

Padal Venkata Rama Reddy @ Ramu vs Kovvuri Satyanarayana Reddy & Ors on 29 July, 2011

Equivalent citations: 2011 AIR SCW 4504, 2011 (12) SCC 437, 2011 CRI. L. J. 4340, 2011 (4) AIR JHAR R 779, AIR 2011 SC (SUPP) 819, 2011 CRILR(SC MAH GUJ) 747, 2012 (1) SCC (CRI) 603, (2011) 8 SCALE 128, (2012) 2 MAD LJ(CRI) 259, (2011) 2 CRILR(RAJ) 747, (2011) 2 UC 1546, (2011) 3 CHANDCRIC 274, (2011) 75 ALLCRIC 498, (2011) 3 ALLCRIR 3156, (2011) 3 DLT(CRL) 723, (2011) 4 JCR 241 (SC), (2011) 50 OCR 127, 2011 CRILR(SC&MP) 747, (2011) 3 CRIMES 161, (2011) 2 ALD(CRL) 623, (2011) 3 CURCRIR 302, (2011) 2 ALD(CRL) 948

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Bench: H.L. Gokhale, P. Sathasivam

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1499 OF 2011

(Arising out of S.L.P. (Crl.) No.929 of 2011)

Padal Venkata Rama Reddy @ Ramu

.... Appellant (s)

Versus

Kovvuri Satyanarayana Reddy & Ors.

.... Respondent(s)

J U D G M E N T

P. Sathasivam, J.

1) Leave granted.

2) This appeal is directed against the final judgment and

order dated 28.10.2010 of the High Court of Judicature, Andhra Pradesh at Hyderabad in Criminal Petition No. 5928 of 2010 wherein the High Court allowed the criminal petition filed by Respondent Nos. 1-3 herein and quashed the criminal proceedings pending against them.

3) Brief facts:

(a) The appellant, who was a defacto complainant and

Respondent Nos. 1-3 (accused persons) are the residents of Komaripalem village of East Godavari District. Though all of them belong to Congress Party, Respondent No. 1, Kovvuri Satyanarayana Reddy (A-1) and Respondent No. 2, Karri Venkata Mukunda Reddy (A-2) developed ill will against the appellant and were jealous of his gaining popularity within the party as well as in their area and neighbourhood. Respondent No. 3, Mallidi Chinna Veera Venkata Satyanarayana (A-3), was initially an associate of the appellant herein but later joined hands with A-1 and A-2.

(b) In the year 2006, the appellant contested Zila Parishad Territorial Constituency Elections as an independent candidate and won it. A-1 and A-2 developed grudge against the appellant and they contracted Valmiki Gujjula Ramayya Kondayya (A-4) who belongs to Emmiganur Mandal of Kurnool District for killing the appellant and gave him Rs. 7,00,000/-

to purchase a vehicle and also gave separate amount for hiring goondas. A-4 hired A-5 to A-12 for the said purpose and they conspired together and hatched a plan to assault the appellant. Further, A-3 was entrusted with the responsibility of giving information about the movements of the appellant.

(c) In pursuance of their conspiracy, on 07.11.2007 between 7:00 p.m. to 7:30 p.m. when the appellant was proceeding in his Honda City car along with his wife and children to attend a function near J.K. Gardens, A-4, A-7 to A-12 who were in a Scorpio Car came across his car. In the meanwhile, A-5 and A-6 also came there on Bajaj Boxer Motorcycle belonging to A-

2 where A-4 and A-12 broke the windowpanes of the car while A-5 sprinkled chilly powder into the eyes of the appellant and attacked him with rods and sticks and caused injuries on his vital parts of

the body which resulted in bleeding. Thereafter, A-4 to A-12 left the spot. Somehow the appellant managed to escape from the place of incident and went to the house of Jakkampudi Raja Indra Vandir (L.W.-6), who admitted him in the hospital and informed the incident to the SHO, I Town (L&O), Police Station, Rajahmundry.

(d) After completion of investigation, the S.I. filed charge sheet against A-1 to A-12 on 30.08.2008 for the offences punishable under Sections 120-B, 147, 148, 427, 307, 201 read with Section 149 of the Indian Penal Code (in short "the IPC") before the Court of IInd Additional Judicial Magistrate First Class, Rajahmundry and the same was taken on file in PRC No. 14 of 2008. The Magistrate committed the case to the Ist Additional Assistant Sessions Judge, Rajahmundry for trial and the same was taken on file in Sessions Case No. 175 of 2010.

(e) When the case was pending for trial, Respondent Nos. 1-3 herein preferred Criminal Petition No. 5928 of 2010 before the High Court of Andhra Pradesh under Section 482 of the Code of Criminal Procedure, 1973 (in short "the Code") to quash the criminal proceedings against them. The learned single Judge of the High Court, by impugned judgment dated 28.10.2010, allowed the petition and quashed the criminal proceedings against Respondent Nos. 1-3 herein (A-1 to A-3). Aggrieved by the said order, the appellant-complainant has filed this appeal by way of special leave petition before this Court.

4) Heard Mr. Guntur Prabhakar, learned counsel for the appellant and Mr. Altaf Ahmed, learned senior counsel for Respondent Nos. 1-3 and Mr. D. Mahesh Babu, learned counsel for Respondent No.4-State.

5) The only point for consideration in this appeal is whether the High Court was justified in quashing the criminal proceedings against the Respondent Nos. 1-3 (A1-A3) by invoking jurisdiction under Section 482 of the Code?

Discussion about Section 482 of Cr.P.C.

6) Section 482 of the Code deals with inherent power of High Court. It is under Chapter XXXVII of the Code titled "Miscellaneous" which reads as under:

"482. Saving of inherent power of High Court- Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice."

This section was added by the Code of Criminal Procedure (Amendment) Act of 1923 as the High Courts were unable to render complete justice even if in a given case the illegality was palpable and apparent. This section envisages three circumstances in which the inherent jurisdiction may be exercised, namely:

1. to give effect to any order under Cr.P.C.,

2. to prevent abuse of the process of any court,
3. to secure the ends of justice.

7) In R.P. Kapur Vs. State of Punjab AIR 1960 SC 866=(1960) 3 SCR 388, this Court laid down the following principles:-

"(i) Where institution/continuance of criminal proceedings against an accused may amount to the abuse of the process of the court or that the quashing of the impugned proceedings would secure the ends of justice;

(ii) where it manifestly appears that there is a legal bar against the institution or continuance of the said proceeding, e.g. want of sanction;

(iii) where the allegations in the First Information Report or the complaint taken at their face value and accepted in their entirety, do not constitute the offence alleged; and

(iv) where the allegations constitute an offence alleged but there is either no legal evidence adduced or evidence adduced clearly or manifestly fails to prove the charge."

8) In State of Karnataka vs. L.Muniswamy & Ors. AIR 1977 SC 1489, this Court has held as under:-

"In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the legislature. The compelling necessity for making these observations is that without a proper realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice between the State and its subjects it would be impossible to appreciate the width and contours of that salient jurisdiction."

Though the High Court has inherent power and its scope is very wide, it is a rule of practice that it will only be exercised in exceptional cases. Section 482 is a sort of reminder to the High Courts that they are not merely courts of law, but also courts of justice and possess inherent powers to remove

injustice. The inherent power of the High Court is an inalienable attribute of the position it holds with respect to the courts subordinate to it. These powers are partly administrative and partly judicial. They are necessarily judicial when they are exercisable with respect to a judicial order and for securing the ends of justice. The jurisdiction under Section 482 is discretionary, therefore the High Court may refuse to exercise the discretion if a party has not approached it with clean hands.

9) In a proceeding under Section 482, the High Court will not enter into any finding of facts, particularly, when the matter has been concluded by concurrent finding of facts of two courts below. Inherent powers under Section 482 include powers to quash FIR, investigation or any criminal proceedings pending before the High Court or any court subordinate to it and are of wide magnitude and ramification. Such powers can be exercised to secure ends of justice, prevent abuse of the process of any court and to make such orders as may be necessary to give effect to any order under this Code, depending upon the facts of a given case. Court can always take note of any miscarriage of justice and prevent the same by exercising its powers under Section 482 of the Code. These powers are neither limited nor curtailed by any other provisions of the Code. However such inherent powers are to be exercised sparingly, carefully and with caution.

10) It is well settled that the inherent powers under Section 482 can be exercised only when no other remedy is available to the litigant and not in a situation where a specific remedy is provided by the statute. It cannot be used if it is inconsistent with specific provisions provided under the Code.- (vide *Kavita v. State* (2000 Cr LJ 315) and *B.S. Joshi v. State of Haryana & Anr.* ((2003) 4 SCC 675). If an effective alternative remedy is available, the High Court will not exercise its powers under this section, specially when the applicant may not have availed of that remedy.

11) The inherent power is to be exercised *ex debito justitiae*, to do real and substantial justice, for administration of which alone Courts exist. Wherever any attempt is made to abuse that authority so as to produce injustice, the Court has power to prevent the abuse. It is, however, not necessary that at this stage there should be a meticulous analysis of the case before the trial to find out whether the case ends in conviction or acquittal. (Vide *Mrs. Dhanalakshmi vs. R. Prasanna Kumar & Ors.* AIR 1990 SC 494; *Ganesh Narayan Hegde vs. S. Bangarappa & Ors.* (1995) 4 SCC 41; and *M/s Zandu Pharmaceutical Works Ltd. & Ors. vs. Md. Sharaful Haque & Ors.* AIR 2005 SC 9).

12) It is neither feasible nor practicable to lay down exhaustively as to on what ground the jurisdiction of the High Court under Section 482 of the Code should be exercised. But some attempts have been made in that behalf in some of the decisions of this Court vide *State of Haryana vs. Bhajan Lal* (1992 Supp (1) SCC 335), *Janata Dal vs. H.S. Chowdhary and Others* (1992 (4) SCC 305), *Rupan Deol Bajaj (Mrs.) and Another vs. Kanwar Pal Singh Gill and Another* (1995 (6) SCC 194), and *Indian Oil Corp. vs. NEPC India Ltd. and Others* (2006 (6) SCC 736).

13) In the landmark case of *State of Haryana vs. Bhajan Lal* (1992 Supp.(1) SCC 335) this Court considered in detail the provisions of Section 482 and the power of the High Court to quash criminal proceedings or FIR. This Court summarized the legal position by laying down the following guidelines to be followed by High Courts in exercise of their inherent powers to quash a criminal complaint:

"(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 allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

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

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

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

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

14) In *Indian Oil Corporation vs. NEPC India Ltd. and Others* (2006) 6 SCC 736 a petition under Section 482 was filed to quash two criminal complaints. The High Court by a common judgment allowed the petition and quashed both the complaints. The order was challenged in appeal to this Court.

While deciding the appeal, this Court laid down the following principles:

"1. The High courts should not exercise their inherent powers to repress a legitimate prosecution. The power to quash criminal complaints should be used sparingly and with abundant caution.

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

3. It was held that 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."

15) In *State of Orissa & Anr. vs. Saroj Kumar Sahoo* (2005) 13 SCC 540, it has been held that probabilities of the prosecution version cannot be analysed at this stage. Likewise the allegations of mala fides of the informant are of secondary importance. The relevant passage reads thus:

"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."

16) In *Madhavrao Jiwaji Rao Scindia & Anr. vs. Sambhajirao Chandrojirao Angre & Ors.* AIR 1988 SC 709, this Court held as under:-

"The legal position is well-settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilised for any oblique purpose and where in the opinion of the court chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage."

17) This Court, while reconsidering the Judgment in *Madhavrao Jiwaji Rao Scindia* (supra), consistently observed that where matters are also of civil nature i.e. matrimonial, family disputes, etc., the Court may consider "special facts", "special features" and quash the criminal proceedings to encourage genuine settlement of disputes between the parties.

18) The said Judgment was reconsidered and explained by this Court in *State of Bihar & Anr. vs. Shri P.P. Sharma & Anr.* AIR 1991 SC 1260 which reads as under:

"Madhaorao J. Scindhia v. Sambhaji Rao AIR 1988 SC 709, also does not help the respondents. In that case the allegations constituted civil wrong as the trustees created tenancy of Trust property to favour the third party. A private complaint was laid for the offence under Section 467 read with Section 34 and Section 120B I.P.C. which the High Court refused to quash under Section 482. This Court allowed the appeal and quashed the proceedings on the ground that even on its own contentions in the complaint, it would be a case of breach of trust or a civil wrong but no ingredients of criminal offences were made out. On those facts and also due to the relation of the settler, the mother, the appellant and his wife, as the son and daughter-in-law, this Court interfered and allowed the appeal. Therefore, the ratio therein is of no assistance to the facts in this case. It cannot be considered that this Court laid down as a proposition of law that in every case the court would examine at the preliminary stage whether there would be ultimate chances of conviction on the basis of allegation and exercise of the power under Section 482 or Article 226 to quash the proceedings or the charge-sheet."

Thus, the judgment in Madhavrao Jiwaji Rao Scindia (supra) does not lay down a law of universal application. Even as per the law laid down therein, the Court can not examine the facts/evidence etc. in every case to find out as to whether there is sufficient material on the basis of which the case would end in conviction. The ratio of Madhavrao Jiwaji Rao Scindia (supra) is applicable in cases where the Court finds that the dispute involved therein is predominantly civil in nature and that the parties should be given a chance to reach a compromise e.g. matrimonial, property and family disputes etc. etc. The superior Courts have been given inherent powers to prevent the abuse of the process of court where the court finds that the ends of justice may be met by quashing the proceedings, it may quash the proceedings, as the end of achieving justice is higher than the end of merely following the law. It is not necessary for the court to hold a fullfledged inquiry or to appreciate the evidence, collected by the Investigating Agency to find out whether the case would end in conviction or acquittal.

Discussion in the case on hand

19) In the light of the above principles, let us consider whether there are sufficient materials available in the prosecution case, particularly, in the FIR, chargesheet and statement of witnesses insofar as respondents herein are concerned. No doubt, in the FIR, the complainant has not named these respondents as accused. In Column No. 5 of the FIR under heading "Alleged cause", it is stated that "Alleged to have been sustained injuries on the head, face due to assault by unknown persons near J.K. Kalyana Mandapam, Rajahmundry today (07.11.2007) around 7:00 p.m." Though the complainant has not specified any name, he had asserted that while taking a turn from J.N. Road to J.K. Gardens, some unknown persons kept their maroon color Scorpio car came across his way at around 7:30 p.m. and about 10 persons got down from it, while 5 others from auto armed with iron rods and sticks and they hit the glass on his side to stop him while he was driving the car. It was also asserted that when he put down the door glasses, those persons sprinkled chilly powder on them. After narrating further details, at the end, the complainant has concluded that those persons conspired together and attacked with an intention to kill him in a planned manner. It was further

stated that they all appeared to be goondas and if his wife, children and he himself will see them again, it would be possible to identify them. If we read all the averments in the FIR, it cannot be claimed that the complainant has not highlighted the incident said to have been taken place on 07.11.2007 at around 7:00 p.m.

20) The learned single Judge of the High Court, after analyzing the FIR, chargesheet and the statement of witnesses has concluded that the materials placed by the prosecution are inadequate and ingredients of offence alleged by the prosecution have not been made out and quashed the proceedings against respondents. We have already pointed out the necessary assertion in the complaint and it is true that the respondents were not named in the complaint.

21) Now, let us consider whether the chargesheet and the statement of witnesses make out a prima facie case in the light of principles which we have adverted to in the earlier paragraphs. After furnishing all the details about the motive and circumstances, the investigating officer from the materials collected has concluded:

"Under the above circumstances, A1 to A3 thought that LW- 1 has become insurmountable hurdle in securing seat in ensuring MLA elections. These and other causes of political rivalry made them to determine to liquidate LW-1 and to achieve that object A1 and A2 invited A3 into their fold who is a staunch supporter of LW-1 formerly and used to help in all angles. In order to accomplish their desire of getting rid of LW-1, five years ago LW-25 introduced A4 to A1 and A2 as A1 and A2 are suffering a lot in collecting debts regarding to fertilizers dealers. On that relation A1 and A2 contacted A4 of Emmiganur, Kurnool District to implement the plan with him kill LW-1. A4 having secured A5 to A12 and having received huge amount of Rs. 7,00,000/- for the purchase of car and for separate amount for hiring the goondas from A1 and A2 agreed to implement the plan. On 15.10.2007, A4 purchased a Maroon colour Scorpio Car AP 02 M 4959 from LW-26 and 27. The said car and the silver colour Bajaj Boxer Motorcycle No. AP 5 AG 9418 of A2 has been used in the commission of offence.

A5 having secured A5 to A12 boarded in Raja Rajeswari Lodge, Emmiganur, Kurnool District of for which LW-28 Yeluganti Perayya provided accommodation on night of 31.10.2007 and from their, they came to Rajahmundry on 01.11.2007. On 05.11.2007, A4 got effected some minor repairs to the Scorpio Car at the mechanic shed of LW-24 Anga Janaki Ram. LW-24 gave receipt in the name of A4 for the collection of repairing charges. Later, A1 and A2 kept A4 to A12 in their godown at their Poultry Farm at Komaripalem. LWs-22 and 23 Manda Subba Reddy and Challa Sreenu on the instructions of A1 and A2 used to provide food drinks etc., to A4 to A12. It is at that godown, the accused conspired and designed the plan to assault on LW-1. A1, A2 provided Bajaj boxer motorcycle No. AP 5 AG 9418, Iron Rods and Chili Powder to A4 to A12. A3 was entrusted with the responsibility giving information about the movement of LW-1 to A1 and A2 through the cell phone."

With regard to the conversation over cell phones, the following materials are available in the chargesheet:

"LW-40 secured the cell phones call register of A1 to A3 from LW-36 who is Airtel Manager, on 07.11.2007 there are 22 calls between A3 and A1 the calls made just before, during and after the offence LW-40 also secured the information from the Idea Manager and it show that A4 and A5 using cell phones for the relevant period. Thus it is establishes that the conversation and communication among A1 to A5 through cell phones to commit the offence of murder of LW-

1. On 14.12.2007 at 6:15 a.m. LW-40 arrested A3 at Komaripalem at his house in the presence of mediators LWs 32 and 33. A3 made a confession regarding the commission of offence along with the other accused. In pursuance of the confession of A3, the Nokia Cell Phone No. 9949131888 was seized in the presence of mediators."

22) About the conspiracy, after adverting to various instances the Investigating Officer has observed thus:-

"The fact of the case establishes that A1 and A2 conspired with the other accused A3 to A12 to commit the offence of murder of LW-1. LW-40 added Section of Law 120(b). Thus A1 to A12 hatched a plan to end the life of LW-1 but attempted the life of LW-1 and caused grievous injuries."

23) The statement of the appellant (L.W.-1) is also pertinent to note here. After narrating the entire incident, previous election dispute, enmity etc. the appellant has stated:

".....Keeping all these facts in view, I suspect that Mr. Sathibabu and Mr. Mukunda Reddy, or the MRO Mr. Dummula Baburao (because of the grudge that I got the ACP Trap laid) might have planned and got the attack made on me with their men having hatched a Plan to kill me. I know the cell phones of Mr. Sathibabu, Mr. Mukunda Reddy and Mr. Babi. Cell number of Babi is 9941931888, Cell No. of Sathibabu is 9866617777, Cell No. of Mukunda Reddy is 9849355777....."

In the same way, Padala Sunita, (L.W.-2) wife of Venkata Rama Reddy, after narrating all the details like (L.W.-1) has stated:

".....As my husband has been an obstruction to Kovvuru Satyanarayan Reddy and Mukunda Reddy they might have or else, because of the ACB Trap the suspended MRO Mr. Dummula Baburao might have planned this attack on my husband in order to kill him or else anybody else for any reason might have planned this attack on my husband to kill him. I can identify if I again see some of those persons who attacked my husband and caused injuries to him....."

24) At this moment, Mr. Altaf Ahmed, learned senior counsel, by pointing out that even if the above mentioned materials are acceptable, however, the same does not constitute "legal evidence" to proceed with the trial and hence the High Court was justified in quashing the same for which he relied on a decision of this Court in M/s Zandu Pharmaceutical Works Ltd. (supra). In that decision, the factual position highlighted therein goes to show that the complainant had not come to the court with clean hands.

There was no explanation whatsoever for the inaction between 1995 to 2001. Considering the factual position that the complaint was nothing but sheer abuse of process of law and the High Court has to exercise its power under Section 482, this Court after finding that the High Court has failed to exercise such power quashed the proceedings initiated by the complainant. On going through the factual position, we have no quarrel about the proposition laid down and ultimate order of this Court. That is not the position in the case on hand. We have already pointed out various principles and circumstances under which the High Court can exercise inherent jurisdiction under Section 482.

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 reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge. The scope of exercise of power under Section 482 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 detail in Bhajan Lal (supra). The powers possessed by the High Court under Section 482 are very wide and at the same time the power requires great caution in its exercise. The 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. It would not be proper for the High Court to analyse the case of the complainant in the light of all the probabilities in order to determine whether conviction would be sustainable and on such premise arriving at a conclusion that the proceedings are to be quashed. In a proceeding instituted on a complaint, exercise of inherent powers to quash the proceedings is called for only in a case in which complaint does not disclose any offence or is frivolous, vexatious or oppressive. There is no need to analyse each and every aspect meticulously before the trial to find out whether the case would end in conviction or acquittal. The complaint has to be read as a whole. The statement of witnesses made on oath to be verified in full and materials put forth in the chargesheet ought to be taken note of as a whole before arriving any conclusion. It is the material concluded during the investigation and evidence led in court which decides the fate of the accused persons.

25) On going through the entire complaint, materials collected and stated in the form of chargesheet, statement of witnesses LW-1 and LW-2 and by conjoint reading of all the above materials, it cannot be presumed that there is no legal and acceptable evidence in support of prosecution. In the light of the principles enunciated in various decisions which we have noted in the earlier paras, we are satisfied that the High Court has exceeded its power in quashing the criminal proceedings on the erroneous assumption that the ingredients of the offence alleged by the prosecution has not been made out. The High Court has also committed an error in assuming that

with the materials available, the prosecution cannot end in conviction.

26) For the above reasons and in the light of the materials which we have discussed, we are unable to sustain the conclusion arrived at by the High Court. The impugned order quashing the criminal proceedings against the Respondent Nos. 1-3, i.e. A1-A3 in S.C. No. 175 of 2010 on the file of the Ist Additional Assistant Sessions Judge, Rajahmundry, arising out of P.R.C. No. 14 of 2008 on the file of the IInd Additional Judicial Magistrate First Class, Rajahmundry is set aside. The trial Court is directed to proceed with the case against the respondents in accordance with law. The criminal appeal is allowed.

.....J. (P. SATHASIVAM)J. (H.L. GOKHALE) NEW
DELHI;

JULY 29, 2011.