P. Dharamaraj vs Shanmugam on 8 September, 2022

Author: V. Ramasubramanian

Bench: S. Abdul Nazeer, A.S. Bopanna, V. Ramasubramanian

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1514 OF 2022
(Special Leave Petition (Crl.) NO.1354 of 2022)

P. DHARAMARAJ …APPELLA

VERSUS

SHANMUGAM & ORS. ...RESPONDE

With

CRIMINAL APPEAL Nos. 1515-1516 OF 2022
(@ Special Leave Petition (Crl.) Nos.....
(@ Special Leave Petition (Crl.) D.No.11748 of 2022)

JUDGMENT

V. RAMASUBRAMANIAN, J.

Permission to file Special Leave Petition(s) is granted in D.No.11748 of 2022.

2. Leave granted.

3. There are three Special Leave Petitions on hand, two of which challenge an Order passed by the High Court of Judicature at Madras in a Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C"), quashing a criminal complaint in CC No.25 of 2021 pending on the file of the Additional Special Court for trial of cases related to Members of Parliament and Members of Legislative Assembly of Tamil Nadu, on the ground that all the victims have compromised their claims with the accused. The third Special Leave Petition arises out of an order of dismissal passed by the High Court in a Criminal Miscellaneous Petition filed by a third party by name Anti Corruption Movement, seeking the recall of the order dated 30.07.2021 in the quash petition.

4. We have heard the learned senior counsel appearing for the parties, which include the de facto complainant, persons named as accused as well as third parties who claim to be interested/ affected, albeit indirectly.

Background Facts

5. The brief facts sufficient for the disposal of these special leave petitions are as follows:☐

(i) On a complaint lodged by one K. Arulmani, working in the technical wing of the factory of the Metropolitan Transport Corporation of Tamil Nadu, a FIR in Crime No. 344 of 2018 was registered on 13.08.2018. To avoid any confusion, the contents of the said complaint are extracted as follows:

> "I have been working as a Worker in the Technical Wing of the Factory of Metropolitan Transport Corporation (MTC), at Perambur. In the year 2014, an announcement in regard to vacancies existing for the posts of Conductor and Driver in the Transport Department. When I went to our Head Office in Pallavan Salai in connection with work, one Mr. Rajkumar got introduced to me. He told me that he hails from Pambaipadayur near Kumbakonam and he had got close contact with the then Transport Minister, Mr.Senthil Balaji and his younger brother Asok Kumar, through one Mr. Shanmugam, who was the Personal Assistant to Mr. Senthil Baljai and on paying money, jobs would certainly be got. My friends by name Ambedkar, Senthil, Vijayakanth, Muthiah and a few others told to get them jobs in the Transport Corporation and they are ready to pay money for the same.
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> I told that money was to be given to through one Mr.Rajkumar and should there surface any problem, we should be ready to face the same. They also, agreeing to the same, paid me money, in several installments during the period from 25.12.2014 to 04.01.2015, amounting to Rs.40,00,000/☐ conveyed those details to Mr. Rajkumar. In the first week of January 2015, he and myself went to the house of Thiru Senthil Balaji at R.A. Puram. At that time, Mr. Shanmugam, P.A. to Thiru Senthil Balaji came towards me and received the sum of Rs.40,00,000/☐ We insisted on Thiru Shanmugam to see Thiru Asok Kumar and Thiru Senthil Balaji in person. Thiru Asok Kumar, who came there, when we gave the amount, had assured that all who have paid amounts would issued with appointment orders. He took us then itself to Thiru Senthil Balaji. He told in an assuring voice that there is no need to worry and all those who gave money would be definitely given appointment orders.

In the list of names released by the Transport Corporation, the names of persons for whom I gave money, have not appeared in list of appointments. Hence, persons who gave money to me started pestering me to return the money. When I asked about it to Thiru Rajkumar, he told that in the next list, their names would definitely come. But in the next list also, names of none came. When I informed this to Thiru Rajkumar, he said that he would enquire about the same to Asok Kumar and Shanmugam and then he would say. But each time when I asked Rajkumar, giving me the very same reply, asked me to wait for some time. Persons who gave me money, started threatening me. On

their insistence, I gave them my cheques from my savings bank account with Canara Bank, Ambatur Branch, as security. In pursuance of that, when I asked Rajkumar on 12.10.2015 for returning the money, he gave me two cheques drawn on City Union Bank, Mount Road Branch, filling each cheque with a sum of Rs.15,00,000/-He told me to deposit the said cheques for collection at the time when he instructs, on his being paid repaid the amounts by Thiru Senthil Balaji, Asok Kumar and Shanmugam and the balance sum of Rs.10,00,000/-would be given by him later on. When I went to City Union Bank, Mount Road Branch and checked whether there are sufficient amounts in their accounts, the Bank Officer said that there were no sufficient funds. When I met Raj Kumar, Shanmugam and Asok Kumar several times and requested for returning the money, they asked me to wait for some time. Persons who gave me money started pestering me very much demanding money. In October 2016, when I met Messrs Senthil Balaji, his younger brother Asok Kumar, and P.A Shanmugam and Rajkumar, and entreated them to return the money to me, after explaining my pathetic position, each one of them said that they cannot return the amount, nothing can be done against them and if I give them trouble demanding money, they would liquidate me along with my family. I am living daily in consternation along with my two children. As Thiru Senthil Balaji was a Minister then and subsequently a MLA in the ruling party, the situation posing threat to my life in the event of my lodging a complaint against him, was in existence. I came forward to give the complaint now, since he is not holding any post. I therefore humbly request you to kindly initiate appropriate legal action against Messrs Senthil Balaji, Asok Kumar, Shanmugam and Raj Kumar for their acts of fraud, deception and also the threats unleashed against me and get me back the sum of Rs.40,00,000/-payable to me by all of them."

(ii) The FIR was for alleged offences under Sections 405, 420 and 506(1) of the Indian Penal Code (for short "IPC"). Four persons by name Shri Senthil Balaji (the then Transport Minister), Shri Ashok Kumar (the brother of the Minister), Shri Shanmugam (Personal Assistant to the Minister) and Shri Raj Kumar were cited as the accused in the FIR.

(iii) After investigation, the police filed a final report dated 12.04.2019 under Section 173(2)(i) of Cr.P.C., against all the four accused named in the First Information Report. The final report indicted the persons named as accused, for alleged offences under Sections 406, 409, 420, 506(1) read with Section 34 IPC. The Special Court for trial of cases related to Members of Parliament and Members of Legislative Assembly of Tamil Nadu took the final report on file in CC No.25 of 2021.

(iv) Shri Shanmugam, named as accused No.3 then filed a criminal original petition in Criminal O.P. No.13374 of 2021 on the file of the High Court of Judicature at Madras under Section 482 of the Cr.P.C. praying for quashing the criminal complaint CC No.25 of 2021.

(v) Before the High Court, the de facto complainant Shri K. Arulmani filed an affidavit supporting the accused and praying for quashing of the final report, on the ground that what the victims had with the accused was only a money dispute and that the same had been settled out of Court and that due to political rivalry between two groups, his complaint got converted into a more serious one, by including unwarranted statements which were not made by him.

(vi) The victims who originally claimed to have paid money for procuring employment, also filed individual affidavits supporting the accused.

(vii) A joint compromise memo dated 28.7.2021 containing the signatures of 13 victims (who had paid money) on the one hand and accused No.3 on the other hand was also filed before the High Court.

(viii) When the quash petition came up for hearing, the learned Government Advocate appearing for the State made a submission that the occurrence took place in the year 2014 and that the matter was compromised between the accused and the victims in the year 2019 after the filing of the final report.

(ix) Interestingly, all the 13 victims also appeared before the learned Judge of the High Court of Madras through Video Conference and claimed that the issues have been resolved between them and the accused.

(x) In the light of what had transpired after the filing of the final report, the High Court passed an order dated 30.07.2021 quashing the criminal complaint on the ground that "by passage of time, the parties have decided to bury their hatchet and that no useful purpose would be achieved by keeping the criminal case pending". After noticing that the offences are not compoundable in nature, the High Court recorded in one sentence that it had taken note of the guidelines issued by this Court in Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and Ors. vs. State of Gujarat1 and The State of Madhya Pradesh vs. Dhruv Gurjar and Another2 and concluded that the complaint could be quashed.

(xi) Upon coming to know of the quashing of the complaint, a person by name Shri P.Dharamaraj, who participated in the process of selection for appointment to the post of drivers/conductors in the Metropolitan Transport Corporation, but who did not get selected, has come up with one special leave petition contending that what happened was a cash-for-job scam and that he would have got selected if the scam had not taken place. Since he was not a party to the quash proceedings before the High Court, his special leave petition was accompanied by an application for leave to file Special 1 (2017) 9 SCC 641 2 (2019) 2 MLJ Crl 10 Leave Petition. The said application was allowed by this Court on 11.02.2022.

(xii) In the meantime, an organisation by name Anti Corruption Movement, moved a Miscellaneous Petition before the High Court seeking recall of the order dated 30.07.2021 on the ground that the complaint involved allegations of corruption and abuse of official position and that therefore the charge-sheet could not have been quashed on the basis of a compromise between the parties. This application for recall was rejected by the High Court by an Order dated 14.03.2022, primarily on the ground that this Court has already entertained a special leave petition against the order sought to be recalled.

(xiii) Therefore, challenging the original order dated 30.07.2011 and the order dated 14.03.2022, the said Association, namely, Anti Corruption Movement has come up with two special leave petitions.

6. Before we proceed further, it is necessary to take note of the fact that there are a few interlocutory applications whose details are as follows:

IA No.49555/2022 filed by Anti Corruption Movement seeking intervention in SLP (Crl.) No.1354 of 2022 filed by Dharamaraj;

IA No.59173/2022 filed by the appellant in SLP (Crl.) No.1354 of 2022, for impleading the four persons named as accused.

IA No.59176/2022 filed by the appellant in SLP (Crl.) No.1354 of 2022 seeking the appointment of a Senior Advocate as Special Public Prosecutor to conduct the trial.
IA Nos.126399 and 126400 of 2022 filed by one Y. Balaji, who did not get selected for the post of conductor/driver, seeking impleadment and the appointment of an impartial Special Public Prosecutor.

IA No.108569/2022 filed by one Shri S. Prithvirajan, who claims to be a victim due to non-selection, for impleading himself as party to the special leave petition.

Rival Contentions

7. Assailing the order of the High Court, it is contended by Shri Siddharth Bhatnagar & Shri Gopal Sankaranarayanan, learned senior counsel, that it is shocking to see that a matter of this nature, where the bribe-giver and bribe-taker have come together, has been allowed to be closed on the basis of a compromise memo; that the original complainant Shri Arulmani was himself an employee of the Metropolitan Transport Corporation and consequently a public servant; that the allegations revolved around payment of money to the then Transport Minister through his Personal Assistant for procuring appointment in the Metropolitan Transport Corporation; and that, therefore, the High court committed a serious illegality in quashing the complaint on the basis of a compromise, despite the fact that even the offences indicated in the charge-sheet are not compoundable. The learned senior counsel drew our attention to the counter affidavit filed by the Investigation Officer before the High Court of Judicature at Madras in a writ petition in WP No.9061 of 2021 to highlight that the allegations are of serious nature warranting a prosecution under the Prevention of Corruption Act, 1988 (for short "P.C. Act") and argued that the shocking manner in which the High Court had handled it, deserves special attention, if not special treatment.

8. Shri Prashant Bhushan, learned counsel appearing for Anti Corruption Movement, which is the appellant in 2 of the appeals, contended that the prosecution itself was guilty of not including in the charge-sheet the offences under the P.C Act and that even the opportunity now available to the Court under Section 216 of the Cr.P.C. is nipped in the bud by the High Court allowing a compromise and quashing the complaint.

9. Shri Rakesh Dwivedi, learned senior counsel appearing for the first respondent in these special leave petitions and who was the petitioner before the High Court in the quash petition, supported the order of the High Court contending inter alia that the statements of the victims did not make out

a case for prosecution of the accused under the P.C Act; that this is why the final report filed by the police did not implicate the accused for any offence under the P.C Act; that the prosecution was constrained to include Section 409 IPC only because of a statement as though respondent No.1 was a Personal Assistant to the then Minister (A□1); that however no such order of appointment of respondent No.1 as the Personal Assistant to the Minister was ever brought on record; that in the Additional Affidavit filed by respondent No.1, he categorically denied any association with the Minister as his Personal Assistant; that an attempt was made earlier, by two other individuals who made similar allegations against the then Transport Minister (present A□

1), by filing petitions in Criminal O.P. (MD) No.14067 and 14967 of 2016, seeking a direction to the police to register a complaint and investigate into the same; that during the pendency of those petitions, a criminal complaint came to be registered in Crime No.15 of 2016; that one of the accused (the Managing Director of the Transport Corporation) immediately filed a quash petition in Crl. O.P. (MD) No. 16023 of 2016 in which the Transport Minister also got impleaded; that all those 3 criminal original petitions were heard together by the High Court; that by a final Order dated 19.09.2016 the petitions seeking a direction for registering a complaint were rejected but the petition for quashing the complaint was allowed; that the common order so passed by the High Court on 19.09.2016 in Criminal O.P. (MD) Nos. 14067, 14967 and 16023 of 2016 was challenged before this Court by a third party, by way of special leave petitions; that by an order dated 05.01.2017 this Court refused to grant leave to the third party to file special leave petitions; that the first attempt so made by 2 individuals way back in 2016 to somehow implicate the Minister thus failed; and that, therefore, the High Court was right in this case, in putting to rest, the repeated attempts made by rivals in politics to nix the accused.

10. Shri Mukul Rohtagi, learned senior counsel appearing for Shri Arulmani, on whose complaint the FIR in Crime No.344 of 2018 was registered on 13.08.2018, also supported the impugned order of the High Court by contending inter alia that the allegations made in the complaint did not make out a case for prosecution under the P.C Act; that the affidavits filed by all the so called victims before the High Court made it crystal clear that it was a simple money dispute; that the allegations complained of against the accused do not constitute offences against the State but revolved around a private dispute with regard to payment of money; that even in cases arising out of a prosecution under the P.C Act, this Court held in Sanjay Tiwari vs. State of Uttar Pradesh & Another.3 that a third party, who is neither a victim nor an accused, cannot poke his nose into the criminal proceedings; that therefore, the appellants in the above appeals have no locus standi to question the order of the High Court; and that in the light of the contents of the affidavit filed by the de facto complainant□Shri Arulmani before the High Court, no conclusion other than the one reached by the High Court is possible.

11. Shri C.A. Sundaram, learned senior counsel appearing for A□1 contended inter alia, that the appellants who have approached this Court have no locus standi to interfere with the proceedings initiated at the behest of individual complainants; that the appellants have taken cudgels on behalf of the political rivals, to undo a compromise reached between a few individual complainants and persons who received money from them; that the parameters laid down by this Court for closing criminal cases on the basis of the compromise reached between parties even in the case of non□

compoundable offences, have been followed 3 2020 SCC Online SC 1027 properly by the High Court in this case; and that since allegations of corruption are not made out in this case, there is no element of public interest involved. According to the learned senior counsel for A□1, the appellants are relying heavily upon other cases filed under the P.C Act, to upset a compromise reached in a case which does not concern allegations under the P.C Act.

12. Shri Manan Kumar Mishra, learned Senior Counsel appearing for respondent No.1 contended that the attempt of the appellants herein is only to harass the Minister. According to the learned senior counsel, there are two other pending complaints where allegations under the P.C Act are included. The appellants have already impleaded themselves as parties to those criminal complaints. Therefore, it is contended by Shri Manan Kumar Mishra that the whole exercise is unwarranted and nothing but witch hunting. Insofar as persons who claim to be victims due to their non□selection for appointment to the post of conductors/drivers are concerned, it is contended by Shri Manan Kumar Mishra that they have already filed writ petitions challenging their non□selection and hence their remedy does not lie in the present proceedings.

13. Shri S. Prabhakaran, learned Senior Counsel contended that the Minister concerned was a member of the splinter group which revolted against those in office during the previous regime and that therefore the present criminal complaints came to be registered at the behest of his political opponents and that the same group is now targeting him as he had again become a Minister in the present regime. Therefore, the learned Senior Counsel submitted that this Court should see through this game before being swayed by legal nuances.

Discussion and Analysis

14. In a nutshell, the rival contentions revolve around three important issues. They are: (i) the locus standi of the appellants;

(ii) the effect of the compromise entered into between the de facto complainant and 13 named victims on the one hand and the four accused on the other hand; and (iii) the non□inclusion in the charge□sheet of the offences under the P.C. Act. Locus standi

15. The preliminary objection of the respondents to the locus standi of the appellants, has to be rejected outright, for several reasons. The first is that in the counter affidavit filed by the Assistant Commissioner of Police, Central Crime Branch, Job Racket Wing, Chennai, to the writ petition WP No.9061 of 2021, he has narrated certain sequence of events which are as follows:

> (i) Pursuant to an order passed by the High Court on 09.06.2014 in Writ Appeal No.1027 of 2013, directing all appointments in all Government departments to be made only after due notification to the public in Newspapers besides sponsorship from the Employment Exchange, the Secretary to Government, Employment and Training Department sent a communication to the Managing Directors of all State Transport Undertakings on 30.07.2014 to follow the directions of the High Court in the matter of appointments;

(ii) All the representatives of all the State Transport undertakings resolved in a meeting held on 06.10.2014 to conduct future recruitments only after inviting applications from the open market through newspaper advertisements apart from getting a list of candidates sponsored by the Employment Exchange;

(iii) Thereafter, Thiru Senthil Balaji, the then Transport Minister (A-1 in the present case) instructed the officers to collect details regarding the day-to-day progress of the recruitment in all 8 Transport Corporations of the State;

(iv) These communications were directed to be transmitted to the Minister's office via e-mail and the mail box was operated and maintained by Shri B. Shanmugam and not by any of the other Personal Assistants of the Minister;

(v) The advertisements for recruitment were issued in newspapers on 02.11.2014. Simultaneously, the lists of eligible candidates were also invited from the concerned Employment Exchanges;

(vi) A total of 22602 applications were issued to the aspirants during the period from 03.11.2014 to 20.11.2014;

(vii) These 22,602 applications related to the posts of Reserved Crew Driver, Reserved Crew Conductor, Junior Tradesman, Junior Engineer and Assistant Engineer;

(viii) The total number of filled in applications received from the candidates was 16081;

(ix) But 12765 candidates attended the interview;

(x) Orders of appointment were issued to 2209 candidates from the list given by the Minister;

(xi) There were 5542 other eligible candidates;

(xii) Many of the note files have been created without any date;

(xiii) Appointment orders were issued to candidates whose names were contained in the list sent by the Transport Minister through his associate Shanmugam.

16. From what is extracted above from the counter affidavit of the Investigation Officer filed in a connected writ petition, it is clear that even according to the Investigating Officer, persons who claim to have paid money, but did not receive orders of appointment, were not the only victims. Persons who were more meritorious, but who did not get selected, on account of being edged out by candidates who paid money and got selected, are also victims of the alleged corrupt practices, if those allegations are eventually proved. Shri P. Dharamaraj, who is the appellant in one of these appeals, claims to be a candidate who participated in the selection, but could not make it. There is also an intervenor by name Shri Prithivirajan who was the petitioner in WP No.9061 of 2021, in which the counter affidavit referred to in the preceding paragraph was filed by the Investigation

Officer. This candidate was not selected and according to him, he would have got selected, had there been no corrupt practices on the part of the concerned.

17. Even the learned senior counsel appearing on behalf of the respondents could not contest the position that a victim is entitled to file an appeal against the impugned order of the High Court. If persons who participated in the selection process but who could not make it to the final list of selected candidates on account of the alleged corrupt practices adopted by those in power are not victims, we do not know who else could be a victim.

18. We cannot shy away from the fact that candidates, who are selected and appointed to posts in the Government/public corporations by adopting corrupt practices, are eventually called upon to render public service. It is needless to say that the quality of public service rendered by such persons will be inversely proportionate to the corrupt practices adopted by them. Therefore, the public, who are recipients of these services, also become victims, though indirectly, because the consequences of such appointments get reflected sooner or later in the work performed by the appointees. Hence, to say that the appellants have no locus standi, is to deny the existence of what is obvious.

19. The decision in Sanjay Tiwari (supra), relied upon by Shri Mukul Rohtagi, learned senior Counsel for the de facto complainant, is of no application to the case on hand. The appeal in Sanjay Tiwari's case arose out of an application for expediting the trial of a criminal case pending on the file of the Special Judge, Gorakhpur, for alleged offences under Sections 420, 467, 468, 471, 477A, 120B IPC and Section 13(1)(c)(d) read with Section 13(2) of P.C. Act. The said application for expediting the trial was moved by a person who was neither the victim nor the accused. Therefore, this Court found out that a person who has nothing to do with the pending trial, cannot seek to expedite the trial, Paragraphs 11 to 15 of the said decision on which heavy reliance is placed read as follows:□"11. It is well settled that criminal trial where offences involved are under the Prevention of Corruption Act have to be conducted and concluded at the earliest since the offences under Prevention of Corruption Act are offences which affect not only the accused but the entire society and administration. It is also well settled that the High Court in appropriate cases can very well under Section 482 Cr.P.C. or in any other proceeding can always direct trial court to expedite the criminal trial and issue such order as may be necessary. But the present is a case where proceeding initiated by respondent No. 2 does not appear to be a bona fide proceeding. Respondent No. 2 is in no way connected with initiation of criminal proceeding against the appellant. Respondent No. 2 in his application under Section 482 Cr. P. C in paragraph 6 has described him as social activist and an Advocate. An application by a person who is in no way connected with the criminal proceeding or criminal trial under Section 482 Cr.P.C. cannot ordinarily be entertained by the High Court. A criminal trial of an accused is conducted in accordance with procedure as prescribed by the Criminal Procedure Code. It is the obligation of the State and the prosecution to ensure that all criminal trials are conducted expeditiously so that justice can be delivered to the accused if found guilty. The present is not a case where prosecution or even the employer of the accused have filed an application either before the trial court or in any other court seeking direction as prayed by respondent No. 2 in his application under Section 482 Cr.P.C.

12. With regard to locus of a third party to challenge the criminal proceedings or to seek relief in respect of criminal proceedings of accused had been dealt with by this Court Janata Dal v. H.S. Chowdhary,(1991) 3 SCC 756. In the above case the CBI had registered FIR under the IPC as well as under

> the Prevention of Corruption Act, 1947 against 14 accused. On an application filed by the CBI the learned trial Judge allowing the application to the extent that request to conduct necessary investigation and to collect necessary evidence which can be collected in Switzerland passed order on 05.02.1990 which is to the following effect:
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> "In the result, the application of the CBI is allowed to the extent that a request to conduct the necessary investigation and to collect necessary evidence which can be collected in Switzerland and to the extent directed in this order shall be made to the Competent Judicial Authorities of the Confederation of Switzerland through filing of the requisite/proper undertaking required by the Swiss law and assurance for reciprocity."

13. A criminal miscellaneous application was filed by Shri H.S. Chowdhary seeking various prayers before the Special Judge which petition was dismissed by the Special Judge. A criminal Revision under Sections 397/482 Cr. P.C. was filed by H.S. Chowdhary in the High Court to quash the order of the Special Judge, which Revision was also dismissed by the High Court. The appeals were filed in this Court by different parties challenging the said order including H.S. Chowdhary. This court while dismissing the appeals filed by the H.S. Chowdhary and others made the following observations:

> "26. Even if there are million question of law to be deeply gone into and examined in the criminal case of this nature registered against specified accused persons, it is for them and them alone to raise all such questions and challenge the proceedings initiated against them at the appropriate time before the proper forum and not for third parties under the garb of public interest litigants.
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> "27. We, in the above background of the case, after bestowing our anxious and painstaking consideration and careful thought to all aspects of the case and deeply examining the rival contentions of the parties both collectively and individually give our conclusions as follows:
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> 1. Mr. H.S. Chowdhary has no locus standi (a) to file the petition under Article 51A as a public interest litigant praying that no letter rogatory/request be issued at the request of the CBI and he be permitted to join the inquiry before the Special Court which on 5.2.90 directed issuance of letter rogatory/request to the Competent Judicial Authorities of the Confederation of Switzerland; (b) to invoke the revisional jurisdiction of the High Court under Section 397 read with 401 of the CrPC challenging the correctness, legality or propriety of the order dated 18.8.90 of the Special Judge; and (c) to invoke the extraordinary jurisdiction of the High Court under Section 482 of the CrPC for quashing the First Information Report dated

> 22.1.90 and all other proceedings arsing therefrom on the plea of preventing the abuse of the process of the Court.
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> 28. In the result, we agree with the first part of the Order dated 19.12.90 of Mr. Justice M.K Chawla holding that Mr. H.S. Chowdhary and other intervening parties have no locus standi. We, however, set aside the second part of the impugned order whereby he has taken suo moto cognizance and issued show cause notice to the State and CBI and accordingly the show cause notice issued by him is quashed."

14. This Court in the above case laid down that it is for the parties in the criminal case to raise all the questions and challenge the proceedings initiate against them at appropriate time before the proper forum and not for third parties under the grab of Public Interest Litigants.

15. We are fully satisfied that respondent No. 2 has no locus in the present case to file application under Section 482 Cr.P.C. asking the Court to expedite the hearing in criminal trial. We have already observed that all criminal trials where offences involved under the prevention of Corruption Act have to be concluded at an early date and normally no exception can be taken to the order of the High Court directing the trial court to expedite the criminal trial but in the present case the fact is that proceedings have been initiated by respondent No. 2 who was not concerned with the proceedings is any manner and the respondent No. 2 has no locus to file application which was not clearly maintainable, we are of the view that the impugned judgment of the High Court dated 09.09.2020 cannot be sustained."

20. All that this Court pointed out in paragraph 11 of the decision in Sanjay Tiwari (supra) was that an application for expediting the trial, filed by a person who is in no way connected with the criminal proceeding or criminal trial cannot "ordinarily be entertained by the High Court."

21. The decision in Janata Dal vs. H.S Chowdhary and Others4 cited in paragraphs 12 and 13 of Sanjay Tiwari also has no application to the case on hand. In Janata Dal (supra), which arose out of Bofors case, the Special Court allowed an application of CBI to conduct necessary investigation and to collect necessary evidence, in Switzerland. A letter rogatory was also issued. At that stage an Advocate by name H.S. Chowdhary filed a petition in public interest before the Special Judge, invoking Article 51A of the Constitution. He sought several reliefs including a direction not to issue letter rogatory and to allow him to join the enquiry before the Special Court in the capacity of a public interest 4 (1991) 3 SCC 756 litigant. The Special Court dismissed the petition filed by H.S. Chowdhary, but took up for consideration suo moto, the question as to whether any action under Section 340 of the Cr.PC. should be initiated or not. The order of the Special Judge was challenged by H.S. Chowdhary by way of revision before the High Court. The High Court held that H.S. Chowdhary did not have any locus standi to maintain the petition. It was the said order that was challenged by H.S. Chowdhary before this Court. The order of the Special Judge taking suo moto action was also challenged by political parties.

22. While disposing of those appeals, this Court held that a third party has no locus standi in a matter of this nature. It must be noted that the attempt made by H.S. Chowdhary was to upset the

move initiated by CBI to have a letter rogatory issued. He also wanted the FIR to be quashed. It is in that context that this Court answered the question of locus standi as aforesaid.

23. Today, we have travelled a long way from the position of law as it stood then. By Act 5 of 2009, the definition of the word "victim" was inserted in Section 2(wa) of the Cr.P.C. It reads thus:

> "victim" means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression "victim" includes his or her guardian or legal heir." Simultaneously, a proviso was also inserted under Section 372 of the Code providing a right of appeal to the victims.

24. In fact, long before the aforesaid amendment, the question of locus standi was considered by this Court in P.S.R. Sadhanantham vs. Arunachalam and Another5. The said case arose under peculiar circumstances. A person who was convicted by the Sessions Court for an offence under Section 302 and whose conviction was set aside by the High Court, was convicted by this Court in a criminal appeal, filed not by the State, but by the brother of the victim, though he was neither the complainant nor the first informant. Thereafter, the accused filed a writ petition under Article 32 contending that this Court had no power to grant 5 (1980) 3 SCC 141 special leave to the brother of the victim to file an appeal against the judgment of the High Court. While rejecting the contention, Hon'ble Justice V.R. Krishna Iyer (as he then was) said in his inimitable style:

> ".....the bogey of busybodies blackmailing adversaries through frivolous invocation of Article136 is chimerical. Access to Justice to every bona fide seeker is a democratic dimension of remedial jurisprudence even as public interest litigation, class action, pro bono proceedings, etc. We cannot dwell in the home of processual obsolescence when our Constitution highlights social justice as a goal." Therefore, the objection about the locus standi of the appellants is without any merit. In any case, the appellant in one of these appeals, is a victim, as he could not get selected on account of the alleged corrupt practices. Therefore, the contention regarding the locus standi of the appellants is to be rejected.
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> 25. In fact, it is surprising that the de facto complainant Shri Arulmani has raised the question of locus standi. It is seen from his complaint dated 13.08.2018 that he is working in the Technical Wing of the factory of the Metropolitan Transport Corporation. Therefore, he should not have, in the first instance, become a party to the transactions narrated in his complaint.

After having been a party to the collection of money for illegitimate purposes, even while working in the Transport Corporation, the de facto complainant Shri Arulmani has committed the second mistake of filing an affidavit supporting the compromise and claiming therein as though he never made allegations against the Minister.

26. The stand taken by Arulmani before the High Court is deplorable for one more reason. It is seen from an entry in the FIR out of which the present case arises, that Arulmani filed a criminal original

petition in Crl. O.P.No. 24029 of 2017 on the file of the High Court, complaining that he lodged a complaint against these 4 accused way back on 21.09.2017 and that no action was taken. On 16.11.2017, the High Court passed an order directing the Police to act in accordance with the law laid down by this Court in Lalita Kumari vs. Government of Uttar Pradeshand Others6. It is only thereafter that the Police registered the FIR in Crime No. 344 of 2018 on 13.08.2018. Therefore, we would have hardly 6 (2014) 2 SCC 1 expected Shri Arulmani to say that the allegations against the Minister were added up later by the Police and that it was a simple money dispute. His present stand supporting the accused and questioning the locus standi of the appellants, is, to say the least, shocking and warrants something more than mere condemnation. We leave it at that in the hope that the employer and the State would take notice of his conduct. Suffice it to say for our present purpose that the objection relating to the locus standi of the appellants is liable to be rejected. Accordingly, it is rejected. The Effect of the compromise and the non□nclusion of the offences under the P.C. Act

27. The second issue arising for consideration is about the effect of the compromise entered into between the de facto complainant and 13 named victims on the one hand and the 4 accused on the other hand.

28. As we have pointed out earlier, the FIR was registered only for offences under Sections 405, 420 & 506(1) of the IPC. This was despite the fact that the allegations contained in the complaint very clearly pointed to payment of money for procuring employment in the Public Transport Corporation. We have already extracted the entire complaint in paragraph 5(i) above. It was stated in the said complaint that in the year 2014, an announcement for filling up vacant posts of Conductor and Driver in the Transport Corporation was issued and that the complainant got introduced to one Mr. Rajkumar. In fact there is also an averment in the complaint that in the first week of January 2015, the complainant went along with the said Rajkumar to the residence of Thiru Senthil Balaji at R.A. Puram and that the amount of Rs.40 lakhs was paid therein to Shri Shanmugam, P.A. to the Minister. The complainant had gone on to state that upon his insistence, he was allowed to meet the Minister and his brother and that the Minister and his brother assured him that all those who gave money would definitely be given appointment orders.

29. It must be recalled that though the FIR came to be registered only on 13.08.2018, it was actually in pursuance of an order passed by the High Court on 16.11.2017 in Crl. O.P. No. 24029 of 2017. Therefore, we are surprised that the FIR did not include the offences under the P.C. Act, 1988.

30. While filing a final report, the Investigation Officer seems to have been little more gracious by including Section 409 IPC, since Sh. Shanmugam, the person who received the money from the complainant and the victims was stated to be a Personal Assistant to the Minister. Additionally, the money was said to have been paid at the residence of the Minister with his knowledge and the Minister is stated (in the FIR) to have acknowledged that those who paid money will be rewarded with the appointment orders.

31. Thus it is clear that the final report implicated the accused for offences under Sections 406, 409, 420 and 506(1) IPC. None of these offences except the one under Section 506 IPC is compoundable

under sub-Section (1) of Section 320, Cr.P.C. The offences under Sections 406 and 420 are compoundable under sub-Section (2) of Section 320.

32. Sub-section (9) of Section 320 makes it clear that no offence shall be compounded except as provided by the Section. Therefore, there was no way the offence under Section 409 IPC, included in the final report, could have been compounded. As a matter of fact, the High Court has recognised in the penultimate paragraph of the impugned order that the final report includes offences which are not compoundable. However, the High Court proceeded to quash the final report, purportedly on the basis of the guidelines issued by this Court in Parbatbhai Aahir @ Parbathbhai (supra) and The State of Madhya Pradesh (supra). Therefore we may now proceed to examine whether the High Court was right in doing so.

33. In Gian Singh vs. State of Punjab and another7, a three Member Bench of this Court was concerned with a reference made by a two Member Bench, which doubted the correctness of the decisions in B.S. Joshi and Others vs. State of Haryana and another8, Nikhil Merchant vs. Central Bureau of Investigation and Anr.9 and Manoj Sharma vs. State and Others10. 7 (2012) 10 SCC 303 8 (2003) 4 SCC 675 9 (2008) 9 SCC 677 10 (2008) 16 SCC 1

34. B.S. Joshi (supra) was a case where the dispute was a family dispute and the offences complained were under Sections 498A, 323 and 406. Therefore, this Court appears to have taken a lenient view.

35. Nikhil Merchant (supra) is a case where a borrower committed default in repayment of the loans taken from Andhra Bank. Apart from filing a suit for recovery of money, the Bank also filed a criminal complaint both against the officers of the company and against the officers of the bank, not only for offences under the IPC but also for offences under the PC Act. After the suit was compromised, the Managing Director of the borrower Company sought to get discharged from the complaint. The special Judge (CBI) rejected the application for discharge. The High Court confirmed the same. But this Court reversed the decision of the High Court, solely on the ground that the amount payable to the Bank stood settled. However, it must be noticed that in Nikhil Merchant, the operative portion of the order of this Court merely stated that the criminal proceedings were quashed against the appellant therein. There is no indication therein that the complaint against the officers for offences under the P.C. Act were also quashed.

36. Manoj Sharma (supra) was a case where the offences complained were under Sections 420, 468, 471, 34 read with Section 120B IPC. Though this Court quashed the criminal complaint in the said case also, one of the learned Judges constituting the Bench (Markandey Katju, J.) reserved the question regarding the power of the High Court to quash non-compoundable cases under Section 482 Cr.P.C or Article 226 of the Constitution, on the basis of the compromise reached between the parties, to be decided by a larger bench at an appropriate time. Paragraph 27 of the decision in Manoj Sharma which contains the opinion of Markandey Katju, J., reads as follows:

> "27. There can be no doubt that a case under Section 302 IPC or other serious offences like those under Sections 395, 307 or 304-B cannot be compounded and

hence proceedings in those provisions cannot be quashed by the High Court in exercise of its power under Section 482 Cr.P.C. or in writ jurisdiction on the basis of compromise. However, in some other cases, (like those akin to a civil nature) the proceedings can be quashed by the High Court if the parties have come to an amicable settlement even though the provisions are not compoundable. Where a line is to be drawn will have to be decided in some later decisions of this Court, preferably by a larger bench (so as to make it more authoritative). Some guidelines will have to be evolved in this connection and the matter cannot be left at the sole unguided discretion of Judges, otherwise there may be conflicting decisions and judicial anarchy. A judicial discretion has to be exercised on some objective guiding principles and criteria, and not on the whims and fancies of individual Judges. Discretion, after all, cannot be the Chancellor's foot."

37. Therefore in Gian Singh (supra), the three Member Bench of this Court took up for consideration the question regarding the difference between the power of the court to quash a complaint/charge□ sheet and the power to compound an offence. After analysing the statutory provisions and the various decisions of this Court, this Court summarised the position, in paragraph 61 of its decision in Gian Singh, as follows:

"The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre□dominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash criminal proceedings if in its view, because of the compromise between the offender

> and victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

38. After Gian Singh, this Court was concerned in Narinder Singh and Others vs. State of Punjab and Another11 with the perennial problem of courts swinging from one extreme to the other in respect of cases involving offences under Section 307 IPC. A via media was struck by this Court in the said decision, by holding that it would be open to the High Court to go into the nature of the injury sustained, nature of the weapons used etc. This was after holding that an offence under Section 307 would fall in the category of heinous and serious offence.

39. Then came the decision in State of Maharashtra through Central Bureau of Investigation vs. Vikram Anantrai Doshi and Others12, where this Court was concerned with an order of the High Court of Bombay quashing the criminal proceedings for offences punishable under Sections 406, 420, 467, 468 & 471 read with Section 120B IPC. It was a case involving credit facilities provided by the Banks and the failure of the borrowers to repay the 11 (2014) 6 SCC 466 12 (2014) 15 SCC 29 loan. After the debts due to the bank were assigned in favour of an Asset Reconstruction Company, a settlement was reached and the borrower took a "No Due Certificate". Therefore, relying upon the decisions of this Court in Madan Mohan Abbot vs. State of Punjab13 and Central Bureau of Investigation vs. A. Ravishankar Prasad and Others14, the High Court of Bombay quashed the proceedings on the ground that no useful purpose would be served by allowing the matter to proceed for trial. It is interesting to note that Madan Mohan (supra), as seen from the last paragraph of the order, was passed in the peculiar facts of the case. But in so far as A. Ravishankar Prasad (supra) is concerned, the High Court quashed the proceedings on the basis of a settlement reached between the borrowers and the Indian Bank. But the decision of the High Court was over turned, by a two Judge Bench of this Court even after taking note of B.S.Joshi and Nikhil 13 (2008) 4 SCC 582 14 (2009) 6 SCC 351 Merchant. In paragraph 46 of its decision, this Court said in A. Ravishankar Prasad :□"46. Before parting with the case we would like to observe that mere repayment of loan under a settlement cannot exempt the accused from the criminal proceeding in the facts of this case."

40. Therefore, in Vikram Anantrai Doshi (supra), this Court took note of the aforesaid decisions and held in paragraph 26 as follows:□"26. We are in respectful agreement with the aforesaid view. Be it stated, that availing of money from a nationalised bank in the manner, as alleged by the investigating agency, vividly exposits fiscal impurity and, in a way, financial fraud. The modus operandi as narrated in the charge□sheet cannot be put in the compartment of an individual or

personal wrong. It is a social wrong and it has immense societal impact. It is an accepted principle of handling of finance that whenever there is manipulation and cleverly conceived contrivance to avail of these kinds of benefits it cannot be regarded as a case having overwhelmingly and predominatingly civil character. The ultimate victim is the collective. It creates a hazard in the financial interest of the society. The gravity of the offence creates a dent in the economic spine of the nation. The cleverness which has been skillfully contrived, if the allegations are true, has a serious consequence. A crime of this nature, in our view, would definitely fall in the category of offences which travel far ahead of personal or private wrong. It has the potentiality to usher in economic crisis. Its implications have its own seriousness, for it creates a concavity in the solemnity that is expected in financial transactions. It is not such a case where one can pay the amount and obtain a "no dues certificate" and enjoy the benefit of quashing of the criminal proceeding on the hypostasis that nothing more remains to be done. The collective interest of which the Court is the guardian cannot be a silent or a mute spectator to allow the proceedings to be withdrawn, or for that matter yield to the ingenuous dexterity of the accused persons to invoke the jurisdiction under Article 226 of the Constitution or under Section 482 of the Code and quash the proceeding. It is not legally permissible. The Court is expected to be on guard to these kinds of adroit moves. The High Court, we humbly remind, should have dealt with the matter keeping in mind that in these kinds of litigations the accused when perceives a tiny gleam of success, readily invokes the inherent jurisdiction for quashing of the criminal proceeding. The Court's principal duty, at that juncture, should be to scan the entire facts to find out the thrust of allegations and the crux of the settlement. It is the experience of the Judge that comes to his aid and the said experience should be used with care, caution, circumspection and courageous prudence. As we find in the case at hand the learned Single Judge has not taken pains to scrutinise the entire conspectus of facts in proper perspective and quashed the criminal proceeding. The said quashment neither helps to secure the ends of justice nor does it prevent the abuse of the process of the court nor can it be also said that as there is a settlement no evidence will come on record and there will be remote chance of conviction. Such a finding in our view would be difficult to record. Be that as it may, the fact remains that the social interest would be on peril and the prosecuting agency, in these circumstances, cannot be treated as an alien to the whole case. Ergo, we have no other option but to hold that the order [Vikram Anantrai Doshi v. State of Maharashtra, Criminal Application No. 2239 of 2009, order dated 22□4□ 2010 (Bom)] of the High Court is wholly indefensible.

41. In Parbatbhai Aahir (supra), referred to by the High Court in the impugned order, a 3 member Bench of this Court again summarised the broad principles on this question in paragraph 16. Paragraph 16.6 and 16.8 to 16.10 of the decision read as follows:□"16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

16.8. Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

16.9. In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and 16.10. There is yet an exception to the principle set out in propositions 16.8. and 16.9. above. Economic offences involving the financial and economic well□being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

42. Thus it is clear from the march of law that the Court has to go slow even while exercising jurisdiction under Section 482 Cr.PC or Article 226 of the Constitution in the matter of quashing of criminal proceedings on the basis of a settlement reached between the parties, when the offences are capable of having an impact not merely on the complainant and the accused but also on others.

43. As seen from the final report filed in this case and the counter affidavit filed by the I.O., persons who have adopted corrupt practices to secure employment in the Transport Corporation fall under two categories namely, (i) those who paid money and got orders of appointment; and (ii) those who paid money but failed to secure employment. If persons belonging to the 2 nd category are allowed to settle their dispute by taking refund of money, the same would affix a seal of approval on the appointment of persons belonging to the 1st category. Therefore, the High Court ought not to have quashed the criminal proceedings on the basis of the compromise.

44. It is needless to point out that corruption by a public servant is an offence against the State and the society at large. The Court cannot deal with cases involving abuse of official position and adoption of corrupt practices, like suits for specific performance, where the refund of the money paid may also satisfy the agreement holder. Therefore we hold that the High Court was completely in error in quashing the criminal complaint.

45. Coming to the next issue regarding the non□inclusion in the final report, of the offences under the P.C. Act, the less said the better. In the counter affidavit filed by the I.O. to the writ petition W.P.No.9061 of 2021, filed by the non□selected candidates, the modus operandi adopted by the accused has been given in detail. We have provided a gist of the contents of such counter affidavit elsewhere in this judgment. We are constrained to say that even a novice in criminal law would not have left the offences under the P.C. Act, out of the final report. The attempt of the I.O. appears to be of one, "willing to strike but afraid to wound" (the opposite of what Alexander Pope wrote in "Epistle to Dr.Arbuthnot")15.

46. An argument was sought to be advanced as though the Minister was not involved and that Shri Shanmugam who is allegedly involved, was not the P.A. to the Minister. But this argument flies in

the face of the contents of paragraph 11 of the 15 Damn with faint praise, assent with civil leer, And without sneering, teach the rest to sneer, Willing to wound and yet afraid to strike, just hint a fault, and hesitate dislike. counter affidavit filed by the I.O. in W.P. No.9061 of 2021 which reads as follows:□"11. It is respectfully submitted that, after the Notification process Tr.V.Senthil Balaji, then Minister for Transport instructed Tr.Sarangan, Special Officer, Tr.K.T.Govindarajan, Senior Deputy Manager, Administration, Tr. V.Venkadarajan, who were serving in the Chairman office, to collect the details regarding the day□to□day progress of the recruitment such as, sale of application, receipt of filled application, interviews conducted, etc... Accordingly, they have collected the details from all the eight Transport Corporations through their email address 'chotpt@gmail.com' and on the same day, they transmitted it to the Minister's office email id 'ministertransport@yahoo.com'. The e□mail communications made between Chairman office and Transport Corporations on 03.11.2014, 04.11.2014 and 05.12.2014 from the office of the Chairman, Transport Corporations, Chennai. Many a time, the data had also been sent to Tr.M. Vetrichelvan, Public Relations Officer (PRO) of MTC to his email address 'vetri67@gmailcom', as he was very close to the then Transport Minister Tr.V. Senthil Balaji. It is pertinent to mention here that the e□mail named 'ministertransport@yahoo.com' had been maintained only by Tr.B.Shanmugam and not by any of the Personal Assistants of the Minister Tr.V.Senthil Balaji." Therefore, the argument that there is nothing on record to show that Shri Shanmugam was appointed as P.A. to the Minister, is to be stated only to be rejected.

47. Yet another contention raised on behalf of the respondents is that there are two other cases where allegations of corruption are made and that CC No.25 of 2021 with which we are concerned now, did not involve allegations of corruption. But the said contention is abhorring, for the simple reason that all criminal complaints arose out of the very same cash□for□job scam. We are informed that the proceedings in respect of those two cases have also been stayed by the High Court. We do not know how the High Court could have stayed prosecution of persons under the P.C. Act, especially in matters of this nature.

48. As a matter of fact, the State ought to have undertaken a comprehensive investigation into the entire scam, without allowing the accused to fish out one case as if it was a private money dispute.

49. The reliance placed by the respondents on an order passed by the Madurai Bench of the Madras High Court on an earlier occasion in Criminal O.P.(MD)Nos.14067, 140967, 16023 of 2016, will not have bearing upon the present complaints. In fact, the SLP filed by a 3rd party against the order passed in those petitions was dismissed by this Court on 05.01.2017 even at the stage of permission to file SLP. Therefore the respondents cannot rely upon the same as if it constitutes a precedent.

Conclusion

50. In the light of what is stated above, the impugned order of the High Court is wholly unsustainable. Therefore the appeals are allowed and the impugned order of the High Court is set aside. The criminal complaint is restored to file. The I.O. shall now proceed under Section 173(8) of the Code to file a further report, based on the observations made in the preceding paragraphs. Additionally/alternatively, the Special Court before which the CC is pending, shall exercise power

under Section 216 of the Cr.P.C., if there is any reluctance on the part of the State/I.O. If two other cases where offences under the P.C. Act are included, are under the orders of stay passed by the High Court, the State should take appropriate steps to have the stay vacated. The Court dealing with those two cases should also keep in mind the disastrous effect of putting on hold the prosecution under the P.C. Act.

51. At present we are not passing any orders on the prayer made by the intervenors either to constitute a Special Investigation Team or to appoint Special Public Prosecutor, since we do hope that based on the observations made above, the State itself may do the needful. We also make it clear that at the time of trial, the Special Court may not be swayed by the observations contained herein, but proceed on the merits of the case and the law on the points.

The appeals are allowed. I.As stand closed.

.....J. (S.Abdul Nazeer) .....J. (V. Ramasubramanian) New Delhi September 8, 2022