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

Date of decision: 08th OCTOBER, 2024

IN THE MATTER OF:

+ **CRL.M.C. 5662/2024 & CRL.M.A. 21616/2024**

UTTAM TAGARAY

.....Petitioner

Through: Mr. Rajeev N. Kumar and Mr.
Niranjan Bharti, Advocates.

versus

CENTRAL BUREAU OF INVESTIGATION

.....Respondent

Through: Mr. Anupam S. Sharrma, SPP for CBI
with Mr. Prakarsh Airan, Ms.
Harpreet Kalsi, Mr. Abhishek Batra,
Mr. Ripudaman Sharma, Mr. Vashisht
Rao and Mr. Syamantak Modgill,
Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. Petitioner has approached this Court seeking quashing of FIR No. RC/220/2021/E0008-CBI/EO-II/ND dated 07.09.2021 qua the Petitioner, who has been arrayed as Accused No.2 in the said FIR, and charge-sheet qua the Petitioner in the abovementioned FIR. The Petitioner also seeks to set aside the summons dated 19.05.2022, issued against the Petitioner in the abovementioned FIR on the ground that there is no sanction for the prosecution under Section 19 of the Prevention of Corruption Act or under Section 197 of the Cr.P.C.
2. The facts, in brief, leading to the present Petition are that a Complaint dated 24.08.2021 was filed on behalf of the Additional Central Provident



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Fund Commissioner (Vigilance), EPFO, New Delhi, stating that about 91 cases of fraudulent claim settlements have been detected by the EPFO in respect of PF accounts of one M/s B Vijay Kumar Jewellers, bearing PF code MH/KND/ 91420 which is a establishment covered under the Employees Provident Fund and Miscellaneous Provisions Act , 1952, and the accounts are monitored at Regional Office Kandivali East, Mumbai. It is stated in the complaint that the said establishment is marked as a closed establishment in the EPF records. It is stated in the complaint that the fraudulent settlements in respect of M/S B Vijay Kumar Jewellers came to light during an internal investigation conducted on receipt of a complaint from mail ID bhumimohan24555@gmail.com on 18.05.2021 which stated that a large-scale fraud took place by which the EPF amount of closed companies was withdrawn. It is stated that on receipt of the complaint, a preliminary verification was conducted which prima facie established evidence of fraudulent transactions. Subsequently, a detailed internal inquiry was conducted by the EPFO during March, 2020 to June, 2021 which revealed that fraudulent payments have been made for claims which were made in physical format from bogus members and the said claims were settled by Shri Chandan Kumar Sinha, Senior Social Security Assistant in connivance with other accused persons, including the Petitioner herein resulting in loss of Rs.2,71,45,513/- to the EPF corpus. The inquiry further revealed that bogus member IDs were created with zero balance and credits in the range of Rs 2 lakhs - 3.5 lakhs were effected in each of these accounts misusing a software provision called Appendix E, which is a special functionality provided in the software to rectify accounting problems. It is stated that claim IDs were then generated for non-existent physical claims



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and these claims were processed by Shri Chandan Kumar Sinha and approved by the Petitioner herein and one Vijay Jarpe, who are both Assistant Provident Fund Commissioners and the final EPF amount was settled and disbursed to the bank accounts of the bogus members. On the basis of the said complaint, FIR No. RC/220/2021/E0008-CBI/EO-II/ND was registered for offences under Sections 420/409/468/741/120B IPC and Sections 13(1)(a) and 13(2) of the Prevention of Corruption Act, 1988. There are about 31 accused in the FIR, including the Petitioner herein, who has been arrayed at accused No.2 in the FIR.

3. The investigation carried out by the CBI reveals that the Petitioner herein entered into a conspiracy with other criminals in order to create 91 bogus accounts in the name of certain closed companies, including M/s B Vijay Kumar Jewellers, by misusing the software provision called "Appendix E" in the system of EPFO. It is stated that accused Chandan Kumar Sinha then credited funds to the tune of Rs. 2 lakhs-3.5 lakhs using "Appendix E", in each of the bank accounts of these bogus members. It is stated that fake claims were then raised in physical formats and were approved by the Petitioner herein and other co-accused for disbursement of the said claims through their respective login IDs by misusing the intended purpose of software "Appendix E", which was meant for rectifying the excess credits, wrong debits, omission of withdrawals etc. in the accounts of EPFO, thereby causing loss of Rs.2,71,45,513/- to the EPF corpus.

4. The role of the Petitioner herein in the crime has been described in the charge-sheet. Relevant portion of the charge-sheet is being extracted below and the same reads as under:



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*“(16) Charge: Case RC 220 2021 E 0008/CBI/EOU-VI,EO-II, New Delhi has been registered in EOU-VI/EO-11 Branch of CBI on 07.09.2021 u/s 120-B r/w 420, 409, 468, 471 of IPC and section 13(2) r/w 13(1)(a) of PC Act, 1988 on the basis of a written complaint received from Ms. Kavitha N. George, Addi. Central PF Commissioner (Vig), EPFO, Head Office, Vigilance Section, Bhavishya Nidhi Bhavan, 14-Bhikaji Cama Place, New Delhi against (i) Shri Chandan Kumar Sinha, Sr. Social Security Assistant (Sr. SSA), EPFO, Regional Office, Kandivali-East, MTNL Building, 4 to 7th Floor, Sector-8, Charkop, Kandivali (East), Mumbai (ii) **Shri Uttam Tagaray**, Asstt. Provident Fund Commissioner, EPFO, Regional Office, Coimbatore, Bhavishyanidhi Bhavan, Post Box No. 3876, Balasundaram Road, Coimbatore, Tamil Nadu, (iii) Shri Vijay J. Jarpe, Asstt. Provident Fund Commissioner, EPFO, Regional Office, Tambaram, 3, Rajaji Salai, Tambaram, Chennai and unknown private persons.*

That, brief facts of the case are that a set of fraudulent settlement of claims in 91 bogus PF accounts in respect of PF account of M/s B Vijay Kumar Jewellers was detected by EPFO at Regional Office, Kandivali East of EPFO, Mumbai. It was found that during the period March/2020 to June/2021, fraudulent payments resulting in loss of Rs. 2,71,45,513/- to the EPF corpus were made through claims in physical format from bogus members, which were settled by Shri Chandan Kumar Sinha, Sr. Social Security Assistant and the respective approving authorities. The material on record indicates that the fraudulent transactions have taken place with the complicity of the EPFO officials and external elements whose action have inflicted heavy loss on the EPF Corpus.

That the alleged modus operandi of the fraudsters was



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to create bogus PF accounts in the name of certain persons of closed companies, showing credits of approx. Rs. 2 lakhs to 3.5 lakhs against each account and withdraw the amount from these accounts by filing fake claims. The claims were found to be settled to the members with bank accounts in different parts of country such as Mumbai, Gorakhpur, Nasik, Deolali, Patna, Ghaziabad, Mathura etc.

*17.4) Investigation has established that as Assistant PF Commissioner at Kandivali East, **main duties of accused Uttam Tagaray were to see the working of Accounts Section, Enforcement, RTI, Legal, Inward, Outward etc.** In Accounts Section he used to see member updation, settlement of claims under Unclaimed Deposit (UCD), rejection of claims, issuing of form 24 slips showing closing balance of each member etc. He was allotted charge of accounts group 151, 155 & 159.”* (emphasis supplied)

5. The other parts of the charge-sheet, which are not relevant for the present case, are not being reproduced herein.
6. The Sanction of Prosecution under Section 19 of the PC Act has been obtained from the Competent Authority against the Petitioner herein, Chandan Kumar Sinha (i.e. Accused No.1) and Vijay J. Jarpe (i.e. Accused No.3). The Sanction Order has been filed with the written submissions and the same reads as under:

“WHEREAS, Shri Uttam Tagaray, was posted as Assistant Provident Fund Commissioner at EPFO, Regional Office, Kandivali East during the period March-2019 to July-2021.

2 WHEREAS, during the period March-2020 to June-2021, 50 provident fund claims were fraudulently



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settled in respect of the establishment namely M/s B Vijaykumar Jewellers, (KDMAL/91420) at EPFO, RO, Kandivali East. These settlements were made by obtaining offline claims of fraudulent bogus members and the amounts were settled by Shri Uttam Tagaray, Assistant Provident Fund Commissioner. He approved the credit of fictitious amounts to bogus member accounts in pursuance of criminal conspiracy with Chandan Kumar Sinha, Sr. SSA who initiated these bogus PF claims and thereafter approved the settlement of these amounts fraudulently and dishonestly ignoring the standing rules and procedures of EPFO which has caused loss to the Organization.

13. WHEREAS, the aforesaid offence alleged to have been committed by Shri Uttam Tagaray, Assistant Provident Fund Commissioner is relatable to the decision taken by such public servant in discharge of his official functions or duties.

4. AND WHEREAS, the aforesaid acts of Shri Uttam Tagaray who was functioning as Assistant Provident Fund Commissioner, EPFO, Regional Office, Kandivali East, Ministry of Labour & Employment, Govt. of India constitute commission of offences which are punishable u/s 120-B r/w 420, 409, 468 & 471 of IPC and 13(2) r/w 13(1) (a) of Prevention of Corruption Act, 1988. (as amended)

5. AND WHEREAS, I Nealam Shami Rao, Central Provident Fund Commissioner being the competent authority under Rule 7 of EPF Staff(CCA) Rules, 1971 to remove the said Shri Shri Uttam Tagaray who was functioning as Assistant Provident Fund Commissioner, EPFO, Regional Office, Kandivali East, Ministry of Labour & Employment, Govt. of India, from service, after fully and carefully examining all the materials viz. Copy of Complaint, First Information



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Report, relevant documents and statement of witnesses which were recorded u/s 161 Cr. P.C. by the Investigating Officer of the CBI, EO-II, New Delhi and placed before me in regard to the said allegations and circumstances of the case, fully satisfied that there is a prima facie case against Shri Uttam Tagaray, and after due application of mind, consider that Shri Uttam Tagaray s/o Shri Kanu Tagaray who was functioning as Assistant Provident Fund Commissioner, EPFO, Regional Office, Kandivali East, Ministry of Labour & Employment, Govt. of India should be prosecuted in the court of Law for the said offences.

6. Now, THEREFORE, I, Neelam Shami Rao, Central Provident Fund Commissioner hereby accord sanction under section 19(1) of the Prevention of Corruption Act, 1988 (as amended) to prosecute the Shri Uttam Tagaray who was functioning as Assistant Provident Fund Commissioner, EPFO, Regional Office, Kandivali East, Ministry of Labour & Employment, Govt. of India for the aforesaid offences and any other offences punishable under other provisions of Law in respect of acts aforesaid and for taking of cognizance of the said offense by the Court of Competent Jurisdiction.”

7. Charges against the Petitioner have been framed vide Order dated 19.05.2022 stating that the Petitioner had worked in tandem with Accused No.1 in approving disbursement of the PF claims through their respective login IDs, thereby abusing their official position with the intent to cheat the EPFO. Summons were issued to the Petitioner under Section 120-B IPC read with Section 420, 409, 468, 471 IPC and Section 13(2) read with Section 13(1)(a) of the PC Act.

8. It is against this FIR, charge-sheet and the summoning Order that the



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Petitioner has approached this Court.

9. The principal contention of the Petitioner is that the material on record does not disclose any meeting of the mind of the Petitioner with the co-accused. He states that only bald statements of conspiracy have been made. He states that the Petitioner's user ID and password has been hacked, a fact which has been acknowledged in the internal inquiry. Learned Counsel for the Petitioner vehemently contends that there is nothing on record to show that the money trail has actually gone to the Petitioner or that the Petitioner is recipient of proceed of crime. He states that since the Login-ID and Password of the Petitioner was hacked he is a victim and not a conspirator. It is also stated that the Petitioner was forced to share his login ID and password with the Accused No.1. Learned Counsel for the Petitioner states that the case of the Petitioner at best be a case of civil liability and the amount of Rs.1,10,01,018/- as alleged recovery of fraudulent payment has been made by EPF from the Petitioner herein vide letter dated 11.10.2021.

10. Per contra, learned Counsel for the CBI states that the sanction of Prosecution under Section 19 of the PC Act has already been obtained against the Petitioner and, therefore, there is no need to obtain a sanction under Section 197 of the Cr.P.C. He places reliance on the Judgment dated 05.05.2009, passed by this Court in **CRL. REV. P. 340/2008**, titled as Dharambir Khattar v. Central Bureau of Investigation, wherein this Court has held that sanction under Section 197 Cr.P.C is not required for offences under the PC Act. Learned Counsel for the CBI further states that a reading of the charge-sheet and material on record indicates that the Petitioner has worked in tandem with Accused No.1 in approving disbursal of the PF claims through their respective login IDs, thereby abusing their official



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position with the intent to cheat the EPFO. He states that at the stage of taking cognizance, a parallel trial need not be undertaken by this Court. Learned Counsel for the CBI has also taken this Court through the statements given by Ankesh Srivastava and D.M. Bhagwat under Section 161 Cr.P.C to state that the contention of the Petitioner that he was forced to share his Login ID and Password is incorrect as he could never have been forced to share his login ID and Password with anyone as it was not permitted under the guidelines. He states that the contentions raised by the Petitioner, at this stage, are premature as the same has to first stand trial to ascertain their veracity.

11. Heard the learned Counsel for the Petitioner and the learned Counsel for the CBI and perused the material on record.

12. A reading of the charge-sheet indicates that the main duties of the Petitioner herein was to see the working of Accounts Section, Enforcement, RTI, Legal, Inward, Outward etc. and in Accounts Section he used to see member updation, settlement of claims under Unclaimed Deposit (UCD), rejection of claims, issuing of form 24 slips showing closing balance of each member etc. and he was responsible for approving claims of more than Rs.1 lakh. The charge-sheet specifically states that the investigation has established that the Petitioner and co-accused Vijay Jarpe worked in tandem in the criminal conspiracy hatched by Sh. Chandan Kumar Sinha in approving disbursement of the PF claims through their respective login IDs thereby abusing their official positions with the criminal intent to cheat EPFO by misusing the intended purpose of Appendix "E", which is meant for rectifying the excess credits, wrong debits, omission of withdrawals etc. in the accounts of EPFO.



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13. It is well settled that the High Court must exercise its power under Section 482 Cr.P.C with circumspection. It is well established that the power of quashing should be exercised very sparingly and with circumspection and in rare cases and at the time of quashing an FIR the Court should not embark upon any enquiry as made in the FIR. In State of Odisha v. Pratima Mohanty, (2022) 16 SCC 703, the Apex Court has held as under:

“8.2. It is trite that the power of quashing should be exercised sparingly and with circumspection and in rare cases. As per the settled proposition of law while examining an FIR/complaint quashing of which is sought, the court cannot embark upon any enquiry as to the reliability or genuineness of allegations made in the FIR/complaint. Quashing of a complaint/FIR should be an exception rather than any ordinary rule. Normally the criminal proceedings should not be quashed in exercise of powers under Section 482CrPC when after a thorough investigation the charge-sheet has been filed. At the stage of discharge and/or considering the application under Section 482CrPC the courts are not required to go into the merits of the allegations and/or evidence in detail as if conducting the mini-trial. As held by this Court the powers under Section 482CrPC are very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the Court.”

14. At this juncture, it is pertinent to reproduce the statement given by Mr. Yogesh Kumar, who is working as Enforcement Officer/Accounts Officer, EPFO, Regional Office, Kandivali East, in respect of the Petitioner herein and the same reads as under:

“I further state that Shri Uttam Tagaray joined EPFO Kandivali East as Assistant PF Commissioner on 05.03.2019 on transfer from Hyderabad and remained



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posted at Kandivali East tilt 05.08.2021. As Assistant PF Commissioner at Kandivali East, his main duties were to see the working of Accounts Section. Enforcement. RTI. Legal. Inward. Outward etc. In Accounts Section he used to see member updation, settlement of claims under Unclaimed Deposit (UCD), rejection of claims, issuing of form 24 slips showing closing balance of each member etc. He was allotted charge of accounts group 151, 155 & 159.

On being asked about closure of establishment i further state that the establishment M/s B. Vijay Kumar Jewellers has closed its operation in September 2009 after it applied for the surrender of the PF vide letter dated 03.09.2009

On being asked about the Appendix E. I state that it is a functionality provided to DA (Dealing Assistant) to add or remove an amount or interchange the amount from account. I to X or vice versa. Usually this functionality is used for to add or remove NCP (Non contribution Period) days or transfer of contribution from account X to I in case of members, whose PF is being deducted on wages more than Rs. 15,000/-, In case, a member reaches at the age of 58 and still paying the EPS in Account X, then this functionality is used to transfer that amount to account I.

On being asked about the zero balance, I state that this functionality is used, if an old members PF is settled and now pension is to be given because service being more than 10 years. Since, the account is settled, then the account of inentler is marked as Nil by the system, so that account is updated by opening at zero balance to update the service. Closed Account is made live this



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way on the same account number, which was marked closed due to the settlement of PF. I On being asked about the physical claim. I state that each physical claim need to be submitted physically either by member or his representative, which is entered in inward register and sent to the concerned accounts group after preliminary scrutinization, where it is further scrutinized at each level by DA and concerned approving authority before final approval.

On being asked about the fictitious amount, I state that the amount added as fictitious amount has no relation with previous service of employee, which can be added using the functionality of Appendix E available with DA.

On being asked about the physical claims against EPF accounts without UAN, I state that the following procedure is followed for settlement of such physical claims:-

For all the offline (physical) claims after their receipt, the field office generates/allots UAN for existing member ID before proceeding to settle claims using the existing facility available with field office.

2. After generating the UAN and before claim settlement, the generated UAN is seeded with AADHAR data provided in the claim form. In case, any mismatch is there in members details as per EPF records and AADHAR, and the validation fails, the member is required to apply for modifying member detail following the due process available online or offline.

3. If after UAN generation and AADHAR linking, it is found that AADHAR is linked with another UAN, the member is advised to apply for transfer only.”



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15. Similarly, statement of Mr. Ankesh Srivastava, who is working as RPFC-II, EPFO, Regional Office Vashi, Mumbai, who was a part of the Committee which was constituted by the Additional CPFC, Thane to investigate into the fraudulent payment made in respect of M/s B Vijay Kumar Jewellers, has stated the following in respect of the Petitioner herein:

“f) The version of Shri UttamTagaray, APFC that he had to share the password with DEO and Shri Chandan Sinha got the login details from the DEO, is not acceptable as sharing of passwords with anyone including DEO is not permitted in accordance with the H.O. guidelines. Any Act of omission and commission amounting to fraudulent withdrawal cannot be defended on the ground of alleged theft of login details and password as safety of login details and passwords are the personal responsibility of any officer/official

g) The version of Sri UttamTagaray as APFC Cash that he did not verify any offline claims at the time of approval of Summary sheet is another serious issue and is an admission of the lapse.”

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g) The version of Sri Uttam Tagaray as APFC Cash that he did not verify any offline claims at the time of approval of Summary sheet is another serious issue and is an admission of the lapse.”

17. The correctness or other wise of these statements would be seen at the time of trial.

18. In State of A.P. v. Golconda Linga Swamy, (2004) 6 SCC 522, the Apex Court has held as under:

“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 section which merely recognises and preserves



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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 aliunde 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.”

19. In Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque, (2005) 1 SCC 122, the Apex Court has held as under:



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“11. The scope of exercise of power under Section 482 of the Code and the categories of cases where the High Court may exercise its power under it relating to cognizable offences to prevent abuse of process of any court or otherwise to secure the ends of justice were set out in some detail by this Court in State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] . A note of caution was, however, added that the power should be exercised sparingly and that too in rarest of rare cases. The illustrative categories indicated by this Court are as follows : (SCC pp. 378-79, para 102)

“102. (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 FIR 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.

(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)



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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 Act concerned (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 Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fides 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.”

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 involved, whether factual or



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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 [(1992) 4 SCC 305 : 1993 SCC (Cri) 36] and Raghubir Saran (Dr.) v. State of Bihar [AIR 1964 SC 1 : (1964) 2 SCR 336 : (1964) 1 Cri LJ 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 cognizance 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 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 that the ingredients of the offence or offences are disclosed and there is no material to show that the complaint 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



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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 proceedings. [See Dhanalakshmi v. R. Prasanna Kumar [1990 Supp SCC 686 : 1991 SCC (Cri) 142] , State of Bihar v. P.P. Sharma [1992 Supp (1) SCC 222 : 1992 SCC (Cri) 192 : AIR 1991 SC 1260] , Rupn Deol Bajaj v. Kanwar Pal Singh Gill [(1995) 6 SCC 194 : 1995 SCC (Cri) 1059] , State of Kerala v. O.C. Kuttan [(1999) 2 SCC 651 : 1999 SCC (Cri) 304 : AIR 1999 SC 1044] , State of U.P. v. O.P. Sharma [(1996) 7 SCC 705 : 1996 SCC (Cri) 497] , Rashmi Kumar v. Mahesh Kumar Bhada [(1997) 2 SCC 397 : 1997 SCC (Cri) 415] , Satvinder Kaur v. State (Govt. of NCT of Delhi) [(1999) 8 SCC 728 : 1999 SCC (Cri) 1503 : AIR 1999 SC 3596] and Rajesh Bajaj v. State NCT of Delhi [(1999) 3 SCC 259 : 1999 SCC (Cri) 401] .]

20. In State of Maharashtra v. Arun Gulab Gawali, (2010) 9 SCC 701, the Apex Court has observed as under:

“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



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India and Section 482 of the Code of Criminal Procedure, 1973 (hereinafter 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 [(1982) 1 SCC 561 : 1982 SCC (Cri) 283 : AIR 1982 SC 949] , Pepsi Foods Ltd. v. Special Judicial Magistrate [(1998) 5 SCC 749 : 1998 SCC (Cri) 1400] , G. Sagar Suri v. State of U.P. [(2000) 2 SCC 636 : 2000 SCC (Cri) 513 : AIR 2000 SC 754] and Ajay Mitra v. State of M.P. [(2003) 3 SCC 11 : 2003 SCC (Cri) 703])”

21. In view of the material on record, this Court is of the opinion that there is sufficient material against the Petitioner for filing the charge-sheet and cognizance has been taken on the basis of the material on record. In view of the above, this Court is of the opinion that neither the FIR nor the chargesheet nor the Order taking cognizance requires to be quashed by this Court at this juncture. However, the observations made by this Court are limited to this issue only and are not on the merits of the case.

22. Pending application(s), if any, stand disposed of.

SUBRAMONIUM PRASAD, J

OCTOBER 08, 2024

Rahul