (referred supra) while deciding the powers of the High Court under Section 482 of Cr.P.C. the Division Bench of the Apex Court discussed about the powers

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[18] 1982 – LW (Crl) 149
[19] (1996)2 SCC 37

of the High Court by referring the principles laid down in "***State of Haryana v. Bhajan Lal***" (referred supra) and "***Mrs.Rupan Deol Bajaj v. Kanwar Pal Singh Gill***[20]" held that in deciding whether the case is rarest of rare cases to scuttle the prosecution in its inception, it first has to get into the grip of the matter whether the allegations constitute the offence. It must be remembered the FIR is only an initiation to move the machinery and to investigate into cognizable offence. After the investigation is conducted and the charge-sheet is laid, the prosecution produces the statements of the witnesses recorded under Section 161 of the Code in support of the charge-sheet. At that stage it is not the function of the Court to weigh the pros and cons of the prosecution case or to consider necessity of strict compliance of the provisions which are considered mandatory and its effect of non-compliance. It would be done after the trial is concluded. The Court has to prima facie consider from the averments in the charge-sheet and the statements of witnesses on the record in support thereof whether court could take cognizance of the offence, on that evidence and proceed further with the trial. If it reaches a conclusion that no cognizable offence is made out no further act could be done except to quash the charge sheet. But only in exceptional cases, i.e. in rarest of rare cases of mala fide initiation of the proceedings to wreak private vengeance, process of criminal is availed of in laying a report or FIR itself does not disclose at all any cognizable offence - the court may embark upon the consideration thereof and exercise the power.

It was further held that when investigating officer spends

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[20] 1996 Crl.L.J.381

considerable time to collect the evidence and places the charge-sheet before the Court, further action should not be short-circuited by resorting to exercise of inherent power to quash the charge-sheet. The social stability and order requires to be regulated by proceeding against the offender as it is an offence against the society as a whole. This cardinal principle should always be kept in mind before embarking upon exercising inherent power. The accused involved in an economic offence destabilize the economy and causes grave incursion on the economic planning of the State. When the legislature entrusts the power to the police officer to prevent organized commission of the offence or offences involving moral turpitude or crimes of grave nature and are entrusted with power to investigate into the crime in intractable terrains and secretive manner in concert, greater circumspection, care and caution should be borne in mind by the High Court when it exercises its inherent power. Otherwise, the social order and security would be put in jeopardy and to grave risk.

In "***Babubhai Jamnadas Patel v. State of Gujarat***[21]" the Apex Court while referring to the principles laid down in "***M.C.Abraham v. State of Maharashtra***[22]" held that that while investigation is in progress, the Court cannot direct the Investigating Agency to submit a report in accord with the Court's own view. In the facts and circumstances of the said case, Apex Court observed that it was open to the Magistrate, to whom the report is submitted by the Investigating Agency after a full and complete investigation, to either accept the same or to order a further inquiry. As far as the High Court is concerned, it could give

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[21] 2009 (3) ACR 3033 (SC)
[22] (2003) 2 SCC 649

directions for prompt investigation, but it could not direct the Investigating Agency to submit a report that is in accord with its views and that would amount to unwarranted interference with the investigation of the case by inhibiting the exercise of statutory power by the Investigating Agency.

The Apex Court in "***State of Haryana v. Bhajan Lal***" (referred supra) considered the scope of both Sections 154 and 156 of Cr.P.C. and the powers of the Court to interdict the investigation and laid down certain guidelines to be followed by the Courts and in fact the said judgment is being followed by all the Courts till date. Even according to the principles laid down in the above said judgment, the core of the Sections namely 156, 157 and 159 of the Code is that if a police officer has reason to suspect the commission of a cognizable offence, he must either proceed with the investigation or cause an investigation to be proceeded with by his subordinate; that in a case where the police officer sees no sufficient ground for investigation, he can dispense with the investigation altogether; that the field of investigation of any cognizable offence is exclusively within the domain of the investigating agencies over which the Courts cannot have control and have no power to stifle or impinge upon the proceedings in the investigation so long as the investigation proceeds in compliance with the provisions relating to investigation and that it is only in a case wherein a police officer decides not to investigate an offence, the concerned Magistrate can intervene and either direct an investigation or in the alternative, if he thinks fit, he himself can, at once proceed or depute any Magistrate subordinate to him to proceed to hold a preliminary inquiry into or otherwise to dispose of the case in the manner provided in the Code.

Police have Under Section 154(1) of the Code a statutory duty to register a cognizable offence and thereafter Under Section 156(1) a statutory right to investigate any cognizable case without requiring sanction of a Magistrate. However, the said statutory right to investigate a cognizable offence is subject to the fulfillment of a prerequisite condition, contemplated in Section 157(1). The condition is that the officer in-charge of a police station before proceeding to investigate the facts and circumstances of the case should have "reason to suspect" the commission of an offence which he is empowered Under Section 156 to investigate. What is the meaning of "reason to suspect" is not analyzed anywhere. But in "***State of Haryana v Bhajan Lal***" (referred supra) the Apex Court in paragraph Nos.42 to 46 analyzed the word "reason to suspect" based on the dictionary meanings. With reference to language used in Section 41 (a) and (g) of the Code, the words "reason to suspect" are apparently clear, plain and unambiguous. Considering the context and the object of the procedural provision in question, the Apex Court is of the view that only the plain meaning rule is to be adopted so as to avoid any hardship or absurdity resulting therefrom and the words are used and also to be understood only in common parlance.

In view of the principles laid down in "***State of Haryana v. Bhajan Lal***" (referred supra) and "***Mrs.Rupan Deol Bajaj v. Kanwar Pal Singh Gill***" the Court can exercise its inherent jurisdiction only in rarest of rare cases.

Then, what is rarest of the rare cases is again a question to be decided.

In "***Som Mittal v. Government of Karnataka***[23]", the Apex Court held that, when the words 'rarest of rare cases' are used after the words 'sparingly and with circumspection' while describing the scope of Section 482, those words merely emphasize and reiterate what is intended to be conveyed by the words 'sparingly and with circumspection'. They mean that the power under Section 482 to quash proceedings should not be used mechanically or routinely, but with care and caution, only when a clear case for quashing is made out and failure to interfere would lead to a miscarriage of justice. The expression "***rarest of rare cases***" is not used in the sense in which it is used with reference to punishment for offences under Section 302 IPC, but to emphasize that the power under Section 482 Cr.P.C. to quash the FIR or criminal proceedings should be used sparingly and with circumspection. Judgments are not to be construed as statutes. Nor words or phrases in judgments to be interpreted like provisions of a statute. Some words used in a judgment should be read and understood contextually and are not intended to be taken literally. Many a time a Judge uses a phrase or expression with the intention of emphasizing a point or accentuating a principle or even by way of a flourish of writing style. Ratio decidendi of a judgment is not to be discerned from a stray word or phrase read in isolation.

In view of the law declared by the Apex Court in the above judgment, the words 'rarest of the rare cases' used in many of the

[23] (2008) 3 Supreme Court Cases 574

judgments cannot be imported to the proceedings under Section 482 Cr.P.C, like imposing punishment for the offence punishable under Section 302 IPC. If, such interpretation to the words used in the judgment is given, the Court need not record its finding that it is rarest of the rare cases. The allegations made in the F.I.R did not disclose commission of any offences punishable under Sections 406,420,447 & 506 r/w 34 IPC, this Court can exercise its inherent jurisdiction and quash proceedings and more particularly, a civil dispute is converted into a criminal offence as an arm twisting method to bring the petitioners to the terms of the first respondent.

In "***Joseph Salvaraja v. State of Gujarat***[24]", '***Uma Shankar Gopalika v. State of Bihar***[25]', the Supreme Court made clear in all the above three judgments that, when a civil litigation is given a colour of criminal offence, the Court can exercise its inherent power and quash the proceedings and also observed that, when the matter appears to be purely civil in nature, there appears to be no cheating or a dishonest inducement for the delivery of property or breach of trust by the Appellant. The present FIR is an abuse of process of law. The purely civil dispute, is sought to be given a colour of a criminal offence to wreak vengeance against the Appellant. It does not meet the strict standard of proof required to sustain a criminal accusation.

The Supreme Court further held that, it is necessary to draw a distinction between civil wrong and criminal wrong as has been succinctly held by this Court in "***Devendra v. State of U.P***[26]", that, a distinction must be made between a civil wrong and a

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[24] (2011) 7 SCC 59
[25] (2005) 10 SCC 336
[26] 2009 (7) SCC 495

criminal wrong. When dispute between the parties constitute only a civil wrong and not a criminal wrong, the courts would not permit a person to be harassed although no case for taking cognizance of the offence has been made out.

In view of the settled law declared by the Courts referred supra, the proceedings initiated against these petitioners are nothing but abuse of process of the Court. Then, again, the question what is abuse of process of Court comes up.

In "***Chandran Ranaswami v. K.C. Palanisamy & others***[27]**"**, the Supreme relied on the judgment in "***Hui Chi-Ming vs. The Queen***[28]", wherein, the Privy Council defined the word "abuse of process" as something so unfair and wrong with the prosecution that the court should not allow a prosecutor to proceed with what is, in all other respects, a perfectly supportable case. In the same judgment, the Supreme Court relied on "***Zandu Pharmaceutical Works Ltd. and Others vs. Mohd. Sharaful Haque and Another***[29]" and observed that, 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

[27] (2013) 6 SCC740
[28] [(1992) 1 AC 34 (PC)]
[29] (2005) 1 SCC 122

assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.

In "***Regina v. Lincoln***[30]" also, the Queens Bench Division held as follows:

> "The basis that one is looking for is that this application to the justice on 29th October was an abuse of process of the law. That means it is alleged that it was something done which was quite inconsistent with the intention of Parliament: that it was using a section of an Act of Parliament for a purpose which Parliament had never intended it to be used for and it was deliberately so used with a view to frustrating the true will of Parliament as expressed in the Act."

In view of the definition of 'abuse of process of the court' in the judgments referred supra, the Legislature intention is to punish the person who committed offences under penal provisions, but the abuse of the same by artistic drafting of a complaint without filing of any iota of evidence would amount to abuse of process of the Court, since driving of an accused by issuing summons to face criminal prosecution is a serious matter of concern and it would not only disrepute his name, fame and esteem, but also cause both mental and physical trauma, which cannot be compensated by granting any amount of damages. If, such abuse of process is encouraged by the Courts, certainly, it would amount to failure of justice. Therefore, when the Court finds that report was lodged with the police and the police issued F.I.R and started investigating the offences, the Court shall exercise its inherent jurisdiction and quash the proceedings.

In view of the law declared by the Apex Court in the judgments referred above, it is difficult to come to any conclusion at this stage that the petitioners did commit no offence when the

[30] (1976) 1 All. E.R 490

investigation is not yet commenced, more particularly when serious allegations of misappropriation of foreign funds, sale of immovable property and misappropriation of amount for their own use.

Section 420 of I.P.C. deals with punishment for cheating and dishonestly inducing delivery of property. Cheating is defined under Section 415 of I.P.C.

> **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 required 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***" (referred supra) the Apex Court held as under:

> "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.
>
> 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.
>
> 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."

Section 406 of I.P.C. deals with punishment for criminal breach of trust. The word "criminal breach of trust" is defined under Section 405 of I.P.C.

In "***Jaswantrai Manilal Akhaney v. State of Bombay***[31]", the Apex Court reiterated that the first ingredient to be proved in respect of a criminal breach of trust is 'entrustment' and held as follows:

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[31] AIR 1956 SC 575

> ".. S. 405 which defines "criminal breach of trust" speaks of a person being in any manner entrusted with property, it does not contemplate the creation of a trust with all the technicalities of the law of trust. It contemplates the creation of a relationship whereby the owner of property makes it over to another person to be retained by him until a certain contingency arises or to be disposed of by him on the happening of a certain event."

The other offence allegedly committed by the petitioners is punishable under Section 477-A I.P.C i.e. which deals with falsification of accounts, whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully, and with intent to defraud, destroys, alters, mutilates or falsifies any book, electronic record paper, writing, valuable security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or wilfully, and with intent to defraud, makes or abets the making of any false entry in, or omits or alters or abets the omission or alteration of any material particular from or in, any such book electronic record, paper, writing, valuable security or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both. The explanation thereto explained that it shall be sufficient in any charge under this section to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be subject of the fraud, or any particular day on which the offence was committed.

In the report lodged by the respondent No.2, it is alleged as follows:

> "Vidyanagar church property of 62 Acres worth approximately 200 Cores was sold by Valuri Eyalia who is bishops benami to others as the whole amount it cores was received by the Bishop Govada Daivasirwadam. The Bishop has not taken any legal action for canceling the sale deed till today and avoided informing the CSITA, Chennai, His followers have shared the money along with the Bishop."

This allegation of sale of property of an extent of 62 Acres and realizing 200 crores and sharing of such amount by Bishop and his followers, is a matter of serious concern, and this allegation would attract the offence punishable under Section 477-A of I.P.C. Similarly, Bishop Govada Daivasirwadam swallowed crores of rupees allegedly collected as deposits from the shop lease holders, which were not deposited in the church bank accounts and the said money is shared by him and his followers GS Sudir, the secretary of the Diocese who is his nephew. 2.Gall Pramila Kumari, Asst Secretary, 3.Rev. Ratnaraj, Treasurer CSI KG Diocese, Dasari Christopher property secretary, Eluru, Mr Solomon, Chief Accountant, CSI, KG Diocese, Rev and others as referred in paragraph No.3 of the report lodged with the police.

The truth or otherwise in the allegations made in the report can be unraveled only after investigation since it is a disputed question of fact.

Similarly allegation of misappropriation of Rs.4 crores is made against the petitioners that the Bishop in his 10 years in the CSITA, and 13 years in the CSI has misappropriated cores of foreign funds received from different parts of the world and the employees of CSITA i.e. Ch MV Bhaskar and Sebastian, who worked for 15 years, are the witnesses to the said misappropriation and if they are examined, they would disclose the details of alleged misappropriation, this allegation has to be investigated into by the investigating agency.

Further allegations made against these petitioners is that the Church of South India Krishna Godavari Diocese maintaining 20 banks accounts in different parts of the Diocese and the petitioners opened the accounts, deposited cheques, withdrawn the money through office peon and staff and closed accounts in Vijayawada and misappropriated Rs.5 Crores, acquired by selling Kavulur lands and selling Burma teak from all bishops houses in Machilipatnam, Eluru and Gudivada.

The above allegations regarding misappropriation of crores of rupees in different ways taking advantage of their position in CSITA is a serious matter to be investigated into and at this stage the proceedings F.I.R. No.06 of 2017 on the file of CID Police Station, CID, A.P., Amaravathi, Mangalagiri cannot be quashed by exercising power under Section 482 of Cr.P.C. in view of the law declared by the Apex Court in various judgments referred supra.

If for any reason, the investigating agency comes to conclusion that the allegations made against these petitioners are within the purview of Company Law Board or purely civil in nature or no evidence is found against these petitioners during investigation, certainly it may file a final report closing the F.I.R., but at the threshold it is difficult to conclude that there is no *prima facie* material to proceed against the petitioners for various offences when the facts are incomplete and hazy taking into consideration of magnitude of the allegations made in the report lodged with the police.

In view of my foregoing discussion, I find no ground to exercise inherent jurisdiction under Section 482 of Cr.P.C. to quash the proceedings at this stage. Consequently, the petition is liable to dismissed.

In the result, the petition is dismissed. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

15.02.2018
Ksp