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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 20.07.2022

PRONOUNCED ON : 30.09.2022

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)Nos.11295 & 11302 of 2021
and
Crl.M.P.(MD)Nos.5768 , 5770, 5775 & 5774 of 2021

Crl.O.P.(MD)No.11295 of 2021 :

Geetha R.Patel : Petitioner/A3

Vs.

1.State rep.by
The Inspector of Police,
Central Bureau of Investigation,
Anti Corruption Bureau (ACB),
Madurai District.
in Crime No.RC229/2019/A0004. : 1st Respondent/Complainant

2.The Zonal Manager,
M/s.Andhra Bank,
581/1, DB Road, R.S.Puram,
Coimbatore - 541 002. : 2nd Respondent/Defacto Complainant

PRAYER : Criminal Original Petition has been filed under Section 482 Cr.P.C, to call for the records of the impugned charge sheet in C.C.No.5 of 2021 on the file of the learned II Additional Sessions Judge cum Special Court for CBI Cases, Madurai and quash the same as against this petitioner.

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Crl.O.P.(MD)No.11302 of 2021 :

1. Sheetal R.Patel

2.Vaishali V.Patel

3.Vanitha J.Patel : Petitioners/A3 to A5

Vs.

1.State rep.by
The Inspector of Police,
Central Bureau of Investigation,
Anti Corruption Bureau (ACB),
Madurai District.
in Crime No.RC229/2019/A0002. : 1st Respondent/Complainant

2.The Zonal Manager,
M/s.Andhra Bank,
581/1, DB Road, R.S.Puram,
Coimbatore - 541 002. : 2nd Respondent/Defacto Complainant

PRAYER : Criminal Original Petition has been filed under Section 482 Cr.P.C, to call for the records of the impugned charge sheet in C.C.No.02 of 2021 on the file of the learned II Additional Sessions Judge cum Special Court for CBI Cases, Madurai and quash the same as against this petitioners.

(in both petitions)

For Petitioners : Mr.N.Anandha Padmanabhan,

For Respondents : Mr.C.Muthu Saravanan,
Special Public Prosecutor for CBI Cases, for R.1
: Mr.V.S.Karthi,
for V.S.Karthi Associates, for R.2.

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COMMON ORDER

These Criminal Original Petitions have been filed, invoking Section 482 Cr.P.C., seeking orders to call for the records in C.C.No.2 of 2021 and C.C.No.5 of 2021 pending on the file of the II Additional Sessions Court cum Special Court for CBI Cases, Madurai and quash the same.

2. The case of the prosecution in Crl.O.P(MD)No.11302 of 2021 is that M/s.Madhav Industries (A1) represented by its Managing Partner; Shri Ramesh D Patel (A2) and other partners, Smt.Sheetal Patel, Smt.Vaishali V.Patel and Smt.Vanitha J Patel (A3 to A5) respectively, had availed various loans from Andhra Bank, Trichy Branch using fabricated financial documents and siphoned off public money and thus caused the loss of Rs.13.88 Crores to the Bank.

3. The case of the prosecution in Crl.O.P(MD)No.11295 of 2021 is that M/s.Dhananjay Traders (A1) represented by its Managing Partner Shri Rajesh D Patel (A2) and other partner Smt.Geetha R (A3) had availed Cash Credit loan from Andhra Bank, Trichy Branch using fabricated financial documents and siphoned off public money and thus caused a loss to the tune of Rs.8.09 Crores to the Bank.

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4. Admittedly, the petitioners/A3 to A5 in Crl.OP(MD)No.11302 of 2021 are the family members of the Shri Ramesh D.Patel, who is none other than the Managing Partner of the first accused M/s.Madhav Industries and that the petitioner/A3 in Crl.O.P.(MD)No.11295 of 2021 is the wife of the second accused Shri Rajesh D Patel, who is none other than the Managing Partner of the first accused M/s.Dhananjay Traders.

5. The petitioners' case is that the role assigned to the petitioners as seen from the charge sheet is nothing, but they remained as partners at the time of applying for loan, but Subsequently, the partnership firm changed its constitution and the petitioners in Crl.O.P.(MD)No.11302 of 2021 already were relieved, that the sixth accused in the charge sheet was included as a partner and that thereby, the petitioners have been discharged from the partnership firm.

6. The petitioners' further case is that the loan application was presented in the month of January 2016 and sanction was accorded in February 2016 and that though the petitioners were partners at the time of making of loan application, the petitioners did not have any property on their own so as to subject the same under any encumbrance with the bank for the said loan.

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7. The petitioner's case in Crl.O.P.(MD)No.11295 of 2021, is that the role assigned to the petitioner as seen from the charge sheet is nothing, but she remained as a partner in the firm.

8. The case of the petitioners in both the cases is that the petitioners have neither any property on their own nor had any knowledge about the business or participation in the administration; that the petitioners being family members of the Managing Partner of the firms were added to the partnership firm as partnership requires more than one person and except for that purpose, the petitioners had no role to play.

9. It is their further case that the loan was sanctioned on the basis of the properties held by the Managing Partner and the petitioners had no properties to be subjected as security to avail any loan.

10.It is not in dispute that the first respondent after completing the investigation has filed the final reports in Crime No.RC229/2019/A0002 for the alleged offences under Sections 120(b) r/w 420, 468, 471 IPC and Section 13(2) r/w 13(1)(a) of Prevention of Corruption Act and another case in Crime No.RC229/2019/A0004 for the alleged offences under Sections 120(b) r/w 420,

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468, 471 IPC and Section 13(2) r/w 13(1)(a) of Prevention of Corruption Act and the cases were taken on file in C.C.No.2 of 2021 and C.C.No.5 of 2021 and the same are pending on the file of the II Additional Sessions Judge cum Special Court for CBI Cases, Madurai.

11. The learned counsel for the petitioners would submit that the Investigating Officer failed to notice that there is no material to point out that the petitioners had played any active role in processing the loan application, except for signing the loan application form and the contract of loan format; that if the Investigating Officer had noted that there was no property held by the petitioners in their individual capacity so as to be offered as collateral security, they will not be useful in the process of recovery as their personal liability will not improve the bank's position in case of failure of repayment; that the petitioners being house wives without having any capacity to deal with the timber business, besides the fact that they are not having any immovable properties in their names to be subjected as collateral securities for the loan obtained by the firm, no financial loss would occur to the bank.

12. The learned counsel for the petitioners would further submit that in order to attract the offences under Prevention of Corruption Act, even as a abettor, there should have been any active role played by the petitioners in

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collusion or in conspiracy with the banker, who is a public servant and that absolutely, there is no such allegations against the petitioners.

13. In Crl.O.P.(MD)No.11302 of 2021, according to the prosecution, during the course of investigation, they came to know that the firm M/S.Madhav Industries had reconstituted its partnership, after availing the loan without the bank's permission and the sixth accused was brought in as its new partner; that Shri B.Krishna Prasad, the then Chief Manager of Andhra Bank, Trichy Branch had colluded with the partners of the firm and helped them to defraud the bank; that M/S.Poonam Trading Company and its partners M/S.Cauvery Saw Mill represented by its Managing Partner had conspired with the accused whereby they had submitted fake supplier bills, invoices and other particulars to the Bank showing sale of goods, which was used to avail ILC facility fraudulently.

14. In Crl.O.P(MD)No.11295 of 2021, according to the prosecution, during the course of investigation, it was found that Shri. B.Krishna Prasad, the then Chief Manager and Branch Manager of Andhra Bank, Trichy Branch had colluded with the partners of the firm and helped them to defraud the bank.

15. The learned Additional Public Prosecutor would submit that while applying for the loan with the Andhra Bank, Trichy Branch, the accused had

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submitted copies of the certificate of registration with Commercial Tax Department, registration certificate from Registrar of firm and KYC document. He would further submit that the partners had submitted their individual properties statements showing that Shri Ramesh D Patel is having net worth of Rs.7.10 Crores ; Smt.Sheetal Patel is having net worth of Rs.0.99 Crores; Sri. Rajesh Patel is having net worth of Rs.5.01 Crores; Smt.Vaishali V Patel and Smt.Vanitha J Patel are having net worth of Rs.1.11 Crores and Rs.1.01 Crores respectively; and Smt.Geetha Patel is having net worth of Rs.69.77 lakhs.

16. He would further submit that all the accused persons along with their applications had submitted forged and fabricated copies of VAT returns in the name of the firm; that the forged and fabricated copies of audited Balance Sheet, Profit and loss accounts along with Form 3 CB, Form 3CD and other financial statements for the Assessment year 2013-2014, 2014-2015 and 2015-2016 and provisional balance sheet for the period up to 30.09.2015 prepared under the sign and seal of one Chartered Accountant Shri.N.Venkateswaran of Trichy; that the accused had also submitted forged valuation report in the name of the Bank's panel Valuer Shri.B.V.Ramanaa for the collateral property at 0.875 acres and that the petitioners cannot claim innocence now after availing the loan facility from the bank based on the forged documents submitted by them.

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17. The learned Additional Public Prosecutor would submit that all the accused have executed the loan documents which includes the Demand Promissory Note, Composite Agreement, CIBIL Consent and General Form of Guarantees and that all the above acts of the petitioners would clearly prove that they knew about the loan being availed by them in the name of the firm where they were partners and they being registered partners of the firm cannot deny their responsibility.

18. The learned Additional Public Prosecutor would further submit that in Crl.O.P.(MD)No.11302 of 2021 that all the accused at the time getting loans had signed and submitted an undertaking dated 25.03.2016 to the effect that the partners of the firm shall not retire from the partnership firm without prior permission, but the investigation revealed that the firm had had never sought any prior permission from the bank to replace the petitioners as partners and bring in Shri.Vijesh Patel (A6) in lieu of them and that as part of the criminal conspiracy, the Branch Manager Shri.Krishna Prasad has accepted the revised partnership deeds and kept in records without bringing it to the notice of the loan sanctioned authority.

19. The learned Additional Public Prosecutor would further submit that during the search conducted at the house of the petitioners on 08.02.2019, IT

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Returns and Annexure of Madhav Industries filed for the Assessment year 2017-2018 by Shri.M.Parthiban of M/S.Sami and Rajhu Chartered Accountants, Trichy were seized and as per the seized records, the firm had only submitted Form-II A for changing the partnership on 30.01.2017 to the District Registrar with application to effect the changes from 10.04.2016.

20. He would further submit that the petitioners had also availed loan from Laxmi Vilas Bank earlier which was closed just before the release of this loan from the second respondent and hence, it cannot be said that the petitioners have no role in the business of the firm when they themselves had availed loan from more than one bank wherein they had signed the required documents and formalities and that the onus of submitting forged and fabricated documents to the bank while applying for the loan cannot be shifted to a new partner who comes in afterwards.

21. The learned counsel for the petitioners would further submit that in order to attract the offence under Section 120(B) IPC, which is a specific and separate offence, there is no material to show that these petitioners were involved in a conspiracy as in the loan application itself they have made it clear that they do not own any property. He would further submit that in order to attract the offence under Sections 468 and 471 IPC, there are no averments that the petitioners have committed any forgery or used them as genuine.

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22. To counter the said arguments, the learned Additional Public Prosecutor would submit that in considering the question of criminal conspiracy, it is not always possible to give affirmative evidence about the date of the formation of the conspiracy, about the persons who took part in the formation of the conspiracy, about the object which the conspirators set before themselves as the object of the conspiracy and about the matter in which, the object of the conspiracy was to be carried out and the learned Additional Public Prosecutor has quoted some passages in the judgments in the counter affidavit and it is necessary to refer the judgment in **Kehar Singh Vs. State (Delhi Admn)** reported in **AIR 1988 SC 1883:**

> *38. Generally, a conspiracy is hatched in secrecy and it may be difficult to adduce direct evidence of the same. The prosecution will often rely on evidence of acts of various parties to infer that they were done in reference to their common intention. The prosecution will also more often rely upon circumstantial evidence. The conspiracy can be undoubtedly proved by such evidence direct or circumstantial. But the Court must enquiry whether the two persons are independently pursuing the same end or they. have come together to the pursuit of the unlawful object. The former does not render them conspirators, but the latter does. It is, however, essential that the offence of conspiracy requires some kind of physical manifestation of agreement. The express agreement, however, need not be proved. Nor actual meeting of two persons is necessary. Not it is*

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necessary to prove the actual words of communication. The evidence as to transmission of thoughts sharing the unlawful design may be sufficient. The relative acts or conduct of the parties must be conscientious and clear to mark their concurrence as to what should be done. The concurrence cannot be inferred by a group of irrelevant facts artfully arranged so as to give an appearance of coherence. The innocuous. innocent or inadvertent events and incidents should not enter the judicial verdict.

23.Regarding the other offences, the learned Additional Public Prosecutor would submit that the accused had not denied the submission of the forged and fabricated records like VAT returns, Income Tax Returns, Balance Sheet and etc., to the second respondent along with the loan application; that the petitioners are now claiming that they only signed the loan documents and denies any knowledge of the same, but they had also enjoyed the gains from such wrongly acquired amounts from the bank by being the other partner of the firm, but now clandestinely defends the onus of the illegal activity committed in the firm's name by shifting the entire blame on the other partners.

24.Now turning to the legal position relied on by the both counsel on record, it is necessary to refer the judgment of the Hon'ble Supreme Court in **State of Haryana Vs. Bajan Lal** reported in **1992 Suppl.(1) SCC 335**, wherein

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the Hon'ble Supreme Court enumerates 7 categories of the cases, where the power can be exercised under Section 482 of Cr.P.C and the same is extracted hereunder:

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

(1) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. 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 uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(4) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

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25. The learned counsel for the petitioners has relied on the judgments of this Court in ***S.Kanagam Vs. State represented by the Inspector of Police, EOW II Wing, Namakkal*** reported in **2021 0 Supreme (Mad) 2069** and **S.Thamayanthi Vs. State of Tamil Nadu by Inspector of Police, Theni** reported in **2013 0 Supreme (Mad) 1199**.

26. In the above two cases, the accused who were facing charge under Section 5 of The Tamil Nadu Protection of Interest of Depositors Act, 1997 have filed petition before the trial Court seeking discharge and when the said applications were ordered to be dismissed, the accused have preferred the criminal revisions. Being the family member of the main accused or being a partner of the first accused firm, is not sufficient to frame a charge under Section 5 of TNPID Act, since Section 5 contemplates that "every person responsible for the management of the affairs of the Financial Establishment shall be liable for the default and that the learned Judge of this Court by observing that the accused have nothing to do with the financial bungling of the institution cannot be roped in, allowed the criminal revisions and discharged them from the criminal proceedings.

27.The above decisions have absolutely no application to the case on hand.

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28. The learned counsel for the petitioners has then relied on the judgment of the Hon'ble Supreme Court in **Monaben Ketanbhai Shah and another Vs. State of Gujarat and Others** reported in **2004 0 AIR (SC) 4274 ;** and **S.M.S.Pharmaceuticals Ltd., Vs. Neeta Bhalla and another** reported in **2005 0 AIR (SC) 3512,** wherein the Hon'ble Apex Court while considering the complaints under Section 138 r/w 142 of Negotiable Instruments Act have specifically held that Section 141 of Negotiable Instruments Act does not make all partners liable for the offence and that the criminal liability can be fastened on those who, at the time of commission of the offence was in charge of and in responsible to the firm for the conduct of the business of the firm.

29.The learned counsel for the petitioners has also relied on the judgment of the Hon'ble Supreme Court in **Sham Sundar and others Vs. State of Haryana** reported in **AIR 1989 (SC) 1982** and the relevant passages are extracted hereunder :

> "8.*But we are concerned with a criminal liability under penal provision and not a civil liability. The penal provision must be strictly construed in the first place. Second- ly, there is no vicarious liability in criminal law unless the statute takes that also within its fold. Section 10 does not provide for such liability. It does not make all the partners liable for the offence whether they do business or not.*

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9.It is, therefore, necessary to add an emphatic note of caution in this regard. More often it is common that some of the partners of a firm may not even be knowing of what is going on day to day in the firm. There may be partners, better known as sleeping partners who are not required to take part in the business of the firm. There may be ladies and minors who were admitted for the benefits of partnership. They may not know anything about the business of the firm. It would be a travesty of justice to prosecute all partners and ask them to prove under the proviso to sub- section (1) that the offence was committed without their knowledge. It is significant to note that the obligation for the accused to prove under the proviso that the offence took place without his knowledge or that he exercised all due diligence to prevent such offence arises only when the prosecution establishes that the requisite condition mentioned in sub-section (1) is established. The requisite condition is that the partner was responsible for carrying on the business and was during the relevant time in charge of the business. In the absence of any such proof, no partner could be convicted. We, therefore, reject the contention urged by counsel for the State.

30. The learned Additional Public Prosecutor has relied on the judgment of the Hon'ble Supreme Court in **Sunil Todi and others Vs. State of Gujarat and another** reported in **AIR 2022 SC (Criminal) 241**, wherein the Hon'ble Supreme Court has specifically held that if sufficient averments in the complaint to raise a *prima facie* case against the accused persons, then it is only at the trial that they could take recourse to the proviso to Section 141 and not at the stage of issuance of process and the relevant passages are extracted hereunder :

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"44. The test to determine if the Managing Director or a Director must be charged for the offence committed by the Company is to determine if the conditions in Section 141 of the NI Act have been fulfilled i.e., whether the individual was in-charge of and responsible for the affairs of the company during the commission of the offence. However, the determination of whether the conditions stipulated in Section 141 of the MMDR Act have been fulfilled is a matter of trial. There are sufficient averments in the complaint to raise a prima facie case against them. It is only at the trial that they could take recourse to the proviso to Section 141 and not at the stage of issuance of process.

45. In the present case, it is evident that the principal grounds of challenge which have been set up on behalf of the appellants are all matters of defence at the trial. The Magistrate having exercised his discretion, it was not open to the High Court to substitute its discretion. The High Court has in a carefully considered judgment, analysed the submissions of the appellants and for justifiable reasons has come to the conclusion that they are lacking in substance."

31. Admittedly, the petitioners in both the petitions are the women partners, who had allegedly subscribed their signatures in the loan applications. It is the specific contention of the prosecution that all the accused, at the time submitting their loan applications, had also submitted forged and fabricated records such as VAT returns, Income Tax returns, Balance sheet and other financial documents, Valuation reports to the second respondent Bank.

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32. As already pointed out, it is the specific case of the prosecution in Crl.O.P.(MD)No.11302 of 2021 that though all the accused including the petitioner had given an undertaking that they shall not retire from the partnership firm without prior permission of the bank authorities, they have subsequently without getting permission had relieved from the partnership firm and the sixth accused was added as new partner to the said firm.

33. Whether the petitioners had participated in the conspiracy; whether they had taken part in the business transactions; whether they were also involved in submission of the forged and fabricated documents at the time of submitting the loan application are the aspects that can be gone into only at the trial and not at this stage and that too in the proceedings under Section 482 Cr.P.C.

34. The Hon'ble Supreme Court in **CBI Vs.Manider Singh** reported in **2010 1 SCC 389**, has specifically held that the Court, in economic offences must not only keep in view that money has been paid to the bank which has been defrauded, but also the society at large and it is not a case of simple assault or a theft of a trivial amount; but the offence with which we are concerned is a well planned and was committed with a deliberate design with an eye of personal profit regardless of consequence to the society at large.

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35. The learned Additional Public Prosecutor would strongly contend that the statement of the witnesses and the documentary evidence filed along with the charge sheet would go to show that all the accused had committed cheating and forgery in pursuance of conspiracy and that the probative value of materials can be looked into only at the trial and not at this stage. It is necessary to refer the judgment of the Hon'ble Supreme Court in **Rajeev Kourav Vs. Baisahab and others** in **Criminal Appeal No.232 of 2020**, wherein, the Hon'ble Supreme Court has reiterated the legal position that the High Court cannot embark upon the appreciation of evidence while considering the petition filed under Section 482 Cr.P.C., for quashing criminal proceedings and the relevant passage is extracted hereunder :

> *"6. It is no more res integra that exercise of power under Section 482 CrPC to quash a criminal proceeding is only when an allegation made in the FIR or the charge sheet constitutes the ingredients of the offence/offences alleged. Interference by the High Court under Section 482 CrPC is to prevent the abuse of process of any Court or otherwise to secure the ends of justice. It is settled law that the evidence produced by the accused in his defence cannot be looked into by the Court, except in very exceptional circumstances, at the initial stage of the criminal proceedings. It is trite law that the High Court cannot embark upon the appreciation of evidence while considering the petition filed under Section 482 CrPC for quashing criminal proceedings. It is clear from the law laid down by this Court*

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that if a prima facie case is made out disclosing the ingredients of the offence alleged against the accused, the Court cannot quash a criminal proceeding."

36. In ***Central Bureau of Investigation Vs. Arvind Khanna*** reported in ***2019 (10) SCC 686***, the Hon'ble Supreme Court has specifically observed that the defence of the accused is to be tested only at the trial and not at this stage. and the relevant passages is extracted hereunder:

"17.After perusing the impugned order and on hearing the submissions made by the learned Senior Counsel on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant CBI, and the defence put forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

18.In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance of by the competent Court, is completely incorrect and uncalled for."

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37. It is necessary to refer the following passages in the judgment of the Hon'ble Supreme Court in **Amit Kapoor Vs. Ramesh Chander and another** reported in **(2012) 9 SCC 460** :

> **"**27. 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.*
>
> 27.16.... Where the factual foundation for an offence has been laid down, the Courts should be reluctant and should not hasten to quash the proceedings even on the premise that one or two ingredients have not been stated or do not appear to be satisfied if there is substantial compliance with the requirements of the offence."

38.It is settled law that the High Court is having power and jurisdiction to quash the proceedings, if it comes to the conclusion that allowing the proceedings to continue, would be abuse of process of the Court or that the ends of justice required that the proceedings are to be quashed and that this Court while exercising the power under Section 482 Cr.P.C does not function as a Court of Appeal or Revisional Court.

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39.It is pertinent to note that though the inherent jurisdiction under the said Section is very wide, it has to be exercised sparingly, carefully and with caution and that the same is to be exercised *exdebito justitiae* to do real and substantial justice for the administration of which alone, Courts exist. More over, The inherent power should not be exercised to stifle a legitimate prosecution.

40.The learned counsel for the petitioners would submit that the ingredients for the provisions of law, with which, the petitioners are charged, are not made out. But, as rightly contended by the learned Additional Public Prosecutor, the power under Section 482 of Cr.P.C cannot be exercised, where the allegations are required to be proved in a Court of law and at this stage, it is not necessary for the prosecution to show *prima facie* materials for the ingredients for each of the legal provision, with which accused are charged.

41.Upon careful perusal of the FIR and the material collected by the Investigating Officer, on the basis of which the charge sheet has been filed, makes out a *prima facie* case against the accused at this stage and there appear to be sufficient ground for proceeding against the accused. I do not any justification to quash the charge sheet or the proceedings against the petitioners arising out of them as the case does not fall in any of the categories recognized

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by the Hon'ble Supreme Court, which may justify their quashing. Hence, this Court concludes that the Criminal Original Petitions are devoid of merits and the same are liable to be dismissed.

42. In the result, the Criminal Original Petitions are dismissed. Consequently, the connected miscellaneous petitions are closed.

30.09.2022

Index : Yes/No
Internet : Yes/No

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Inspector of Police,
   Central Bureau of Investigation,
   Anti Corruption Bureau (ACB),
   Madurai District.

2. The Additional Public Prosecutor,
   Madurai Bench of Madras High Court,
   Madurai.

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K.MURALI SHANKAR, J.

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