Mary Angel & Ors vs State Of Tamil Nadu on 13 May, 1999

Equivalent citations: AIR 1999 SUPREME COURT 2245, 1999 AIR SCW 2283, 1999 (6) SRJ 427, 1999 (2) UJ (SC) 1021, 1999 ALLMR(CRI) 2 1250, (1999) 2 KER LT 76, 1999 (77) CALCRILR 305, 1999 (3) LRI 342, 1999 CRIAPPR(SC) 287, 1999 SCC(CRI) 1296, 1999 (6) ADSC 297, 1999 (3) SCALE 663, 1999 (5) SCC 209, (1999) 3 JT 638 (SC), (1999) 3 CURCRIR 79, (1999) 2 RECCRIR 736, (1999) 3 SCALE 663, 1999 CRILR(SC MAH GUJ) 398, (1999) 24 ALLCRIR 23, (1998) 37 ALLCRIC 891, 1999 CRILR(SC&MP) 398, (1999) 2 EASTCRIC 88, (1999) 2 MADLW(CRI) 426, (1999) MATLR 398, (1999) 17 OCR 35, (1999) 5 SUPREME 370, (1999) 25 ALLCRIR 1413, (1999) 39 ALLCRIC 184, (1999) 2 CHANDCRIC 43, (1999) 2 ALLCRILR 748, (1999) 3 CRIMES 64

Bench: K.T.Thomas, M.B.Shah

PETITIONER:
MARY ANGEL & ORS.

Vs.

RESPONDENT:
STATE OF TAMIL NADU

DATE OF JUDGMENT: 13/05/1999

BENCH:
K.T.Thomas, M.B.Shah

JUDGMENT:

SHAH,J.

Leave granted.

The question involved in this appeal is whether the High Court has jurisdiction to impose exemplary cost of Rs. 10,000/- to be paid by each of the appellants while rejecting a frivolous or vexatious petition under Section 482 of the Criminal Procedure Code for setting aside the charge framed against the appellants? FIR was lodged by Josephine Jaya on 29th September, 1989 stating that her in-laws demanded from her father Rs. 60,000/- in cash, 65 soverigns of gold jewellary for the bride and nine soverigns or similar jewellary for the groom; that out of Rs.60,000/-, Rs.50,000/- were paid; that after the marriage, she was treated cruelly and there were unlawful demands for a colour

television and Rs. 50,000/- in cash. It is also alleged that at the instigation of in-laws accused nos. 2 to 6, accused No.1 (her husband) administered certain medicine with a view to abort her pregnancy. After preliminary investigation, on 18th October, 1989, a charge sheet was filed against A1 to A6 under Sections 498(A), 406, 420, 315 I.P.C. and Sections 3 & 4 of the Dowry Prohibition Act. The case was committed to the Sessions Court, Nagercoil and was numbered as Sessions Case No. 10 of 1989. Accused Nos. 3 to 6 filed an application under Section 227 of the Criminal Procedure Code for their discharge. That application was allowed by holding that they had not demanded dowry and there is no material to show that medicine for abortion was administered at their instigation. Against that order, complainant filed Criminal R.C. No. 442 of 1990 before the High Court of Madras. By Order dated 9th July, 1993, the High Court allowed the Revision case filed by the complainant and set aside the order of discharge. In pursuance of the said Order, on 13th June, 1996, learned Sessions Judge framed charges against accused Nos. A3 to A6 also. Against that Order dated 13th June, 1996, accused Nos.3 to 6, that is, the present appellants preferred Criminal Revision case No. 601 of 1996 before the High Court on the ground that there was no prima facie case for framing of charges against them. The Court while dismissing the same observed that the proceedings have been dragged on for 8 years and that petition was filed without disclosing even to the learned counsel that revision against the order of non-framing of charges was allowed earlier by the High Court by holding that there was sufficient material for framing charges. The Court also observed that despite the directions of the High Court to the Sessions Court to finish the trial as expeditiously as possible, appellants have not allowed the Sessions Court to comply with the said directions of the High Court. Considering the aforesaid conduct, the High Court imposed costs of Rs. 10,000/- each on the appellants to be paid to the informant (complainant), wife of accused no. 1 and directed the Sessions Court to dispose of the case within two months from the date of the communication of the Order. That Order is challenged before us in this appeal. The learned Counsel for the appellants submitted that in criminal cases High Court has no jurisdiction to impose costs except as provided under Sections 148(3), 342 & 359 of the Cr. P.C. empowering the Court to impose costs and submitted that inherent powers of the Court cannot be exercised contrary to the said provisions. As against this, learned Counsel for the respondent submitted that while exercising its jurisdiction under Section 482 of the Criminal Procedure Code the High Court has inherent jurisdiction to impose costs to prevent the abuse of the process of law or otherwise to secure the ends of justice. It is submitted that for one or other reason, the accused prevented the Sessions Court from proceeding with the case and by suppressing the previous Order passed by the High Court, approached the Court for quashing and setting aside the charges framed against them. It is, therefore, submitted that the High Court has rightly exercised its inherent powers and has imposed costs to be paid to the cruelly treated wife (informant). Admittedly, in Criminal R.C. No. 442 of 1990 and Criminal R.P. No. 440 of 1990, the High Court by its detailed judgment and order dated 9th July 1993, allowed the said Revision Petitions by holding that there were sufficient grounds on record to establish prima facie case against the accused for framing the charges and Additional Sessions Judge exceeded his jurisdiction in law as well as totally overlooked the material facts available on record by discharging the appellants. Despite the aforesaid order and by suppressing the same, appellants filed petition under Section 482 before the High Court for quashing the charges framed against them. In such circumstances, Court has imposed the costs to be paid to the wife of accused No.1 to prevent abuse of the process of the Court and to secure the ends of justice. The question is whether the Court had such jurisdiction? For deciding it, we would first refer to the

relevant sections of the Criminal Procedure Code upon which reliance is placed by the learned counsel for the appellants which empowers the Court to impose costs. Section 148(3) provides that when any costs have been incurred by any party to a proceeding under Section 145, Section 146 or Section 147, the Magistrate passing a decision may direct by whom such costs shall be paid, whether by such party or by any other party to the proceeding, and whether in whole or in part or proportion and such costs may include any expenses incurred in respect of witnesses and of pleaders' fees, which the Court may consider reasonable. Section 342 provides that any Court dealing with an application made to it for filing a complaint under Section 340 or an appeal under Section 341, shall have power to make such order as to costs as may be just. Further, Section 359 empowers the Court to order payment of cost to the complainant in non cognizable case, if it convicts the accused and in such case, the Court can pass an order for payment of costs incurred by the complainant in the prosecution of the case and such costs may include any expenses incurred in respect of process fees, witnesses and pleaders fees which the Court considers reasonable. This power can also be exercised by the Appellate Court or by the High Court or Court of Sessions exercising its power deciding the appeal or revision. Section 357 provides for payment of compensation to the victim for any loss or injury caused by the offence or in case of death to the heirs of the victims out of the fine imposed and while awarding compensation court has to take into consideration, inter alia, the expenses properly incurred in the prosecution; Section 358 provides for payment of compensation where any person causes a police officer to arrest another person, without sufficient ground for causing such arrest, then compensation can be awarded by the Magistrate not exceeding Rs. 100/-. It is, therefore, submitted that Court has no jurisdiction to pass an order of costs de hors the aforesaid statutory provisions. In our view, Section 482 Cr. P.C. stands independently from other provisions of the Code and it expressly saves inherent powers of the High Court by providing that "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". Therefore, to prevent abuse of the process of the Court or otherwise to secure the ends of justice, the High Court is empowered to pass such order which may include order to pay costs to the informant (complainant) and the language of the section does not in terms place any fetter. This power is not conditioned or controlled by any other section nor is curtailed by any provisions which empower the court to award costs. No doubt, this jurisdiction is of exceptional nature and is to be exercised in exceptional cases for achieving the purposes stated in the section. Secondly, costs could be either for the purpose of meeting the expenses of the litigation as it can be exemplary to prevent the abuse of the process of the court or to secure ends of justice or giving effect to any order passed under the Code. Learned counsel for the appellants relied upon the decision of this Court in State of Orissa vs. Ram Chander Aggarwal Etc 1979 (1) S.C.R. 1114 and submitted that inherent powers of the High Court could not be exercised for awarding costs when Criminal Procedure Code provides for awarding of costs in limited cases. In the aforesaid case, Court was dealing with the contention whether the High Court could review its Judgment and Order despite the specific bar under Section 369 of the Criminal Procedure Code except to correct a clerical error. The Court held that in view of Section 369 Cr. P.C. which prohibits all courts when it has signed its judgment to alter or review the same except to correct a clerical error and that in the case of a High Court, the prohibition was subject to the Letters patent or other instrument constituting such High Court. In similar provision section 362 under the new Code, subsequent part is omitted. Hence, the Court held that giving the plain meaning of Section 369, it

was clear that no Court, subject to exception made in the section, shall alter or review its judgment; inherent powers of the High Court were meant to give effect to any order under the Code or to prevent abuse of the process of any court or otherwise to secure the ends of justice. Hence, such powers cannot be invoked as it would be inconsistent with the specific provisions of the Code. The Court further held that Section 561(A) of the Code confers no new powers, it merely safeguards existing inherent powers possessed by a High Court necessary (among other purposes) to secure the ends of justice and "by the introduction of the section, it was made clear that the inherent powers of the Court, for the purposes mentioned in the section, shall not be deemed to be limited or affected by the provisions of the Criminal Procedure Code. Further, in the case of Pampathy Vs. State of Mysore [1966 (Suppl.) SCR 477], this Court dealt with the contention that the High Court cannot exercise inherent jurisdiction under Section 561(A) of Cr. P.C., 1898 of cancelling bail when the appellant was released on bail by the High Court under Section 426 of the Criminal Procedure Code pending disposal of the appeal. Negativing the said contention, the Court held that it was true that in Section 498 and Section 497(5), the Legislature had made express provision for cancellation of bail bond in the case of accused persons released on bail during the course of trial but no such express provision has been made by the Legislature in the case of a convicted person and whose sentence has been suspended under Section 426, yet there is no bar for exercise of inherent powers for cancellation of bail pending appeal. The Court observed, there is obviously a lacuna but the omission of the legislature to make a specific provision in that behalf is clearly due to oversight or inadvertence and cannot be regarded as deliberate. The Court held that inherent powers of the High Court could be exercised only for either of the three purposes specifically mentioned in the Section; it cannot be invoked in respect of any matter covered by the specific provisions of the Code; it cannot also be invoked if its exercise would be inconsistent with any of the specific provisions of the Code; if the matter in question is not covered by any specific provisions of the Code, power would come into operation. The Court pertinently observed "no legislative enactment dealing with procedure can provide for all cases that can possibly arise and it is an established principle that the Court should have inherent powers, apart from the express provision of law, which are necessary to their existence for the proper discharge of the duties imposed upon them by law." Next, we would refer to the decision in Dr. Raghubir Sharan vs. The State of Bihar (1964) 2 S.C.R. 336 wherein this Court considered the power of the High Court to expunge remarks made against a medical practitioner who submitted his opinion on the health of the accused pending the proceedings before magistrate. While considering the scope of inherent powers under section 561(A) of the Code, the Court succinctly analysed the jurisdiction which could be exercised by the High Court in the following words :- When we speak of inherent powers of the High Court of a State we mean the powers which must, by reason of its being the highest court in the State having general jurisdiction over civil and criminal courts in the State, inhere in that court. The powers in a sense are an inalienable attribute of the position it holds with respect to the courts subordinate to it. These powers are partly administrative and partly judicial. They are necessarily judicial when they are exercisable with respect to a judicial order and for securing the ends of justice. When we speak of ends of justice we do not use the expression to comprise within it any vague or nebulous concept of justice, nor even justice in the philosophical sense but justice according to law, the statute law and the common law. Again, this power is not exercisable every time the High Court finds that there has been a miscarriage of justice. For, the procedural laws of the State provide for correction of most of the errors of subordinate courts which may have resulted in miscarriage of justice. These errors can

be corrected only by resorting to the procedure prescribed by law and not otherwise. Inherent powers are in the nature of extraordinary powers available only where no express power is available to the High Court to do a particular thing and where its express power do not negative the existence of such inherent power. The further condition for its exercise, in so far as cases arising out of the exercise by the subordinate courts of their criminal jurisdiction are concerned, is that it must be necessary to resort to it for giving effect to an order under the Code of Criminal Procedure or for preventing an abuse of the process of the court or for otherwise securing the ends of justice.

The power to expunge remarks is no doubt an extraordinary power but nevertheless it does exist for redressing a kind of grievance for which the statute provides no remedy in express terms. The fact that the statute recognizes that the High Courts are not confined to the exercise of powers expressly conferred by it and may continue to exercise their inherent powers makes three things clear. One, that extraordinary situations may call for the exercise of extraordinary powers. Second, that the High Courts have inherent power to secure the ends of justice. Third, that the express provisions of the Code do not affect that power. The precise powers which inhere in the High Court are deliberately not defined by s.561-A for good reason. It is obviously not possible to attempt to define the variety of circumstances which will call for their exercise. No doubt, this section confers no new power but it does recognize the general power to do that which is 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. But then, the statute does not say that the inherent power recognized is only such as has been exercised in the past either. What it says is that the High Courts always had such inherent power and that this power has not been taken away. Whenever in a criminal matter a question arises for consideration whether in particular circumstances the High Court has power to make a particular kind of order in the absence of express provision in the Code or other statute the test to be applied would be whether it is necessary to do so to give effect to an order under the Code or to prevent the abuse of the process of the Court or otherwise to secure the ends of justice.(Emphasis added) From the aforesaid decisions, it is apparent that if there is an express provision governing the particular subject matter then there is no scope for invoking or exercising the inherent powers of the Court because Court is required to apply, in the manner and mode prescribed, the provisions of the statute which are made to govern the particular subject-matter. But the Highest Court in the State could exercise inherent powers for doing justice according to law where no express power is available to do a particular thing and express power do not negative the existence of such power. It is true that under the Criminal Procedure Code, specific provisions for awarding costs are only those as stated above. At the same time, there is no specific bar that in no other case, costs could be awarded. Further, in non- cognizable cases, Section 359 empowers the Courts including Appellate Court or High Court or Court of Sessions while exercising its powers of revision to order the convicted accused to pay to the complainant, in whole or in part, the cost incurred by him in the prosecution including the expenses incurred in respect of process fees, witnesses and pleaders fees which the Court may consider reasonable. Hence, it may be inferred that in a cognizable case and in appeal or revision arising therefrom, the High Court cannot exercise inherent power for awarding costs de hors the said provisions. But such inference is not possible in cases where Court is exercising powers under Section 482. It is to be stated that in cognizable cases also under Section 357 while awarding compensation out of the fine imposed on the accused, inter alia, the Court is required to take into consideration expenses properly incurred in the prosecution. Hence, exercise

of such power would, on the contrary, be in conformity and not in conflict with the powers conferred under Sections 148(3), 342 and 357 or 359 of the Cr.P.C. In appropriate cases, where it is necessary to pass such order, Court may award costs for the purposes, namely, (i) to give effect to any order passed under the Court (ii) to prevent abuse of the process of any Court and (iii) to secure the ends of justice as there is no

(i) negative provision for exercise of such power and (ii) inconsistency with the other provisions. Further, awarding of costs, as stated above, can be for two purposes, one for meeting the litigation expenses and, secondly, for preventing the abuse of the process of Court or to do justice in a matter and in such circumstances, costs can be exemplary. It is true that this jurisdiction is to be exercised sparingly for the aforesaid purposes in most appropriate cases and is not limitless but is to be exercised judiciously. Now, we would refer to the decisions relied upon by the learned Counsel for the appellants to contend that costs cannot be awarded while exercising jurisdiction under Section 482 of the Criminal Procedure Code. Reliance is placed on the decision of Lasu Janu Pawar and Ors. Vs. Emperor (1948) AIR Bombay 169 wherein the Court has held that where a complaint and the proceedings resulting therefrom are quashed by the High Court as being both frivolous and vexatious, it has no power to award costs against the complainant. For that purpose, Court referred to sections under the Code which specifically confer jurisdiction/power in certain types of cases, to award costs or compensation and held that it negatives the existence of any general power or jurisdiction so to do in other cases unless such general power or jurisdiction is to result from Section 561(A) of the Code. The Court thereafter held that all that section do is to preserve the inherent powers of the High Court without conferring any additional power and relied upon the decision rendered by the Full Bench of the Madras High Court in A.T. Sankara Linga Mudaliar vs. Narayana Mudaliar and Ors. (1922) AIR Madras 502 by holding that reasoning in the said case was sound. Before parting with the judgment the Court observed that it was for the legislature to consider that in a criminal complaint launched by private prosecutors wider powers with regard to awarding costs should be conferred on the High Court in cases where a complaint was frivolous or vexatious or was in abuse of the process of the Court. The Full Bench decision of the Madras High Court in the case of A.T. Sankara Linga Mudaliar (supra) dealt with the question whether there was power in the High Court to grant costs on a revision petition brought not by the Crown but by a private prosecutor against an acquittal, which petition has failed. Delivering the judgment Schwabe CJ observed that if there is power it is a case in which he would gladly grant costs. Court thereafter observed that as the Court was exercising revisional power in a criminal case and the Code does provide in several instances for payment of costs and as there is no provision for granting costs in such case maxim expressio unius est exclusio alterius [Expression of one thing is the exclusion of another] applies and held that costs cannot be awarded by exercising inherent powers. Before holding that Court has no jurisdiction to grant costs, the Court observed as under: A Court may have inherent power to grant costs. That is clear from a judgment in the House of Lords in Guardians of West Ham Union vs. Churchwardens, etc. of St. Matthew, Bethral Green (1896) App. Cas. 477) where the House of Lords held that they had inherent power to grant costs, and in In re Bombay Civil Fund Act, 1882: Pringle vs. Secretary of State for India(5) where Cotton and Bower, L.JJ state clearly their view that they have an inherent power to grant costs in the matter which came before them, although there was no statutory provision enabling them to grant costs. But, in my view, the exercise of that inherent power must be always restricted and limited to this that if the power of granting costs by the Court

in that kind of proceedings is provided for in some way by statute, the Court cannot, by invoking its inherent powers, extend the powers which had been granted to it by the statute.

In concurring judgment, Coutts trotter J, observed that Courts of Equity in England always asserted their possession of such jurisdiction and constantly used it as is pointed out in various judgments that it can award costs. The learned Judge also referred to the decision of House of Lords in Guardians of Westham Union (supra) and observed that in the said case, it was undoubtedly laid down that as and by virtue of its position as the highest Court in the land and not by any devolution of powers from the Courts of Equity it held jurisdiction to deal with the costs. However, the learned Judge thereafter observed: But I think that the main reason why it is not possible for this Court to adopt that line of reasoning and take upon itself the awarding of costs in criminal cases is this: Revision is not an inherent power of this or any other Court: the whole machinery of revision is a creature of statute and has to be found within the four walls of the Code of Criminal Procedure and, so far as criminal cases are concerned, I do not see how we can posit an inherent power in ourselves to supplement that purely statutory machinery by assuming to ourselves the inherent power of supplementing it by the awarding of costs.

The aforesaid decision was again followed by the full bench of the Madras High Court in P. Veerappa vs. Avudayammal and Anr. (AIR 1925 Madras 438) wherein the Court observed that High Court has no power to invoke its inherent powers on the hearing of a criminal revision against an order passed under Sections 145 and 148 of the Criminal Procedure Code. From the aforesaid decision of the Full Bench, it is apparent that the Court recorded three reasons for not awarding the costs. Firstly, the Court was exercising revisionary jurisdiction under the Criminal Procedure Code. Secondly, the Court cannot extend the jurisdiction by invoking its inherent powers. Thirdly, the Court relied upon the maxim expressio unius est exclusio alterius and held that as there are specific provisions empowering the Court to grant costs, it excludes any other power of granting costs. In our view, the aforesaid reasons would not stand scrutiny; firstly, because there is negative provision that except the cases for which the costs could be awarded under different sections of the Code, High Court shall not exercise its inherent jurisdiction of granting costs. In cases where for preventing abuse of the process of law or for securing justice, Court may find that order for costs including exemplary costs is required to be passed, then the phrase such order would include the same and there is no reason to restrict the ambit of the phrase such power. Secondly, with regard to the inherent jurisdiction in the case of Dr. Raghuvir Saran (supra) learned judges observed that the Statute does not say that inherent power recognized is only such as has been exercised in the past either. It is further observed that High Courts have inherent power to secure the ends of justice which are in the nature of extraordinary powers where no express power is available to the High Court to do a particular thing and when its express power do not negative the existence of such inherent power. This would be further clear from the English decisions referred to by the Full Bench of the Madras High Court. In re Bombay Civil Fund act, 1882:

> Pringle Vs. Secretary of State for India (1889) Chancery Division 288 the Court of appeals held that even though there is no provision in the Act to give costs of a successful claim, the Court had inherent jurisdiction to order him to pay the costs of wrongly putting the court in motion, and there was nothing in the Act to show that

> the Legislature intended the Court not to have such jurisdiction. In case of a fruitless and unjustifiable application made to the Court, the Court should have its ordinary power of saying that such an application should be dismissed with costs. In the case of the Guardians of West Ham Union Vs. The Church Wardens and Overseas and Guardians of the Poor of the Parish of St. Mathew, Bethnal Green (1896) Law reports 477 (489), the House of Lords held as under: The truth is, as it seems to me, that the House of Lords, as the highest Court of appeal, has and necessarily must have an inherent jurisdiction as regards costs. That this inherent jurisdiction is the sole authority for the action of the House of Lords in dealing with the costs of appeals is, I think, shewn very plainly by the latest alteration which this House has made in its practice with regard to that matter. For a very long period it was the practice of the House of Lords never to give costs against a party coming to defend and sustain a decree in his favour : Mackersy Vs. Ramsays. (1) That was said to be an inflexible rule. But that rule was altered in 1877, after the Judicature Act was passed. And it was altered by the House of Lords of its own motion, without any statutory authority, simply on the principle which then commended itself to this House, that a successful appellant was entitled to indemnity: Bowes Vs. Shand (2), per Lord Cairns L.C. and Lord Blackburn. There is no reason not to follow the aforesaid principle.

Thirdly, the maxim expressio unius est exclusio alterius has its limited operation. Its operation is to be restricted with regard to the sections which empower the Court to grant costs in certain cases by holding that for the cases mentioned in those sections, Court cannot exercise its inherent jurisdiction of granting costs or pass an order of granting costs in a method and mode different from what is provided by the said sections. Application of this maxim would lead to inconsistency and injustice because in cases where Court finds that a petition under Section 482 is an abuse of the process of law and an unjustifiable petition for some ulterior motive including dragging of the proceedings of Court, it can pass any other order, but not the order for costs.

Further, for the rule of interpretation on the basis of the maxim expressio unius est exclusio alterius, it has been considered in the decision rendered by the Queens Bench in the case of Dean Vs. Wiesengrund 1955 (2) QBD 120. The Court considered the said maxim and held that after all it is no more than an aid to construction and has little, if any, weight where it is possible, to account for the inclusio unius on grounds other than intention to effect the exclusio alterius. Thereafter, the Court referred to the following passage from the case of Colquhoon Vs Brooks 1887 (19) QBD 400 at 406 wherein the Court called for its approval the maxim expressio unius est exclusio alterius has been pressed upon us. I agree with what is said in the Court below by Wills J. about this maxim. It is often a valuable servant, but a dangerous master to follow in the construction of statutes of documents. The exclusio is often the result of inadvertence or accident, and the maxim ought not to be applied, when its application having regard to the subject matter to which it is to be applied, leads to inconsistency or injustice. In my opinion, the application of the maxim here would lead to inconsistency and injustice, and would make Section 14(1) of the Act of 1920 uncertain and capricious in its operation. The aforesaid maxim was referred to by this Court in the case of Asstt. Collector, Central Excise Vs. National Tobacco Co. 1972(2) S.C.C. 560, the Court in that case considered the question whether there was or was not an implied power to hold an inquiry in the

circumstances of the case in view of the provisions of the Section 4 of the Central Excise Act read with Rule 10(A) of the Central Excise Rules and referred to the aforesaid passage the maxim is often a valuable servant, but a dangerous master ... and held that the rule is subservient to the basic principle that Courts must endeavour to ascertain the legislative intent and purpose, and then adopt a rule of construction which effectuates rather than one that may defeat these. Moreover, the rule of prohibition by necessary implication could be applied only where a specified procedure is laid down for the performance of a duty. In the case of Parbhani Transport Co-op Society Ltd. Vs. R.T.A. Aurangabad [1960 (3) S.C.R. 177], this Court observed that maxim expressio unius est exclusio alterius is a maxim for ascertaining the intention of the legislature and where the statutory language is plain and the meaning clear, there is no scope for applying. Further, in Harish Chander Vajpai Vs. Triloki Singh 1957 S.C.R. 371 (389), the Court referred to the following passage from the Maxwell on Interpretation of Statutes, 10th Edition, pages 316-317:

> - Provisions sometimes found in statutes, enacting imperfectly or for particular cases only that which was already and more widely the law, have occasionally furnished ground for the contention that an intention to alter the general law was to be inferred from the partial or limited enactment, resting on the maxim expressio unius, exclusio alterius. But that maxim is inapplicable in such cases. The only inference which a court can draw from such superfluous provisions (which generally find a place in Acts to meet unfounded objections and idle doubts), is that the Legislature was either ignorant or unmindful of the real state of the law, or that it acted under the influence of excessive caution.
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> Lastly, we would state that in the case of Pampathy vs. State of Mysore (supra), the Court has specifically observed that no legislative enactment dealing with the procedure can provide for all cases and that Court should have inherent powers apart from the express provisions of law which are necessary for the proper discharge of duties. In our view, application of the aforesaid maxim for interpreting Section 482 would have only limited operation as stated above. In the result, we hold that while exercising inherent jurisdiction under Section 482, Court has power to pass such orders (not inconsistent with any provision of the Code) including the order for costs in appropriate cases, (i) to give effect to any order passed under the Code or (ii) to prevent abuse of the process of any Court or (iii) otherwise to secure the ends of justice. As stated above, this extraordinary power is to be used in extrao rdinary circumstances and in a judicious manner. Costs may be to meet the litigation expenses or purpos es. can be exemplary to achieve the aforesaid In view of the aforesaid findings, this appeal is dismissed.