Ramveer Upadhyay vs The State Of Uttar Pradesh on 20 April, 2022

Author: Indira Banerjee

Bench: A.S. Bopanna, Indira Banerjee

REPOR

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CRL.) NO. 2953 OF 2022

Ramveer Upadhyay & Anr. ...Peti

Versus

State of U.P. & Anr. ...Respond

JUDGMENT

Indira Banerjee, J.

This special leave petition is against a final judgment and order dated 7th March 2022 passed by the High Court of Judicature at Allahabad, dismissing the application filed by the Petitioner under Section 482 of the Criminal Procedure Code, 1973 being case No.29704 of 2021, whereby the Petitioner had challenged the order dated 17 th September 2021 passed by the 4th Additional District and Sessions Judge, Hathras taking cognizance of the complaint filed by the Respondent No.2 under Section 365 read with Section 511 of the Indian Penal Code, 1860 (IPC) and Section 3(1)(Dha) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989, hereinafter referred to as “the Atrocities Act”.

2. Mr. Ranjit Kumar, Senior Advocate appearing on behalf of the Petitioners opened his arguments contending that this case is a classic example of malicious prosecution of the petitioners, who have been embroiled in a false criminal case, due to political animosity. The complaint in the Court of the 2nd Additional District and Sessions Judge/Special Judge under the Atrocities Act, under section 156 (3) of the CrPC , which has given rise to these proceedings, has been filed by the Respondent No. 2 at the instance of Devendra Agarwal, Ex□MLA , a political opponent of the Petitioner No. 1. The Petitioner No. 1 and the said Devendra Aggarwal had fought elections against each other several

times.

3. Earlier, on or about 1st January 2010, Smt. Meera Devi, wife of the Respondent No.2 had filed a complaint before the District Magistrate, Mahamaya Nagar District (now Hathras District) stating that the Respondent No.2 had been abducted by the brothers of the Petitioner No. 1, to forcibly make him vote in favour of their party, in the MLC election of 2010. In the said complaint it was alleged that the Petitioner had abused the Respondent No.2 by his caste, using filthy language.

4. On the same day, that is, 1st January 2010, Devendra Aggarwal wrote a letter to the District Magistrate for release of the Respondent No.2. In the aforesaid letter, it was stated that the Petitioners had abused the Respondent No.2 in filthy language by reference to his caste.

5. On 2nd January 2010, Meera Devi filed an application in the Court of the Judicial Magistrate, Sadabad, Hathras under Section 156(3) of the Code of Criminal Procedure (Cr.P.C), being Complaint No. 412 of 2010 for directions on the Station House Officer (SHO) at Chandappa Police Station to register her Complaint of abduction of her husband.

6. A complaint was thereafter registered, pursuant to which Crime Case No. 17/2010 was started. The case was investigated by the Circle Inspector Sadabad, Hathras. After investigation, the Police filed a final report of closure of the case, opining that no incident of abduction, as alleged had taken place, and the complaint had been filed out of political animosity.

7. Meera Devi filed a Protest Petition which was dismissed. The High Court did not interfere with the order of dismissal of her Protest Petition. Meera Devi approached this Court. Pursuant to the orders of this court, further investigation was held by the CB CID. The Investigating Officer filed a final report dated 17.10.2018 in favour of the Petitioners. Meera Devi filed a Protest Petition. By an order dated 5th September 2020, the Special Judge under the Atrocities Act, Hathras rejected the Protest Petition filed by Meera Devi in Case No. 17/2010.

8. In February 2017, the Petitioner had contested the Assembly elections from Sadabad Constituency. Mr. Devendra Aggarwal also contested the election from the same constituency as a candidate of a rival political party. It is alleged that, on 8th February 2017, when the Petitioner No 1's son was campaigning for the Petitioner No 1, Devendra Aggarwal, who was then a sitting MLA of the ruling party, attacked the Petitioner No 1's son and his supporters and opened fire indiscriminately.

9. One Pushpendra Singh, a supporter of the Petitioner No 1, was killed in the incident. Pushpendra's father, Ramhari Sharma lodged an FIR, arraigning Devendra Aggarwal as Accused No.1, pursuant to which a criminal case was started against Devendra Aggarwal and others, inter alia, under Section 302 of the Indian Penal Code.

10. It is stated that since Devendra Aggarwal was the sitting MLA of the ruling party, the police did not take action to arrest him. The father of the deceased Pushpendra, Ramhari Sharma filed a Criminal Misc. Writ Petition No.2739/2017 in the High Court praying for action against Devendra

Aggarwal.

11. On 26th October 2017, the Respondent No.2 filed an application in the Court of the Additional Sessions Judge/Special Judge SC/ST Act, Hathras under Section 156(3) of the Cr.P.C alleging that the Petitioner No.1 along with his Personal Assistant, Ranu Pandit, being the Petitioner No.2 and 6□7 other persons had abused him in filthy language and asked his associates to drag him into the car which they could not do, as a crowd had gathered, and there was resistance put up. The Respondent No.2 prayed for direction on the SHO, Chandappa Police Station to register the case against the Petitioners.

12. The relevant averments in the said complaint are extracted hereinbelow for convenience:□"1. The applicant belongs to "Dhobi' caste – a scheduled caste and is former BDC Member.

2. ....

3. That on 01.09.2017, at about 2.45 or 3 P.M. in the afternoon, the opposite party no.1 Ramveer Upadhyay came to Village□Bisana along with his convoy of vehicles and after seeing the Complainant started abusing of his caste and on the road, he said that Saley dhobi you had forgotten your position and your wings have come out and you are running up to Supreme Court. You will be sent at a place from where you will never come back. When the Complainant said you are doing your work and I am doing my work, Ramveer Upadhyay said to his associates that pull him and put him in the car, then opposite party no.2 Ranu Pandit and 6□7 other unknown persons, who can be identified by face, dragged the Complainant and with the intention to kill tried to kidnap him but due to gathering of people on the road and due to resistance shown by Annu R/o Jindpatti, Bisana, Pradeep R/o Gambhirpatti, Bisana, they were not successful and went towards Hathras in their vehicles. Due to this incident an environment of fear and terror was created in the village."

13. Pursuant to the aforesaid application, a case was registered and numbered Complaint Case No.19/2018. The Respondent No.2 was examined under Section 202 of the Cr.P.C. The statement of the Respondent No. 2 being the complainant was recorded under Section 200 of the Cr.P.C. in the Court of the Additional Sessions Judge/Special Judge, SC/ST Act, Hathras. The statements of one Annu son of Rukamal and one Yogesh Gupta, son of Dhaniram Gupta were also recorded in the same Court under Section 200 Cr.P.C.

14. In the meanwhile, in Writ Petition (Civil) No.699/2016 titled Ashwini Kumar Upadhayay v. Union of India, a three□Judge Bench of this Court presided over by the Chief Justice, passed an order dated 4.12.2018, taking notice of the fact that there were 4122 cases pending against legislators including former legislators, out of which 2324 cases were against sitting legislators. A chart, presented in Court by the learned Amicus Curiae, showed that there were 430 cases involving life sentence pending against sitting as well as former legislators.

15. To expedite the disposal of the cases, this Court requested each High Court to assign/allocate criminal cases involving former and sitting legislators to as many as Sessions Courts and Magisterial Courts as each High Court might consider fit and expedient. Pursuant to administrative directions

issued by the High Court, and pursuant to the directions of this Court, Complaint Case No.19/2018 was transferred to the Additional District and Sessions Judge Court No.4, Hathras, as the Petitioner No.1 was a legislator/former legislator.

16. On being prima facie satisfied that the complaint case No.19/2018 made out a prime facie case against the Petitioners, the Additional District and Sessions Judge, Court No.4, Hathras passed an order dated 17 th September 2021, taking cognizance of the charges against the Petitioners and issuing summons to the Petitioners.

17. Aggrieved by the aforesaid order dated 17th September 2021, the Petitioners filed an application under Section 482 of the Cr.P.C in the High Court and prayed that entire proceedings in Complaint Case No. 19/2018 as well as the cognizance order dated 17th September 2021 be quashed.

18. By an order dated 5th January 2022, the High Court admitted the application under Section 482 of the Cr.P.C. and stayed further proceedings in Complaint Case No.19/2018 pending in the Court of Additional District and Sessions Judge, Court No.4, Hathras.

19. However, on 7th March 2022, the High Court passed the impugned judgment and order rejecting the application filed by the Petitioners under Section 482 of the Cr.P.C.

20. Mr. Ranjit Kumar, learned Senior Advocate appearing on behalf of the Petitioners questioned the jurisdiction of the Additional District and Sessions Judge, Court No.2, Hathras, to take cognizance of the offence in Complaint Case No.19/2018.

21. Emphasizing Section 14 of the Atrocities Act, Mr. Ranjit Kumar argued that only the Special Judge under the Atrocities Act was competent to pass an order for issuance of summons. He argued that the order of the Additional District and Sessions Judge, Court No.2, Hathras being without jurisdiction the High Court should have quashed the same in exercise of its power under Section 482 of the Cr.P.C. Mr. Ranjt Kumar also argued that Complaint Case No.19/2018 patently a case of malicious prosecution which stemmed from political rivalry and was in gross abuse of the process of Court.

22. In Shantaben Bhurabhai Bhuriya v. Anand Athabhai Chaudhari and Ors.1, Cited by Mr. Siddharth Dave, learned senior counsel, appearing on behalf of the Respondent No.2, this Court rejected the contention that only Special Court could take cognizance of offences under the Atrocities Act and held:

23. Therefore, the issue/question posed for the consideration of this Court is, whether in a case where cognizance is taken by the learned Magistrate and thereafter the case is committed to the learned Special Court, whether entire criminal proceedings can be said to have been vitiated considering the second proviso to Section 14 of the Atrocities Act which was inserted by Act 1 of 2016 w.e.f. 26.1.2016?

24. While considering the aforesaid issue/question, legislative history of the relevant provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, more particularly, Section 14 pre□amendment and post amendment is required to be considered. Section 14 as stood pre□amendment and post amendment reads as under:

> .....
>
> Provided that in Districts where less number of cases under this Act is recorded, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, specify for such Districts, the Court of Session to be a Special Court to try the offences under this Act;
>
> Provided further that the Courts so established or specified shall have power to directly take cognizance of offences under this Act." ******
>
> 28. Considering the aforesaid legislative history which brought to insertion of proviso to Section 14 of the Atrocities Act, by which, even the Special Court so established or specified for the purpose of providing for speedy trial the power to directly to take cognizance of offences under the Atrocities Act, 1989, the issue/question posed whether in a case where for the offences under Atrocities Act, the cognizance is taken by the learned Magistrate and thereafter the case is committed to the Court of Sessions/Special Court and cognizance is not straightway taken up by the learned Special Court/Court of Session, whether entire criminal proceedings for the offences under the Atrocities Act, 1989 can be said 1 2021 SCC Online SC 974 to have been vitiated, as so observed by the High Court in the impugned judgment and order ?
>
> 29. On fair reading of Sections 207, 209 and 193 of the Code of Criminal Procedure and insertion of proviso to Section 14 of the Atrocities Act by Act No. 1 of 2016 w.e.f. 26.1.2016, we are of the opinion that on the aforesaid ground the entire criminal proceedings cannot be said to have been vitiated. Second proviso to Section 14 of the Atrocities Act which has been inserted by Act 1 of 2016 w.e.f. 26.1.2016 confers power upon the Special Court so established or specified for the purpose of providing for speedy trial also shall have the power to directly take cognizance of the offences under the Atrocities Act.

Considering the object and purpose of insertion of proviso to Section 14, it cannot be said that it is not in conflict with the Sections 193, 207 and 209 of the Criminal Procedure Code, 1973. It cannot be said that it takes away jurisdiction of the Magistrate to take cognizance and thereafter to commit the case to the Special Court for trial for the offences under the Atrocities Act. Merely because, learned Magistrate has taken cognizance of the offences and thereafter the trial/case has been committed to Special Court established for the purpose of providing for speedy trial, it cannot be said that entire criminal proceedings including FIR and charge□sheet etc. are vitiated and on the aforesaid ground entire criminal proceedings for the offences under Sections 452, 323, 325, 504, 506(2) and 114 of the Penal Code, 1860 and under Section 3(1)(x) of the Atrocities Act are to be

quashed and set aside. It may be noted that in view of insertion of proviso to Section 14 of the Atrocities Act and considering the object and purpose, for which, the proviso to Section 14 of the Atrocities Act has been inserted i.e. for the purpose of providing for speedy trial and the object and purpose stated herein above, it is advisable that the Court so established or specified in exercise of powers under Section14, for the purpose of providing for speedy trial directly take cognizance of the offences under the Atrocities Act. But at the same time, as observed herein above, merely on the ground that cognizance of the offences under the Atrocities Act is not taken directly by the Special Court constituted under Section 14 of the Atrocities Act, the entire criminal proceedings cannot be said to have been vitiated and cannot be quashed and set aside solely on the ground that cognizance has been taken by the learned Magistrate after insertion of second proviso to Section 14 which confers powers upon the Special Court also to directly take cognizance of the offences under the Atrocities Act and thereafter case is committed to the Special Court/Court of Session.

30. In support of the above conclusion, the words used in second proviso to Section 14 are required to be considered minutely. The words used are "Court so established or specified shall have power to directly take cognizance of the offences under this Court". The word "only" is conspicuously missing. If the intention of the legislature would have to confer the jurisdiction to take cognizance of the offences under the Atrocities Act exclusively with the Special Court, in that case, the wording should have been "that the Court so established or specified only shall have power to directly take cognizance of offences under this Act". Therefore, merely because now further and additional powers have been given to the Special Court also to take cognizance of the offences under the Atrocities Act and in the present case merely because the cognizance is taken by the learned Magistrate for the offences under the Atrocities Act and thereafter the case has been committed to the learned Special Court, it cannot be said that entire criminal proceedings have been vitiated and same are required to be quashed and set aside."

23. In view of the judgment of this Court in Shantaben Bhurabhai Bhuriya (supra), the Argument of Mr. Ranjit Kumar that the Additional District Judge and Sessions Judge, Court No.4 Hathras had no jurisdiction to take cognizance or issue summons/orders cannot be sustained.

24. There was apparently political rivalry between the Petitioner No.1 and Devendra Aggarwal. However, Complaint Case No. 19/2018 has not been lodged against the Petitioners, by Devendra Aggarwal, but by the Respondent No.2, a Dhobi by caste, which is a scheduled caste. It cannot be said that the allegations in the complaint do not make out offence under the Atrocities Act. It is specifically alleged that the Petitioners had abused the Respondent No.2 in filthy language by reference to his caste. The allegations in the Complaint Case No.19 of 2018, if established, could result in conviction under the relevant sub□sections of Section 3(1) of the Atrocities Act.

25. Respondent No.2 being an employee of Devendra Aggarwal, it is possible that Complaint Case No.19/2018 may have been prompted by political vendetta against the Petitioner No.1. However, since as observed above, the allegations in the complaint case make out an offence under Section 3 of the Atrocities Act, it would not be proper to nip the complaint in the bud, more so, when there are statements recorded in Court under Section 200 of the Cr.P.C. The possibility of retaliation on the part of the Petitioners by the acts alleged in the complaint, after closure of the earlier complaint

No.17 of 2010 cannot be ruled out. Quashing the criminal proceedings at the very inception might result in injustice.

26. Section 482 of the Cr.P.C provides:□"482. Saving of inherent powers of High Court.—Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice."

27. Even though, the inherent power of the High Court under Section 482 of the Cr.P.C., to interfere with criminal proceedings is wide, such power has to be exercised with circumspection, in exceptional cases. Jurisdiction under Section 482 of the Cr.P.C is not to be exercised for the asking.

28. In Monica Kumar (Dr.) v. State of U.P2., this Court held that inherent jurisdiction under Section 482 of the Cr.P.C has to be exercised 2 (2008) 8 SCC 781 sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself.

29. In exceptional cases, to prevent abuse of the process of Court, the High Court might in exercise of its inherent powers under Section 482 quash criminal proceedings. However, interference would only be justified when complaint did not disclose any offence, or was patently frivolous, vexatious or oppressive, as held by this Court in Mrs. Dhanalakshmi v. R. Prasanna Kumar3.

30. The fact that the complaint may have been initiated by reason of political vendetta is not in itself ground for quashing the criminal proceedings, as observed by Bhagwati, CJ in Sheonandan Paswan v. State of Bihar and Others4. It is a well established proposition of law that a criminal prosecution, if otherwise justified and based upon adequate evidence, does not become vitiated on account of mala fides or political vendetta of the first informant or complainant. Though the view of Bhagawti, CJ in Sheonandan Paswan (supra) was the minority view, there was no difference of opinion with regard to this finding. To quote Krishna Iyer, J., in State of Punjab v. Gurdial Singh 5, "if the use of power is of fulfilment of a legitimate object the actuation or catalysation by malice is not legicidal." 3 AIR 1990 SC 494 4 (1987) 1 SCC 288 5 (1980) 2 SCC 471

31. In Municipal Corporation of Delhi v. Ram Kishan Rohtagi and Ors.6 A three□Judge Bench of this Court held:

> "6. It may be noticed that Section 482 of the present Code is the ad verbatim copy of Section 561□A of the old Code. This provision confers a separate and independent power on the High Court alone to pass orders ex debito justitiae in cases where grave and substantial injustice has been done or where the process of the court has been seriously abused. It is not merely a revisional power meant to be exercised against the orders passed by subordinate courts. It was under this section that in the old Code, the High Courts used to quash the proceedings or expunge uncalled for remarks against witnesses or other persons or subordinate courts. Thus, the scope, ambit and range of Section 561□A (which is now Section 482) is quite different from the powers conferred by the present Code under the provisions of Section 397. It may be that in

some cases there may be overlapping but such cases would be few and far between. It is well settled that the inherent powers under Section 482 of the present Code can be exercised only when no other remedy is available to the litigant and not where a specific remedy is provided by the statute. Further, the power being an extraordinary one, it has to be exercised sparingly. If these considerations are kept in mind, there will be no inconsistency between Sections 482 and 397(2) of the present Code.

7. The limits of the power under Section 482 were clearly defined by this Court in Raj Kapoor v. State [(1980) 1 SCC 43 :

1980 SCC (Cri) 72] where Krishna Iyer, J. observed as follows: [SCC para 10, p. 47: SCC (Cri) p. 76] "Even so, a general principle pervades this branch of law when a specific provision is made: easy resort to inherent power is not right except under compelling circumstances. Not that there is absence of jurisdiction but that inherent power should not invade areas set apart for specific power under the same Code." . Another important consideration which is to be kept in mind is as to when the High Court acting under the provisions of Section 6(1983) 1 SCC 1 482 should exercise the inherent power insofar as quashing of criminal proceedings are concerned. This matter was gone into in greater detail in Smt Nagawwa v. Veeranna Shivalingappa Konjalgi [(1976) 3 SCC 736 : 1976 SCC (Cri) 507 : 1976 Supp SCR 123 : 1976 Cri LJ 1533] where the scope of Sections 202 and 204 of the present Code was considered and while laying down the guidelines and the grounds on which proceedings could be quashed this Court observed as follows: [SCC para 5, p. 741 : SCC (Cri) pp. 511□12] "Thus it may be safely held that in the following cases an order of the Magistrate issuing process against the accused can be quashed or set aside:

(1) where the allegations made in the complaint or the statements of the witnesses recorded in support of the same taken at their face value make out absolutely no case against the accused or the complaint does not disclose the essential ingredients of an offence which is alleged against the accused;

(2) where the allegations made in the complaint are patently absurd and inherently improbable so that no prudent person can ever reach a conclusion that there is sufficient ground for proceeding against the accused;

(3) where the discretion exercised by the Magistrate in issuing process is capricious and arbitrary having been based either on no evidence or on materials which are wholly irrelevant or inadmissible; and (4) where the complaint suffers from fundamental legal defects, such as, want of sanction, or absence of a complaint by legally competent authority and the like.

The cases mentioned by us are purely illustrative and provide sufficient guidelines to indicate contingencies where the High Court can quash proceedings."

9. Same view was taken in a later decision of this Court in Sharda Prasad Sinha v. State of Bihar [(1977) 1 SCC 505 :

> 1977 SCC (Cri) 132 : (1977) 2 SCR 357 : 1977 Cri LJ 1146] where Bhagwati, J. speaking for the Court observed as follows:
>
> [SCC para 2, p. 506 : SCC (Cri) p. 133] "It is now settled law that where the allegations set out in the complaint or the charge□sheet do not constitute any offence, it is competent to the High Court exercising its inherent jurisdiction under Section 482 of the Code of Criminal Procedure to quash the order passed by the Magistrate taking cognizance of the offence.

10. It is, therefore, manifestly clear that proceedings against an accused in the initial stages can be quashed only if on the face of the complaint or the papers accompanying the same, no offence is constituted. In other words, the test is that taking the allegations and the complaint as they are, without adding or subtracting anything, if no offence is made out then the High Court will be justified in quashing the proceedings in exercise of its powers under Section 482 of the present Code."

32. As held by this Court in State of Andhra Pradesh v. Gourieshetty Mahesh7, the High Court, while exercising jurisdiction under Section 482 of the Cr.P.C, would not ordinarily embark upon an enquiry into whether the evidence is reliable or not or whether there is reasonable possibility that the accusation would not be sustained.

33. In Paramjeet Batra v. State of Uttrakhand8, this Court held:□"12. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends 14 upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. ..."

34. In Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre9, a three□Judge Bench of this Court summarized the law with regard 7 (2010) 6 SCC 588 8 (2013) 11 SCC 673 9 (1988) 1 SCC 692 to quashing of criminal proceedings under Section 482 of the Cr.P.C. This Court held:□"The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilised for any oblique purpose and where in the opinion of the court chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage."

35. In Inder Mohan Goswami v. State of Uttaranchal 10, this Court observed:□"46. The court must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private vendetta or with an ulterior motive to pressurise the accused. On analysis of the aforementioned cases, we are of the opinion that it is neither possible nor desirable to lay down an inflexible rule that would govern the exercise of inherent jurisdiction. Inherent jurisdiction of the High Courts under Section 482 CrPC though wide has to be exercised sparingly, carefully and with caution and only when it is justified by the tests specifically laid down in the statute itself and in the aforementioned cases. In view of the settled legal position, the impugned judgment cannot be sustained." 10 (2007) 12 SCC 1

36. In Kapil Agarwal & Ors. V. Sanjay Sharma & Others 11, this Court observed that Section 482 of the Cr.P.C. is designed to achieve the purpose of ensuring that criminal proceedings are not permitted to generate into weapons of harassment.

37. In State of Haryana and Ors. v. Bhajan Lal and Ors. 12, this Court held:

> "102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.
>
> (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
>
> (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cogizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

11 (2021) 5 SCC 524 121992 Suppl (1) SCC 335 (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

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

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused. (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party. (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

103. 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.

37. Ends of justice would be better served if valuable time of the Court is spent on hearing appeals rather than entertaining petitions under Section 482 at an interlocutory stage which might ultimately result in miscarriage of justice as held in Hamida v. Rashid @ Rasheed and Others13.

39. In our considered opinion criminal proceedings cannot be nipped in the bud by exercise of jurisdiction under Section 482 of the Cr.P.C. only because the complaint has been lodged by a political rival. It is possible that a false complaint may have been lodged at the behest of a political opponent. However, such possibility would not justify interference under Section 482 of the Cr.P.C. to quash the criminal proceedings. As observed above, the possibility of retaliation on the part of the petitioners by the acts alleged, after closure of the earlier criminal case cannot be ruled out. The allegations in the complaint constitute offence under the Attrocities Act. Whether the allegations are true or untrue, would have to be decided in the trial. In exercise of power under Section 482 of the Cr.P.C., the Court does not examine the correctness of the allegations in a complaint except in exceptionally rare cases where it is patently clear that the allegations are frivolous or do not disclose any offence. The Complaint Case No.19/2018 is not such a case which should be quashed at the inception itself without further Trial. The High Court rightly dismissed the application under Section 482 of the Cr.P.C. 13 (2008) 1 SCC 474

40. For the reasons discussed above, we are not inclined to interfere with the impugned judgment and order of the High Court. The special leave petition is, accordingly, dismissed.

41. Documents have been brought on record by the Petitioners which show that the Petitioner No.1 is a patient of lung cancer of an advanced stage. He is on strong medication. Considering the condition of the health of the Petitioner No.1, the Trial Court may consider exempting the personal appearance of the Petitioner No.1, if such an application is made to the Trial Court.

.....,J.

[INDIRA BANERJEE] ..

.....,J.

[A.S. BOPANNA] NEW DELHI ;

APRIL 20, 2022.