SUPREME COURT OF INDIA

Manoj Kumar Sharma & Ors.

Vs.

State of Chhattisgarh & Anr.

Crl.A.No.775 of 2013

(Madan B.Lokur and R.K.Agrawal,JJ.,)

23.08.2016

JUDGMENT

R.K.Agrawal,J.,

1. This appeal has been filed against the judgment and order dated 27.09.2012 passed by the High Court of Chhattisgarh at Bilaspur in Criminal Miscellaneous Petition No. 765 of 2011 whereby learned single Judge of the High Court dismissed the petition filed by the appellants herein.

2. Brief facts:

(a) Manoj Kumar Sharma-the appellant-accused, who was serving in the Indian Air Force at the relevant time, got married to one Nandini on 27.04.1999. On 20.09.1999, Nandini Sharma (since deceased) committed suicide at her matrimonial home. The information with regard to the same was lodged by the Security Officer of the Indian Air Force at Police Station Mulana, District Ambala. On 22.09.1999, post mortem was conducted on the body of the deceased and the body was handed over to the relatives for performing last rites.

(b) On 22.09.1999, the officer in-charge of the investigation, P.S. Mulana submitted a report being No. 26 stating that there was no sign of foul play in the occurrence. On the basis of the investigation, on 24.01.2000, a Final Report was submitted before the sub-Divisional Magistrate which got accepted on 19.02.2000. Simultaneously, a Court of Inquiry (CoI) was also convened to investigate into the alleged role of the appellant-accused but after completion of the Inquiry the case was finally closed on 25.07.2000.

(c) After five years of the closing of the above case, a fresh First Information Report (FIR), being No. 194 dated 29.05.2005 was got registered by Shri Shashi Bhushan Sharma (Respondent No. 2 herein) - brother of the deceased against Manoj Sharma-appellant No. 1 herein, Heera Lal Sharma, Mahaveer Prasad Sharma and Smt. Hem

Lata Sharma-the father, uncle and mother of the appellant No. 1 herein respectively at P.S. Bhillai Nagar, District Durg under Sections 304B, 498A and Section 34 of the Indian Penal Code, 1860 (in short ‘the IPC5).

(d) Being aggrieved by the filing of the FIR, the appellants herein filed a Writ Petition being No. 2890 of 2005 before the High Court. The Division Bench of the High Court, vide order dated 25.07.2005, directed for the continuance of the investigation of the alleged offence.

(e) On 04.04.2007, the said writ petition was withdrawn with the leave of the court and the appellants herein filed Criminal Miscellaneous Petition being No. 612 of 2007 before the High Court under Section 482 of the Code of Criminal Procedure, 1973 (in short ‘the Code5) for quashing of the FIR. Learned single Judge of the High Court, vide order dated 17.10.2011,allowed the proceedings to continue with a direction to the police to hold fair and proper investigation to ensure logical conclusion of the same without unnecessary delay.

(f) An application for modification being Criminal Misc. Petition No. 732 of 2011 was filed for modification of the order dated 17.10.2011 in Criminal Miscellaneous Petition 612 of 2007 on the ground that during the pendency of the judgment in the matter, the chargesheet came to be filed by the police before the court which was allowed vide order dated 17.11.2011.

(g) Further, the appellants herein filed Criminal Misc. Petition being No. 765 of 2011 under Section 482 read with Section 397 of the Code before the High Court for quashing of charge sheet and cognizance taken thereof by the Judicial Magistrate First Class, Durg dated 03.09.2011 and 13.10.2011 respectively in Criminal Proceeding No. 805 of 2011 arising out of Crime No. 194 of 2005 registered at P.S. Bhilai Nagar, District Durg. Learned single Judge of the High Court, vide order dated 27.09.2012 dismissed the petition filed by the appellants herein.

(h) Aggrieved by the abovesaid order, the appellants have preferred this appeal by way of special leave before this Court.”

3. Heard Mr. Sushil Kumar, learned senior counsel for the appellants-accused and Mr. Atul Jha, learned counsel for the respondent-State.

Rival Submissions:

4.Mr. Sushil Kumar, learned senior counsel for the appellants vehemently contended that since the place of incident is Haryana, the FIR and the cognizance of the offence could not have been taken at Durg. Learned senior counsel further submitted that the earlier or the first information in regard to the commission of a cognizable offence satisfies the requirement of Section 154 of the Code and there cannot be second FIR or fresh investigation of any

subsequent information in respect of the same cognizable offence. The investigation was carried out at Durg in Chhattisgarh and the deceased never resided at the said place after the marriage thus the court at Durg had no jurisdiction to proceed with the prosecution. Learned senior counsel finally contended that the present charge sheet is a sheer abuse of the process and has been filed without any basis on an FIR which was lodged after 5 (five) years that too on the basis of anonymous letters.

5. Per contra, learned counsel for the respondent-State submitted that no FIR was lodged at Mulana Police Station nor was there any investigation carried out into any allegation of commission of a cognizable offence, but upon receipt of information regarding death, the police had conducted inquiry under Section 174 of the Code and submitted a report to the sub-Divisional Magistrate. He further submitted that it is not a case where the police registered FIR, carried out investigation and submitted a report under Section 173 of the Code rather the case was closed stating that no offence was found to be committed and accepted by the court of competent jurisdiction. It is further submitted that the FIR was lodged for the first time in the P.S. Bhilai Nagar and it cannot be said to be the second FIR of the same incident. The reports of the Office of the Scene of Crime Unit, Durg and the Director, Medico Legal Institute, the contents of the FIR, the case diary statements are prima facie sufficient for initiation of criminal proceedings for the offence under Sections 304B and 498A of the IPC. Learned counsel further submitted that as regards the question of territorial jurisdiction is concerned; the part of cause of action arose within the territorial jurisdiction of the court at Durg. He finally submitted that a full enquiry into the cause of death of the deceased should be made and the ends of justice would be best served when the accused would be found guilty for her unnatural death.

6. We have carefully perused the entire records including depositions and documents and considered the rival contentions.

Discussion:

7. Nandini (since deceased) was married to appellant No. 1 herein on 27.04.1999 at Durg. On 20.09.1999, she died under suspicious circumstances at her matrimonial home at Ambala. As per the initial investigation, the cause of death was hanging. Upon receipt of information, P.S. Ambala proceeded to hold an inquiry under Section 174 of the Code. During investigation, no offence was found to have been committed. It may be mentioned here that Shri R.P. Sharma-father of the deceased and other relatives were also present during the investigation. A report of the inquiry made under Section 174 of the Code was forwarded to sub-Divisional Magistrate, Ambala which was accepted and the case was finally closed. Simultaneously, an inquiry was also conducted by the Indian Air Force which resulted in the closure of the case while holding that no foul play is suspected in the case.

8. After about 5 years, on the basis of anonymous letters received by the brother of the deceased-Respondent No. 2 herein, wherein the death was described a planned murder, FIR being No. 194 of 2005 dated 29.05.2005 was registered against the appellants herein under Sections 304B and 498A of the IPC. The FIR, in substance, recorded that the deceased was

meted out with cruelty at her matrimonial home on the behest of appellants for the demand of dowry. On 20.09.1999, the deceased informed Respondent No. 2 over phone regarding the quarrel with the appellant No. 1 herein and she was found dead on the very same date. During investigation, the police at Durg found that she was actually subjected to cruelty in connection with the demand of dowry by her in-laws. The appellant No. 1 herein was arrested for the alleged involvement in the offence. Being aggrieved by the filing of the FIR, the appellant No. 1 herein filed a writ petition before the High Court which got dismissed as withdrawn vide order dated 04.04.2007. A fresh petition under Section 482 of the Code was also filed before the High Court wherein learned single Judge of the High Court, vide order dated 17.10.2011 dismissed the petition filed by the appellants herein while directing the police to complete the investigation speedily. Further, a petition was filed by the appellants herein for quashing of charge sheet and cognizance taken of the offence dated 03.09.2011 and 13.10.2011 respectively in Crime No. 194 of 2005 registered at P.S. Bhilai Nagar, District Durg which also got dismissed vide High Court's order dated 27.09.2012.

9. Learned senior counsel for the appellants submitted that the earlier or the first information in regard to the commission of a cognizable offence satisfies the requirement of Section 154 of the Code and there cannot be second FIR or fresh investigation of any subsequent information in respect of the same cognizable offence. Learned senior counsel further stressed upon that when the police had conducted inquiry on the information and closed the case there is no point in re-opening the case by filing FIR that too on the basis of anonymous letters received by the brother of the deceased after a lapse of 5 (five) years. In view of the above claim of learned senior counsel for the appellants, it is imperative to discuss the scope of 'Inquiry' under Section 174 of the Code in order to ascertain as to whether the 'information' received under Section 174 of the Code satisfies the requirement of Section 154 of the Code. Scope of 'Inquiry' under Section 174 of the Code:

10. The proceedings under Section 174 have a very limited scope. The object of the proceedings is merely to ascertain whether a person has died under suspicious circumstances or an unnatural death and if so what is the apparent cause of the death. The question regarding the details as to how the deceased was assaulted or who assaulted him or under what circumstances he was assaulted is foreign to the ambit and scope of the proceedings under Section 174 of the Code. Neither in practice nor in law was it necessary for the police to mention those details in the inquest report. It is, therefore, not necessary to enter all the details of the overt acts in the inquest report. The procedure under Section 174 is for the purpose of discovering the cause of death, and the evidence taken was very short. When the body cannot be found or has been buried, there can be no investigation under Section 174. This section is intended to apply to cases in which an inquest is necessary. The proceedings under this Section should be kept more distinct from the proceedings taken on the complaint. Whereas the starting point of the powers of police was changed from the power of the officer in charge of a police station to investigate into a cognizable offence without the order of a Magistrate, to the reduction of the first information regarding commission of a cognizable offence, whether received orally or in writing, into writing. As such, the objective of such placement of provisions was clear which was to ensure that the recording of the first

information should be the starting point of any investigation by the police. The purpose of registering FIR is to set the machinery of criminal investigation into motion, which culminates with filing of the police report and only after registration of FIR, beginning of investigation in a case, collection of evidence during investigation and formation of the final opinion is the sequence which results in filing of a report under Section 173 of the Code. In *George and Others vs. State of Kerala and Another*[1] it has been held that the investigating officer is not obliged to investigate, at the stage of inquest, or to ascertain as to who were the assailants. A similar view has been taken in *Suresh Rai and Others vs. State of Bihar*[2]

11. In this view of the matter, Sections 174 and 175 of the Code afford a complete Code in itself for the purpose of "Inquiries" in cases of accidental or suspicious deaths and are entirely distinct from the "investigation" under Section 157 of the Code wherein if an officer in-charge of a police station has reason to suspect the commission of an offence which he is empowered to investigate, he shall proceed in person to the spot to investigate the facts and circumstances of the case. In the case on hand, an inquiry under Section 174 of the Code was convened initially in order to ascertain whether the death is natural or unnatural. Learned senior counsel for the appellants claims that the earlier information regarding unnatural death amounted to FIR under Section 154 of the Code which was investigated by the police and thereafter the case was closed. On a careful scrutiny of materials on record, the inquiry which was conducted for the purpose of ascertaining whether the death is natural or unnatural cannot be categorized under information relating to the commission of a cognizable offence within the meaning and import of Section 154 of the Code. On information received by P.S. Mulana, the police made an inquiry as contemplated under Section 174 of the Code. After holding an inquiry, the police submitted its report before the sub-Divisional Magistrate, Ambala stating therein that it was a case of hanging and no cognizable offence is found to have been committed. In the report, it was also mentioned that the father of the deceased-R.P. Sharma (PW-1) does not want to take any further action in the matter. In view of the above discussion, it clearly goes to show that what was undertaken by the police was an inquiry under Section 174 of the Code which was limited to the extent of natural or unnatural death and the case was closed. Whereas, the condition precedent for recording of FIR is that there must be an information and that information must disclose a cognizable offence and in the case on hand, it leaves no matter of doubt that the intimation was an information of the nature contemplated under Section 174 of the Code and it could not be categorized as information disclosing a cognizable offence. Also, there is no material to show that the police after conducting investigation submitted a report under Section 173 of the Code as contemplated, before the competent authority, which accepted the said report and closed the case.

12. In view of the above, we are of the opinion that the investigation on an inquiry under Section 174 of the Code is distinct from the investigation as contemplated under Section 154 of the Code relating to commission of a cognizable offence and in the case on hand there was no FIR registered with the P.S. Mulana neither any investigation nor any report under Section 173 of the Code was submitted. Therefore, challenge to impugned FIR under Crime No. 194 of 2005 registered by P.S. Bhilai Nagar could not be assailed on the ground that it

was second FIR in the garb of which investigation or fresh investigation of the same incident was initiated.

Territorial Jurisdiction:

13. Learned senior counsel for the appellants vehemently contended that the P.S. Bhilai Nagar, Durg had no territorial jurisdiction to investigate the matter alleging commission of offence under Sections 304B and 498A of the IPC because none of the part of the alleged offence was committed within the territorial jurisdiction of P.S. Bhilai Nagar, Durg. It is true that territorial jurisdiction also is prescribed under sub-section (1) of Section 156 to the extent that the officer can investigate any cognizable case which a court having jurisdiction over the local area within the limits of such police station would have power to enquire into or try under the provisions of Chapter XIII. However, sub-section (2) makes the position clear by providing that no proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered to investigate. After investigation is completed, the result of such investigation is required to be submitted as provided under Sections 168, 169 and 170. Section 170 specifically provides that if, upon an investigation, it appears to the officer in charge of the police station that there is sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit for trial. Further, if the investigating officer arrives at the conclusion that the crime was not committed within the territorial jurisdiction of the police station, then FIR can be forwarded to the police station having jurisdiction over the area in which the crime is committed. But this would not mean that in a case which requires investigation, the police officer can refuse to record the FIR and/or investigate it. Chapter XIII of the Code provides for "jurisdiction of the criminal courts in inquiries and trials". It is to be stated that under the said Chapter there are various provisions which empower the court for inquiry or trial of a criminal case and that there is no absolute prohibition that the offence committed beyond the local territorial jurisdiction cannot be investigated, inquired or tried. This would be clear by referring to Sections 177 to 188. For our purpose, it would suffice to refer only to Sections 177 and 178 which are as under:

> "177. Ordinary place of enquiry and trial.−Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.
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> 178. Place of enquiry or trial.−(a) When it is uncertain in which of several local areas an offence was committed, or
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> (b) where an offence is committed partly in one local area and partly in another, or
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> (c) where an offence is a continuing one, and continues to be committed in more local areas than one, or

(d) where it consists of several acts done in different local areas, it may be enquired into or tried by a Court having jurisdiction over any of such local areas."

A reading of the aforesaid sections would make it clear that Section 177 provides for "ordinary" place of enquiry or trial. Section 178, inter alia, provides for place of enquiry or trial when it is uncertain in which of several local areas an offence was committed or where the offence was committed partly in one local area and partly in another and where it consisted of several acts done in different local areas, it could be enquired into or tried by a court having jurisdiction over any of such local areas. Hence, at the stage of investigation, it cannot be held that the SHO does not have territorial jurisdiction to investigate the crime. But after the investigation is over, if the officer arrives at the conclusion that the cause of action for lodging the FIR has not arisen within his territorial jurisdiction, then he will forward the case to the Magistrate concerned empowered to take cognizance of the offence.

14. In the instant case, the question of territorial jurisdiction was just one of the grounds for quashing the proceedings along with the other grounds and, therefore, the High Court should have examined whether the case was fit to be quashed on other grounds or not. Nandini Sharma committed suicide in her matrimonial home at Ambala. The information with regard to the said incident was forwarded to the Police Station Mulana, District Ambala. On 22.09.1999, post mortem on the body was conducted and the case was closed by submitting a final report before the SDM stating that there was no sign of foul play in the occurrence. Since the appellant No. 1 was a Flying Officer at the relevant time, a Court of Inquiry (CoI) was also convened to investigate into the alleged role of the appellant No. 1 herein which was finally closed on 25.07.2000. None of the family members of the deceased raised any doubt on the death of Nandini or named anyone in the appellant's family especially when the father, brother and other relatives of the deceased were present at Ambala during the period when the investigation was carried on. On a correct appreciation of record, we do not find even a whisper about the cruelty meted out to her soon before her death. In fact, it is on record that the appellant No. 1 visited Durg several times after the death of Nandini and stayed with in-laws.

15. The territorial jurisdiction of a court with regard to a criminal offence would be decided on the basis of the place of occurrence of the incident. In the instant case, the suicide was committed at Ambala. The Ambala police closed the case after fulfilling the requirements of Section 174 of the Code holding that there was no foul play in the incident and also there was no requirement of lodging FIR under Section 154 as none of the family members of the deceased raised any suspicion over the death even though the death was committed within seven years of marriage. Also, there is no evidence of it being a continuing offence. Hence, the offence alleged cannot be said to have been committed wholly or partly within the local jurisdiction of the Magistrate's Court at Durg. Prima facie, none of the ingredients constituting the offence can be said to have occurred within the local jurisdiction of that Court.

16. In the case on hand, as per the materials on record, in Crime No. 194 of 2005, charge sheet has been filed and the Judicial Magistrate First Class, Durg has taken cognizance of the proceedings. In the present fact situation, we are of the considered opinion that the Court at Durg has no territorial jurisdiction to try the case and the proceedings are liable to be quashed on the ground of lack of territorial jurisdiction since the entire cause of action for the alleged offence had purportedly arisen in the city of Ambala.

Delay in lodging of FIR

17. In the case on hand, after 5 (five) years of the closing of the above case under Section 174 of the Code, a fresh FIR being No. 194 of 2005 was registered on the basis of anonymous letters received by Respondent No. 2 herein - brother of the deceased at Durg under Sections 304B, 498A and Section 34 of the Code stating that the death of Nandini Sharma was a pre-planned murder. Even after the death of Nandini, the relations between the appellant No. 1 herein and his in-laws were cordial as can easily be seen from the evidence on record. Appellant No. 1 herein met his in-laws several times at Durg. Neither at the time of the death of Nandini nor before receiving of anonymous letters by Respondent No. 2 herein, was there any iota of doubt in the minds of the respondents with regard to the appellants herein. Even the father of the deceased never raised suspicion on the conduct of his son-in-law and only after receiving of the above said letters by Respondent No. 2, after a lapse of 5 (five) years, he gave his deposition that his daughter was subjected to cruelty for the demand of dowry on the hands of the appellants herein.

18. Delay in lodging the FIR often results in embellishment, which is a creature of an afterthought. On account of delay, the FIR not only gets bereft of the advantage of spontaneity, danger also creeps in of the introduction of a coloured version or exaggerated story. In our opinion, such extraordinary delay in lodging the FIR raises grave doubt about the truthfulness of allegations made by Respondent No. 2 herein against the appellants, which are, in any case, general in nature. We have no doubt that by making such reckless and vague allegations, Respondent No. 2 herein has tried to rope the appellants in criminal proceedings. We are of the confirmed opinion that continuation of the criminal proceedings against the appellants pursuant to this FIR is an abuse of the process of law. Therefore, in the interest of justice, the FIR deserves to be quashed. In this context, it is apt to quote the following decision of this Court in *Jai Prakash Singh vs. State of Bihar & Anr*[3]. wherein it was held as under:-

> " 12. The FIR in a criminal case is a vital and valuable piece of evidence though may not be substantive piece of evidence. The object of insisting upon prompt lodging of the FIR in respect of the commission of an offence is to obtain early information regarding the circumstances in which the crime was committed, the names of the actual culprits and the part played by them as well as the names of the eye-witnesses present at the scene of occurrence. If there is a delay in lodging the FIR, it loses the advantage of spontaneity, danger creeps in of the introduction of coloured version, exaggerated account or concocted story as a result of large nu-

mber of consultations/deliberations. Undoubtedly, the promptness in lodging the FIR is an assurance regarding truth of the informant's version. A promptly lodged FIR reflects the firsthand account of what has actually happened, and who was responsible for the offence in question."

19. Whether an offence has been disclosed or not, must necessarily depends on the facts and circumstances of each case. If on consideration of the relevant materials, the Court is satisfied that an offence is disclosed, it will normally not interfere with the investigation into the offence and will generally allow the investigation into the offence to be completed in order to collect materials for proving the offence.

20. In the above backdrop, it is also imperative to discuss the scope of inherent power of the High Court under Section 482 of the Code. The appellants before us filed a petition under Section 482 of the Code for quashing of the FIR on the ground that the FIR was filed after a delay of 5 (five) years and is barred by territorial jurisdiction. The High Court, on the other hand, after taking note of the fact that the investigation is in the final stage in the matter and a charge sheet is ready to be filed before the Judicial Magistrate First Class, ordered for its continuance without taking into consideration that it is barred by law. The court at Durg did not take notice of the fact that there is a legal bar engrafted in the matter for its continuance and the proceedings have been maliciously instituted after a delay of five years with an ulterior motive for wreaking vengeance on the appellants. This point has been more clarified in *State of Haryana and Others vs. Bhajan Lal and Others*[4] wherein this Court also stated that though it may not be possible to lay down any precise, clearly defined, sufficiently channelised and inflexible guidelines or rigid formulae or to give an exhaustive list of myriad kinds of cases wherein power under Section 482 of the Code for quashing of the FIR should be exercised, there are circumstances where the Court may be justified in exercising such jurisdiction. These are, where the FIR does not prima facie constitute any offence, does not disclose a cognizable offence justifying investigation by the police; where the allegations 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; where there is an expressed legal bar engrafted in any of the provisions of the Code; and 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. Despite stating these grounds, the Court unambiguously uttered 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; the Court also warned that the Court would 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 whims or caprice. In para 102 of the judgment, it was held as under:-

"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 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 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."

21. While discussing the scope and ambit of Section 482 of the Code, a similar view has been taken by a Division Bench of this Court in *Rajiv Thapar and Others vs. Madan Lal Kapoor*[5] wherein it was held as under:-

> "29. The issue being examined in the instant case is the jurisdiction of the High Court under Section 482 CrPC, if it chooses to quash the initiation of the prosecution against an accused at the stage of issuing process, or at the stage of committal, or even at the stage of framing of charges. These are all stages before the commencement of the actual trial. The same parameters would naturally be available for later stages as well. The power vested in the High Court under Section 482 CrPC, at the stages referred to hereinabove, would have far-reaching consequences inasmuch as it would negate the prosecution's/complainant's case without allowing the prosecution/complainant to lead evidence. Such a determination must always be rendered with caution, care and circumspection. To invoke its inherent jurisdiction under Section 482 CrPC the High Court has to be fully satisfied that the material produced by the accused is such that would lead to the conclusion that his/their defence is based on sound, reasonable, and indubitable facts; the material produced is such as would rule out and displace the assertions contained in the charges levelled against the accused; and the material produced is such as would clearly reject and overrule the veracity of the allegations contained in the accusations levelled by the prosecution/complainant. It should be sufficient to rule out, reject and discard the accusations levelled by the prosecution/complainant, without the necessity of recording any evidence. For this the material relied upon by the defence should not have been refuted, or alternatively, cannot be justifiably refuted, being material of sterling and impeccable quality. The material relied upon by the accused should be such as would persuade a reasonable person to dismiss and condemn the actual basis of the accusations as false. In such a situation, the judicial conscience of the High Court would persuade it to exercise its power under Section 482 CrPC to quash such criminal proceedings, for that would prevent abuse of process of the court, and secure the ends of justice.
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> 30. Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashment raised by an accused by invoking the power vested in the High Court under Section 482 CrPC:
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> 30.1. Step one: whether the material relied upon by the accused is sound, reasonable, and indubitable i.e. the material is of sterling and impeccable quality?
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> 30.2. Step two: whether the material relied upon by the accused would rule out the assertions contained in the charges levelled against the accused i.e. the material is sufficient to reject and overrule the factual assertions contained in the complaint i.e. the material is such as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false?

30.3. Step three: whether the material relied upon by the accused has not been refuted by the prosecution/complainant; and/or the material is such that it cannot be justifiably refuted by the prosecution /complainant?

30.4. Step four: whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

30.5. If the answer to all the steps is in the affirmative, the judicial conscience of the High Court should persuade it to quash such criminal proceedings in exercise of power vested in it under Section 482 CrPC. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as proceedings arising therefrom) specially when it is clear that the same would not conclude in the conviction of the accused."

Conclusion:

22. In view of the above discussion, we are of the considered opinion that the allegations made in the FIR are inherently improbable and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the appellants herein. Further, to invoke inherent jurisdiction under Section 482 of the Code, the High Court must be fully satisfied that the material produced on record is based on sound, justifiable and reasonable facts. In the case on hand, malicious prosecution was instituted by the brother of the deceased after a period of five years that too on the basis of anonymous letters. There was no accusation against the appellants before filing of the FIR. The allegations are vague and do not warrant continuation of criminal proceedings against the appellants. Also, the court at Durg has no territorial jurisdiction because cause of action, if any, has arisen in Ambala. The criminal proceeding is grossly delayed and a result of belated afterthought. The High Court failed to apply the test 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 the prosecution to continue. The High Court did not apply its mind judiciously and on an incorrect appreciation of record, ordered for continuance of the investigation on a petition under Section 482 of the Code. This power must be exercised judiciously and not capriciously or arbitrarily, as any improper or capricious exercise of such power may lead to undesirable results.

23. In view of the foregoing discussion, FIR No. 194 dated 29.05.2005 is hereby quashed and the criminal proceeding against the appellants is dropped for want of prosecution. Consequently, the appeal is allowed.

Judgment Referred.

[1]*(1998) 4 SCC 0605*
[2]*(2000) 4 SCC 0084*
[3]*(2012) 4 SCC 0379*

[4]*(1992) Supp (1) SCC 0335*
[5]*(2013) 3 SCC 0330*