



2024:DHC:9860



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 17th DECEMBER, 2024

IN THE MATTER OF:

+ **CRL.M.C. 2853/2022 & CRL.M.A. 11775/2022**

PADI SAI CHANDU REDDY & ANR.

.....Petitioners

Through: Mr. Mukesh Kumar, Mr. Krishna Kumar Singh, Mr. Madhup Kumar Tiwari, Mr. Rajesh Kumar and Mr. Adarsh Kumar Pandey, Advs.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Aman Usman, APP for the State.
SI Ashish Kumar, PS Chanakyapuri

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The Petitioners have approached this Court for quashing FIR No.58/2022 dated 05.04.2022, registered at Police Station Chanakyapuri for offences punishable under Sections 420/468/471/120B IPC.
2. The facts, in brief, leading to the filing of the present petition are that on 05.04.2022, information was received vide DD No.76A at PS Chanakyapuri, New Delhi from Security Officer, US Embassy, New Delhi, who informed that two persons i.e., Petitioner No.1/Padi Sai Chandu Reddy and Petitioner No.2/Deva Maneesh herein had applied for visa on the basis of forged documents and on discovering the forged documents by the authority, the Petitioners have been detained by the Personnel at US Embassy, New Delhi. Upon receiving the said information, the Investigating Officer (IO) reached US Embassy, New Delhi where the Assistant Regional



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Security Officer-Investigator, US Embassy met the IO and handed over a written complaint along with the forged documents to the IO. The custody of the Petitioners was also handed over to the IO. In the complaint, it is stated that the Petitioner No.1 herein had submitted his visa application to the US Embassy claiming that he has completed the course of "Machine Learning with Python" from Softech Computers, Warangal and a certificate issued by the Softech Computers was submitted along with the visa application by Petitioner No.1 to substantiate his claim. It is stated that a Loan Sanction Letter dated 19.03.2022 issued by the Andhra Pradesh Grameena Vikas Bank, Branch Kumarpally was produced by Petitioner No.1 to show that he has secured a loan of Rs.30,00,000/-. A Bank Balance Certificate dated 30.03.2022 issued by the same bank in the name of father of Petitioner No.1 bearing Account No.73114743945 showing that the Petitioner No.1's father has a saving account with a balance of Rs. 30,13,117/- was also submitted along with the visa application. It is further stated that in the interview, the Petitioner No.1 has admitted that he did not attend any classes neither online nor in person at Softech Computers. The US, Embassy was of the opinion that the certificate is a fraudulent certificate. The complaint reveals that the certificate was allegedly provided by one Madhumita Dande, Director Softech Computers and the Petitioner No.1 had paid a sum of Rs.4000/- to Madhumita Dande at the Softech Computers' Office. It is stated that the Petitioner No.1 was referred to Ms. Madhumita Dande for obtaining fraudulent documents by an agent called Ganesh Kandre who was working at Valmiki Foreign Education Services. The complaint revealed that the Petitioner No.1 has stated that the Loan Sanction Letter and the Bank Balance Certificate issued by Andhra Pradesh Grameena Vikas Bank were



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arranged by Ganesh Kandre who charged him a commission of Rs.22,000/- for depositing the amount in his father's bank account to show bank balance in order to support his study in USA. The complaint reveals that Petitioner No.2 submitted his visa application to the US Embassy, New Delhi claiming that he has been an Assistant IT Manager at Softech Computers since September, 2017 and the Petitioner No.2 submitted an Employment Certificate, Letter of Appointment and Pay Slips on the Letter head of the Softech Computers to substantiate his claim. It is stated that the Petitioner No.2 also submitted a Loan Sanction Letter dated 31.03.2022 issued by Andhra Pradesh Grameena Vikas Bank, Branch Fort Warangal showing that he has secured a loan of Rs.25,00,000/- and a Bank Balance Certificate dated 31.03.2022 of Rs 25,02,500/- issued by Andhra Pradesh Grameena Vikas Bank. It is stated that in the interview, the Petitioner No.2 has admitted that he has not worked at Softech Computers, and, therefore, all the employment related documents submitted by Petitioner No.2 are fraudulent. The complaint reveals that the Petitioner No.2 stated that the fraudulent employment documents were provided to him by Madhumita Dande, Director, Softech Computers for which the Petitioner No.2 had paid Rs.5000/- to Madhumita Dande at the Softech Computers office. It is stated that the Petitioner No.2 stated that he was referred to Madhumita Dande for obtaining the fraudulent employment documents by an Agent called Ganesh Kandre. Petitioner No. 2 further stated that the Loan Sanction Letter and the Bank Balance Statement issued by Andhra Pradesh Grameena Vikas Bank were arranged by the Agent Ganesh Kandre through one of his acquaintances called Venu Madhava Rao Kodakandla. It is stated that on the said complaint, the present FIR was registered against the Petitioners and



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other accused.

3. During the course of investigation, the Petitioners were interrogated and further details were obtained as to how they got the documents. The Petitioners revealed that they met an Agent called Ganesh Kandre who was working at Valmiki Foreign Education Services and he provided them the requisite documents and helped in getting education loans. Petitioner No.1 disclosed that he paid an advance of Rs.12,000 for visa application form, arranging bank documents to Ganesh Kandre and the remaining payment was to be made after obtaining visa. It is stated that Ganesh Kandre arranged the forged certificate for the course of "Machine Learning with Python" from Softech computers in connivance with Madhumita Dande, Director, Softech Computers for which the Petitioner No.1 paid Rs. 4000/- to Madhumita Dande. It is stated that Ganesh Kandre provided education Loan Sanction letter, Bank Balance Certificate of Andhra Pradesh Grameen Vikas Bank and deposited Rs.30,10,000/- in the account of his father for a few days to show the account balance to support his visa application. Petitioner No.2 also disclosed that Ganesh Kandre arranged forged fraudulent employment documents from Softech computers in connivance with Madhumita Dande, Director, Softech Computers and for which Petitioner No.2 paid a sum of Rs.5000/- to each of them. It is further stated that education Loan Sanction letter and Bank Balance statement issued by Andhra Pradesh Grameena Vikas Bank were arranged by one Venu Madhava Rao Kodakandla who deposited Rs.25,00,000/- in the bank account for a few days and for which he charged 1% commission on that amount.

4. Material on record indicates that all the five accused persons,



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including the Petitioners herein were arrested and they all are now on bail. Chargesheet has been filed.

5. It is the case of the Petitioners that allegations made in the FIR do not make out a *prima facie* case against the Petitioners. It is stated by the learned Counsel for the Petitioners that the Petitioners are only victims of the entire system. It is stated that documents are not forged and fraudulent and they are genuine documents from an authorized centre. It is stated that the Petitioners are bonafide aspirants who want to undergo higher education. It is stated that mischief has been committed by agents only and, therefore, the Petitioners cannot be made liable for the offence committed by the agents.

6. Heard learned Counsel appearing for the Parties and perused the material on record.

7. Parameters for quashing an FIR have been laid down by the Apex Court in Neeharika Infrastructure (P) Ltd. v. State of Maharashtra, (2021) 19 SCC 401 has observed as under:

“10. While considering the aforesaid issue, law on the exercise of powers by the High Court under Section 482CrPC and/or under Article 226 of the Constitution of India to quash the FIR/complaint and the parameters for exercise of such powers and scope and ambit of the power by the High Court under Section 482CrPC and/or under Article 226 of the Constitution of India are required to be referred to as the very parameters which are required to be applied while quashing the FIR will also be applicable while granting interim stay/protection.

10.1. The first case on the point which is required to be noticed is the decision of this Court in R.P. Kapur [R.P. Kapur v. State of Punjab, 1960 SCC



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*OnLine SC 21 : AIR 1960 SC 866] . While dealing with the inherent powers of the High Court under Section 561-A of the earlier Code (which is in pari materia with Section 482 of the Code), it is observed and held that the inherent powers of the High Court under Section 561 of the earlier Code cannot be exercised in regard to the matters specifically covered by the other provisions of the Code; the inherent jurisdiction of the High Court can be exercised to quash proceedings in a proper case either to prevent the abuse of the process of any court or otherwise to secure the ends of justice; **ordinarily criminal proceedings instituted against an accused person must be tried under the provisions of the Code, and the High Court would be reluctant to interfere with the said proceedings at an interlocutory stage. After observing this, thereafter this Court then carved out some exceptions to the abovestated rule, which are as under : (AIR p. 866)***

“(i) Where it manifestly appears that there is a legal bar against the institution or continuance of the criminal proceeding in respect of the offence alleged. Absence of the requisite sanction may, for instance, furnish cases under this category.

(ii) Where the allegations in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged; in such cases no question of appreciating evidence arises; it is a matter merely of looking at the complaint or the first information report to decide whether the offence alleged is disclosed or not.

(iii) Where the allegations made against the accused person do constitute an offence alleged but there is either no legal evidence adduced in support of the case or the evidence adduced



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clearly or manifestly fails to prove the charge. In dealing with this class of cases it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is manifestly and clearly inconsistent with the accusation made and cases where there is legal evidence which on its appreciation may or may not support the accusation in question. In exercising its jurisdiction under Section 561-A the High Court would not embark upon an enquiry as to whether the evidence in question is reliable or not. That is the function of the trial Magistrate, and ordinarily it would not be open to any party to invoke the High Court's inherent jurisdiction and contend that on a reasonable appreciation of the evidence the accusation made against the accused would not be sustained.”

(emphasis supplied)

10.2. In Kurukshetra University [Kurukshetra University v. State of Haryana, (1977) 4 SCC 451 : 1977 SCC (Cri) 613] , this Court observed and held that inherent powers under Section 482CrPC do not confer an arbitrary jurisdiction on the High Court to act according to whim or caprice; that statutory power has to be exercised sparingly with circumspection and in the rarest of rare cases. In the case before this Court, the High Court quashed the first information report filed by the Kurukshetra University through Warden and that too without issuing notice to the University, in exercise of inherent powers under Section 482CrPC. This Court noticed and observed that the High Court was not justified in quashing the FIR when the police had not even commenced investigation into the complaint filed by the Warden of the University and no proceedings were



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at all pending before any Court in pursuance of the FIR.

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10.4. In *Golconda Linga Swamy* [State of A.P. v. *Golconda Linga Swamy*, (2004) 6 SCC 522 : 2004 SCC (Cri) 1805] , after considering the decisions of this Court in *R.P. Kapur* [*R.P. Kapur v. State of Punjab*, 1960 SCC OnLine SC 21 : AIR 1960 SC 866] and *Bhajan Lal* [*State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] and other decisions on the exercise of inherent powers by the High Court under Section 482CrPC, in paras 5, 7 and 8, it is observed and held as under : (*Golconda Linga Swamy* case [State of A.P. v. *Golconda Linga Swamy*, (2004) 6 SCC 522 : 2004 SCC (Cri) 1805] , SCC pp. 526-29)

“5. Exercise of power under Section 482 of the Code in a case of this nature is the exception and not the rule. The section does not confer any new powers on the High Court. It only saves the inherent power which the Court possessed before the enactment of the Code. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely : (i) to give effect to an order under the Code, (ii) to prevent abuse of the process of court, and (iii) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the



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section which merely recognises and preserves inherent powers of the High Courts. All courts, whether civil or criminal, possess in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice on the principle quando lex aliquid aliqne concedit, conceditur et id sine quo res ipsa esse non potest (when the law gives a person anything, it gives him that without which it cannot exist). While exercising powers under the section, the Court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised ex debito justitiae to do real and substantial justice for the administration of which alone courts exist. Authority of the Court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the Court has power to prevent such abuse. It would be an abuse of the process of the Court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the Court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.



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7. In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge. Judicial process, no doubt should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death. ...

8. As noted above, the powers possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the court and the issues



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*involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage. [See Janata Dal v. H.S. Chowdhary [Janata Dal v. H.S. Chowdhary, (1992) 4 SCC 305 : 1993 SCC (Cri) 36] and Raghubir Saran v. State of Bihar [Raghubir Saran v. State of Bihar, 1963 SCC OnLine SC 102 : AIR 1964 SC 1] .] It would not be proper for the High Court to analyse the case of the complainant in the light of all probabilities in order to determine whether a conviction would be sustainable and on such premises, arrive at a conclusion that the proceedings are to be quashed. It would be erroneous to assess the material before it and conclude that the complaint cannot be proceeded with. In a proceeding instituted on complaint, exercise of the inherent powers to quash the proceedings is called for only in a case where the complaint does not disclose any offence or is frivolous, vexatious or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognisance has been taken by the Magistrate, it is open to the High Court to quash the same in exercise of the inherent powers under Section 482 of the Code. **It is not, however, necessary that there should be meticulous analysis of the case before the trial to find out whether the case would end in conviction or acquittal. The complaint/FIR has to be read as a whole. If it appears that on consideration of the allegations in the light of the statement made on oath of the complainant or disclosed in the FIR that the ingredients of the offence or offences are***



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disclosed and there is no material to show that the complaint/FIR is mala fide, frivolous or vexatious, in that event there would be no justification for interference by the High Court. When an information is lodged at the police station and an offence is registered, then the mala fides of the informant would be of secondary importance. It is the material collected during the investigation and evidence led in court which decides the fate of the accused person. The allegations of mala fides against the informant are of no consequence and cannot by themselves be the basis for quashing the proceeding.”

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10.6. In Sanapareddy **Maheedhar Seshagiri**
Seshagiri [Sanapareddy Maheedhar Seshagiri v. State of A.P., (2007) 13 SCC 165 : (2009) 1 SCC (Cri) 170] , in para 31, it is observed and held as under : (SCC p. 180)

“31. A careful reading of the abovenoted judgments makes it clear that the High Court should be extremely cautious and slow to interfere with the investigation and/or trial of criminal cases and should not stall the investigation and/or prosecution except when it is convinced beyond any manner of doubt that FIR does not disclose commission of any offence or that the allegations contained in FIR do not constitute any cognizable offence or that the prosecution is barred by law or the High Court is convinced that it is necessary to interfere to prevent abuse of the process of the Court. In dealing with such cases, the High Court has to bear in mind that judicial intervention at the threshold of the legal process initiated against a



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person accused of committing offence is highly detrimental to the larger public and societal interest. The people and the society have a legitimate expectation that those committing offences either against an individual or the society are expeditiously brought to trial and, if found guilty, adequately punished. Therefore, while deciding a petition filed for quashing FIR or complaint or restraining the competent authority from investigating the allegations contained in FIR or complaint or for stalling the trial of the case, the High Court should be extremely careful and circumspect.

If the allegations contained in FIR or complaint disclose commission of some crime, then the High Court must keep its hands off and allow the investigating agency to complete the investigation without any fetter and also refrain from passing order which may impede the trial. The High Court should not go into the merits and demerits of the allegations simply because the petitioner alleges malus animus against the author of FIR or the complainant. The High Court must also refrain from making imaginary journey in the realm of possible harassment which may be caused to the petitioner on account of investigation of FIR or complaint. Such a course will result in miscarriage of justice and would encourage those accused of committing crimes to repeat the same. However, if the High Court is satisfied that the complaint does not disclose commission of any offence or prosecution is barred by limitation or that the proceedings of criminal case would result in failure of justice, then it may exercise inherent power under Section 482CrPC.”



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10.7. In Arun Gulab Gawali [State of Maharashtra v. Arun Gulab Gawali, (2010) 9 SCC 701 : (2010) 3 SCC (Cri) 1459] , this Court set aside the order [Arun Gulab Gawali v. State of Maharashtra, 2006 SCC OnLine Bom 1524] passed by the High Court quashing the criminal complaint/FIR which was even filed by the complainant. In the case before this Court, prayer for quashing the FIR before the High Court was by the complainant himself and the High Court quashed the FIR/complaint in exercise of the powers under Section 482CrPC. Quashing and setting aside the judgment and order passed by the High Court quashing the FIR, this Court in paras 13 and 27 to 29 has observed as under : (Arun Gulab Gawali case [State of Maharashtra v. Arun Gulab Gawali, (2010) 9 SCC 701 : (2010) 3 SCC (Cri) 1459] , SCC pp. 706 & 710)

“13. The power of quashing criminal proceedings has to be exercised very sparingly and with circumspection and that too in the rarest of rare cases and the court cannot be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of allegations made in the FIR/complaint, unless the allegations are so patently absurd and inherently improbable so that no prudent person can ever reach such a conclusion. The extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice. However, the Court, under its inherent powers, can neither intervene at an uncalled for stage nor can it “soft-pedal the course of justice” at a crucial stage of investigation/proceedings. The provisions of Articles 226, 227 of the Constitution of India and Section 482 of the Code of Criminal Procedure, 1973 (hereinafter



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called as “CrPC”) are a device to advance justice and not to frustrate it. The power of judicial review is discretionary, however, it must be exercised to prevent the miscarriage of justice and for correcting some grave errors and to ensure that stream of administration of justice remains clean and pure. However, there are no limits of power of the Court, but the more the power, the more due care and caution is to be exercised in invoking these powers. (Vide State of W.B. v. Swapan Kumar Guha [State of W.B. v. Swapan Kumar Guha, (1982) 1 SCC 561 : 1982 SCC (Cri) 283] , Pepsi Foods Ltd. v. Special Judicial Magistrate [Pepsi Foods Ltd. v. Special Judicial Magistrate, (1998) 5 SCC 749 : 1998 SCC (Cri) 1400] , G. Sagar Suri v. State of U.P. [G. Sagar Suri v. State of U.P., (2000) 2 SCC 636 : 2000 SCC (Cri) 513] and Ajay Mitra v. State of M.P. [Ajay Mitra v. State of M.P., (2003) 3 SCC 11 : 2003 SCC (Cri) 703])

27. The High Court proceeded [Arun Gulab Gawali v. State of Maharashtra, 2006 SCC OnLine Bom 1524] on the perception that as the complainant himself was not supporting the complaint, he would not support the case of the prosecution and there would be no chance of conviction, thus the trial itself would be a futile exercise. Quashing of FIR/complaint on such a ground cannot be held to be justified in law. Ordinarily, the Court of Session is empowered to discharge an accused under Section 227CrPC even before initiating the trial. The accused can, therefore, move the trial court itself for such a relief and the trial court would be in a better position to analyse and pass an order as it is possessed of all the powers and the material to do



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so. It is, therefore, not necessary to invoke the jurisdiction under Section 482CrPC for the quashing of a prosecution in such a case. The reliance on affidavits by the High Court would be a weak, hazy and unreliable source for adjudication on the fate of a trial. The presumption that an accused would never be convicted on the material available is too risky a proposition to be accepted readily, particularly in heinous offences like extortion.

28. A claim founded on a denial by the complainant even before the trial commences coupled with an allegation that the police had compelled the lodging of a false FIR, is a matter which requires further investigation as the charge is levelled against the police. If the prosecution is quashed, then neither the trial court nor the investigating agency has any opportunity to go into this question, which may require consideration. The State is the prosecutor and all prosecution is the social and legal responsibility of the State. An offence committed is a crime against society and not against the victim alone. The victim under undue pressure or influence of the accused or under any threat or compulsion may resile back but that would not absolve the State from bringing the accused to book, who has committed an offence and has violated the law of the land.

29. Thus, while exercising such power the Court has to act cautiously before proceeding to quash a prosecution in respect of an offence which hits and affects the society at large. It should be a case where no other view is possible nor any investigation or inquiry is further required. There cannot be a general proposition of law, so as to fit in as a straitjacket formula for the exercise of such power. Each case will have to



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be judged on its own merit and the facts warranting exercise of such power. More so, it was not a case of civil nature where there could be a possibility of compromise or involving an offence which may be compoundable under Section 320CrPC, where the Court could apply the ratio of Madhavrao Jiwanirao Scindia v. Sambhajirao Chandrodirao Angre [Madhavrao Jiwanirao Scindia v. Sambhajirao Chandrodirao Angre, (1988) 1 SCC 692 : 1988 SCC (Cri) 234] .”
(emphasis supplied)

8. Applying the aforesaid law laid down by the Apex Court to the facts of the present case, it is seen that Petitioner No.1 managed to obtain a certificate of "Machine Learning with Python" from Softech Computers, Warangal without attending classes even for a single day. Petitioner No.2 managed to obtain an employment certificate from Softech Computers without actually being employed there. Money has been deposited in the Petitioners' bank account for a very short period on the basis of commission. The ingredients of Sections 420/468/471 IPC are, therefore, made out against the Petitioners at this stage. The Petitioners cannot take the benefit of victims of the society, rather at this juncture, it can be said that the Petitioners are the perpetrators of fraud. It cannot be said that the Petitioners are innocent students who aspired to go abroad and they are the victims of society, rather they wanted to take the entire system for a ride by obtaining fraudulent certificates for going abroad by showing qualifications which they actually did not possess. This Court is not going into the details for the reason that it can have the impact of affecting the case of the Petitioners.
9. This Court is, therefore, not inclined to quash the present FIR.



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Resultantly, the petition is dismissed, along with pending application(s), if any.

DECEMBER 17, 2024

S. Zakir

SUBRAMONIUM PRASAD, J