IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 02.01.2023
PRONOUNCED ON : 28.07.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.RC.Nos.1165, 1166 & 1167 of 2017

R.Subramanian ... Petitioner / Respondent / Complainant in all CRL.RCs.

Vs.

1.The Hongkong and Shanghai Banking Corporation
Rep.by its Chief Executive Mr.Surat A Davis
52/60, MG Road,
Fort, Mumbai – 400 001.

2.Shri Neeraj Dutt Upadhyay
Vice President – Credit Risk Management,
The Hongkong and Shanghai Banking Corporation,
3rd Floor, Birla Towwers,
25, Barakamba Road,
New Delhi 110 001. ... Respondents / Petitioners / A1&A2 in all CRL.RCs.

COMMON PRAYER: Criminal Revisions filed under Section 397 r/w. 401 of the Code of Criminal Procedure, to call for the records relating to the order dated 24.04.2017 passed in Crl.M.P.No.2792 of 2016 in EOCC No.135 of 2013, Crl.M.P.No.2790 of 2016 in EOCC No.133 of 2013 and Crl.M.P.No.2791 of 2016 in EOCC No.134 of 2013, respectively, on the file of the Court of the Addl.Chief Metropolitan Magistrate, Economic Offences-I, Egmore, Chennai, and set aside the same.

For Petitioners (in all Crl.O.Ps.)	:	Mr.R.Subramanian Party-in-Person
For Respondent-1 (in all Crl.O.Ps.)	:	Mr.A.Sasidharan
For Respondent-2 (in all Crl.O.Ps.)	:	Mr.Srinath Sridevan

COMMON ORDER

The Criminal Revisions Petitions have been filed to call for the records relating to the orders, dated 24.04.2017, passed in Crl.M.P.No.2792 of 2016 in EOCC No.135 of 2013, Crl.M.P.No.2790 of 2016 in EOCC No.133 of 2013 and Crl.M.P.No.2791 of 2016 in EOCC No.134 of 2013, respectively, on the file of the Court of the Addl.Chief Metropolitan Magistrate, Economic Offences-I, Egmore, Chennai, and set aside the same.

2. The brief facts of the case are as follows:-

The petitioner was the Managing Director of the Company namely, 'Subhiksha Trading Services Ltd., (in short, 'the STSL'), till 31.12.2014, which is a leader in retail business, but now under liquidation. The 1st respondent Bank filed O.A.No.185 of 2009, before the Debt Recovery Tribunal-1, against the STSL and the Petitioner for recovery of claim.

The 1st Respondent filed an application in I.A.No.546 of 2010, before the Debt Recovery Tribal-1, claiming as though the STSL had created a Trust and the various wrongful acts, including transfer of control of 13 Companies to the said Trust, which were made by the petitioner's wife. The Ministry of Corporate Affairs, Union of India ordered investigation in 2010, against the STSL, under the Companies Act, 1956. The Registrar of Companies, Tamilnadu, being part of Ministry of Corporate Affairs issued orders under Section 234 of the Companies Act, 1956 against the STSL, which was challenged by the petitioner in W.P.No.4220 of 2011. The 1st respondent filed an intervening application in WMP.No.2 of 2011 along with supporting affidavit. The contents of the averments were all matters pertaining to the Companies Act, 1956, as they were related to wrongful allotment of the shares from STSL and that shares were allotted in 13 companies to the Trust and such Trust was alleged to have been set up by STSL. The respondents set out false averments despite and unable to adduce any evidence. Therefore, the petitioner filed a complaint against the respondents for having intentionally giving false evidence on oath under Section 629 of the Companies Act, 1956, before the learned Additional Chief Metropolitan Magistrate (EO-1), Chennai, which was taken on file as EOCC No.135 of 2013, EOCC No.133 of 2013 and EOCC No.134 of 2013 respectively in Crl.R.C.No.1165 of 2017, Crl.R.C.No.1166 of 2017 and Crl.R.C.No.1167 of 2017. The respondent filed discharge application under Section 245(2) Cr.P.C., in Crl.M.P.No.2792 of 2016, Crl.M.P.No.2790 of 2016 and Crl.M.P.No.2791 of 2016 respectively, claiming that no offence made out under Section 629 of the Companies Act, 1956 and if there was any false evidence, the provision of Section 195/340 of Cr.P.C., would govern the same. The said discharge petitions were allowed by the learned trial Judge holding that the complaint did not attract the provisions of Section 629 of the Companies Act, 1956. Against which, the present Revisions.

3. Mr.R.Subramanian, the petitioner, as party-in-person, appeared before this Court and would submit that the leaned Magistrate has passed the order wholly misunderstanding the provisions of Section 629 of Companies At 1956. The Magistrate wholly failed to apply his mind to the actual facts of the case, as the impugned order even fails to note that the affidavit was filed at DRT-1, Chennai, and wrongly held that it related to the Writ Petition filed before this Court. The complaint under Section 629 of Companies Act would be attracted in all cases, where false evidence is intentionally tendered in or about the winding up of any Company under the Act or any matter arising under the Act. The nature of offences of false evidence covered under Section 629 of the Companies Act, 1956 were not only in respect of proceedings under the Act, but also about any matter arising under the Act, and as such, the mere fact that

the averments were made in I.A filed at Debt Recovery Tribunal, Chennai, impleading petition W.MP.No.1 of 2011 in W.P.No.4220 of 2011 and counter affidavit filed in the Review Petition W.M.P.No.2 of 2011 by the petitioner before this Court, does not render it outside the scope of the offence under Section 629 of Companies Act, 1956. Any false evidence in respect of any matter related to the Companies Act would be directly covered under Section 629 of Companies Act, 1956, in view of the specific provisions therein covering anything in or about a matter arising under the Companies Act 1956. The averments in the Affidavit were in any event only in respect of the transfer of claimed control of 13 companies and as such, the matters set out falsely in the affidavit were only about matters arising under the Companies Act, 1956 and in respect of intentional false evidence in such proceedings, the provisions of Section 629 of the Companies Act, 1956 directly attracted, as the false evidence was only in respect of a matter arising under the Companies Act, 1956.

4. It is his further contention that the learned Magistrate failed to note that the law is no longer moot that the same act of a person can give rise to multiple offences each of which punishable under different laws, and as such, merely because, the offence of perjury is punishable under Chapter XI IPC and prosecution for such offences under Chapter XI IPC are governed by Sec.195/340 CrPC., there is no bar on the same act of the

Respondents being prosecuted for offence under Section 629 of the Companies Act 1956. As per Section 621 of the Companies Act, 1956, only the trial Court vested with jurisdiction to try the offence and the High Court had no jurisdiction to try the offence under Section 629 Companies Act 1956. The Kerala High Court in the case of ***V.Sugandha Lal V. Boby Varghese*** reported in ***(2000(2) KLT 723)*** had affirmed the position. Further, in paragraphs 3 to 8, it has been held as follows:-

> "3. One of the prayers in the petition being to take cognizance of the offence punishable under Section 629, the question which arises for consideration is whether this court can take cognizance of the offence, punishable under the above section, alleged to have been committed by the respondent. Incidentally, the question whether the company court can try the offence punishable under Section 629 also arises for consideration since if it is found that this court can take cognizance of the offence, the trial of the case in which the allegation is that the respondent committed offence punishable under Section 629 also has to be conducted in this Court.
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> 4. According to the learned counsel appearing for the petitioner, the company court can take cognizance of the offence punishable under Section 629 and also conduct trial of the case. It is maintained by the learned counsel that since Section 446 of the Act gives powers to the High Court to entertain or dispose of any suit or

proceedings by or against the company, this Court can entertain criminal proceedings by or against the company. In support of the above stand taken by the petitioner, a decision of the Punjab and Haryana High Court in Khosla Fans (India) P. Ltd. (In Liquidation), in Re. v. Ramesh Khosla, [1983] 53 Com Cas 858 : (1981 Tax LR 244) was cited in which it was held that Section 446 is a special provision which has vested in the High Court with jurisdiction to entertain or dispose of any suit or proceedings by or against the company and that the prosecution sought to be launched by the official liquidator on behalf of the company is a proceeding by the company against the acts of the office-bearers. On making the above observation, the Punjab and Haryana High Court held that the High Court can exercise jurisdiction in suits and proceedings including criminal proceedings in appropriate cases by or against the company filed by the official liquidator. A reading of the judgment of the above High Court would indicate that the court held the view that the criminal proceedings also can be had in the company court on the basis of what is stated in Section 446 of the Act.

5. In the above case which came up for consideration before the Punjab and Haryana High Court, it was contended that the words 'in suit or proceedings by or against the company' are wide enough to include criminal proceedings launched by way of a complaint at the instance of the official liquidator. The court considered the question whether the provisions of Section 446(2) do not vest any special

jurisdiction in the company court to entertain or dispose of complaints which are filed for violation of the provisions and for the offences committed under the Act. In rendering the above decision, the court observed that the prosecution sought to be launched by the official liquidator on behalf of the company is a proceeding by the company against the acts of the off ice-bearers and hence, the High Court can exercise jurisdiction in suits and proceedings including criminal proceedings.

6. Section 4 of the Code of Criminal Procedure provides for trial of offences under the Indian Penal Code and other laws. Section 4(1) says that all offences under the Indian Penal Code shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions contained in the Code. It is in Sub-section (2) of Section 4 that provision is made regarding trial of offences under other laws. That sub-section enjoins that all offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions in the Code, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

7. A reading of Section 4 would indicate that the general law is that all offences under the Indian Penal Code and any other law shall be investigated, inquired into, tried and otherwise dealt with according to the provisions of the Code. But in cases in which there are

specific provisions in any enactment in respect of investigation, inquiry or trial, those matters will be governed by those provisions under the Act and not by the provisions of the Code.

8. In this context, it is pertinent to refer to the definition of 'offence' contained in Section 2(n) of the Code of Criminal Procedure, which reads as follows :

> "Offence" means any act or omission made punishable by any law for the time being in force and includes any act in respect of which a complaint may be made under Section 20 of the Cattle Trespass Act, 1871 (1 of 1871)."

So, the offence made mention of in various provisions of the Code of Criminal Procedure means any act or omission made punishable by any law for the time being in force. The definition of offence takes in any act or omission made punishable by the provisions in the India Penal Code as well as by the provisions in any other law for the time being in force.

5. The only recourse for a aggrieved party is to seek recourse under Section 482 CrPC., from the High Court. Though the Company borrowed Rs.75 Crores from the 1st respondent and defaulted on the same, when the claim of the 1st Respondent in this regard is in no manner decided and the claim of the 1st Respondent was pending adjudication in other forums and in any event, the facts in this regard are wholly irrelevant to the matter in issue. The relevant provisions in respect of the offence set out by the Revision Petitioner/Complainant was that there was falsity, such falsity

intentional, in Affidavit filed by the Respondent/Accused and that such Affidavit and the false averments related to matters arising under the Companies Act 1956. The factual aspects of whether the averments in the Affidavit were false and whether such falsity was intentional are evidently matters of fact to be proved by evidence and hence cannot be the basis of any discharge and hence the factual aspects are not traversed into. The factual position that Accused filed Affidavits containing the statements set out in the complaint as false is also not a matter of dispute. The trial Court proceeded to hold as though Section 629 of Companies Act, 1956, does not apply, unless the affidavit was in respect of winding up of a Company. The trial Court further proceeded to hold as though in respect of false evidence the procedure under Section 195/340 Cr.PC., is the remedy and Section 629 Companies Act, 1956, cannot be the basis of any prosecution of such false Affidavit, is not proper. Hence, the petitioner / party-in-person, has filed the present Revisions, for the aforesaid relief.

6. Mr.A.Sasidharanm and Mr.Srinath Sridevan, the learned counsels appearing for the respondents 1 and 2/ Hongkong and Shanghai Banking Corporation and its Vice President, would submit that to protect the interest of the Bank in respect of default of payment of loan to an extent of Rs.75 Crores by Subhiksha Trading Services Ltd., a Public Limited Company, of which the petitioner is the Managing Director. the petitioner

borrowed loan to an extent of Rs.75 Crores and he is a chronic defaulter in repaying the loan borrowed. It is further submitted that in the Companies Act, 1956, there is no special procedure mentioned for the trial of offence under Section 629 of the said Act. The trial of offence under the said Act will have to be conducted in accordance with the provisions of the Code of Criminal Procedure subject to the condition that no Court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence against the Act, as provided in Section 622 of the said Act.

7. The petitioner is in the habit of filling one petition or another against the officials of Lending Banks, whenever they initiated action for recovery, by picking holes in the affidavits filed before the Debt Recovery Tribunal or before this Court, reading the lines between in isolation, casting aspersions and had filed several cases. Some of the petitions reached the Apex Court, invariably all the complaints, cases initiated and filed by the petitioner have been disposed or dismissed. The petitions are filed to deter the Bank Officials to be kept at bay, deter them from taking action, prevent them from pursuing the recovery proceedings through the procedures established by law. The petitioner have gone to the extent of filling a similar case against the Government officers, who were in service of Serious Fraud Investigation Office (SFIO). The illustrative cases below

would stand testimony of the petitioners act. Defamation cases against Bennet Coleman and others, as regards for the case filed against Azim Premji, C/o. Wipro Limited, the Supreme Court, imposed Cost on the petitioner for filing frivolous cases. Similar Complaints under Section 629 of Companies Act, filled Kotak Mahindra Bank, M/s.Zash Investment and Trading Company Pvt Ltd., ICICI Bank Ltd, and others, apart from three cases, defamation cases were filed against the Bank officials and others, again for filling supporting affidavits for the petitions filed before DRT and in Courts pitching certain portion as defamatory, presently almost all the cases have been quashed or closed.

8. For the similar averment found in affidavit filled by HSBC Bank in Original Application No.529 of 2009, before the Debt Recovery Tribunal, getting defame of the same, the petitioner filed defamation case in C.C.No.2991/2012, before the XIV Metropolitan Magistrate Court, Chennai, and the same was quashed by this Court in Cr.L.O.P. No.31446 of 2013, along with a batch of cases, against which, the petitioner preferred an appeal to the Apex Court, SLP Diary No. 13330 of 2020 and the same was denied. The learned counsel for the respondent further referring to the order passed in Crl.O.P.No. 28787 of 2013, dated 01.02.2019 submitted that in an identical situation, the petitioner had filed complaints against the officers of SFIO and this court had quashed the proceedings.

Hence, the learned counsel prays for dismissal of the Revisions.

9. I have heard the learned counsels appearing on either side and perused the materials available on record.

10. On perusal of the records it is seen that the petitioner herein filed a complaint under Section 200 Cr.P.C., for offence under Section 629 of the Companies Act, 1956, before the learned Additional Chief Metropolitant Magistrate, Economic Offences-1, Egmore, Chennai, which was taken on file in EOCC Nos.135 of 2013 in respect of Crl.R.C.No.1165 of 2017 alleging false averment that control of 13 sister companies was transferred to the wife of the petitioner; in EOCC Nos.133 of 2013 in respect of Crl.R.C.No.1166 of 2017 alleging false averment of wrongful allotment of shares and that 13 companies were set up and the share allotted to the Trust and in EOCC Nos.134 of 2013 in respect of Crl.R.C.No.1167 of 2017 alleging that the Writ Petition is filed to stall the SFIO investigation. The Respondent Bank filed petitions in Crl.M.P.No.2790 of 2016, Crl.M.P.No.2791 of 2016 and Crl.M.P.No.2792 of 2016 respectively, praying to discharge them from the above case.

11. The learned Additional Chief Metropolitan Magistrate, Economic Offences-1, Egmore, Chennai, after hearing both sides and on perusal of the materials, allowed the petitions filed by the respondent Bank vide order, dated 24.04.2017, in Crl.M.P.No.2792 of 2016 in EOCC No.135 of 2013, Crl.M.P.No.2790 of 2016 in EOCC No.133 of 2013 and Crl.M.P.No.2791 of 2016 in EOCC No.134 of 2013, respectively. As against the said order passed by the court below, the Revision Petitioner is before this Court for the aforesaid relief. It is relevant to refer the provision of Section 245 in the Code Of Criminal Procedure, 1973, which reads as under:-

> "245. When accused shall be discharged.
>
> (1) If, upon taking all the evidence referred to in section 244, the Magistrate considers, for reasons to be recorded, that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him.
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> (2)Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless."

12. It is also relevant to refer Section 629 of the Companies Act, 1956, which reads as under

> "629. Penalty for false evidence. If any person intentionally gives false evidence-
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> (a) upon any examination upon oath or solemn affirmation, authorised under this Act; or
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> (b) in any affidavit, deposition or solemn affirmation, in or about the winding up of any company under this Act, or otherwise in or about any matter arising under this Act; he shall be punishable with imprisonment for a term which may extend to seven years, and shall also be liable to fine."

13. On perusal of the records it is seen that the respondents made averments that the Subhiksha Trading Services Ltd set up a Private Trust in the name of "Srividhya Trust", vide Gift Deed, dated 15.07.2022; that there were diversion of funds or wrongful allotment of shares to the said Trust and the claim that 13 other concerns were set up and that the share in these were allotted to the Trust. According to the Revision petitioner, the affidavit intentionally with false allegations without the support of any documents. No evidence is existing for the allegations made by the respondents. The Bank has filed the affidavit with certain averments in order to protect the interest of the Bank in respect of default of payment of loan to an extent of 75 Crores by STSL. The averments made before this Court in the Writ Petitions are still pending and therefore, the High Court alone is competent to record the findings to the effect that the

offence has been committed in relation to the proceedings in the said Court and in such event, the provisions of Sections 195(1)(b) and 340 of Cr.PC., are applicable. Thus, by taking into account all the aforesaid facts and circumstances, the learned Additional Chief Metropolitan Magistrate Court, Economic Offences-I, Egmore, Chennai , by his detailed order, concluded that this is a case where no *prime facie case* is made out by the prosecution and as such, the accused are entitled to be discharged as per Section 245(1) of the Code of Criminal Procedure,1973. Further, the trial Court has rightly held that Section 629 of the Companies Act, 1956 will not apply to the complaint.

14. Taking into consideration all the facts and circumstances of the case, I am of the considered view that the learned Additional Chief Metropolitan Magistrate, Economic Offences-I, Egmore, Chennai, has considered in detail all the facts and circumstances as well as all the records and has recorded the order of discharge. It would be appropriate to extract the analysis and finding given by this Court in the case of ***M.O.Roy and Others Vs. R.Subramanian*** reported in ***(2019 SCC Online Mad 26388)***, wherein in paragraph Nos. 15 to 17 and 21 to 24, it has been held as follows:-

"15. In so far as the Crl.O.P.Nos.28787, 29041 and 29042 of 2013 are concerned, according to the respondent/complainant viz., Mr.R.Subramanian, the petitioners /accused have filed counter affidavits in W.P.Nos.5696, 6790 and 6791 of 2007 on the file of this court with false averments and hence they have committed offence punishable under Section 629 of the Companies Act, 1956.

16. Before going into the facts of the case, it would be relevant to refer to Sections 621, 622,624 and 628 to 631 of the Companies Act, 1956 which are read thus:

"621. Offences against Act to be cognizable only on complaint by Registrar, shareholder or Government.

(1) No court shall take congnizance of any offence against this Act (other than an offence with respect to which proceedings are instituted under section 545), which is alleged to have been committed by any company or any officer thereof, except on the complaint in writing of the Registrar, or of a shareholder of the company, or of a person authorised by the Central Government in that behalf: Provided that nothing in this sub- section shall apply to a prosecution by a company of any of its officers.

(1A) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, (5 of 1898) where the complainant under sub- section (1) is the Registrar or a person authorised by the Central Government, the personal attendance of the complainant before the Court trying the offence shall not be necessary unless the Court for reasons to be recorded in writing requires his personal attendance at the trial.]

(2) Sub- section (1) shall not apply to any action taken by the liquidator of a company in respect of any offence alleged to have been committed in respect of any of the matters included in Part VII.

622. Jurisdiction to try offences. No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence against this Act.

624. Offences to be noncognizable. Notwithstanding anything in the Code of Criminal Procedure, 1898 (5 of 1898) 2, every offence against this Act shall be deemed to be noncognizable within the meaning of the said Code.

628. Penalty for false statements. If in any return, report, certificate, balance sheet, prospectus, statement or other document required by or for the purposes of any of the provisions of this Act, any person makes a statement-

(a) which is false in any material particular, knowing it to be false; or

(b) which omits any material fact knowing it to be material; he shall, save as otherwise expressly provided in this Act, be punish- able with imprisonment for a term which may extend to two years, and shall also be liable to fine.

629. Penalty for false evidence. If any person intentionally gives false evidence-

(a) upon any examination upon oath or solemn affirmation, authorised under this Act; or

(b) in any affidavit, deposition or solemn affirmation, in or about the winding up of any company under this Act, or otherwise in or about any matter arising under this Act; he shall be punishable with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

630. Penalty for wrongful withholding of property.

(1) If any officer or employee of a company-

(a) wrongfully obtains possession of any property of a company; or

(b) having any such property in his possession, wrongfully withholds it or knowingly applies it to purposes other than those expressed or directed in the articles and authorised by this Act; he shall, on the complaint of the company or any creditor or contributory thereof, be punishable with fine which may extend to one thousand rupees.

(2) The Court trying the offence may also order such officer or employee to deliver up or refund, within a time to be fixed by the Court, any such property wrongfully obtained or wrongfully withheld or knowingly misapplied, or in default, to suffer imprisonment for a term which may extend to two years.

Section 631- Penalty for improper use of words “Limited” and “Private Limited”. If any person or persons trade or carry on business in any name or title of which the word “Limited” or the words “Private Limited”, or any contraction or limitation thereof is or are the last word or words, that person or each of those persons shall, unless duly incorporated with limited liability, or unless duly corporated as a private company with limited liability, as the case may be, be punishable with fine which may extend to five hundred rupees for everyday upon which that name or title has been used.”

17. A conjoint reading of Sections 621,622,624 and 628 to 631 of the Companies Act, 1956 would give meaning that only the company or any officer thereof could be prosecuted under the Companies Act and the complaint could be only be by the Registrar or the Shareholder of the company or a person authorised by the Central Government in that behalf. In other words, the court can take cognizance in respect of the offences against the Companies Act only on the complaint made by Registrar of the Company or Shareholder of the Company or a person authorised by the Central Government in that behalf. Therefore, the complaint by a company or by any person on behalf of the company against the public servants or officials of government, that too, against its investigators is not envisaged under the Companies Act. Therefore, the respondent/complainant viz., Mr.R.Subramanian cannot file a complaint against the petitioners (investigators) who were duly authorised by the Central Government

to investigate the matter.

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21. If the petitioners herein have filed false affidavits before this court in W.P.Nos.5696, 6790, 6791 of 2011, this court is of the view that the provisions of Section 629 of the Companies Act, 1956 would not attract; on the contrary, Section 191 of IPC alone would attract. Section 191 of IPC reads as follows:

"191. Giving false evidence.—Whoever, being legally bound by an oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence. Explanation 1.—A statement is within the meaning of this section, whether it is made verbally or otherwise. Explanation 2.—A false statement as to the belief of the person attesting is within the meaning of this section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know. "

22. A plain reading of the aforesaid provision would show that whoever being legally bound by an

oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false is said to give false evidence. The penal provision for giving false evidence is Section 193 of IPC. Therefore, if any false affidavit is filed before the court, the provisions of Section 193 of IPC alone would attract.

23. As per Section 195(1)(b)(i) of Cr.P.C., no court shall take cognizance of any offence punishable under Sections 193 to 196 of IPC. When such offence is alleged to have been committed in, or in relation to, any proceeding in any court except on the complaint in writing of that court or by such officer of the court as that court may authorise in its writing in this behalf or of some other court to which that court is subordinate.

24. In this case, as already pointed out that according to the respondent/complainant, the petitioners herein have filed false counter affidavits in W.P.Nos.5696, 6790, 6791 of 2011 before this court and they are still pending. In view of the bar created under Section 195 (1) Cr.P.C., the learned Additional Chief Metropolitan Magistrate, (EOI) Egmore, Chennai, should not have taken cognizance based on the complaint filed by the private persons.

25. It is also to be pointed that the petitioners were working in various departments of the Central Government and they were deputed for the purpose of serious fraud investigation and they can be removed

> from their office only by the Central Government. As per Section 197(1) of Cr.P.C., When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction of the appropriate Government."

15. From the trajectory of the case and finding the petitioner is in the habit of filing barrage of complaint and cases against the Bank, its officials, including Government Servants, for filing affidavits before DRT or before this Court the petitioner getting annoyed in pick and choose, by his own interpretation filled cases against them regularly, to deter the Bank and its officials proceeding against him for recovery of public money. The Apex court in plethora of Judgements has held that criminal prosecution cannot be used to spike venom and vengeance for an ulterior purpose. The inherent powers of the High Court is not the one conferred by the Code but the one which the High Court already has in it and which is preserved by the Court. Section 482 saves inherent power of the High Court postulating that "nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice". When the High Court on examination of the record finds that there is grave miscarriage of justice or abuse of process of the courts or

the required statutory procedure has not been complied with or there is failure of justice or order passed or sentence imposed by the Magistrate requires correction, it is but the duty of the High Court to have it corrected at the inception lest grave miscarriage of justice would ensue. It is, therefore, to meet the ends of justice or to prevent the abuse of the process that the High Court is preserved with inherent power and would be justified, under such circumstance, to exercise the inherent powers in an appropriate case. In the interest of Justice, finding continuation of criminal case and proceeding against the respondents, an abuse of process, this Court invoking the inherent powers under Section 482 of Cr.PC, hereby quashes the proceedings of EOCC.Nos. 133, 134 and 135 of 2013, pending on the file of the Court of Addl.Chief Metropolitan Magistrate, Economic Offences-I, Egmore, Chennai.

16. Under the facts and circumstances, I do not find any substance in the above Criminal Revision Cases filed by the petitioner. Hence, Criminal Revision Cases stand dismissed.

28.07.2023

Index : Yes/No
Internet : Yes / No
mpk

M.NIRMAL KUMAR, J.

MPK

To

1.The Addl.Chief Metropolitan Magistrate Court,
Economic Offences-I,
Egmore, Chennai,

2.The Public Prosecutor,
High Court, Madras.

Pre-Delivery Orders made in

CRL.RC.Nos.1165, 1166 & 1167 of 2017

28.07.2023