S.M. Datta.... Appellant vs State Of Gujarat &Anr. ... Respondents on 24 August, 2001

Equivalent citations: AIR 2001 SUPREME COURT 3253, 2001 (7) SCC 659, 2001 AIR SCW 3133, 2002 CRI LJ (NOC) 276, 2002 (1) UJ (SC) 79, 2002 CRILR(SC&MP) 128, 2002 UJ(SC) 1 79, 2001 SCC(CRI) 1361, 2001 (5) SCALE 457, 2001 LABLR 1076, (2001) 6 JT 631 (SC), 2001 (6) JT 631, 2001 (8) SRJ 532, 2002 CRILR(SC MAH GUJ) 128, (2001) 3 ALLCRIR 2183, (2001) 4 PAT LJR 75, (2001) 91 FACLR 853, (2001) 3 CURCRIR 212, 2001 SCC (L&S) 1201, (2002) SC CR R 294, (2001) 3 EASTCRIC 165, (2002) 100 FJR 26, (2001) 3 GUJ LH 221, (2002) 1 LABLJ 3, (2002) 1 LAB LN 81, (2002) 1 MADLW(CRI) 407, (2001) 4 SCT 248, (2001) 4 RECCRIR 129, (2001) 6 SUPREME 408, (2001) 5 SCALE 457, (2001) 2 UC 656, (2002) 1 GCD 483 (SC), (2001) 43 ALLCRIC 658, (2001) 3 ALLCRILR 734, (2001) 4 CRIMES 206

Bench: A.P.Misra, U.C.Banerjee

CASE NO.:
Appeal (crl.) 852-855 of 2001
Special Leave Petition (civil) 1566-69 of 2000

PETITIONER:
S.M. DATTA.... APPELLANT

Vs.

RESPONDENT:
STATE OF GUJARAT &ANR. ... RESPONDENTS

DATE OF JUDGMENT: 24/08/2001

BENCH:
A.P.Misra, U.C.Banerjee

JUDGMENT:

BANERJEE,J.

Leave granted.

Since the decision of Privy Council in Khwaja Nazir Ahmed [King Emperor v. Khwaja Nazir Ahmed: [1944 (71) IA 203: AIR 1945 PC 18] and till this day there is existing one salutory principle that in normal circumstances, the law courts would not thwart any investigation and criminal proceedings initiated must be allowed to have its own course under the provisions of the Code. The powers of the police ought to stand unfettered to investigate cases where they suspect or even have reasons to suspect the commission of a cognizable offence and the First Information Report (F.I.R.) discloses of such offence.. The Judicial Committee in the decision of Nazir Ahmed (supra) observed:

> "In their Lordship's opinion, however, the more serious aspect of the case is to be found in the resultant interference by the court with the duties of the police. Just as it is essential that every one accused of a crime should have free access to a court of justice so that he may be duly acquitted if found not guilty of the offence with which he is charged, so it is of the utmost importance that the judiciary should not interfere with the police in matters which are within their province and into which the law imposes on them the duty of inquiry. In India, as has been shown, there is a statutory right on the part of the police to investigate the circumstances of an alleged cognizable crime without requiring any authority from the judicial authorities and it would, as their Lordships think, be an unfortunate result if it should be held possible to interfere with those statutory rights by an exercise of the inherent jurisdiction of the court. The functions of the judiciary and the police are complementary, not overlapping, and the combination of individual liberty with a due observance of law and order is only to be obtained by leaving each to exercise its own function, always, of course, subject to the right of the court to intervene in an appropriate case when moved under Section 491 of the Criminal Procedure Code to give directions in the nature of habeas corpus. In such a case as the present, however, the court's functions begin when a charge is preferred before it, and not until then."

It is paramount to note however that the observations of Lord Porter in Nazir Ahmed stands qualified by inclusion of the following:

> "No doubt, if no cognizable offence is disclosed and still more, if no offence of any kind is disclosed, the police would have no authority to undertake an investigation."

The qualified statement of the Judicial Committee however stands noted in Sanchaita Investment (State of West Bengal and Others v. Swapan Kumar Guha and Others : 1982 (1) SCC 561). Incidentally, Sanchaita Investment and subsequent decisions including Bhajan Lal [State of Haryana & Ors. vs. Bhajan Lal & Ors. 1992 Supp (1) SCC 335] and Rajesh Bajaj [Rajesh Bajaj v. State NCT of Delhi & Ors. (1999 Crl.L.J. 1833)] in one tune stated that if an offence is disclosed the Court will not interfere with an investigation and will permit investigation into the offence alleged to have been committed: If however the materials do not disclose an offence, no investigation should normally be permitted.

The approach of this Court and the law as laid down by the Judicial Committee in Nazir Ahmad cannot but be termed to be in accordance with the principles of justice. While liberty of an

individual are "sacred and sacrosanct" and it is a bounden obligation of the Court to protect them but in the event of commission of a cognizable offence and an offence stand disclosed in the First Information Report, interest of justice requires further investigation by the Investigating Agency. Needless to record that investigation of an offence is within the exclusive domain of the police department and not the law courts. In the event of disclosure of an offence, it is a duty incumbent to investigate into offence and bring the offender to books in order to serve the cause of justice and it is only thereafter the Investigating Officer submits the report to the Court with a prayer to take cognizance of the offence under Section 190 of the Cr.P.Code and it is on submission of the report that the duty of the police ends, subject however to the provisions as contained in Section 173 (8) of the Code. There is thus a clear and well defined area of operation and demarcated function in the field of investigation of crimes and its subsequent adjudication. In this context. reference may be made to the decision of this Court in State of Bihar & Anr. v. JAC Saldanha & Ors. [1980 (1) SCC 554].

While an offence if disclosed in the FIR ought not to be thwarted at the initial stages, but in the event however, the materials do not disclose an offence, no investigation should normally be permitted. It is in this context this Court in Sanchaita Investment (supra) observed:

> "In my opinion, the legal position is well settled. The legal position appears to be that if an offence is disclosed, the court will not normally interfere with an investigation into the case and will permit investigation into the offence alleged to be completed; if, however, the materials do not disclose an offence, no investigation should normally be permitted. The observations of the Judicial Committee and the observations of this Court in the various decisions which I have earlier quoted, make this position abundantly clear. The propositions enunciated by the Judicial Committee and this Court in the various decisions which I have earlier noted, are based on sound principles of justice. Once an offence is disclosed, an investigation into the offence must necessarily follow in the interests of justice. If, however, no offence is disclosed, an investigation cannot be permitted, as any investigation, in the absence of any offence being disclosed, will result in unnecessary harassment to a party, whose liberty and property may be put to jeopardy for nothing. The liberty and property of any individual are sacred and sacrosanct and the court zealously guards them and protects them. An investigation is carried on for the purpose of gathering necessary materials for establishing and proving an offence which is disclosed. When an offence is disclosed, a proper investigation in the interests of justice becomes necessary to collect materials for establishing the offence and for bringing the offender to book. In the absence of a proper investigation in a case where an offence is disclosed, the offender may succeed in escaping from the consequences and the offender may go unpunished to the detriment of the cause of justice and the society at large. Justice requires that a person who commits an offence has to be brought to book and must be punished for the same. If the court interferes with the proper investigation in a case where an offence has been disclosed, the offence will go unpunished to the serious detriment of the welfare of the society and the cause of the justice suffers. It is on the basis of this principle that the court normally does not interfere with the

> investigation of a case where an offence has been disclosed. The decisions on which Mr. Chatterjee has relied are based on this sound principle, and in all these cases an offence had been disclosed. Relying on the well settled and sound principle that the court should not interfere with an investigation into an offence at the stage of investigation and should allow the investigation to be completed, this Court had made the observations in the said decisions which I have earlier quoted reiterating and reaffirming the sound principles of justice. The decisions relied on by Mr. Chatterjee, do not lay down as it cannot possibly be laid down as a broad proposition of law, that an investigation must necessarily be permitted to continue and will not be prevented by the court at the stage of investigation, even if no offence is disclosed. While adverting to this specific question as to whether an investigation can go on even if no offence is disclosed, the Judicial Committee in the case of King Emperor v. Khwaja Nazir Ahmad [1944 (71) IA 203: AIR 1945 PC 18] and this Court in RP Kapur v. State of Punjab, [1960 (3) SCR 388] Jehan Singh v. Delhi Administration [1974 (3) SCR 794] and SN Sharma v. Bipen Kumar Tiwari [1970 (3) SCR 946] have clearly laid down that no investigation can be permitted and have made the observations which I have earlier quoted and which were relied on by Mr. Sen. As I have earlier observed this proposition is not only based on sound logic but is also based on fundamental principles of justice, as a person against whom no offence is disclosed, cannot be put to any harassment by the process of investigation which is likely to put his personal liberty and also property which are considered sacred and sacrosanct into peril and jeopardy."

This Court in Sanchaita Investment has been thus rather candid to record that it will be the duty of the court to interfere with any investigation and to stop the same to prevent any kind of uncalled for and unnecessary harassment to an individual if the court on a consideration of relevant materials is satisfied that no offence is disclosed. As noticed above, there is no contra note till date sounded by this Court. In the event the FIR does not disclose an offence, question of continuation of the investigation would not arise, since the same would be an utter abuse of the process of court and a harassment, which is unknown to law. In Rajesh Bajaj's case (supra) this Court however, without a contra note detailed the method of construing the document (First Information Report) and stated in paragraph 9 of the report as below:

> "9. It is not necessary that a complainant should verbatim reproduce in the body of his complaint all the ingredients of the offence he is alleging. Nor is it necessary that the complainant should state in so many words that the intention of the accused was dishonest or fraudulent. Splitting up of the definition into different components of the offence to make a meticulous scrutiny, whether all the ingredients have been precisely spelled out in the complaint, is not the need at this stage. If factual foundation for the offence has been laid in the complaint the Court should not hasten to quash criminal proceedings during investigation stage merely on the premise that one or two ingredients have not been stated with details. For quashing an FIR (a step which is permitted only in extremely rare cases) the information in the complaint must be so bereft of even the basic facts which are absolutely necessary for making

out the offence. In State of Haryana v. Bhajan Lal (1992 AIR SCW

237) (supra) this Court laid down the premise on which the FIR can be quashed in rare cases. The following observations made in the aforesaid decisions are a sound reminder (para 109 of AIR):

"We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprice."

We respectfully record our concurrence therewith. Criminal proceedings, in the normal course of events ought not to be scuttled at the initial stage, unless the same amounts to an abuse of the process of law. In the normal course of events thus, quashing of a complaint should rather be an exception and a rarity than an ordinary rule. The genuineness of the averments in the FIR cannot possibly be gone into and the document shall have to be read as a whole so as to decipher the intent of the maker thereof. It is not a document which requires decision with exactitude neither it is a document which requires mathematical accuracy and nicety, but the same should be able to communicate or indicative of disclosure of an offence broadly and in the event the said test stands satisfied, the question relating to the quashing of a complaint would not arise. It is in this context however one feature ought to be noticed at this juncture that there cannot possibly be any guiding factor as to which investigation ought to be scuttled at the initial stages and investigations which ought not to be so scuttled. The First Information Report needs to be considered and if the answer is found on a perusal thereof which leads to disclosure of an offence even broadly, law courts are barred from usurping the jurisdiction of the police since two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere.

Turning attention on to the factual aspect of the matter it appears that Criminal Revisional Jurisdiction has been taken recourse to for quashing the complaint and the process issued in criminal case Nos. 193,194,195 and 196 of 1990 pending before the learned Judicial Magistrate, First Class, Gandhidham. The original complaint stand identical excepting the name of the worker and are filed by the Factories Inspector, Adipur on the basis of his visit and inspection to the Factory of the company situated at Kandla, Free Trade Zone, Gandhidham. The petitioner, invoking the revisionary power of the courts, was admittedly the Vice Chairman of the company and at the material time the 'occupier' under the Factories Act, 1948. The complaint as filed stand in an identical cyclostyled form of filling in the blanks wherein it is alleged that at the time of visit on 17th October, 1989 at 6.00 p.m. a workman in Group (c) was found to be working after the prescribed working hours in violation of Section 63 and as such the occupier under the Factories Act has committed an offence within the meaning of Section92 of the Act. It was stated in the complaint as below:

"1.the above-mentioned accused Hindustan Lever Ltd. which is situated at Plot No.A/1-177, Sector No.1, KFT, Gandhidham, and is a .....factory under section 2(m)(i) of the Factory Act, and whose owner is Shri.....

2. The factory was running when myself, the complainant, had visited the Factory at 6.00 p.m. of 17.10.1989.

On that day and time, among the adult workers one worker named Shri Om Prakash Rajput was working. The said worker was staying there in production unit (Helper --for cutting).

3. His name was present in the adult workers register kept in the Factory in the shape of Form No.28 and in it his attendance for 17.10.89 was marked with 'P'. The said worker was of Group C.

4. During that time, the notice of working hours of adult workers was shown in form No.14 in the Factory as mentioned hereunder and the worker had to work accordingly.

5. In this way, the aforesaid accused has violated the provisions of Section 63 of the Factory Act, 1948 by allowing the said worker/ordering him to work without putting note against his name in the attendance register of the adult workers and against the working hours shown in the Notice Form No.14 displayed in the Factory. This is an offence punishable under Section 92 of the Factory Act, 1948.

6. Therefore, I, the complainant, Shri Y.M. Mehta, do hereby humbly request that by issuing process against the accused, necessary legal action may be taken against him for the aforesaid offence. ....."

To appreciate however, the true purport of the submissions centering round the disclosure of an offence in the complaint, a few of the provisions of the Factories Act ought to be noticed:

Section 61.

(1) Notice of periods of work for adults - (1) There shall be displayed and correctly maintained in every factory in accordance with the provisions of sub-section (2) of Section 108, a notice of periods of work for adults, showing clearly for every day the periods during which adult workers may be required to work.

(2) The period shown in the notice required by sub-

section (1) shall be fixed beforehand, in accordance with the following provisions of this section and shall be such that workers working for those periods would not be working in contravention of any of the provisions of Sections 51,52,53,54, [55,56 and 58] (3) Where all the adult workers in a factory

are required to work during the same periods, the manager of the factory shall fix those periods for such workers generally.

(4) Where all the adult workers in a factory are not required to work during the same periods, the manager of the factory shall classify them into groups according to the nature of their work indicating the number of workers in each group.

(5) For each group which is not required to work on a system of shifts, the manager of the factory shall fix the periods during which the group may be required to work.

(6) Where any group is required to work on a system of shifts and the relays are not to be subject to pre- determined periodical changes of shifts, the manager of the factory shall fix the periods during which each relay of the group may be required to work.

(7) Where any group is to work on a system of shifts and the relays are tobe subject to pre-determined periodical changes of shifts, the manager of the factory shall draw up a scheme of shifts whereunder the periods during which any relay of the group may be required to work and the relay which will be working at any time of the day shall be known for any day.

(8) The State Government may prescribe forms of the notice required by sub-section (1) and the manner in which it shall be maintained.

(9) In the case of a factory beginning work after the commencement of this Act, a copy of the notice referred to in sub-section (1) shall be sent in duplicate to the Inspector before the day on which work is begun in the factory.

(10) Any proposed change in the system of work in any factory which will necessitate a change in the notice referred to in sub-section (1) shall be notified to the Inspector in duplicate before the change is made, and except with the previous sanction of the Inspector, no such change shall be made until one week has elapsed since the last change."

Whilst on the statutory provisions, Section 62 ought also to be noted since it has its relevance in the contextual facts:

> "62. Register of adult workers-(1) The manager of every factory shall maintain a register of adult workers to be available to the inspector at all times during working hours, or when any work is being carried on in the factory, showing-
>
> (a) the name of each adult worker in the factory;
>
> (b) the nature of his work;
>
> (c) the group, if any, in which he is included;

(d) where his group works on shifts, the relay to which he is allotted; and

(e) such other particulars as may be prescribed.

Provided that, if the Inspector is of opinion that any muster-roll or register maintained as a part of the routine of a factory gives in respect of any or all the workers in the factory the particulars required under this section, he may, by order in writing, direct that such muster-roll or register shall to the corresponding extent be maintained in place of, and be treated as, the register of adult workers in that factory.

[(1-A) No adult worker shall be required or allowed to work in any factory unless his name and other particulars have been entered in the register of adult workers.] (2) The State Government may prescribe the form of the register of adult workers, the manner in which it shall be maintained and the period for which it shall be preserved."

Since however the complaint itself records that the accused has violated the provisions of Section 63, it would also be convenient to note the contents of Section 63 of the Act. The said provisions read as below:

> "63. Hours of work to correspond with notice under Section 61 and register under Section 62- No adult worker shall be required or allowed to work in any factory otherwise than in accordance with the notice of periods of work for adults displayed in the factory and the entries made beforehand against his name in the register of adult workers of the factory."

Before however, adverting to the impact of the statutory provisions, certain basic features about the Factories Act, 1948 ought to be noticed at this juncture. The Act has been engrafted in the Statute Book as an Act to consolidate and amend the law regulating the labour in factories. Needless to record that the establishment of cotton mills in Bombay in 1851 and the jute mill at Rishra in Bengal marked the beginning of factory system in India and it is only thereafter that the factories grew steadily both in Bombay and in Bengal but the conditions prevailing in these factories were inhuman both as regards working hours, welfare measures and wages. Availability of labour were plenty and as such became rather cheap and in order to eradicate the same, a commission was appointed in 1875 to investigate the conditions of labour in factories and on the basis of its recommendations, the first Factories Bill 1880 was introduced in the legislation, subsequently however, the Bill was adopted as an Act. No sooner however, the Act was passed, agitation started afresh in Bombay and other places and on the basis of the report of a committee, the Indian Factories (Amendment) Act of 1891 was passed. The provisions of the amended Act was also inadequate and a somewhat revised Bill was subsequently introduced in 1909 and the same was passed as a Statute in 1911. Though the Factories Act 1911 was amended from time to time but it could not meet the required growing activities in the country specially after the Second World War by reason wherefor, Factories Act 1948 was engrafted in the Statute Book where emphasis had been on the welfare of the workers. Factory Inspectors have been placed with very heavy responsibility on them and provisions have been made in the statute empowering the State Governments to make and frame rules for the

purposes of meeting the local exigencies of situation. The Act undoubtedly is thus a welfare legislation and cannot but be termed to be a complete code in itself. The Act also provides for punishment for violation of any of the provisions.

In the same vein, this Court in Bhikusa Yamasa Kshatriya (Pri) Ltd. v. Union of India and another (AIR 1963 SC 1591) stated as below:

> "9. The Factories Act, as the preamble recites, is an Act to consolidate and amend the law regulating labour in factories. The Act is enacted primarily with the object of protecting workers employed in factories against industrial and occupational hazards. For that purpose it seeks to impose upon the owners or the occupiers certain obligations to protect workers unwary as well as negligent and to secure for them employment in conditions conducive to their health and safety. The Act requires that the workers should work in healthy and sanitary conditions and for that purpose it provides that precautions should be taken for the safety of workers and prevention of accidents. Incidental provisions are made for securing information necessary to ensure that the objects are carried out and the State Governments are empowered to appoint inspectors, to call for reports and to inspect the prescribed registers with a view to maintain effective supervision. The duty of the employer is to secure the health and safety of workers and extends to providing adequate plant, machinery and appliances, supervision over workers, healthy and safe premises, proper system of working and extends to giving reasonable instructions. Detailed provisions are therefore made in diverse chapters of the Act imposing obligations upon the owners of the factories to maintain inspecting staff and for maintenance of health, cleanliness, prevention of overcrowding and provision for amenities such as lighting, drinking water, etc. etc. Provisions are also made for safety of workers and their welfare, such as restrictions on working hours and on the employment of young persons and females, and grant of annual leave with wages."

The backdrop of legislation and the subsequent incorporation of the Factories Act in the statute book as noticed hereinbefore in this judgment has been adverted to by reason of a true reading of the provisions of the Act of 1948, the underlying intent of the legislature to confer benefits on the labour force of a factory cannot be doubted in any way whatsoever. Appointment of Inspectors by the State Government in terms of the provisions of State Rules (in the instant case Gujarat Factory Rules, 1963) has been effected only for the purposes of giving effect to the beneficial piece of legislation and as such both the rules and forms introduced thereunder by the State Government and the provision of the statute shall have to be read in consonance with the intent of the legislature and not de hors the same.

Even on a cursory look to Section 62 of the Factories Act, the requirement to maintain a register of adult workers to be available cannot be doubted in any way. Sub-section 2 of Section 62 is an authorisation for the State Government to prescribe the form of the register of adult workers and the manner in which it shall be maintained. The Gujarat Factories Rules, 1963 has been framed to suit the conditions in terms of the provisions of the Factories Act, 1948. Rule 87 of the said Rules

prescribes that notice of period of work for adult workers shall be in Form No.14 which in turn prescribes different periods of work for adult workers. Form 28 provides the muster roll as prescribed in Rule 110 of the Gujarat Rules. Rule 110 provides as below:

> "110 Muster-roll-(1) The manager of every factory shall maintain a muster-roll of all the workers employed in the factory in Form No.28 showing (a) the name of each worker,
>
> (b) the nature of his work and (c) the daily attendance of the worker.
>
> (2) The muster-roll shall be written up afresh each month and shall be preserved for a period of 3 years from the date of last entry in it:
>
> Provided that if the daily attendance is noted in respect of Adult and Child Workers in the Registers of Workers in Forms Nos. 15 and 17 respectively, or the particulars required under sub-rule (1) are noted in any other register, and such registers are preserved for a period of 3 years from the date of last entry in them, a separate muster-roll required under sub-rule (1) need not be maintained."

Turning attention on to the complaint, it is seen that Shri Omprakash Rajput was found present in the list of adult workers register kept in the factory in the Form No.28 wherein the attendance of shri Omprakash Rajput appears. Thus, requirement of maintenance of muster-roll register stands complied. There is also a specific mention that the worker was of Group C. On an analysis of the complaint it thus appears that due compliance as regards Form No.28 is available on record but Form No.14 as displayed in the factory premises does not contain the aforesaid name of Shri Omprakash Rajput as regards the working hours. Admittedly Shri Omprakash Rajput was in terms of the averments of the complaint working during the visit of the inspector. Let us now thus have a close look at Form No.14 which is supposed to be complied with by non-compliance rather than compliance. Form No.14 prescribes the notice of period of works for adult workers with details of male and female employees, description of groups, period of work having due record to the working days and partial working days along, however, with the name of the factory, place where the same is located and the district. Annexure to the complaint records the working hours as between 8.00 a.m. to 4.30 p.m. with usual break in terms of the requirement together with a specific mention of an entry at 4.40 p.m. to 6.40 p.m. as over time - admittedly thus during the visit of the inspector the members of the staff were working on overtime. The complaint records violation of Section 63 and which in turn envisages compliance with section 61 and section 62:

> Whereas section 62 cannot but be mentioned to be the muster-roll: Section 61 envisages a definite notice which is required to be displayed and maintained correctly in accordance with the provisions of sub-section 2 of Section 108, depicting clearly for every day the periods during which adult workers may be required to work. Sub-section 2 of section 61 specifically records that the period shown in the notice shall be fixed before hand in accordance with the provisions of section 61 so as not to permit workers working in contravention of any of the provisions of sections 51 to 56

and

> 58. Significantly sub-section 4 of Section 61 requires a factory Manager to classify the employees in groups according to the nature of their work and indicating the number of workers in each group. Admittedly Shri Omprakash Rajput and the three other employees all belong to group C and as appears on the face of the complaint, as lodged. The mandate of the statute ought to be interpreted in a manner to give efficacy to the legislative intent. The Factories Act, 1948 cannot but be ascribed to be a beneficial piece of legislation and the requirement of Section 61, in particular, sub-

sections 1 & 2 of Section 61 can be easily deciphered since the intent stands clear enough to indicate that an adult worker must know his daily placement and daily workings before hand - this placement before hand is the requirement of the statute in section 63 and in the event of non-compliance, there is a liability for being prosecuted. We have in the complaint a statement that Form No.14 does not stand completed. We have also in the complaint the number of working hours on a day but the requirement of Form No.14, the inspector alleges, does not stand fulfilled. It is too early at this stage, however, to contend that the afore-said statement does not stand to reason and the complaint needs to be quashed at this stage of the proceeding.

Mr. Dave, learned senior advocate appearing in support of the petition though very strongly urged that the words "otherwise than in accordance with the notice of periods of work for adults" displayed at the factory as appears in section 63 there is thus complete compliance. The requirements in terms of Rule 87 or 88 and that of Form No.14 also stand complied with. Mr. Dave further pointed out that the second requirement of section 63 ought to be co-related with Form No.28 under section 62 read with section 110 of the Gujarat Factories Rules. The statute, however, in particular section 61 specifically requires entries to be made 'beforehand' which stands virtually engrafted in section 63. Compliance with Form No.28 is not in dispute but compliance with Form No. 14 and entries to be made therein 'beforehand' needs a further scrutiny of facts which at this stage of the proceeding cannot be gone into. User of the expression 'before hand' appears in section 61 which envisages a specific state of facts, which the complainant alleges as not being complied with - criminal complaints ought not to be scuttled at the initial stages and quashing of complaint at the initial stages is rather an exception than a rule. Beneficial legislations have been engrafted on the statute book for the benefit of the socially down-trodden and on the wake of such a situation, it would neither be fair nor be reasonable at this stage to nullify the efforts of an inspector under the Rules. The matter needs further enquiry and investigation as to the factum of entry being made before hand in the register maintained in terms of section 61 of the Factories Act. It is too early in the day to say that there would not be even a possibility of non- compliance of section 63 which in turn envisages non-compliance of section 61 and section 62 of the Factories Act.

A long catena of cases some of which stand referred by us hereinbefore in this judgment signifies one principle rule that the complaints ought not to be quashed at the initial stages unless it is termed to be an abuse of the process of the court: the complaint in question, in our view, cannot be so termed as such we do not find any justification for interference with the order as passed by the High Court. The Appeals, therefore, fail and are dismissed. There shall be no order as to costs.