

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 632 of 2020

Order Reserved on : 14.07.2021

Order Delivered on : 18.08.2021

S. K. Jain (Sunil Kumar Jain), S/o Late Shri K.C. Jain, Aged About 63 Years, The Then General Manager, Town Service Department, Bhilai Steel Plant, Bhilai (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through Police Station- Bhilai Nagar, District- Durg (C.G.)
2. Collector Durg, District- Durg (C.G.)
3. Smt. Suman Unni, W/o K.C. Krishna, Aged About 49 Years, R/o Shop No. 358, Zonal Market, Sector -10, Bhilai, District- Durg (C.G.)
4. Vijay Bahadur, S/o Not Known, Aged About 48 Years, Occupation - Employee, Bhilai Steel Plant, House No. 1703, Road No. Sector 4, Bhilai Nagar, Tehsil & District- Durg (C.G.)
5. Vijay Kumar Sharma, S/o Late Shri B.R. Sharma, Aged About 48 Years, Plot No. 69, Sector 4A, Phase 2, Maitri Nagar, Risali, Tehsil & District- Durg (C.G.)
6. Shrikant, S/o Late Shri Ram Nagina, Aged About 52 Years, R/o Quarter No. 10, Sector 10, Bhilai Nagar, Bhilai Steel Plant, Tehsil & District- Durg (C.G.)
7. Shri Rai Choudhary, S/o Late Shri Santosh Kumar Rai Chaudhary, Aged About 62 Years, R/o Quarter No. 70-B, Road No. 12, Smriti Nagar Bhilai, Tehsil & District- Durg (C.G.)
8. Jayant Baghchi, S/o Late Shri R.N. Bagchi, Aged About 53 Years, Sector 6, Bhilai Steel Plant, Bhilai Nagar, Tehsil & District- Durg (C.G.)
9. Bhagwan, S/o Late Shri Nirmal, Aged About 51 Years, Adarsh Nagar, Camp-01, Bhilai Nagar, Tehsil & District- Durg (C.G.)
10. Manoj Videographer, Public Relation Department, Bhilai Steel Plant.
11. Dr. Arvind Sawant, S/o Not Known, Director, B.S.R. Apollo Cancer Hospital, Junwani, Bhilai (C.G.)

---- Respondents

For Petitioner	:	Mr. Kishore Bhaduri, Sr. Advocate with Mr. Sunny Agrawal, Advocate.
For State/Res. 1 & 2	:	Mr. Devendra Pratap Singh, Dy. A.G.

For Respondent No. 3 : Mrs. Suman Unni Krishnan.
(in person)

Hon'ble Shri Justice Narendra Kumar Vyas

CAV Order

1. The petitioner has filed this petition under Section 482 of the Cr.P.C. assailing order dated 20.12.2019 (Annexure P/1) passed by Additional Sessions Judge, Third Fast Track Special Court, Durg, District (C.G.) in Criminal Revision No. 186/2018 [S.K. Jain (Sunil Kumar Jain) Vs. Smt. Suman Unni] by which Revisional Court dismissed the revision petition filed by the petitioner and allowed the Criminal Revision No. 221/2018 filed by respondent No. 3-Smt. Suman Unni directing the Judicial Magistrate First Class to examine the complaint filed by respondent No. 3 for registration of offence under Section 307 of I.P.C. in light of contents of the complaint of Complaint Case No. 32213/2018 (Smt. Suman Unni Vs. Vijay Bahadur & others), primary evidence adduced by the respondent No. 3 and the material placed on record in Criminal Case No. 6383/2017 in case of State of Chhattisgarh Vs. Dilip Kumar Rai Choudhary & other.
2. The brief facts as projected by the petitioner are that the petitioner is a retired General Manager, Town Services Department, Bhilai Steel Plant. The respondent No. 3 herself is claiming to be social activist. On 07.10.1992, the Estate Officer passed order (Annexure P/4) under Section 7(2) of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 against A.S.C. Bose, Smt. Renuka Nair & K.N. Premnath directing them to vacate Shop No. 154 and unauthorized additional land admeasuring 229 sq.ft. situated at Zonal Market, Sector-10, Bhilai Nagar, Durg (C.G.). The illegal occupants have also filed an appeal before the District & Sessions Judge, Durg which was dismissed as withdrawn by Smt. Renuka Nair & K.N. Premnath, thereafter, Smt. Renuka Nair filed a Civil Suit No. 137A/2004 for grant of

interim injunction of the same property, which has also been dismissed vide order dated 17.04.2014 (Annexure P/7) by learned First Civil Judge Class-1, Durg, District- Durg (C.G.).

3. On 11.10.2013, the Estate Officer issued a notice (Annexure P/12) to respondent No. 3 to evict the premises and for taking possession over the property. The Estate Officer has issued guidelines for taking possession from the unauthorized occupant- respondent No. 1, which caused enmity between petitioner and the respondents and other officers of Bhilai Steel Plant. On 25.04.2014, the Estate Officer has conferred power to the Assistant Manager (Enforcement), Bhilai Steel Plant (Annexure P/3) for execution of the order of eviction and to remove the illegal occupants, steps have been initiated to disconnect electricity of the premises.
4. The learned counsel for the petitioner would draw attention of this Court FIR No. 213/2014 dated 25.04.2014, which was registered on the basis of complaint made by Enforcement Officer against K.N. Premnath, His Daughter, Smt. Suman Unni & another at Police Station- Bhilai Nagar, District- Durg and he would submit that when the Senior Estate Manager went to disconnect the electricity of shop on 25.04.2014, K.N. Premnath and his family, who have illegally occupied the said land, have made an attempt to kill the employee who was disconnecting the electricity, has dashed the stairs with his Scorpio vehicle bearing registration No. CG 07 8700, where the employee climbed on stair to disconnect the electricity. Due to dash against the stairs, the employee fell down and sustained injury, thereafter, Premnath has assaulted him with stick. The employee has sustained injuries, as such, FIR for committing an offence under Section 294, 506, 323, 34 of I.P.C. was registered against them.
5. K.N. Premnath has also lodged FIR No. 212/2014 against officers of Enforcement department of Bhilai Steel Plant, Vijay Bahadur Singh, Dilip Rai Choudhary, K.S. Durgesh, Raju, Shrikant & others alleging that they have abused them and

they have also beaten his daughter, when neighbour Smt. Suman Unni came to rescue her, then they have also beaten her which has caused injuries, therefore, FIR was registered against them for committing offence punishable under Sections 294, 506B, 323, 34 of I.P.C.

6. Thereafter, respondent No. 3- Smt. Unni filed complaint on 16.10.2014 (Annexure P/13) before Judicial Magistrate First Class, Bhilai, District- Durg against Vijay Bahadur and others mainly contending that the accused Vijay Bahadur has beaten through stick and bleeding was oozing from her head. Other persons namely Dilip Rai Choudhary has abused her and caused severe injuries on her shoulder and back side of head. She became unconscious, therefore, her medical examination was also conducted. The present applicant has also arrayed respondent No. 3 as party in this case as she has mentioned in paragraph 4 of the complaint that the Vijay Bahadur while moving his stick, told her that “साली तुझे जिंदा नहीं छोड़ूंगा- तू मेरे सहाब सुनिल जैन की शिकायतें करती हों” and has beaten her. She made an attempt to save herself from attack made by accused but she fell down and sustained injuries on her hand and back side. For primary treatment, she was sent to Chandulal Chandrakar Memorial Hospital, wherein doctor made 35 stiches on her. Premnath, his wife and daughter- Srishti Nair have taken her and admitted in the hospital for five days. From 25.04.2014 to 08.05.2014, she was admitted in Apollo BSR Hospital for treatment and paid Rs. 72,000/- for medical treatment. She was facing omitting sensation and headache, therefore, she again went to Hospital at Hyderabad for further treatment.
7. The learned Judicial Magistrate First Class, Durg before registration of offence, recorded statement of respondent No. 3- Suman Unni, who reiterated the averments already made in the complaint. She has also examined witnesses namely Narendra Kumar Rathi, Ex. Employee of Bhilai Steel Plant, K.N. Premnath, Abdul Kalim Qureshi, Srishti-daughter of K.N.

Premnath, Anish Das. Learned Judicial Magistrate First Class while taking cognizance on the complaint, directed Police Station- Bhilai to submit report. The Police Station- Bhilai submitted report on 26.12.2017 (Annexure P/15) wherein, it has been informed that in pursuance of the direction issued by the Court, they have examined the contents of the complaint and it has been found that Town and Planning Department of Bhilai Steel Plant, Senior Manager of Town Department, Bhilai Steel Plant has submitted the report against K.N. Premnath, Smt. Suman Unni, Srishti Nair & Anish Das for offence committed under Sections 294, 506, 323, 353, 34 of I.P.C and they have been arrested on 25.07.2017 and criminal case has been registered against them bearing Case No. 3752/2017.

8. Learned Judicial Magistrate First Class during evidence has recorded finding that no case is made out against Dr. P. Sawant and has also recorded finding that since on account of the same incident offence in connection with Crime No. 212/82014, offence under Sections 147, 148, 294, 506B, 323, 325, 34 and FIR No. 195/2017 has been registered on 21/08/2017 as Criminal Case No. 6383/2017, therefore, as per law offence for the same incident against accused cannot be trial, accordingly, the offence under Section 354 of IPC has been registered against Vijay Bahadur, Vijay Kumar Sharma, Shrikant, Manoj Videographer, D. Rai Choudhary, Jayant Bakshi & Bhagwan, vide its order dated 09.07.2018. The offence under Section 116/117 read with Section 354 of I.P.C. has been registered against the petitioner.
9. The petitioner being aggrieved with the order passed by learned Judicial Magistrate First Class, Durg has filed Revision Petition under Section 397 of Cr.P.C. and the present applicant filed CRR No. 202/2018 before the learned Sessions Judge, Durg which was subsequently transferred to Additional Sessions Judge, Third Fast Track Special Court, Durg mainly contending that without any material, the trial court has framed charges under Section 354 of Cr.P.C., as such, it has

been further contended that in fact at the relevant time, he was posted as General Manager, Town and Planning Department, therefore, for discharging his duty, to vacate the premises and for disconnection of electricity of Shop No. 154 and he has taken the steps which is permissible under the law. He would further submit that order dated 09.07.2018 be quashed and his name from arena of accused be kindly deleted. The said criminal revision was registered as Criminal Revision No. 186/2018 in case of S.K. Jain Vs. Smt. Suman Unni Krishnan. Whereas, Smt. Suman Unni has filed revision before the Sessions Judge reiterating that the stand taken by her in the complaint and submits that the learned trial court has committed illegality in not registering the offence under Section 147, 148, 294, 506B, 307, 210, 34 of I.P.C. It is pertinent to mention here that the other co-accused has also filed Criminal Revision No. 202/2018. The learned Additional Sessions Judge, Third Fast Track Special Court, Durg, vide its order dated 20.12.2019 has dismissed the revision filed by the present applicant against the order dated 09.07.2018 by which, the learned Judicial Magistrate First Class has recorded finding that the petitioner has prima facie committed offence under Section 354 of the I.P.C. and also rejected the revision petition filed by the other co-accused Vijay Bahadur & another whereas the revision filed by respondent No. 1 Suman Unni has been partly allowed directing the Judicial Magistrate First Class to re-examine case of the accused for framing of charge under Section 307 of I.P.C. against the present petitioner on the basis of material already placed on record on the basis of averments made in the complaint, statement recorded at the time of registration of complaint and the material placed on record. The Revisional Court has also directed the Judicial Magistrate First Class to consider the relevant documents which have been placed in Criminal Case No. 6383/2017 in case of State of Chhattisgarh Vs. Dilip Kumar Rai Choudhary & others. The petitioner has filed

present petition challenging the order dated 20.12.2019 by which the Revision Petition No. 186/2018 filed by him has been dismissed and the Revision Petition No. 212/2018 filed by respondent No. 3 has been partly allowed.

10. Learned counsel for the petitioner would submit that the petitioner has been maliciously alleged converting the civil dispute into criminal case, therefore, it is prayed that this Court may exercise power under Section 482 of the Cr.P.C. and quash the criminal proceeding initiated against the petitioner as it is nothing but an abuse of process of law. The criminal complaint appears to be arm twisting and to create pressure on the petitioner, it is counter blast of the FIR filed by the Estate Officer of Bhilai Steel Plant, therefore, he would submit that the order dated 20.12.2019 passed by the learned Additional Sessions Judge, Third FTC special Judge, Durg and order passed by the Judicial Magistrate First Class, Durg on 09.07.2018 which are perverse and contrary to the material placed on record, be kindly quashed by this Court.
11. The petitioner to substantiate his contention, has relied upon the judgment passed by Hon'ble the Supreme Court in **State of Haryana Vs. Bhajan Lal**¹, and would refer to paragraph 102 of the judgment.
12. Respondent No. 3- Smt. Suman Unni personally appeared before this Court and filed return on 05.07.2021 denying the fact that Sunil Kumar Jain was not present at the place of occurrence, therefore, the impugned order is legal and justified. It has been further contended that Sunil Kumar Jain while working as General Manager forcibly vacated 1737 houses and thereafter had taken illegal possession of 830 numbers of houses. The learned Judicial Magistrate First Class has rightly registered offence under Section 354 of I.P.C. against the petitioner, but committed illegality in not registering the offence under Sections 147, 148, 294, 506B & 307 of I.P.C. which has been rightly registered by the learned

1 1992 Supp. (1) SCC 335

Revisional Court by directing to reexamine the case of respondent No. 3 for registration of offence under Section 307 of I.P.C. The order passed by the Revisional Court is legal and justified and no material irregularity of illegality has been committed, therefore, the present CRMP deserves to be dismissed by this Court. She has also annexed photographs to substantiate the contention that due to said manhandling, she has sustained severe injuries.

13. I have heard learned counsel for the parties, perused the documents placed on record with utmost satisfaction and considered the law on this subject. This Court has called for the diary of Crime No. 213/2014 as well as Crime No. 212/2014, which consist of medical records related to the said offence.
14. From the above factual matrix and legal preposition of law that the High Court while examining the petition under Section 482 of the Cr.P.C. cannot examine the evidence at its thread bearing. From the records placed before this Court, it is clear that the statements have been recorded in support of the complaint and the documents have been produced by the complainant, medical report has also been made available to this Court by the State. Their genuineness and correctness can be examined by the trial court while recording of evidence. This Court while hearing the matter under Section 482 of the Cr.P.C. at the initial stage of trial, cannot examine and genuineness of the statement, allegation made in the FIR.
15. The learned trial court has recorded its finding that the petitioner/accused has committed offence under Section 354 of I.P.C. and the Revisional Court after appreciating the material already on record, has given its finding, which is extracted below:-

“श्रीमती सुमन उन्नी की चिकित्सीय परीक्षण संबंधी दस्तावेज में परिवादी/ श्रीमती सुमन उन्नी को 8 से 10 से.मी. लम्बाई के आकार की चोट आहत/परिवादी के सिर के मांग के सीन पर फटा हुआ घाव कारित होने के तथ्य सहित आधे घण्टे तक अचेतन अवस्था एवं हमें के कारण रक्त का

जमाव/हिमेटोमा/रक्त गुल्म होने से सिरियस/ग्रेव ओवर हेड इंजुरी कारित होने की टीप उल्लेखित है। परिवादी/श्रीमती सुमन उन्नी द्वारा स्वयं पर, अभियुक्तगण की उपस्थिति में घटना स्थल पर आरोपी विजय बहादुर द्वारा लाठियों से वार कर, चोट पहुँचाये जाने का अभिवचन एवं प्रारम्भिक साक्ष्य प्रकट की गई है।”

16. It is prima facie finding with regard to the incident, which can be examined in detail before the trial court only. At this stage also evidence cannot be gone into meticulously. If there are materials showing possibility about the commission of the crime, it has to be enquired or trial by the competent Court. That being so, the interference at the threshold with the F.I.R. is to be in very exceptional circumstances as held in **Bhajan Lal** (supra). It is also well settled that the acceptability of the materials to fasten culpability on the accused persons is a matter of trial, which cannot be looked into by this Court while exercising power under Section 482 of the Cr.P.C.
17. Learned counsel for the petitioner would further submit that the FIR does not disclose an offence of Section 307 against any of the accused as Respondent No. 3- Smt. Suman Unni was a witness in that case and in her statement she has never mentioned that the intention of all the accused was to kill her. This submission cannot be accepted by this Court as the complainant in his complaint has specifically made averments with regard to commission of offence under Section 307 of I.P.C. against all the accused. Learned trial Court while deciding the criminal revision, has taken note of the averments made in the complaint and the material adduced by the respondents, has directed the Judicial Magistrate to re-examine with regard to commission of offence under Section 307 of I.P.C. The ground which has been taken by the petitioner in the present petition is his defence, which cannot be appreciated by this Court at this juncture.
18. Hon'ble the Supreme Court in **State of Madhya Pradesh Vs. Kunwar Singh**², has again held that the High Court ought not

² Criminal Appeal No. 709 of 2021 (decided on 30.07.2021)

to be scrutinizing the material in the manner in which, the trial court would do in the course of the criminal trial after evidence is adduced. The Hon'ble Supreme Court in paragraph 8 held as under:-

“8. Having heard the submissions of the learned counsel appearing on behalf of the appellant and the respondent, we are of the view that the High Court has transgressed the limits of its jurisdiction under Section 482 of CrPC by enquiring into the merits of the allegations at the present stage. The fact that the respondent was a signatory to the cheques is not in dispute. This, in fact, has been adverted to in the judgment of the High Court. The High Court has also noted that a person who is required to approve a financial proposal is duty bound to observe due care and responsibility. There are specific allegations in regard to the irregularities which have been committed in the course of the work of the ‘Janani Mobility Express’ under the National Rural Health Mission. At this stage, the High Court ought not to be scrutinizing the material in the manner in which the trial court would do in the course of the criminal trial after evidence is adduced. In doing so, the High Court has exceeded the well-settled limits on the exercise of the jurisdiction under Section 482 of CrPC. A detailed enquiry into the merits of the allegations was not warranted. The FIR is not expected to be an encyclopedia, particularly, in a matter involving financial irregularities in the course of the administration of a public scheme. A final report has been submitted under Section 173 of CrPC, after investigation.

19. Hon'ble the Supreme Court in **Kaptan Singh Vs. The State of Uttar Pradesh & others**³, has held as under:-

“9.1 At the outset, it is required to be noted that in the present case the High Court in exercise of powers under Section 482 Cr.P.C. has quashed the criminal proceedings for the offences under Sections 147, 148, 149, 406, 329 and 386 of IPC. It is required to be noted that when the High Court in exercise of powers under Section 482 Cr.P.C. quashed the criminal proceedings, by the time the Investigating Officer after recording the statement of the witnesses, statement of the complainant and collecting the evidence from the incident place and after taking statement of the

3 Criminal Appeal No. 787 of 2021 (decided on 13.08.2021)

independent witnesses and even statement of the accused persons, has filed the charge-sheet before the Learned Magistrate for the offences under Sections 147, 148, 149, 406, 329 and 386 of IPC and even the learned Magistrate also took the cognizance. From the impugned judgment and order passed by the High Court, it does not appear that the High Court took into consideration the material collected during the investigation/inquiry and even the statements recorded. If the petition under Section 482 Cr.P.C. was at the stage of FIR in that case the allegations in the FIR/Complaint only are required to be considered and whether a cognizable offence is disclosed or not is required to be considered. However, thereafter when the statements are recorded, evidence is collected and the charge-sheet is filed after conclusion of the investigation/inquiry the matter stands on different footing and the Court is required to consider the material/evidence collected during the investigation. Even at this stage also, as observed and held by this Court in catena of decisions, the High Court is not required to go into the merits of the allegations and/or enter into the merits of the case as if the High Court is exercising the appellate jurisdiction and/or conducting the trial. As held by this Court in the case of ***Dineshbhai Chandubhai Patel*** (Supra) in order to examine as to whether factual contents of FIR disclose any cognizable offence or not, the High Court cannot act like the Investigating agency nor can exercise the powers like an Appellate Court. It is further observed and held that question is required to be examined keeping in view, the contents of FIR and prima facie material, if any, requiring no proof. At such stage, the High Court cannot appreciate evidence nor can it draw its own inferences from contents of FIR and material relied on. It is further observed it is more so, when the material relied on is disputed. It is further observed that in such a situation, it becomes the job of the Investigating Authority at such stage to probe and then of the Court to examine 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.

9.2 In the case of ***Dhruvaram Murlidhar Sonar*** (Supra) after considering the decisions of this Court in ***Bhajan Lal*** (Supra), it is held by this Court that exercise of powers under Section 482 Cr.P.C. to quash the proceedings is an exception

and not a rule. It is further observed that inherent jurisdiction under Section 482 Cr.P.C. though wide is to be exercised sparingly, carefully and with caution, only when such exercise is justified by tests specifically laid down in section itself. It is further observed that appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 Cr.P.C. Similar view has been expressed by this Court in the case of **Arvind Khanna** (Supra), **Managipet** (Supra) and in the case of **XYZ** (Supra), referred to hereinabove.

9.3 Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand, we are of the opinion that the High Court has exceeded its jurisdiction in quashing the criminal proceedings in exercise of powers under Section 482 Cr.P.C.

10. The High Court has failed to appreciate and consider the fact that there are very serious triable issues/allegations which are required to be gone into and considered at the time of trial. The High Court has lost sight of crucial aspects which have emerged during the course of the investigation. The High Court has failed to appreciate and consider the fact that the document i.e. a joint notarized affidavit of Mamta Gupta – Accused No.2 and Munni Devi under which according to Accused no.2 - Ms. Mamta Gupta, Rs.25 lakhs was paid and the possession was transferred to her itself is seriously disputed. It is required to be noted that in the registered agreement to sell dated 27.10.2010, the sale consideration is stated to be Rs.25 lakhs and with no reference to payment of Rs.25 lakhs to Ms. Munni Devi and no reference to handing over the possession. However, in the joint notarized affidavit of the same date i.e., 27.10.2010 sale consideration is stated to be Rs.35 lakhs out of which Rs.25 lakhs is alleged to have been paid and there is a reference to transfer of possession to Accused No.2. Whether Rs.25 lakhs has been paid or not the accused have to establish during the trial, because the accused are relying upon the said document and payment of Rs.25 lakhs as mentioned in the joint notarized affidavit dated 27.10.2010. It is also required to be considered that the first agreement to sell in which Rs.25 lakhs is stated to be sale consideration and there is reference to the payment of Rs.10 lakhs by cheques. It is a registered document. The aforesaid are all triable issues/allegations which

are required to be considered at the time of trial. The High Court has failed to notice and/or consider the material collected during the investigation.”

20. Honble the Supreme Court in case of **Priti Saraf & another Vs. State of NCT of Delhi & another**⁴, held as under:-

“31. Be it noted that in the matter of exercise of inherent power by the High Court, the only requirement is to see whether continuance of the proceedings would be a total abuse of the process of the Court. The Criminal Procedure Code contains a detailed procedure for investigation, framing of charge and trial, and in the event when the High Court is desirous of putting a halt to the known procedure of law, it must use proper circumspection with great care and caution to interfere in the complaint/FIR/charge-sheet in exercise of its inherent jurisdiction.

32. In the instant case, on a careful reading of the complaint/FIR/charge-sheet, in our view, it cannot be said that the complaint does not disclose the commission of an offence. The ingredients of the offences under Sections 406 and 420 IPC cannot be said to be absent on the basis of the allegations in the complaint/FIR/charge-sheet. We would like to add that whether the allegations in the complaint are otherwise correct or not, has to be decided on the basis of the evidence to be led during the course of trial. Simply because there is a remedy provided for breach of contract or arbitral proceedings initiated at the instance of the appellants, that does not by itself clothe the court to come to a conclusion that civil remedy is the only remedy, and the initiation of criminal proceedings, in any manner, will be an abuse of the process of the court for exercising inherent powers of the High Court under Section 482 CrPC for quashing such proceedings.”

21. Learned counsel for the petitioner would submit that the petitioner was not present at the time of occurrence and he has been roped in the offence illegally, malafidely to harass the petitioner. The ground which has been taken by the petitioner in the petition may be his defence, but this cannot be appreciated by this Court while hearing the petition under

⁴ AIR 2021 Supreme Court 1531

Section 482 of the Cr.P.C. Therefore, this ground is rejected at this juncture. The petitioner is free to raise all his defences which are available to him during trial of the case.

22. Hon'ble the Supreme Court in **State of A.P. Vs. Golconda Linga Swamy & another**⁵, held as under:-

“10. In all these cases there was either statements of witnesses or seizure of illicit distilled liquor which factors cannot be said to be without relevance. Whether the material already in existence or to be collected during investigation would be sufficient for holding the concerned accused persons guilty has to be considered at the time of trial. At the time of framing the charge it can be decided whether prima facie case has been made out showing commission of an offence and involvement of the charged persons. At that stage also evidence cannot be gone into meticulously. It is immaterial whether the case is based on direct or circumstantial evidence. Charge can be framed, if there are materials showing possibility about the commission of the crime as against certainty. That being so, the interference at the threshold with the F.I.R. is to be in very exceptional circumstances as held in *R.P. Kapoor and Bhajan Lal* cases (supra).

11. Ultimately, the acceptability of the materials to fasten culpability on the accused persons is a matter of trial. These are not the cases where it can be said that the FIR did not disclose commission of an offence. Therefore, the High Court was not justified in quashing the FIR in the concerned cases.

12. So far as Criminal Appeal Nos. 1183/2003, 1193-1196/2003 and Criminal Appeals arising out of SLPs(Crl.) Nos. 2191/2003, 2632/2003, 2633/2003, and 3463/2003 are concerned, we find that the FIR did not disclose commission of an offence without anything being added or subtracted from the recitals therein. Though the FIR is not intended to be an encyclopedia of the background scenario, yet even skeletal features must disclose the commission of an offence. The position is not so in these cases. Therefore, the High Court's interference does not suffer from any legal infirmity, though the reasonings indicated by the High Court do not have our approval.”

⁵ (2004) 6 SCC 522

23. Hon'ble the Supreme Court in **Rajiv Thapar & others Vs. Madan Lal Kapoor**⁶, held as under:-

“28. The High Court, in exercise of its jurisdiction under Section 482 of the Cr.P.C., must make a just and rightful choice. This is not a stage of evaluating the truthfulness or otherwise of allegations levelled by the prosecution/ complainant against the accused. Likewise, it is not a stage for determining how weighty the defences raised on behalf of the accused is. Even if the accused is successful in showing some suspicion or doubt, in the allegations levelled by the prosecution/ complainant, it would be impermissible to discharge the accused before trial. This is so, because it would result in giving finality to the accusations levelled by the prosecution/ complainant, without allowing the prosecution or the complainant to adduce evidence to substantiate the same. The converse is, however, not true, because even if trial is proceeded with, the accused is not subjected to any irreparable consequences. The accused would still be in a position to succeed, by establishing his defences by producing evidence in accordance with law. There is an endless list of judgments rendered by this Court declaring the legal position, that in a case where the prosecution/complainant has levelled allegations bringing out all ingredients of the charge(s) levelled, and have placed material before the Court, prima facie evidencing the truthfulness of the allegations levelled, trial must be held.

24. From the above legal preposition of law, it is clear that the correctness of the statement recorded in support of the complaint and the documents which have been produced by the complainant, as well as the medical report, their genuineness and correctness can be examined by the trial court while recording of evidence. The grounds which have been taken by the petitioner in the present petition are his defence, these cannot be appreciated by this Court at this juncture. The order passed by the Revisional court is legal and justified and does not warrant any interference by this Court. The petitioner is at liberty to raise all the grounds raised by him in the present petition before the trial Court as his

⁶ (2013) 3 SCC 330

defence. The learned trial Court is directed to decide the trial without being influenced by any of the observations made by this Court while hearing the present CRMP.

25. This Court vide order dated 12.03.2020 stayed the further proceedings of Complaint Case No. 32213/2018 pending before Judicial Magistrate First Class, Durg. The same stands vacated and the trial Court is directed to expedite the trial.
26. With these observations and directions, the present petition is dismissed. No order as to costs.

Sd/-
(Narendra Kumar Vyas)
Judge