GAHC010203672026

2026:GAU-AS:15976

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Pet./1316/2026

MISS SUMI MONI DAS AND ANR
D/O LATE DONA RAM DAS, OF HOWLY TOWN, WARD NO. 2, P.S.- HOWLY, DIST.- BARPETA, ASSAM.

2: RAHUL PATGIRI
S/O HITESH PATGIRI
OF VILL.- MUGATIA PATHSALA
WARD NO. 4, P.S.- PATHSALA
DIST.- BARPETA
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR B SINHA, MR. M.A. BARBHUIYA,MR. H ISLAM

Advocate for the Respondent : PP, ASSAM,

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

02.11.2026:-

Heard Mr. B. Sinha, learned counsel for the petitioner and Mr. P. Barthakur, learned Additional Public Prosecutor, for the State respondent.

2. In this petition, under Section 528 of the BNSS, 2023, the petitioners, namely, Miss Sumi Moni Das and Shri Rahul Patgiri, have prayed for quashing the criminal proceeding pending against them, arising out of G.R. Case No. 2660/2023, corresponding to P.R. Case No. 974/2023, under Sections 365/511/447/419/294/506 of the IPC, on the basis of the Charge-sheet No. 102/2023, dated 29.05.2023, arising out of FIR dated 15.04.2023, of Hatigaon P.S. Case No. 147/2023, before the Court of learned Chief Judicial Magistrate, Kamrup(M).

3. Mr. Sinha, learned counsel for the petitioners, submits that one Aloka Baruah of Flower Lane, Hatigaon lodged one FIR with the Officer-in-Charge, Hatigaon P.S. on 15/04/2025, alleging inter alia amongst others that on that day at around 2:30 A.M, five (5) persons came in 2 vehicles [AS-017D-0855, AS-01DR 5164] to her house and tried to break open the gate and enter in her apartment, HESTIA'S COURT campus, and they introduced themselves as Anti Corruption personal and told that they have came to arrest one girl, namely, Robina Boro, who was staying as tenant in one of her flat, since 07/04/2023. Then the three persons created nuisance using abusive language. Their behavior was suspicious and might have come with intention of dacoity or kidnapping.

3.1. Mr. Sinha also submits that upon the said FIR, Hatigaon P.S. case No. 147/23, U/S 395/511/447/419/506, has been registered and investigation was carried out and the same culminated in submission

of charge sheet against the present petitioners, namely, Miss Sumi Moni Das and Shri Rahul Patgiri, along with one Bhargav Malakar, U/S 365/511/447/419/294/506 IPC.

3.2. Mr. Sinha further submits that upon the said charge sheet, the learned Court below, without perusal of record, has taken cognizance U/S 365/511/447/419/294/506 IPC, against the accused persons and issued process to them to appear before the Court and to stand trial.

3.3. Mr. Sinha also submits that the petitioners have filed one petition before the learned for discharging them. But, the learned Court below had dismissed the petition, vide order dated 14.08.2026. And being highly aggrieved, the petitioners approached this Court by filing the present petition for appropriate relief.

3.4. Mr. Sinha also submits that the present petition is preferred basically on the following grounds:-

(a) The allegation made in the FIR does not disclose the ingredients of offence U/S 365 I.P.C.

(b) The petitioners did not enter in to the property of the informant on the night of 15/04/2023, with intent to commit an offence of kidnapping and to cause that person to be secretly and wrongfully confined and as such there was no material to attract the ingredients of the offences of U/S 447/365 IPC.

(c) The allegation in the FIR also does not disclose ingredients of offence of Criminal trespass or House trespass as the accused persons never entered into the property with intent to commit offence.

(d) Mere entering of accused persons in the complex of the informant at late night on 15/04/2023, and thereby made hallah/noise which made the informant and other witnesses to come out from their rooms, which resulted in filing of an FIR and arrest of the accused persons never discloses committing of any offence.

(e) The allegation in the FIR and CS No. 102/23, dtd. 29/05/2023, do not attract ingredients of any offence of Sec. 365, 419, 447 and 294 IPC, and the same was filed with **mala-fide** intention.

(f) Registration of Hatigaon P.S. Case No. 147/23, upon the impugned FIR, and subsequent filing of charge sheet and taking cognizance of the offence by the learned Court below is an abuse of the process of the Court and as such not sustainable.

(g) The learned trial court has failed to apply judicial mind and without considering the materials on record and without perusal of the same, taken cognizance of the

offences U/S 365/511/447/419/294/506 IPC, against the accused persons which is not sustainable.

(h) The statement of the witnesses, specially from the statement of witness Prity Basumatary no offences appears to be made out against the petitioners.

3.5. Under the aforesaid facts and circumstances, Mr. Sinha has contended to quash the entire proceeding, which according to him an abuse of the process of the Court.

4. Per contra, Ms. S.H. Borah, learned Addl. P.P., has vehemently opposed the petition. According to her, the basis ingredients of the offence, under which charge-sheet has been filed, are made out from the materials on the record and that the learned trial Court had rightly dismissed their petition for discharge. She also stated that the petitioners failed to demonstrate any sufficient reason for quashing the proceeding, and therefore, she has contended to dismiss the petition.

5. Having heard the submission of learned counsel for both the parties this Court has carefully gone through the petition and the documents placed on record. Also gone through the scanned copy of the record, received from the learned Court below. Also perused the Order, dated 14.08.2026, passed by the learned CJM, Kamrup (M), Guwahati, whereby, the petition filed by the petitioners, for discharging them, was rejected and the case was fixed on 08.10.2026, for Consideration of Charge.

6. Before directing a discussion to the points, so raised by learned Advocates of both sides, this Court deemed it appropriate to discuss the relevant case laws, presently holding the field i.e. quashing of the criminal proceeding.

6.1. When and how the FIR and Criminal proceeding is to be quashed, and the power of High Court under section 482 Cr.P.C., is elaborately dealt with by Hon'ble Supreme Court in the case of **Sanapareddy Maheedhar And Another vs. State Of Andhra Pradesh And Another,** reported in **2007 (13) SCC 165.** In the said case it has been held that –

> **"26. At this stage, we may also notice the parameters laid down by this Court for exercise of power by the High Court under Section 482 Cr.P.C to give effect to any order made under the Cr.P.C or to prevent abuse of the process of any court or otherwise to secure the ends of justice. In R.P.Kapur v. State of Punjab [AIR 1960 SC 866] this Court considered the question whether in exercise of its power under Section 561A of the Code of Criminal Procedure, 1898 (Section 482 Cr.P.C. is parimateria to Section 561A of the 1898 Code), the High Court could quash criminal case registered against the appellant who along with his mother-in-law was accused of committing offences under Section 420, 109, 114 and 120B of the Indian Penal Code. The appellant unsuccessfully filed a petition in the Punjab High Court for quashing the investigation of the First Information Report (FIR) registered against**

him and then filed appeal before this Court. While confirming the High Court's order this Court laid down the following proposition:

The inherent power of High Court under Section 561A, Criminal P.C. cannot be exercised in regard to 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. It is not possible, desirable or expedient to lay down any inflexible rule which would govern the exercise of this inherent jurisdiction.

27. This Court then carved out some exceptions to the above stated rule. These are:-

(i) Where it manifestly appears that there is a legal bar against the institution or continuance of the criminal proceedings in respect of the offences 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 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.

28. In State of Haryana v Bhajanlal [1992 Supp. (1) SCC 335] this Court considered the scope of the High Court's power under Section 482 of Cr.P.C and Article 226 of the Constitution to quash the FIR registered against the respondent, referred to several judicial precedents including those of R.P.Kapoor v. State of Punjab (supra), State of Bihar v. J.A.C. Saldanha [1980 (1) SCC 554] and State of West Bengal v. Swapan Kumar Guha [1982 (1) SCC 561] and held that the High Court should not embark upon an enquiry into the merits and demerits of the allegations and quash the proceedings without allowing the investigating agency to complete its task. At the same time, the Court identified the following cases in which the FIR or complaint can be quashed.

(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) 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 fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance

on the accused and with a view to spite him due to private and personal grudge.

29. The ratio of BhajanLal's case has been consistently followed in the subsequent judgments. In M/s Zandu Pharmaceutical Works Ltd. V. Mohd. Sharaful Haque (supra), this Court referred to a large number of precedents on the subject and observed:

> **"11….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 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. 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. It, if 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 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.

In the aforementioned judgment, this Court set aside the order of the Patna High Court and quashed the summons issued by the First Class Judicial Magistrate in Complaint Case No.1613) of 2002 on the ground that the same was barred by limitation prescribed under Section 468 (2)) Cr.P.C.

30. In Ramesh Chand Sinhas case (supra) this Court quashed the decision of the Chief Judicial Magistrate, Patna to take cognizance of the offence allegedly committed by the appellants by observing that the same was barred by time and there were no valid grounds to extend the period of limitation invoking section 473 Cr.P.C.

6.2. Thereafter, in paragraph No.31 of the judgment Hon'ble Supreme Court has held as under:-

"A careful reading of the above noted 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 the FIR does not disclose commission of any offence or that the allegations contained in the 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 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 the FIR or complaint or restraining the competent authority from investigating the allegations contained in the 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 the FIR or complaint discloses 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 the 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 the 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 482 Cr.P.C."

6.3. In the case of **M/S Indian Oil Corporation vs. M/S Nepc India Ltd., & Ors** reported in **2006 (6) SCC 736,** Hon'ble Supreme Court has culled out the relevant principle for the purpose of quashing complaint as under:- :

(i) A complaint can be quashed where the allegations made in 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 the case alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with malafides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out:

(a) purely a civil wrong; or
(b) purely a criminal offence; or
(c) a civil wrong as also a criminal offence.

A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceeding are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.

6.4. Again, in the case of **Dineshbhai Chandubhai Patel Vs. The State Of Gujarat**, reported in **(2018) 3 SCC 104**, following earlier decision in **State Of West Bengal & Ors vs. Swapan Kumar Guha & Ors.**, reported in **(1982) 1 SCC 561**, it has been held that High Court cannot decide the issue arising out of the case like an investigating agency or/and appellate authority decides, by little realizing that it was exercising its inherent jurisdiction under Section 482 of the Code of Criminal Procedure. In the case of **Swapan Kumar Guha (supra)**, it was held that right of inquiry is conditioned

by the existence of reason to suspect the commission of a cognizable offence and they cannot, reasonably, have reason so to suspect unless the F.I.R., prima facie, discloses the commission of such offence. If that condition is satisfied, the investigation must go on. The Court has then no power to stop the investigation, for to do so would be to trench upon the lawful power to investigate into cognizable offences.

6.5. Thereafter, in the case of **M/s Neeharika Infrastructure Pvt. Ltd. (supra),** by a three Judge Bench of Hon'ble Supreme Court has dealt with the issues as under:-

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(iv) The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the 'rarest of rare cases (not to be confused with the formation in the context of death penalty).

v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;

vi) Criminal proceedings ought not to be scuttled at the initial stage;

vii) Quashing of a complaint/FIR should be an exception rather than an ordinary rule;

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(x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;

xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

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xiii) The power under Section 482 Cr.P.C. is 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;

xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and BhajanLal (supra), has the jurisdiction to quash the FIR/complaint;

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6.6. In the case of **Mohd. Akram Siddiqui v. State of Bihar** reported in **(2019) 13 SCC 350,** where it has been held as under:-

> **"5. Ordinarily and in the normal course, the High Court when approached for quashing of a criminal proceeding will not appreciate the defence of the accused; neither would it consider the veracity of the document(s) on which the accused relies. However an exception has been carved out by this Court in Yin Cheng Hsiung v. Essem Chemical Industries; State of Haryana v. BhajanLal and Harshendra Kumar D. v. RebatilataKoley to the effect that in an appropriate case where the document relied upon is a public document or where veracity thereof is not disputed by the complainant, the same can be considered."**

6.7. Again in the case of **CBI v. Arvind Khanna,** reported in **(2019) 10 SCC 686,** Hon'ble Supreme Court has held as under :-

> **"17. After perusing the impugned order and on hearing the submissions made by the learned Senior Counsel on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 Cr.P.C, the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by**

the appellant CBI, and the defence put forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

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

6.8. The proposition of law, which can be crystallized from the discussion made herein above, is that this court cannot embark on an enquiry as to the reliability or genuineness or otherwise of the allegations made in the complaint. Exercise of the inherent powers to quash the proceedings, when it is instituted on complaint, is called for only in a case where the complaint does not disclose any offence or is frivolous, vexatious or oppressive. 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 requirement is that 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. If the allegations set out in the complaint do not constitute the offence of which cognizance has

been taken by the Magistrate, then the inherent powers under Section 482 of the Code can be invoked and quash the same.

7. Bearing the above principles in mind, now an endeavour will be made to find out whether any case for quashing the criminal proceeding, arising out of the G.R. Case No. 2660/2023, corresponding to P.R. Case No. 974/2023, under Sections 365/511/447/419/294/506 of the IPC, arising on the basis of the Charge-sheet No. 102/2023, dated 29.05.2023, arising out of FIR dated 15.04.2023, vide Hatigaon P.S. Case No. 147/2023, is made out or not.

8. A bare perusal of the scanned copy of the case record of the learned Court below, indicates that the I.O. had examined several witnesses and collected sufficient incriminating materials against the present petitioner, in support of the allegations made against them in the FIR, and thereafter, the I.O. had submitted charge sheet against the present petitioner along with three others.

9. And perusal of the FIR, and the Charge Sheet, reveals following facts and circumstances:-

(i) On 15/04/2025, at around 2:30 A.M, the present petitioners along with three others, altogether five (5) came in 2 vehicles [AS-017D-0855, AS-01DR 5164] to the house of the informant;

(ii) They tried to break open the gate and entered in to the apartment of the informant, namely, HESTIA'S COURT campus;

(iii) They introduced themselves as Anti Corruption personal and also told that they came to arrest one girl, namely, Robina Boro, who was staying as tenant in one of the flat of the informant, since 7/4/2023.

(iv) Then they had created nuisance there using abusive language.

(v) Their behavior was suspicious and they might came there with intention of dacoity or kidnapping.

(vi) The statement of the victim indicates that the accused persons tried to lift her forcefully and intimidated her by saying that they possess an obscene video of her and threatened to kill her.

(vii) Another eye witnesses also stated that the accused persons tried to lift her and the victim and rebuked them and threatened them and misbehaved with the informant their landlady.

9.1. The facts and circumstances, as enumerated in paragraph No.9 above, have emerged from a bare perusal of the FIR and from the charge sheet and statement of witnesses, so examined by the I.O. during investigation, and also the scanned copy of the record of the

learned court below. And the same, when taken at their face value, goes a long way to indicate the foundational facts constituting the offence under Section 365/511/ 447/419/294/506 of the IPC, against the present petitioner.

10. This Court has considered the submission of Mr. Sinha, in the light of the principles laid down in the case of **M/s Neeharika Infrastructure Pvt. Ltd. (supra),** as discussed herein above, and left unimpressed by his submission that no case is made out against the petitioner and that the story, so set out in the FIR, is improbable. And therefore, this Court is unable to record concurrence with the same.

11. As discussed herein above, whether said factual foundation of the offences laid in the complaint would be sufficient to disclose the ingredients of the offences against petitioners, has to be considered at the stage of trial. Such an enquiry cannot be embarked on at this stage, as held by Hon'ble Supreme Court in the case of **M/s Neeharika Infrastructure Pvt. Ltd. (supra), Mohd. Akram Siddiqui(supra) and in Arvind Khanna(Supra).**

12. There is nothing on the record to suggest that the legal process is being utilized for any oblique purpose by the respondents. Though it was argued strenuously by Mr. Sinha, the learned Counsel for the petitioner, that the FIR was being lodged with **mala-fide** intention against the petitioners by the informant, yet, in the given facts and

circumstances of the case in hand, and as discussed herein above, the said submission left this court unimpressed.

13. It is to be noted here that in the case of **P. Chidambaram vs. Directorate of Enforcement,** reported in **(2019) 9 SCC 24),** Hon'ble Supreme Court has held that in exercise of its inherent power, under Section 482 CrPC, the Court can interfere and issue appropriate directions only when it is convinced that:

(i) The power of the investigating officer has been exercised mala fide, or

(ii) There is abuse of power **and** non-compliance with the provisions of the Code of Criminal Procedure.

(iii) This power of invoking inherent jurisdiction to issue directions and interfere with the investigation is to be exercised **only in rare cases** where there is clear abuse of process or non-compliance with the provisions of the Cr.P.C.

14. It is worth mentioning here in this context that in the case of **State of Bihar v J.A.C. Saldhana and Ors.,** reported in **(1980) 2 SCR 16,** Hon'ble Supreme Court has held that when the information is lodged at the police station and an offence is registered, the **mala-fides** of the informant would be of secondary importance. It is the material collected during the investigation which decides the

fate of the accused person. Same principle is echoed in the case of **M/s Zandu Pharmaceutical Works Ltd. vs. Md. Sharaful Haque & Anr.** reported in **2005 (1) SCC 122,** also. It has also been held that the allegations of **mala fides** against the informant are of no consequence and cannot by themselves be the basis for quashing the proceedings. Notably, in the above mentioned case, Hon'ble Supreme Court has also taken into consideration its earlier decision in **Bhajanlal(supra).**

15. Again in the case of **Central Bureau of Investigation vs. Aryan Singh etc.** reported in **2023 SCC OnLine SC 379,** Hon'ble Supreme Court has held as under:-

> **"11. One another reason pointed by the High Court is that the initiation of the criminal proceedings/proceedings is malicious. At this stage, it is required to be noted that the investigation was handed over to the CBI pursuant to the directions issued by the High Court. That thereafter, on conclusion of the investigation, the accused persons have been charge sheeted. Therefore, the High Court has erred in observing at this stage that the initiation of the criminal proceedings/ proceedings is malicious. Whether the criminal proceedings was/were malicious or not, is not required to be considered at this stage. The same is required to be considered at the conclusion of the trial. In any case, at this stage, what is required to be considered is a**

prima facie case and the material collected during the course of the investigation, which warranted the accused to be tried."

16. It is also well settled in the case of **Ajoy Singh (supra)** that in an application for quashing of the criminal proceedings, while exercising the powers under Section 482 Cr. P.C., the Court is not required to conduct the mini trial.

17. Thus, from the given facts and circumstances on the record and also from the submissions, so advanced by Mr. Sinha, learned counsel for the petitioner, this court is unable to derive its satisfaction that very exceptional circumstances or 'rarest of rare case' is demonstrated by the petitioner herein so as to invoke the extra ordinary jurisdiction of this court, under section 482 Cr.P.C., as held in the case of **BhajanLal (supra)** and also in the case of **M/s Neeharika Infrastructure Pvt. Ltd. (Supra).**

18. In the result, this Court finds no merit in this petition and accordingly, the same stands dismissed. The parties have to bear their own costs.

JUDGE

Comparing Assistant