SUPREME COURT OF INDIA

Sanapareddy Maheedhar

Vs.

State of A.P.

(S.B. Sinha and G.S. Singhvi JJ.)

13.12.2007

JUDGMENT:

G.S. SINGHVI, J.

Leave granted.

This appeal is directed against the order dated 6.12.2006 passed by the learned Single Judge of the Andhra Pradesh High Court whereby he dismissed the petition filed by the appellants under Section 482 of the Criminal Procedure Code (for short Cr.P.C) for quashing the proceedings of CC No.240/2002 pending in the Court of XXII Metropolitan Magistrate, Hyderabad in relation to offences under Sections 498A & 406, Indian Penal Code read with Sections 4 & 6 of the Dowry Prohibition Act 1961 (for short the Dowry Act).

Bhavani Shireesha, the eldest daughter of respondent no. 2 Shrimati D. Shaila, is a doctor by profession. She was married to appellant no. 1 Sanapareddy Maheedhar Seshagiri who is working as Software Engineer at New Jersey, USA on 22.04.1998 at Hyderabad. Before marriage, the appellants and their parents demanded Rs. 5 lakh cash, 50 tola gold jewellery and Rs. 75,000/- towards Adapaduchu Katnam as dowry. They also demanded transfer of the ground floor of the residential house belonging to respondent no. 2 and her husband in favour of the parents of the appellants. Respondent no. 2 and her husband agreed to pay Rs. 4 lakh cash, 60 tola gold jewellary and Rs. 75,000/- towards Adapaduchu Katnam as dowry. They also agreed to bequeath the ground portion of their house in the name of their daughter. The appellants and their parents accepted the proposal and performed betrothal on 16.04.1998. Thereafter, the parents of the appellants demanded Zen car and threatened to cancel the engagement unless the car is given. This compelled the husband of respondent no. 2 to raise loan of Rs. 4 lakh and purchased the car, which is said to have been kept at the disposal of the parents of the appellants. After marriage, the appellants left for USA, but Shireesha Bhavani stayed back at Hyderabad with their parents because she was undergoing training as House Surgeon. After completing the training, Shireesha Bhavani went to USA along with the parents of the appellants. She stayed at New Jersey from 1.11.1998 to 2.12.1998. During this period, Shireesha Bhavani was subjected to cruelty and harassment by the appellants and their parents on the ground that she did not bring enough dowry. On 3.12.1998 she went to Maryland (U.S.A.) and stayed with her relatives. In April 1999, the parents of the appellants returned to India. On 5.4.1999, appellant No.1 instituted divorce petition in Superior Court at New Jersey and an ex parte decree was passed in his favour on 15.12.1999. In the meanwhile, Shireesha Bhavani wrote letter dated 13.04.1999 to her parents complaining of cruelty by the appellants and their parents. She disclosed that while she was staying with the parents of the appellants at

Hyderabad, the mother-in-law always complained of lack of dowry and abused and criticized her and asked her to do menial job. She further disclosed that appellant no. 1 and his brother harassed and also pressurized her to bring additional money for purchase of a house at Hyderabad in the name of the in- laws. She gave detailed account of the alleged harassment and torture meted out by the appellants and their parents. Thereupon, respondent no. 2 filed complaint dated 26.8.1999 in the Court of XXII Metropolitan Magistrate, Hyderabad (hereinafter referred to as the concerned Magistrate) detailing therein the facts relating to demand of dowry by the appellants and their parents and the incidents of cruelty and harassment to which her daughter was subjected at Hyderabad and New Jersey. Respondent no. 2 also alleged that immediately after marriage, the appellants and their parents complained about lack of dowry by saying that appellant no. 1 could have been married for a dowry of Rs. 35 lakhs. Another allegation made by respondent no. 2 was that her daughter was driven out of the house with an indication that she will be allowed to return only after the demands of the accused appellants and their parents are met. The learned Magistrate referred the complaint for investigation under Section 156(3) Cr.P.C. This led to registration of Crime No.54/1999 at Women Police Station, CID, Hyderabad. On 18.9.2000 the Inspector of Police, Women Protection Cell, C.I.D., Hyderabad submitted final report with the prayer that the case may be treated as closed due to lack of evidence. He mentioned that much progress could not be made due to non-availability of de facto victim and other key witnesses in India and there was no immediate prospect of their coming to India. He also mentioned that the accused party returned the personal belongings including gold jewellery to the de facto victim in U.S.A. and that a decree of divorce had been passed by the Superior Court of New Jersey, Chancery Division, Family Part, Middlesex County. The Investigating Officer also made a reference to the direction given by Additional Director General of Police, CID to close the case due to lack of evidence.

By an order dated 1.11.2000, the concerned Magistrate rejected the final report and directed the police to make further investigation. In the opinion of the learned Magistrate, the investigation had not been done properly and the final report submitted under the dictates of the Additional Director General of Police was not acceptable. While doing so, the learned Magistrate made a reference to the letter addressed by Director General of Police, CID, Andhra Pradesh to the Regional Passport Office, Hyderabad wherein it was mentioned that Shrimati Bhavani Shireesha had been subjected to cruelty and a request was made to cancel or impound the passport of the appellants.

In compliance of the direction given by the learned Magistrate the police conducted further investigation and recorded statements of 18 persons. Notice was also issued to Shrimati Shireesha Bhavani to appear before CID Police, Hyderabad. At that stage, respondent no. 2 filed Criminal Petition No. 3912 of 2000 under Section 482 Cr.P.C. for quashing the notice issued by the Inspector of Police, CID, Hyderabad for appearance of her daughter in connection with the Crime No. 54 of 1999. The same was disposed of by the learned Single Judge on 22.9.2000 with liberty to the petitioner to approach the investigating agency and inform it about the efforts being made by her daughter to come to India or to approach the concerned court for non-acceptance of final report, if any, submitted by the police. Respondent no. 2 also filed Writ Petition No. 1173 of 2001 for issue of a mandamus to the Regional Passport Officer, Secuderabad to impound the passport of appellant no. 1 herein. That petition was disposed of by the learned Single Judge on 26.9.2000 with a direction to the Regional Passport Officer to take appropriate decision on the complaint made by respondent no. 2.

It is borne out from the record that on an application made by respondent no. 2 the concerned Magistrate issued warrant for search of the premises of the parents of the appellants for recovery of

the dowry articles and passport of her daughter. In the course of search conducted by Sri P.Ventaka Rami Reddy, Inspector of Police (Women Protection Cell) CID, Hyderabad on 19.7.2000 the parents of the appellants disclosed that the passport has been sent to Shrimati B. Shireesha by Ordinary Post some time in January/February, 1999, but they could not produce any evidence to substantiate the same. After disposal of Criminal Petition No. 3912 of 2000, Bhavani Shireesha obtained duplicate passport and visa and came to India on 26.7.2002. She appeared before the Investigating Officer on 27.7.2002 and gave statement under Section 161 Cr.P.C. Thereafter, the police filed a charge-sheet under Sections 498A and 406 IPC read with Sections 3, 4 and 6 of the Dowry Act. On 4.10.2002 the concerned Magistrate took cognizance of the case and issued summons to the appellants and their parents.

It is also borne out from the record that without disclosing the fact that the concerned Magistrate had already rejected the final report, the appellants and their parents filed writ petition nos. 6237 of 2001 and 2284 of 2001 with the prayer for quashing the proceedings of Crime No. 54 of 1999 on the file of Women Protection Cell, CID, Hyderabad. The learned Single Judge who heard the writ petitions made a reference to order dated 26.9.2000 passed by another learned Single Judge in Criminal Petition No. 3912 of 2000 and disposed of both the petitions on 4.12.2001 by directing XXII Metropolitan Magistrate, Hyderabad to pass appropriate order on the final report within a period of two months of receipt of the copy of the order. The parents of the appellants challenged the proceedings of CC No. 240 of 2002 in Criminal Petition No. 1302 of 2003 filed under Section 482 Cr.P.C. They pleaded that in view of the bar contained in Section 468 Cr.P.C. the concerned Magistrate did not have the jurisdiction to take cognizance of the offences under Sections 498A and 406 IPC read with Sections 3 and 4 of the Dowry Act. By an order dated 24.10.2006 the learned Single Judge accepted their plea and quashed the proceedings of CC No. 240 of 2002. While doing so, the learned Single Judge also expressed doubt regarding Bhavani Shireesha having come to India for the purpose of making statement before the police.

Encouraged by the success of litigious venture undertaken by their parents, the appellants filed Criminal Petition No. 4152 of 2006 for quashing the proceedings in CC No. 240 of 2002. They pleaded that after the expiry of three years counted from the date of filing the complaint, the learned magistrate could not have taken cognizance of the offences allegedly committed by them under Sections 498A and 406 read with Sections 4 & 6 of the Dowry Act. Another plea taken by them was that in the face of the decree of divorce passed by the Superior Court at New Jersey, USA and the fact that Shrimati Shireesha Bhavani had contracted marriage with one Mr. Venkat Puskar in the year 2000, there was no warrants for initiation of criminal proceedings against them, and that the offences allegedly committed by them outside India cannot be enquired into or tried without obtaining prior sanction of the Central Government in terms of Section 188 Cr.P.C.

The learned Single Judge briefly referred to the parameters for exercise of power by the High Court under Section 482 Cr.P.C., the ingredients of Sections 498A & 406 IPC and Sections 3 & 4 of the Dowry Act and held that the proceedings in CC No.240/2002 cannot be quashed because the learned magistrate had taken cognizance within three years. The learned Single Judge distinguished the judgments of this Court in M/s. Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque [2005 (1) SCC 122] and Ramesh Chandra Sinha & Ors. v. State of Bihar & Ors. [2003 (7) SCC 254] by observing that in those cases the magistrate had taken cognizance long after three years. He then observed that each act of cruelty could be a new starting point of limitation and, therefore, the cognizance taken by the Magistrate cannot be treated as barred by time. As regards the ex-parte decree of divorce passed by the Court at New Jersey, the learned Single Judge observed that the

foreign judgment is not conclusive and that various facts are required to be proved and established before the Criminal Court. The learned Single Judge rejected the appellants plea regarding lack of sanction of the Central Government by observing that such sanction can be obtained even during the trial.

Ms. Beena Madhavan, learned counsel for the appellants reiterated the contentions raised on behalf of her clients before the High Court and argued that the learned Single Judge committed an error by refusing to quash the proceedings of CC No.240 of 2002 ignoring the fact that the learned Magistrate had taken cognizance after almost four years of the last act of alleged cruelty committed against Shireesha Bhavani. She submitted that after dissolution of the marriage, Shrimati Shireesha Bhavani had taken back the Gold and Silver jewellery and then contracted marriage with Mr. Venkat Puskar and this fact ought to have been considered by the learned Single Judge while examining the appellants pleas that the proceedings of criminal case instituted against them amounts to an abuse of the process of law. She then argued that in exercise of the power under Section 482 Cr.P.C., the High Court is duty bound to quash the proceedings which are barred by time and protect the appellants against unwarranted persecution.

Shri I.Venkata Narayana, learned Senior Advocate appearing for respondent No.2, supported the order under challenge and argued that the learned Single Judge of the High Court rightly declined to quash the proceedings of criminal case because the offences committed by the appellants are continuing in nature. Shri Venkata Narayana further argued that even though as on the date of taking cognizance of offences by the learned magistrate, a period of more than three years had elapsed, the proceedings of CC No.240/2002 cannot be declared as barred by limitation because the appellants were not in India and the period of their absence is liable to be excluded in terms of Section 470(4). Shri Venkata Narayana relied on Section 472 and argued that offences of cruelty and criminal breach of trust are continuing offences and prosecution launched against the appellants cannot be treated as barred by time. He then submitted that the learned Magistrate could also exercise power under Section 473 for extending the period of limitation because the appellants and their parents did not co-operate in the investigation and also prevented Smt. Shireesha Bhavani from coming to India to give her statement. Lastly, the learned Senior Counsel relied on the judgment of this Court in Ajay Agarwal v.Union of India [1993 (3) SCC 609] and argued that the proceedings of the criminal case cannot be quashed only on the ground of lack of sanction under Section 188, Cr.P.C.

We have considered the respective submissions and carefully scrutinised the record. For deciding whether the learned Magistrate could take cognizance of offence under Sections 498 A and 406 IPC read with Sections 4 and 6 of the Dowry Act after expiry of three years, it will be useful to notice the scheme of Chapter XXXVI of the Code of Criminal Procedure. Section 468 which finds place in that Chapter creates a bar against taking cognizance of an offence after lapse of the period of limitation. Sub-section (1) thereof lays down that except as otherwise provided elsewhere in this Code, no Court, shall take cognizance of an offence of the category specified in sub- section (2), after the expiry of the period of limitation. Sub-section (2) specifies different periods of limitation for different types of offences punishable with imprisonment for a term exceeding one year but not exceeding three years , the period of limitation is three years. Section 469 specifies the point of time with reference to which the period of limitation is to be counted. Section 470 provides for exclusion of time in certain cases. Sub-section (4) thereof lays down that in computing the period of limitation, the time during which the offender has been absent from India or from any territory outside India which is under the administration of the Central Government or has avoided arrest by absconding or concealing himself, shall be excluded. Section 472, which deals with continuing

offence declares that in case of a continuing offence, a fresh period of limitation shall begin to run at every moment of the time during which the offence continues. Section 473, which begins with non-obstante clause, empowers the Court to take cognizance of an offence after the expiry of the period of limitation, if it is satisfied that the delay has been properly explained and it is necessary so to do in the interest of justice. In State of Punjab v. Sarwan Singh [1981 (3) SCC 34], this Court noted that the object of Section 468 Cr.P.C. is to create a bar against belated prosecutions and to prevent abuse of the process of the court and observed that this is in consonance with the concept of fairness of trial enshrined in Article 21 of the Constitution. In Venka Radhamanohari v. Vanka Venkata Reddy [1993 (3) SCC 4] this Court considered the applicability of Section 468 to the cases involving matrimonial offences, referred to the judgment in Sarwan Singhs case (supra) and observed:

It is true that the object of introducing Section 468 was to put a bar of limitation on prosecutions and to prevent the parties from filing cases after a long time, as it was thought proper that after a long lapse of time, launching of prosecution may be vexatious, because by that time even the evidence may disappear. This aspect has been mentioned in the statement and object, for introducing a period of limitation, as well as by this Court in the case of Sarwan Singh (supra). But, that consideration cannot be extended to matrimonial offences, where the allegations are of cruelty, torture and assault by the husband or other members of the family to the complainant. It is a matter of common experience that victim is subjected to such cruelty repeatedly and it is more or less like a continuing offence. It is only as a last resort that a wife openly comes before a court to unfold and relate the day-to-day torture and cruelty faced by her, inside the house, which many of such victims do not like to be made public. As such, courts while considering the question of limitation for an offence under Section 498-A i.e. subjecting a woman to cruelty by her husband or the relative of her husband, should judge that question, in the light of Section 473 of the Code, which requires the Court, not only to examine as to whether the delay has been properly explained, but as to whether it is necessary to do so in the interests of justice.

[Emphasis added]

The court then compared Section 473 Cr.P.C. with Section 5 of the Limitation Act and observed :

For exercise of power under Section 5 of the Limitation Act, the onus is on the appellant or the applicant to satisfy the court that there was sufficient cause for condonation of the delay, whereas Section 473 enjoins a duty on the court to examine not only whether such delay has been explained but as to whether it is the requirement of the justice to condone or ignore such delay. As such, whenever the bar of Section 468 is applicable, the court has to apply its mind on the question, whether it is necessary to condone such delay in the interests of justice. While examining the question as to whether it is necessary to condone the delay in the interest of justice, the Court has to take note of the nature of offence, the class to which the victim belongs, including the background of the victim. If the power under Section 473 of the Code is to be exercised in the interests of justice, then while considering the grievance by a lady, of torture, cruelty and inhuman treatment, by the husband and the relatives of the husband, the interest of justice requires a deeper examination of such grievances, instead of applying the rule of limitation and saying that with lapse of time the cause of action itself has come to an end. The general rule of limitation is based on the Latin maxim : v igilantibus, et non, dormientibus, jura subveniunt (the vigilant, and not the sleepy, are assisted by the laws). That maxim cannot be applied in connection with offences relating to cruelty against women.

[Emphasis added]

In Arun Vyas v. Anita Vyas [1999 (4) SCC 690 : 1999 SCC (Cri) 629] this Court again considered the applicability of Section 473, Cr.P.C. in cases relating to matrimonial offences and observed: The first limb confers power on every competent court to take cognizance of an offence after the period of limitation if it is satisfied on the facts and in the circumstances of the case that the delay has been properly explained and the second limb empowers such a court to take cognizance of an offence if it is satisfied on the facts and in the circumstances of the case that it is necessary so to do in the interests of justice. It is true that the expression in the interest of justice in Section 473 cannot be interpreted to mean in the interest of prosecution. What the court has to see is interest of justice. The interest of justice demands that the court should protect the oppressed and punish the oppressor/offender. In complaints under Section 498-A the wife will invariably be oppressed, having been subjected to cruelty by the husband and the in-laws. It is, therefore, appropriate for the courts, in case of delayed complaints, to construe liberally Section 473 Cr.P.C. in favour of a wife who is subjected to cruelty if on the facts and in the circumstances of the case it is necessary so to do in the interests of justice. When the conduct of the accused is such that applying the rule of limitation will give an unfair advantage to him or result in miscarriage of justice, the court may take cognizance of an offence after the expiry of the period of limitation in the interests of justice. This is only illustrative, not exhaustive.

In State of H.P. v. Tara Dutt [2000 (1) SCC 230] a three Judges Bench of this Court considered whether there can be a presumption of condonation of delay under Section 473 Cr.P.C. and observed : Section 473 confers power on the court taking cognizance after the expiry of the period of limitation, if it is satisfied on the facts and in the circumstances of the case that the delay has been properly explained and that it is necessary so to do in the interest of justice. Obviously, therefore in respect of the offences for which a period of limitation has been provided in Section 468, the power has been conferred on the court taking cognizance to extend the said period of limitation where a proper and satisfactory explanation of the delay is available and where the court taking cognizance finds that it would be in the interest of justice. This discretion conferred on the court has to be exercised judicially and on well-recognised principles. This being a discretion conferred on the court taking cognizance, wherever the court exercises this discretion, the same must be by a speaking order, indicating the satisfaction of the court that the delay was satisfactorily explained and condonation of the same was in the interest of justice. In the absence of a positive order to that effect it may not be permissible for a superior court to come to the conclusion that the court must be deemed to have taken cognizance by condoning the delay whenever the cognizance was barred and yet the court took cognizance and proceeded with the trial of the offence. But the provisions are of no application to the case in hand since for the offences charged, no period of limitation has been provided in view of the imposable punishment thereunder. In this view of the matter we have no hesitation to come to the conclusion that the High Court committed serious error in holding that the conviction of the two respondents under Section 417 would be barred as on the date of taking cognizance the Court could not have taken cognizance of the said offence. Needless to mention, it is well settled by a catena of decisions of this Court that if an accused is charged with a major offence but is not found guilty thereunder, he can be convicted of a minor offence if the facts established indicate that such minor offence has been committed.

This Court then considered the earlier judgment in Arun Vyas v. Anita Vyas (supra) and held :

The aforesaid observations made by this Court indicate that the order of the Magistrate at the time of taking cognizance in case of an offence under Section 498-A, should indicate as to why the Magistrate does not think it sufficient in the interest of justice to condone the delay inasmuch as an accused committing an offence under Section 498-A should not be lightly let off. We have already indicated in the earlier part of this judgment as to the true import and construction of Section 473 of the Code of Criminal Procedure. The said provision being an enabling provision, whenever a Magistrate invokes the said provision and condones the delay, the order of the Magistrate must indicate that he was satisfied on the facts and circumstances of the case that the delay has been properly explained and that it is necessary in the interest of justice to condone the delay. But without such an order being there or in the absence of such positive order, it cannot (sic) be said that the Magistrate has failed to exercise jurisdiction vested in law. It is no doubt true that in view of the fact that an offence under Section 498-A is an offence against the society and, therefore, in the matter of taking cognizance of the said offence, the Magistrate must liberally construe the question of limitation but all the same the Magistrate has to be satisfied, in case of period of limitation for taking cognizance under Section 468(2)(c) having expired that the circumstances of the case require delay to be condoned and further the same must be manifest in the order of the Magistrate itself. This in our view is the correct interpretation of Section 473 of the Code of Criminal Procedure.

In Ramesh v. State of Tamil Nadu [2005 (3) SCC 507] this Court considered the issue of limitation in taking cognizance of an offence under Section 498A and observed :

On the point of limitation, we are of the view that the prosecution cannot be nullified at the very threshold on the ground that the prescribed period of limitation had expired. According to the learned counsel for the appellants, the alleged acts of cruelty giving rise to the offence under Section 498-A ceased on the exit of the informant from the matrimonial home on 2-10-1997 and no further acts of cruelty continued thereafter. The outer limit of time for taking cognizance would therefore be 3-10-200 0, it is contended. However, at this juncture, we may clarify that there is an allegation in the FIR that on 13-10-1998/14-10-1998, when the informants close relations met her in-laws at a hotel in Chennai, they made it clear that she will not be allowed to live with her husband in Mumbai unless she brought the demanded money and jewellery. Even going by this statement, the taking of cognizance on 13-2-2002 pursuant to the charge-sheet filed on 28-12-2001 would be beyond the period of limitation. The commencement of limitation could be taken as 2-10-1997 or at the most 14-10-1998. As pointed out by this Court in Arun Vyas v. Anita Vyas (supra) the last act of cruelty would be the starting point of limitation. The three-year period as per Section 468(2)(c) would expire by 14-10-2001 even if the latter date is taken into account. But that is not the end of the matter. We have to still consider whether the benefit of extended period of limitation could be given to the informant. True, the learned Magistrate should have paused to consider the question of limitation before taking cognizance and he should have addressed himself to the question whether there were grounds to extend the period of limitation. On account of failure to do so, we would have, in the normal course, quashed the order of the Magistrate taking cognizance and directed him to consider the question of applicability of Section 473. However, having regard to the facts and circumstances of the case, we are not inclined to exercise our jurisdiction under Article 136 of the Constitution to remit the matter to the trial court for taking a decision on this aspect. The fact remains that the complaint was lodged on 23-6-1999, that is to say, much before the expiry of the period of limitation and the FIR was registered by the All-Women Police Station, Tiruchirapalli on that day. A copy of the FIR was sent to the Magistrates Court on the next day i.e. on 24-6-1999. However, the process of investigation and filing of charge-sheet took its own time. The process of taking cognizance was consequentially delayed. There is also the further fact that the appellants

filed Writ Petition (Crl.) No. 1719 of 2000 in the Bombay High Court for quashing the FIR or in the alternative to direct its transfer to Mumbai. We are told that the High Court granted an ex parte interim stay. On 20-8-2001, the writ petition was permitted to be withdrawn with liberty to file a fresh petition. The charge-sheet was filed four months thereafter. It is in this background that the delay has to be viewed.

The ratio of the above noted judgments is that while considering the applicability of Section 468 to the complaints made by the victims of matrimonial offences, the court can invoke Section 473 and can take cognizance of an offence after expiry of the period of limitation keeping in view the nature of allegations, the time taken by the police in investigation and the fact that the offence of cruelty is a continuing offence and affects the society at large. To put it differently, in cases involving matrimonial offences the court should not adopt a narrow and pedantic approach and should, in the interest of justice, liberally exercise power under Section 473 for extending the period of limitation.

At this stage, we may also notice the parameters laid down by this Court for exercise of power by the High Court under Section 482 Cr.P.C to give effect to any order made under the Cr.P.C or to prevent abuse of the process of any court or otherwise to secure the ends of justice. In R.P.Kapur v. State of Punjab [AIR 1960 SC 866] this Court considered the question whether in exercise of its power under Section 561A of the Code of Criminal Procedure, 1898 (Section 482 Cr.P.C. is pari materia to Section 561A of the 1898 Code), the High Court could quash criminal case registered against the appellant who along with his mother-in-law was accused of committing offences under Section 420, 109, 114 and 120B of the Indian Penal Code. The appellant unsuccessfully filed a petition in the Punjab High Court for quashing the investigation of the First Information Report (FIR) registered against him and then filed appeal before this Court. While confirming the High Courts order this Court laid down the following proposition:

The inherent power of High Court under Section 561A, Criminal P.C. cannot be exercised in regard to matters specifically covered by the other provisions of the Code. The inherent jurisdiction of the High Court can be exercised to quash proceedings in a proper case either to prevent the abuse of the process of any court or otherwise to secure the ends of justice. Ordinarily criminal proceedings instituted against an accused person must be tried under the provisions of the Code, and the High Court would be reluctant to interfere with the said proceedings at an interlocutory stage. It is not possible, desirable or expedient to lay down any inflexible rule which would govern the exercise of this inherent jurisdiction.

This Court then carved out some exceptions to the above stated rule. These are:

(i) Where it manifestly appears that there is a legal bar against the institution or continuance of the criminal proceedings in respect of the offences alleged. Absence of the requisite sanction may, for instance, furnish cases under this category;

(ii) Where the allegations in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged; in such cases no question of appreciating evidence arises; it is a matter merely of looking at the complaint or the First Information Report to decide whether the offence alleged is disclosed or not;

(iii) Where the allegations made against the accused person do constitute an offence alleged but there is either no legal evidence adduced in support of the case or the evidence adduced clearly or

manifestly fails to prove the charge. In dealing with this class of cases it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is manifestly and clearly inconsistent with the accusation made and cases where there is legal evidence which on its appreciation may or may not support the accusation in question. In exercising its jurisdiction under Section 561-A the High Court would not embark upon an enquiry as to whether the evidence in question is reliable or not. That is the function of the trial magistrate, and ordinarily it would not be open to any party to invoke the High Courts inherent jurisdiction and contend that on a reasonable appreciation of the evidence the accusation made against the accused would not be sustained.

In State of Haryana v Bhajanlal [1992 Supp. (1) SCC 335] this Court considered the scope of the High Courts power under Section 482 of Cr.P.C and Article 226 of the Constitution to quash the FIR registered against the respondent, referred to several judicial precedents including those of R.P.Kapoor v. State of Punjab (supra), State of Bihar v. J.A.C. Saldanha [1980 (1) SCC 554] and State of West Bengal v. Swapan Kumar Guha [1982 (1) SCC 561] and held that the High Court should not embark upon an enquiry into the merits and demerits of the allegations and quash the proceedings without allowing the investigating agency to complete its task. At the same time, the Court identified the following cases in which the FIR or complaint can be quashed.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused. (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code. (3) Where the 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 Act concerned (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 Act concerned, 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.

The ratio of Bhajan Lals case has been consistently followed in the subsequent judgments. In M/s Zandu Pharmaceutical Works Ltd. V. Mohd. Sharaful Haque (supra), this Court referred to a large number of precedents on the subject and observed: The powers possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High

Court being the highest court of a State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage. It would not be proper for the High Court to analyse the case of the complainant in the light of all probabilities in order to determine whether a conviction would be sustainable and on such premises arrive at a conclusion that the proceedings are to be quashed. It would be erroneous to assess the material before it and conclude that the complaint cannot be proceeded with. In a proceeding instituted on complaint, exercise of the inherent powers to quash the proceedings is called for only in a case where the complaint does not disclose any offence or is frivolous, vexatious or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same in exercise of the inherent powers under Section 482 of the Code. It is not, however, necessary that there should be meticulous analysis of the case before the trial to find out whether the case would end in conviction or acquittal. The complaint has to be read as a whole. It if appears that on consideration of the allegations in the light of the statement made on oath of the complainant that the ingredients of the offence or offences are disclosed and there is no material to show that the complaint is mala fide, frivolous or vexatious, in that even there would be no justification for interference by the High Court. When an information is lodged at the police station and an offence is registered, then the mala fides of the informant would be of secondary importance. It is the material collected during the investigation and evidence led in court which decides the fate of the accused person. The allegations of mala fides against the informant are of no consequence and cannot by themselves be the basis for quashing the proceedings.

In the aforementioned judgment, this Court set aside the order of the Patna High Court and quashed the summons issued by the First Class Judicial Magistrate in Complaint Case No.1613) of 2002 on the ground that the same was barred by limitation prescribed under Section468 (2)) Cr.P.C.

In Ramesh Chand Sinhas case (supra) this Court quashed the decision of the Chief Judicial Magistrate, Patna to take cognizance of the offence allegedly committed by the appellants by observing that the same was barred by time and there were no valid grounds to extend the period of limitation by invoking Section 473 Cr.P.C. A careful reading of the above noted judgments makes it clear that the High Court should be extremely cautious and slow to interfere with the investigation and/or trial of criminal cases and should not stall the investigation and/or prosecution except when it is convinced beyond any manner of doubt that the FIR does not disclose commission of any offence or that the allegations contained in the FIR do not constitute any cognizable offence or that the prosecution is barred by law or the High Court is convinced that it is necessary to interfere to prevent abuse of the process of the court. In dealing with such cases, the High Court has to bear in mind that judicial intervention at the threshold of the legal process initiated against a person accused of committing offence is highly detrimental to the larger public and societal interest. The people and the society have a legitimate expectation that those committing offences either against an individual or the society are expeditiously brought to trial and, if found guilty, adequately punished. Therefore, while deciding a petition filed for quashing the FIR or complaint or restraining the competent authority from investigating the allegations contained in the FIR or complaint or for stalling the trial of the case, the High Court should be extremely careful and circumspect. If the allegations contained in the FIR or complaint discloses commission of some crime, then the High Court must

keep its hands off and allow the investigating agency to complete the investigation without any fetter and also refrain from passing order which may impede the trial. The High Court should not go into the merits and demerits of the allegations simply because the petitioner alleges malus animus against the author of the FIR or the complainant. The High Court must also refrain from making imaginary journey in the realm of possible harassment which may be caused to the petitioner on account of investigation of the FIR or complaint. Such a course will result in miscarriage of justice and would encourage those accused of committing crimes to repeat the same. However, if the High Court is satisfied that the complaint does not disclose commission of any offence or prosecution is barred by limitation or that the proceedings of criminal case would result in failure of justice, then it may exercise inherent power under Section 482 Cr.P.C.

In the light of the above, we shall now consider whether the High Court committed an error by refusing to quash the proceedings of CC No.240 of 2002.

Although, the learned Single Judge of High Court dealt with various points raised by the appellants and negatived the same by recording the detailed order, his attention does not appear to have been drawn to the order dated 24.10.2006 passed by the co-ordinate bench in Criminal Petition No.1302/2003 whereby the proceedings of CC No.240/2002 were quashed qua the parents of the appellants on the ground that the learned Magistrate could not have taken cognizance after three years. Respondent No.2 is not shown to have challenged the order passed in Criminal Petition No.1302/2003. Therefore, that order will be deemed to have become final. We are sure that if attention of the learned Single Judge, who decided Criminal Petition No.4152/2006 had been drawn to the order passed by another learned Single Judge in Criminal Petition No.1302/2003, he may have, by taking note of the fact that the learned Magistrate did not pass an order for condonation of delay or extension of the period of limitation in terms of Section 473 Cr.P.C., quashed the proceedings of CC No.240/2002.

We are further of the view that in the peculiar facts of this case, continuation of proceedings of CC No.240/2002 will amount to abuse of the process of the Court. It is not in dispute that after marriage, Shireesha Bhavani lived with appellant No.1 for less than one and a half months (eight days at Hyderabad and about thirty days at New Jersey). It is also not in dispute that their marriage was dissolved by the Superior Court at New Jersey vide decree dated 15.12.1999. Shireesha Bhavani is not shown to have challenged the decree of divorce. As a mater of fact, she married Sri Venkat Puskar in 2000 and has two children from the second marriage. She also received all the articles of dowry (including jewellery) by filing affidavit dated 28.12.1999 in the Superior Court at New Jersey. As on today a period of almost nine years has elapsed of the marriage of appellant No.1 and Shireesha Bhavani and seven years from her second marriage. Therefore, at this belated stage, there does not appear to be any justification for continuation of the proceedings in CC No.240/2002. Rather, it would amount to sheer harassment to the appellant and Shireesha Bhavani who are settled in USA, if they are required to come to India for giving evidence in relation to an offence allegedly committed in 1998-99. It is also extremely doubtful whether the Government of India will, after lapse of such a long time, give sanction in terms of Section 188 Cr.P.C.

For the reasons stated above, the appeal is allowed, the order of the learned Single Judge of the High Court is set aside and the proceedings of CC No.240/2002, pending in the Court of XXII Metropolitan Magistrate, Hyderabad, are quashed.