**HIGH COURT OF JAMMU AND KASHMIR**
**AT JAMMU**
**(THROUGH VIRTUAL MODE)**

CRM(M) No. 265/2019
CrlM No. 634/2019

Reserved on:- 19.11.2020
Pronounced on:-17.12.2020

Sarwan Singh .....Petitioner (s)

Through :- Mr. W.S Nargal, Advocate.

V/s

State .....Respondent (s)

Through :- Mr. Raman Sharma, AAG

**Coram: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE**

**JUDGMENT**

1. Through the medium of the instant petition, the petitioner has challenged F.I.R No. 02/2019 for offence under Section 5(1) (e) read with Section 5(2) of J&K Prevention of Corruption Act, registered with Police Station, Anti Corruption Bureau, Jammu.

2. The facts giving rise to the filing of the instant petition are that a secret verification on the basis of a complaint was undertaken by Police Station, Anti Corruption Bureau, Jammu against the petitioner herein, who was posted as Technical Officer to Chief Engineer, PHE, Jammu at the relevant time. During the secret verification, it was revealed that the petitioner had acquired huge assets, both movable and immovable, that were disproportionate to his known sources of income by resorting to corrupt and illegal practices and by abuse and misuse of his official position. The details of these properties are given as under:-

(a) *A double storey fully furnished palatial house (Ashiana) at Gandhi Nagar Extension, Jammu;*

(b) *Business activity in the name and style of Electroequip Pvt. Ltd. Located at 38/4 Block G. 3rd Cross Road Bargavi, Platinum Sahakar Nagar, Bangalore, Karnataka;*

(c) *Business in the name and style of S.A Automation and Communication located at 38/7 Block-G IIIrd Cross Road Bargavi Platinum Sahakar Nagar Bangalore Karnataka;*

(d) *Flat No. PH07, in Fortuna Sahakar Nagar, near Dominos Pizza Bangalore, Karnataka;*

(e) *Flat in Bhartiya City on the Tannissantra Main Road Bangalore, Karnataka next to Shoba City Bangalore, Karnataka;*

(f) *Business Unit in the name and style of S.A Automation in Plot No. 805, Sector No. 82, JLPL Industrial Area Sahibzada Ajit Singh Nagar, Mohali, Punjab;*

(g) *Flat bearing No. 30 in Employees Co-operative House Building Society Section 68 Sahibzada Nagar Mohali Punjab;*

(h) *Business unit in the name and style of M/S Janta Cement Tiles, Bricks and Block Factory in II-D Extension Centre, Govindsar, Kathua;*

(i) *Partnership in M/S Shakti Flour Mills at Saranoo Kalakote in District Rajouri.*

3. It was revealed that the petitioner had accumulated the aforesaid properties/assets either in his own name or in the name of his family members by abusing and misusing his official position as a public servant. Thus, a case of criminal misconduct as referred to in Section 5(1) (e) of J&K Prevention of Corruption Act punishable under Section 5(2) of the said Act was prima-facie established and formal F.I.R bearing No. 02/2019 was registered against the petitioner, who has challenged the aforesaid F.I.R on the following grounds:-

(a) That the allegations made in the F.I.R are without any basis and the same are factually incorrect.

(b) That the properties mentioned above do not belong to the petitioner but some of these properties belong to his son, who is an Engineer by profession and has his own trading business.

(c) That the properties, which the petitioner actually owns, have been regularly reflected by him in his annual property returns.

(d) That the F.I.R is actuated by malafides inasmuch as, the purpose of lodging the same was to deny promotion to the petitioner and to promote the junior officers of the petitioner over and above him.

(e) That a detailed inquiry has been conducted by the Chief Engineer, PHE, Jammu with regard to same issue, which is subject matter of the impugned F.I.R, whereafter, the petitioner has been exonerated of all the charges and

(f) That the impugned F.I.R is nothing but outcome of malice and concoction.

4. The respondents have resisted the petition by filing reply thereto. In its reply, it has been contended by the respondents that the investigation of the case is still at initial stage and it is being ascertained as to from where the money has come for acquisition of the properties in question. It is further contended that the documents attached with the petition to justify the ownership of the properties in question are required to be examined so as to ascertain the exact ownership and value of these properties. It is also contended that the petition is premature and allegations against the petitioner are still under investigation. The respondents have denied any malice and contended that they

have nothing to do with the promotion of the petitioner to the post of Chief Engineer, which is purely a service matter.

5. I have heard learned counsel for the parties and perused the material on record.

***6.*** The primary ground urged by learned counsel for the petitioner is that the subject matter of the impugned F.I.R was also the subject matter of departmental enquiry conducted by Chief Engineer, PHE Jammu and the petitioner has been exonerated of the charges after holding a detailed enquiry. On this ground, it is urged that criminal proceedings against the petitioner cannot go on because the standard of proof in criminal proceedings is higher than the standard of proof in departmental inquiry. Thus, if the charges could not be proved on the touchstone of preponderance of probability, there is no chance of proof of the said charges in a proceeding, where the same are required to be proved beyond reasonable doubt. To support his contention, the learned counsel has relied upon the judgment of the Supreme Court in the case of ***P.S Rajya Vs. State of Bihar****; (1996) 9 SCC 1* as also the judgment passed by the Supreme Court in the case titled ***Ashoo Surendra Nath Tiwari Vs. The Deputy Superintendent of Police, EOW, CBI and anr. ; 2020 SCC Online 739***.

***7.*** In P.S Rajya's case (supra), the Supreme Court has observed that the standard of proof required to establish the guilt in a criminal case is far higher than the standard of proof required to establish the guilt in the departmental proceedings. In the said case, which pertained to the charges of disproportionate assets, the Engineers had prepared valuation report of the house of the petitioner for income tax purposes depicting its valuation @ Rs. 4.67 lakhs, whereas, same Engineers prepared valuation of the same house

during the investigation of the case by the CBI @ Rs. 7, 69, 300/-. The appellant in that case was cleared of the charges in the departmental enquiry by the Central Vigilance Commission, which was accepted by the UPSC. The Court, on the peculiar facts of the case, held that criminal proceedings initiated against the appellant on the same charges cannot be pursued.

***8.*** In a later judgment of the Supreme Court in ***Kishan Singh (D) through LRs Vs. Gurpal Singh and ors,; (2010) 8 SCC 775***, a contrary view has been taken by the Supreme Court to the effect that the findings of fact recorded by Civil Court do not have any bearing so far as criminal case is concerned and vice-versa. The Court observed that there is neither statutory nor any legal principal that findings recorded by the Court either in Civil or Criminal proceedings shall be binding between the parties while dealing with same subject matter and both the cases have to be decided on the basis of the evidence adduced therein.

***9.*** The two contrary views taken by the Supreme Court in the aforesaid two cases came up for consideration before a three Judge Bench of the Supreme Court in the case of ***State (NCT of Delhi) Vs. Ajay Kumar Tyagi; (2012) 9 SCC 685.*** The Court, after noticing the facts and observations of the Supreme Court in P.S Rajya's case, concluded as under:-

> *"Even at the cost of repetition, we hasten to add none of the heads in the case of P.S. Rajya (Supra) is in relation to the effect of exoneration in the departmental proceedings on criminal prosecution on identical charge. The decision in the case of P.S. Rajya (Supra), therefore does not lay down any proposition that on exoneration of an employee in the departmental proceeding, the criminal prosecution on the identical charge or the*

*evidence has to be quashed. It is well settled that the decision is an authority for what it actually decides and not what flows from it. Mere fact that in P.S. Rajya (Supra), this Court quashed the prosecution when the accused was exonerated in the departmental proceeding would not mean that it was quashed on that ground. This would be evident from paragraph 23 of the judgment, which reads as follows:*

*"23. Even though all these facts including the Report of the Central Vigilance Commission were brought to the notice of the High Court, unfortunately, the High Court took a view that the issues raised had to be gone into in the final proceedings and the Report of the Central Vigilance Commission, exonerating the appellant of the same charge in departmental proceedings would not conclude the criminal case against the appellant. We have already held that for the reasons given, on the peculiar facts of this case, the criminal proceedings initiated against the appellant cannot be pursued. Therefore, we do not agree with the view taken by the High Court as stated above. These are the reasons for our order dated 27-3-1996 for allowing the appeal and quashing the impugned criminal proceedings and giving consequential reliefs."*

*From the reading of the aforesaid passage of the judgment it is evident that the prosecution was not terminated on the ground of exoneration in the departmental proceeding but, on its peculiar facts".*

10. The Court further referred to the observations of the Supreme Court in ***State Vs. M. Krishna Mohan; (2007) 14 SCC 667*** that exoneration in departmental proceeding *ipso facto* would not lead to acquittal of the accused in criminal trial and that decision in P.S Rajya's case was rendered on peculiar facts obtaining therein.

11. The Supreme Court also referred to the case of ***Central Bureau of Investigation Vs. V.K Bhutiani; (2009) 10 SCC 674,*** wherein the Court had noted with approval its observations in M. Krishna Mohan's case (supra) that exoneration in departmental proceedings would not lead to automatic exoneration in criminal proceedings. It was a case where the accused had challenged his prosecution before the High Court relying on the decision of the Supreme Court in P.S Rajya's case and the High Court quashed the prosecution. On a challenge by the CBI, the decision was reversed and after relying on the decision in the case of M. Krishna Mohan, the Supreme Court came to the conclusion that quashing of the prosecution is illegal.

12. The Supreme Court in Ajay Kumar Tyagi's case (supra) after discussing the whole law on the subject, came to the conclusion that exoneration in departmental proceedings *ipso facto* would not lead to acquittal of the accused in criminal trial. While holding so, the Court observed as under:-

> *"Therefore, in our opinion, the High court quashed the prosecution on total misreading of the judgment in the case of P.S. Rajya (Supra). In fact, there are precedents, to which we have referred to above speak eloquently a contrary view i.e. exoneration in departmental proceeding ipso facto would not lead to exoneration or acquittal in a criminal case. On principle also, this view commends us. It is well settled that the standard of*

> *proof in department proceeding is lower than that of criminal prosecution. It is equally well settled that the departmental proceeding or for that matter criminal cases have to be decided only on the basis of evidence adduced therein. Truthfulness of the evidence in the criminal case can be judged only after the evidence is adduced therein and the criminal case cannot be rejected on the basis of the evidence in the departmental proceeding or the report of the Inquiry Officer based on those evidence.*
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> *We are, therefore, of the opinion that the exoneration in the departmental proceeding ipso facto would not result into the quashing of the criminal prosecution. We hasten to add, however, that if the prosecution against an accused is solely based on a finding in a proceeding and that finding is set aside by the superior authority in the hierarchy, the very foundation goes and the prosecution may be quashed. But that principle will not apply in the case of the departmental proceeding as the criminal trial and the departmental proceeding are held by two different entities. Further they are not in the same hierarchy".*

13. Learned counsel for the petitioner has vehemently contended that the judgment of the Supreme Court in *Ashoo Surendranath Tiwari's case* being later in point of time would hold the field. In the said case, the Supreme Court has, after relying upon the ratio laid down in P.S Rajya's case as also the ratio laid down by the Supreme Court in ***Radheshyam Kejriwal Vs. State of West Bengal; (2011) 3 SCC 581,*** culled out the following principles:-

> *"38. The ratio which can be culled out from these decisions can broadly be stated as follows :-*
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> *(i)Adjudication proceeding and criminal prosecution can be launched simultaneously;*
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> *(ii)Decision in adjudication proceeding is not necessary before initiating criminal prosecution;*
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> *(iii)Adjudication proceeding and criminal proceeding are independent in nature to each other;*
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> *(iv)The finding against the person facing prosecution in the adjudication proceeding is not binding on the proceeding for criminal prosecution;*
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> *(v) Adjudication proceeding by the Enforcement Directorate is not prosecution by a competent court of law to attract the provisions of Article 20 (2) of the Constitution or Section 300 of the Code of Criminal Procedure;*
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> *(vi) The finding in the adjudication proceeding in favour of the person facing trial for identical violation will depend upon the nature of finding. If the exoneration in adjudication proceeding is on technical ground and not on merit, prosecution may continue; and*
>
> *(vii) In case of exoneration, however, on merits where allegation is found to be not sustainable at all and person held innocent, criminal prosecution on the same set of facts and circumstances cannot be allowed to continue underlying principle being the higher standard of proof in criminal cases."*

14. The Court went on to opine that the yardstick would be to judge as to whether the allegation in the adjudication proceedings as well as the proceedings for a prosecution is identical and the exoneration of the person concerned in the adjudication proceedings is on merits. In case it is found on merit that there is no contravention of the provisions of the Act, in the

adjudication proceedings, the trial of the person concerned shall be an abuse of the process of the Court.

15. From careful analysis of the law discussed by the Supreme Court in the aforesaid judgments, it is clear that there is diversion of opinion expressed by the Supreme Court in *Ajay Kumar Tyagi's case* and *Ashoo Surendranath Tiwari's case*. While in the former judgment, the Supreme Court has, after discussing the earlier case law on the subject, observed that the exoneration in departmental proceedings would not result in quashing of the criminal prosecution, whereas in the *Ashoo Surendranath Tiwari's case*, it has been laid down that if the allegations in the adjudication proceedings as well as in the proceedings for prosecution are identical and the exoneration of the person concerned in the adjudication proceedings is on merits, the trial of the person concerned shall be an abuse of the process of the Court. It is to be noted here that in *Ashoo Surendranath Tiwari's case(supra)*, the judgment delivered by the Supreme Court in *State Vs. Ajay Kumar Tyagi (supra)* has neither been referred nor considered by the Court. Both the aforesaid judgments have been delivered by Benches of co-equal strength.

***16.*** The question arises as to what is the course open to this Court in this situation. A five Judge Bench of the Supreme Court has, in the case of ***Atma Ram Vs. State of Punjab, AIR 1959 SC 519,*** observed that when confronted with two contrary decisions of equal authorities, the subordinate Court is not necessarily obliged to follow the later, but would have to perform the embarrassing task of preferring one view to another. A Full Bench of the Bombay High Court in the case of ***Kamleshwarkumar Ishwardas Patel Vs. Union of India and ors.; 1994 (2) Mh.Lj. 1669***, while considering the issue

regarding the course to be followed by the High Court when confronted with contrary decisions of the Supreme Court, observed as under:

> *14. It has been pointed out by one of us, while speaking for a Special Bench of the Calcutta High Court in Bholanath v. Madanmohan, AIR 1988 Cal 1 at p.57 on the question as to the course to be followed by the High Court when confronted with contrary decisions of the Supreme Court emanating from Benches of co-equal strength, as hereunder:*
>
> *"..... When contrary decisions of the Supreme Court emanate from Benches of equal strength, the course to be adopted by the High Court is, firstly, to try to reconcile and to explain those contrary decisions by assuming, as far as possible, that they applied to different sets of circumstances. This in fact is a course which was recommended by our ancient Jurists - "Srutirdwaidhe Smritirdwaidhe Sthalaveda Prakalapate" - in case there are two contrary precepts of the Sruties or the Smritis, different cases are to be assumed for their application. As Jurist Jaimini said, contradictions or inconsistencies are not to be readily assumed as they very often be not real but only apparent resulting from the application of the very same principle to different sets of facts - "Prayoge Hi Virodha Syat". But when such contrary decisions of co-ordinate Benches cannot be reconciled or explained in the manner as aforesaid, the question would arise as to which one the High Court is obliged to follow."*
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> *"One view is that in such a case the High Court has no option in the matter and it is not for the High Court to decide which one it would follow but it must follow the later one. According to this view, as in the case of two contrary orders issued by the same authority, the later would supersede the former and would bind the subordinate and as in the case of two contrary legislations by the same*

*Legislature, the later would be the governing one, so also in the case of two contrary decisions of the Supreme Court rendered by Benches of equal strength, the later would rule and shall be deemed to have overruled the former. P. B. Mukharji, J. (as his Lordship then was) in his separate, though concurring, judgment in the Special Bench decision of this Court in Pramatha Nath v. Chief Justice, AIR 1961 Cal. 545 at p.55, para 26, took a similar view, S. P. Mitra, J. (as his Lordship then was) also took such a view in the Division Bench decision of this Court in Sovachand Mulchand v. Collector, Central Excise, AIR 1968 Cal 174 at 186, para 56. To the same effect is the decision of a Division Bench of the Mysore High Court in New Krishna Bhavan v. Commercial-tax Officer, AIR 1961 Mys 3 at p. 7 and the decision of the Division Bench of the Bombay High Court in Vasant v. Dikkaya, AIR 1980 Bom. 341. A Full Bench of the Allahabad High Court in U.P. State Road Transport Corpn. v. Trade Transport Tribunal, AIR 1977 All 1 has also ruled to that effect. The view appears to be that in case of conflicting decisions by Benches of matching authority, the law is the latest pronouncement made by the latest Bench and the old law shall change yielding place to new."*

*"The other view is that in such a case the High Court is not necessarily bound to follow the one which is later in point of time, but may follow the one which, in its view, is better in point of law. Sandhawalia, C.J. in the Full Bench decision of the Punjab & Haryana High Court in Indo-Swiss Time Ltd. v. Umarao, AIR 1981 P&H 213 took this view with the concurrence of the other two learned Judges, though as to the actual decision, the other learned Judges differed from the learned Chief Justice. In the Karnataka Full Bench decision in Govinda Naik v. West Patent Press Co.,AIR 1980 Kar 92 the minority consisting of two of the learned Judges*

*speaking through Jagannatha Shetty, J. also took the same view (supra, at p. 95) and in fact the same has been referred to with approval by Sandhawalia, C.J. in the Full Bench decision in Indo-Swiss Time (supra)."*

*"This later view appears to us to be in perfect consonance with what our ancient Jurist Narada declared - Dharmashastra Virodhe Tu Yuktiyukta Vidhe Smrita - that is, when the Dharmashastras or Law Codes of equal authority conflict with one another, the one appearing to be reasonable, or more reasonable is to be preferred and followed. A modern Jurist, Seervai, has also advocated a similar view in his Constitutional Law of India, which has also been quoted with approval by Sandhwalia, C.J. in Indo-Swiss Time (supra, at p. 220) and the learned Jurist has observed that "judgments of the Supreme Court, which cannot stand together, present a serious problem to the High Courts and Subordinate Courts" and that "in such circumstances the correct thing is to follow that judgment which appears to the Court to state the law accurately or more accurately than the other conflicting judgment."*

*"It appears that the Full Bench decision of the Madras High Court in R. Rama Subbnarayalu v. Rengammal,AIR 1962 Mad 480 would also support this view where it has been observed (at p. 452) that "where the conflict is between two decisions pronounced by a Bench consisting of the same number of Judges, and the subordinate Court after a careful examination of the decisions came to the conclusion that both of them directly apply to the case before it, it will then be at liberty to follow that decision which seems to it more correct, whether such decision be the later or the earlier one". According to the Nagpur High Court also, as would appear from its Full Bench decision in D. D. Bilimoria v. Central Bank of India, AIR 1943 Nag 340 at p. 343, in such*

*case of conflicting authorities, "the result is not that the later authority is substituted for the earlier, but that the two stand side by side conflicting with each other", thereby indicating that the subordinate Courts would have to prefer one to the other and, therefore, would be at liberty to follow the one or the other."*

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*".... We are, however, inclined to think that no blanket proposition can be laid down either in favour of the earlier or the later decision and, as indicated hereinbefore, and as has also been indicated by the Supreme Court in Atma Ram (supra), the subordinate Court would have to prefer one to the other and not necessarily obliged, as a matter, of course, to follow either the former or the later in point of time, but must follow that one, which according to it, is better in point of law. As old may not always be the gold, the new is also not necessarily golden and ringing out the old and bringing in the new cannot always be an invariable straight-jacket formula in determining the binding nature of precedents of co-ordinate jurisdiction."*

17 From the aforesaid enunciation of the law relating to the application of two apparently contrary decisions of the Supreme Court, it is clear that the High Court has to firstly consider the facts and circumstances involved in the decisions rendered by the Supreme Court and then decide as to which of the two decisions is applicable to the facts of the case which is subject matter of adjudication before the High Court. In the backdrop of this legal position, let us now consider as to which of the aforenoted two Judgments of the Supreme Court would apply to the facts of the instant case.

18 In *Ashoo Surendranath Tiwari's case (supra)*, the competent authority had refused sanction for prosecution against the accused on the ground that no offence under the Prevention of Corruption Act was made out, but in spite of this, the Special Court had, while discharging the accused for offences under Prevention of Corruption Act, refused to do so to the extent of offences under IPC. It is to be borne in mind that at the time of grant or refusal of sanction for prosecution, the whole material collected by the investigating agency during investigation of the case is to be placed before the Competent Authority. The action of refusal to accord sanction for prosecution by the competent authority was concurred and confirmed by the Central Vigilance Commission by giving detailed reasons therefor. Thus, the question of grant/refusal of sanction to prosecute the accused in that case had acquired finality. It is in those circumstances that the Supreme Court held that on similar allegations, the criminal proceedings cannot go on. In *Ajay Kumar Tyagi's case*,(supra) although the enquiry officer had exonerated the accused of the charges which were identical to the charges in the criminal case, yet no action was taken on the report of the enquiry officer and the disciplinary proceedings had not acquired finality. In those circumstances, the Supreme Court observed that the High Court had fallen into error in quashing the criminal proceedings on the premise that the accused had been exonerated in the departmental proceedings, the same being premature keeping in view the fact the Disciplinary Authority was not bound to accept the report of the enquiry officer. The Supreme Court further proceeded to answer the question of law referred to it, i.e. whether the prosecution against an accused, notwithstanding his exoneration on the identical charge in the departmental proceedings could continue or not? While answering this question in

affirmative, the Court analysed the two conflicting views expressed in *P.S Rajya's case and Krishan Singh's Rajya's case and Krishan Singh's* case(supra) as has been discussed hereinbefore.

19 Adverting to the facts of the instant case, the petitioner is relying upon the report of the enquiry officer, i.e. Chief Engineer PHE Jammu who, after holding an inquiry, has come to the conclusion that the allegations of acquisition of disproportionate assets against the petitioner are baseless. It is nowhere stated that the said report has been accepted by the competent authority. It is for the competent authority to either accept or reject this report and unless that is done, the report of the enquiry officer cannot be stated to have acquired finality. Thus the facts of the instant case are more or less similar to the facts of the case in *Ajay Kumar Tyagi's case (supra)* and are quite distinct from the facts in *Ashoo Surendranath Tiwari's case* (supra) inasmuch as in the said case the order of refusal of sanction, which was based on the material collected after the investigation of the case, had acquired finality.

20 For the foregoing discussion, I have no hesitation in applying the ratio laid down by the Supreme Court in Ajay Kumar Tyagi's case (supra) to the instant case and to hold that exoneration of the petitioner in departmental enquiry held by Chief Engineer Jammu would not *ipso facto* entitle the petitioner to his exoneration from the criminal proceedings.

21 Coming to the merits of the instant case, the petitioner has placed on record documents to show that the properties which the prosecution is alleging to be under the ownership of the petitioner, in fact belong to persons

other than the petitioner. The validity and authenticity of these documents cannot be gone into during these proceedings. It is only the investigating agency who can examine these documents and come to a conclusion on the basis of these documents. This Court cannot be converted into an investigating agency or a trial Court for examining the authenticity of these documents. Even the facts pertaining to malafides in prosecution can be gone into by the investigating agency or the trial Court and not by this Court in exercise of its power under Section 482 Cr.PC.

22 The High Court has a limited jurisdiction under Section 561- A of J&K Cr.PC which is in *pari materia* with Section 482 of Central Cr. PC. It cannot go into disputed questions of fact in these proceedings. The Supreme Court in the case of ***Dineshbhai Chandubhai Patel Vs. State of Gujarat***; ***(2018) 3 SCC 104***, while examining the extent of inherent jurisdiction of High Court under Section 482 Cr.PC has observed as under:-

> *29.The High Court, in our view, failed to see the extent of its jurisdiction, which it possess to exercise while examining the legality of any FIR complaining commission of several cognizable offences by accused persons. In order to examine as to whether the factual contents of the FIR disclose any prima facie cognizable offences or not, the High Court cannot act like an investigating agency and nor can exercise the powers like an appellate Court. The question, in our opinion, was required to be examined keeping in view the contents of the FIR and prima facie material, if any, requiring no proof.*
>
> *30.At this stage, the High Court could not appreciate the evidence nor could draw its own inferences from the contents of the FIR and the material relied on. It was more so when the material relied on was disputed by the Complainants and*

*visa-se-versa. In such a situation, it becomes the job of the investigating authority at such stage to probe and then of the Court to examine the questions once the charge sheet is filed along with such material as to how far and to what extent reliance can be placed on such material.*

31. *In our considered opinion, once the Court finds that the FIR does disclose prima facie commission of any cognizable offence, it should stay its hand and allow the investigating machinery to step in to initiate the probe to unearth the crime in accordance with the procedure prescribed in the Code.*

23 From the aforesaid enunciation of the law on the subject, it is clear that this Court in exercise of its inherent powers cannot stretch the same to any extent nor can such powers be used to examine the validity of submissions and disputed documents on which reliance has been placed upon by the petitioner.

24 For the foregoing discussion, I do not find any reason to interfere with the investigation of the case at this stage. The petition is, therefore, dismissed. Interim order, if any, shall stand vacated. The investigating agency is, however, at liberty to consider the enquiry report of the Chief Engineer, Jammu while investigating the subject FIR.

**(SANJAY DHAR)**
**JUDGE**

Jammu
17.12.2020
Tarun

Whether the order is speaking? Yes
Whether the order is reportable? Yes

TARUN KUMAR GUPTA
2020.12.18 16:19
I attest to the accuracy and
integrity of this document