**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**Cr. MMO No. 965 of 2022**
**Reserved on: 29.11.2023**
**Date of Decision: 02.01.2024.**

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Abhilasha Sharma and others ...Petitioners

Versus

State of H.P. and others ...Respondents

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*Coram*
***Hon'ble Mr. Justice Rakesh Kainthla, Judge.***
***Whether approved for reporting?[1] No.***

For the Petitioners : Mr. Kush Sharma, Advocate.

For the Respondents : Mr. Jitender Sharma, Additional Advocate General for Respondent No. 1-State.

Mr R.S. Chandel, Advocate, for Respondents No.2 and 3.

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**Rakesh Kainthla, Judge**

Respondents No. 2 and 3 (complainants before the learned Trial Court) filed a complaint against the present petitioners (accused before the learned Trial Court) for the commission of offences punishable under Sections 420, 120-B,

[1] Whether reporters of Local Papers may be allowed to see the judgment? Yes.

406, 407, 379 and 427 of IPC. It was asserted that the marriage of complainant no. 2 was solemnized on 18.1.2020 as per Hindu Rites and Customs at Agra with accused No.1. Accused No.1 visited the house of the complainant at the beginning of the first week of August 2020. She hatched a conspiracy in connivance with her parents and brothers and took all gold and valuable articles i.e. bangle box with two gold bangles, gold chain, two karas (gold), three suitcases and handbags along with cash worth ₹35,000/- belonging to the complainant No. 1 and her family members. Accused No.2 telephoned the father of complainant no. 2 and told him that the mother of accused no. 1 was admitted in the hospital at Agra, U.P. He requested that accused no. 1, be sent to Agra immediately. The father of complainant no.2 escorted her in his vehicle along with complainant no.2 on 15.8.2020 and dropped her at the Parwanoo barrier. Accused no. 1 was received by accused nos.2 and 3 at the barrier. The lockdown was imposed at that time and it was not possible to cross the border. The accused no. 1 assured that she would return after 15 days; however, she did not honour her promise. Complainant no.2 made repeated requests to accused no.1 and her parents to send the accused no. 1 to her matrimonial

home but he was threatened not to call accused no. 1. The accused no. 1 also demanded ₹25.00 lacs to help her father. The complainants searched their house and found that valuable articles worth ₹ 15 lakhs were stolen. The accused also filed a complaint under Section 12 of the Protection of Women from Domestic Violence Act. Hence, the complaint was filed before the Court for taking action.

2. Learned Trial Court recorded the statements of two witnesses. It found sufficient reasons to issue summons to accused no. 1 to 3 for the commission of offences punishable under Sections 379 and 120-B of IPC.

3. The petitioners-accused approached this Court for quashing the complaint and the summoning order. It was asserted that the allegations in the complaint do not show the commission of any cognizable offence. Complainant-husband preferred a petition under Section 9 of the Hindu Marriage Act against his wife before the Family Court, Shimla. No mention was made about the theft of any article. He even filed a reply to the proceedings under Section 125 of Cr.P.C. in which no mention of theft was made. The accused wife was compelled to

leave her matrimonial home within eight months of marriage. Her father tried to satisfy every demand of the complainant. All her Stridhan and Mangalsutra were taken away by the complainants. She filed a complaint to the police and FIR No. 377 of 2021 was registered at Police Station, Sadar Bazar, Agra. The complainants failed to appear before the Court despite service and non-bailable warrants of arrest were issued by the learned CJM. The accused-wife also filed a petition under Section 12 of the Protection of Women from Domestic Violence Act which is pending disposal. She filed a petition under Section 125 of Cr.P.C. Her husband failed to appear before the Court in either of the cases. He filed a petition under Section 9 of the Hindu Marriage Act. The accused wife filed a transfer petition before the Hon'ble Supreme Court of India, seeking a transfer of petition under the Family Courts Act from Family Court, Shimla to a competent Court at Agra. The criminal complaint was filed as a counterblast to the complaints of the accused wife. The complaint is based on false allegations. The matrimonial dispute is being given a colour of a criminal nature. Petitioners accused have nothing to do with the commission of the offence. The articles of the accused-wife are lying with the complainants, which have not

been returned. Material facts have been concealed from the Court. No reasons were recorded in the order passed by the learned Judicial Magistrate. The complaint was filed one month after the issuance of notice by the Hon'ble Supreme Court of India. The continuation of proceedings will cause unnecessary hardship to the accused. Therefore, it was prayed that the present petition be allowed and the FIR be ordered to be quashed.

4. The respondents-complainants filed a reply making a preliminary submission regarding lack of maintainability. The contents of the complaint were reproduced. It was asserted that the accused had taken away valuable gold articles of the complainants and filed a false complaint under Section 12 of the Protection of Women from Domestic Violence Act. False FIR was registered against the complainants. These facts were brought to the notice of the Court in the reply filed to the petition under Section 125 of Cr.P.C. The complainant-husband has also filed a petition for quashing the FIR registered against him and his family members. He also filed a petition under Section 9 of the Hindu Marriage Act, however, proceedings have been stayed by the Hon'ble Supreme Court. It was asserted that respondent

No.2 and her husband are suffering from various ailments. The accused had intentionally evaded the appearance in the Court despite the issuance of the notice. Therefore, it was prayed that the present petition be dismissed.

5. I have heard Mr Kush Sharma, learned Counsel for the petitioners, Mr. Jitender Sharma, learned Additional Advocate General for respondent no. 1-State and Mr. R.S. Chandel, learned counsel for respondent no. 2 & 3/complainants.

6. Mr. Kush Sharma, learned Counsel for the petitioners submitted that the contents of the petition are false. He relied upon various Annexures to the present petition to show that litigations are pending between the parties and the present complaint has been filed as a counterblast to the complaints made by the accused wife. The allegations are improbable and do not constitute the commission of offence. Learned Judicial Magistrate First Class, Court No.3, Shimla, did not pass a reasoned order. Hence, he prayed that the present petition be allowed and the complaint and the summoning order be quashed.

7. Mr. Jitender Sharma, learned Additional Advocate General for respondent no.1-State submitted that that the dispute is pending between the private parties and the State has nothing to submit in the present matter. He prayed that an appropriate order be passed.

8. Mr. R.S. Chandel, learned counsel for respondents no. 2 and 3 supported the order passed by learned Trial Court and submitted that a *prima-facie* case was made out against the petitioners-accused and learned Trial Court had rightly issued the summons.

9. I have given considerable thought to the submissions at the bar and have gone through the records carefully.

10. The principles of exercising the jurisdiction under Section 482 of Cr.P.C. were laid down by the Hon'ble Supreme Court in ***Supriya Jain v. State of Haryana*, *(2023) 7 SCC 711: 2023 SCC OnLine SC 765*** wherein it was observed at page 716:-

> "**17.** The principles to be borne in mind with regard to the quashing of a charge/proceedings either in the exercise of jurisdiction under Section 397CrPC or Section 482CrPC or together, as the case may be, has engaged the attention of this Court many a time. Reference to each and every precedent is unnecessary. However, we may profitably refer to only one decision of this Court where upon a

survey of almost all the precedents on the point, the principles have been summarised by this Court succinctly. In ***Amit Kapoor v. Ramesh Chander [Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460 : (2012) 4 SCC (Civ) 687 : (2013) 1 SCC (Cri) 986]***, this Court laid down the following guiding principles : (SCC pp. 482-84, para 27)

> "27. ...27.1. Though there are no limits to the powers of the Court under Section 482 of the Code but the more the power, the more due care and caution is to be exercised in invoking these powers. The power of quashing criminal proceedings, particularly, the charge framed in terms of Section 228 of the Code should be exercised very sparingly and with circumspection and that too in the rarest of rare cases.
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> 27.2. The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents submitted therewith prima facie establish the offence or not. If the allegations are so patently absurd and inherently improbable that no prudent person can ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the Court may interfere.
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> 27.3. The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.
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> 27.4. Where the exercise of such power is absolutely essential to prevent patent miscarriage of justice and for correcting some grave error that might be committed by the subordinate courts even in such cases, the High Court should be loath to interfere, at the threshold, to throttle the prosecution in the exercise of its inherent powers.

*27.5*. Where there is an express legal bar enacted in any of the provisions of the Code or any specific law in force to the very initiation or institution and continuance of such criminal proceedings, such a bar is intended to provide specific protection to an accused.

*27.6*. The Court has a duty to balance the freedom of a person and the right of the complainant or prosecution to investigate and prosecute the offender.

*27.7*. The process of the court cannot be permitted to be used for an oblique or ultimate/ulterior purpose.

*27.8*. Where the allegations made and as they appeared from the record and documents annexed therewith predominantly give rise to and constitute a "civil wrong" with no "element of criminality" and does not satisfy the basic ingredients of a criminal offence, the court may be justified in quashing the charge. Even in such cases, the court would not embark upon the critical analysis of the evidence.

*27.9*. Another very significant caution that the courts have to observe is that it cannot examine the facts, evidence and materials on record to determine whether there is sufficient material on the basis of which the case would end in a conviction; the court is concerned primarily with the allegations taken as a whole whether they will constitute an offence and, if so, is it an abuse of the process of court leading to injustice.

*27.10*. It is neither necessary nor is the court called upon to hold a full-fledged enquiry or to appreciate evidence collected by the investigating agencies to find out whether it is a case of acquittal or conviction.

*27.11*. Where allegations give rise to a civil claim and also amount to an offence, merely because a civil claim is maintainable, does not mean that a criminal complaint cannot be maintained.

*27.12*. In the exercise of its jurisdiction under Section 228 and/or under Section 482, the Court cannot take into consideration external materials given by an accused for reaching the conclusion that no offence was disclosed or that there was the possibility of his acquittal. The Court has to consider the record and documents annexed therewith by the prosecution.

*27.13*. Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit a continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to deciding the admissibility and reliability of the documents or records but is an opinion formed prima facie.

*27.14*. Where the chargesheet, reported under Section 173(2) of the Code, suffers from fundamental legal defects, the Court may be well within its jurisdiction to frame a charge.

*27.15*. Coupled with any or all of the above, where the Court finds that it would amount to an abuse of process of the Code or that the interest of justice favours, otherwise it may quash the charge. The power is to be exercised *ex debitojustitiae*i. e. to do real and substantial justice for the administration of which alone, the courts exist.

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*27.16*. These are the principles which individually and preferably cumulatively (one or more) be taken into consideration as precepts to exercise extraordinary and wide plenitude and jurisdiction under Section 482 of the Code by the High Court.

> Where the factual foundation for an offence has been laid down, the courts should be reluctant and should not hasten to quash the proceedings even on the premise that one or two ingredients have not been stated or do not appear to be satisfied if there is substantial compliance with the requirements of the offence."

11. Similar is the judgment in ***Gulam Mustafa v. State of Karnataka, 2023 SCC OnLine SC 603*** wherein it was observed:-

> "**26.** Although we are not for verbosity in our judgments, a slightly detailed survey of the judicial precedents is in order. In ***State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335***, this Court held:
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> > *"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.*
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> > *(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.*

*103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or*

> *genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice*."
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> (emphasis supplied)

12. It was laid down in ***CBI v. Aryan Singh, 2023 SCC OnLine SC 379,*** that the High Court cannot conduct a mini-trial while exercising jurisdiction under Section 482 of Cr.P.C. The allegations are required to be proved during the trial based on evidence led before the Court. It was observed:

> "**10.** From the impugned common judgment and order passed by the High Court, it appears that the High Court has dealt with the proceedings before it, as if, the High Court was conducting a mini-trial and/or the High Court was considering the applications against the judgment and order passed by the learned Trial Court on conclusion of the trial. As per the cardinal principle of law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the powers under Section 482 Cr. P.C., the Court is not required to conduct the mini-trial. The High Court in the common impugned judgment and order has observed that the charges against the accused are not proved. This is not the stage where the prosecution/investigating agency is/are required to prove the charges. The charges are required to be proved during the trial on the basis of the evidence led by the prosecution/investigating agency. Therefore, the High Court has materially erred in going in detail in the allegations and the material collected during the course of the investigation against the accused, at this stage. At the stage of discharge and/or while exercising the powers under Section 482 Cr. P.C., the Court has very limited jurisdiction and is required to consider "whether any

sufficient material is available to proceed further against the accused for which the accused is required to be tried or not."

13. This position was reiterated in ***Abhishek v. State of M.P. 2023 SCC OnLine SC 1083*** wherein it was observed:

> **12.** The contours of the power to quash criminal proceedings under Section 482 Cr. P.C. are well defined. In ***V. Ravi Kumar* v. *State represented by Inspector of Police, District Crime Branch, Salem, Tamil Nadu [(2019) 14 SCC 568]***, this Court affirmed that where an accused seeks quashing of the FIR, invoking the inherent jurisdiction of the High Court, it is wholly impermissible for the High Court to enter into the factual arena to adjudge the correctness of the allegations in the complaint. In ***Neeharika Infrastructure (P). Ltd. v. State of Maharashtra [Criminal Appeal No. 330 of 2021, decided on 13.04.2021]***, a 3-Judge Bench of this Court elaborately considered the scope and extent of the power under Section 482 Cr. P.C. It was observed that the power of quashing should be exercised sparingly, with circumspection and in the rarest of rare cases, such standard not being confused with the norm formulated in the context of the death penalty. It was further observed that while examining the FIR/complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made therein, but if the Court thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, and more particularly, the parameters laid down by this Court in ***R.P. Kapur v. State of Punjab (AIR 1960 SC 866)*** and ***State of Haryana v. Bhajan Lal [(1992) Supp (1) SCC 335]***, the Court would have jurisdiction to quash the FIR/complaint.

14. It is apparent from these judgments that power under Section 482 of Cr.P.C. can be exercised to prevent the

abuse of process or secure the ends of justice. The Court can quash the F.I.R. if the allegations do not constitute an offence or make out a case against the accused. However, it is not permissible for it to conduct a mini-trial to arrive at such findings.

15. Mr. Kush Sharma, learned counsel for the petitioners relied upon the FIR (Annexure P-3) lodged by the accused wife regarding the demand of dowry and the harassment. He submitted that the present complaint was filed as a counterblast. First, it is not permissible to look into the documents filed by the petitioner-husband along with his petition. It was laid down by the Hon'ble Supreme Court in ***MCD v. Ram Kishan Rohtagi, (1983) 1 SCC 1: 1983 SCC (Cri) 115*****,** that the proceedings can be quashed if on the face of the complaint and the papers accompanying the same no offence is constituted. It is not permissible to add or subtract anything. It was observed:

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

> will be justified in quashing the proceedings in exercise of its powers under Section 482 of the present Code."

16. Madras High Court also held in ***Ganga Bai v. Shriram, 1990 SCC OnLine MP 213: ILR 1992 MP 964: 1991 Cri LJ 2018***, that the fresh evidence is not permissible or desirable in the proceedings under Section 482 of Cr.P.C. It was observed:

> "Proceedings under Section 482, Cr.P.C. cannot be allowed to be converted into a full-dressed trial. Shri Maheshwari filed a photostate copy of an order dated 28.7.1983, passed in Criminal Case No. 1005 of 1977, to which the present petitioner was not a party. *Fresh evidence at this stage is neither permissible nor desirable. The respondent by filing this document is virtually introducing additional evidence, which is not the object of Section 482, Cr.P.C.*"

17. Andhra Pradesh High Court also took a similar view in ***Bharat Metal Box Company Limited, Hyderabad and Others vs. G. K. Strips Private Limited and another, 2004 STPL 43 AP***, and held:

> "9. This Court can only look into the complaint and the documents filed along with it and the sworn statements of the witnesses if any recorded. While judging the correctness of the proceedings, it cannot look into the documents, which are not filed before the lower Court. Section 482 Cr.PC debars the Court to look into fresh documents, in view of the principles laid down by the Supreme Court in ***State of Karnataka v. M. Devendrappa and another, 2002 (1) Supreme 192***. The relevant portion of the said judgment reads as follows:
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> "The complaint has to be read as a whole. If it 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 event there would be no justification for interference by the High Court. When 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 itself be the basis for quashing the proceedings".

18. A similar view was taken in ***Mahendra K.C. v. State of Karnataka, (2022) 2 SCC 129: (2022) 1 SCC (Cri) 401*** wherein it was observed at page 142:

> "*16*. ... the test to be applied is whether the allegations in the complaint as they stand, without adding or detracting from the complaint, prima facie establish the ingredients of the offence alleged. At this stage, the High Court cannot test the veracity of the allegations nor for that matter can it proceed in the manner that a judge conducting a trial would, on the basis of the evidence collected during the course of the trial."

19. This position was reiterated in ***Supriya Jain v. State of Haryana, (2023) 7 SCC 711: 2023 SCC OnLine SC 765***wherein it was held:

> **13.** All these documents which the petitioner seeks to rely on, if genuine, could be helpful for her defence at the trial but the same are not material at the stage of deciding whether quashing as prayed for by her before the High Court was warranted or not. We, therefore, see no reason to place any reliance on these three documents.

20. A similar view was taken in ***Iveco Magirus Brandschutztechnik GMBH v. Nirmal Kishore Bhartiya, 2023 SCC OnLine SC 1258*** wherein it was observed:

> **55.** Adverting to the aspect of the exercise of jurisdiction by the High Courts under section 482, Cr. P.C., in a case where the offence of defamation is claimed by the accused to have not been committed based on any of the Exceptions and a prayer for quashing, is made, the *law seems to be well settled that the High Courts can go no further and enlarge the scope of inquiry if the accused seeks to rely on materials which were not there before the Magistrate. This is based on the simple proposition that what the Magistrate could not do, the High Courts may not do.* We may not be understood to undermine the High Courts' powers saved by section 482, Cr. P.C.; such powers are always available to be exercised *ex debito justitiae*, i.e., to do real and substantial justice for the administration of which alone the High Courts exist. However, the tests laid down for quashing an F.I.R. or criminal proceedings arising from a police report by the High Courts in the exercise of jurisdiction under section 482, Cr. P.C. not being substantially different from the tests laid down for quashing of a process issued under section 204 read with section 200, the High Courts on recording due satisfaction are empowered to interfere if on a reading of the complaint, the substance of statements on oath of the complainant and the witness, if any, and documentary evidence as produced, no offence is made out and that proceedings, if allowed to continue, would amount to an abuse of the legal process. This too, would be impermissible if the justice of a given case does not overwhelmingly so demand." (Emphasis supplied)

21. Therefore, it is not permissible to look into the material filed by the petitioner with the petition and the Court

has to rely upon the contents of the F.I.R. and the material collected by the police during the investigations.

22. Secondly, it was laid down by the Hon'ble Supreme Court in ***Aryan Singh (supra)*** that the fact whether the proceedings are malicious or not is not to be seen while exercising jurisdiction under Section 482 of Cr. P.C. but at the time of conclusion of the trial. It was observed:

> "**11.** One other reason pointed by the High Court is that the initiation of the criminal proceedings/proceedings is malicious. At this stage, it is required to be noted that the investigation was handed over to the CBI pursuant to the directions issued by the High Court. That thereafter, on conclusion of the investigation, the accused persons have been charge-sheeted. Therefore, the High Court has erred in observing at this stage that the initiation of the criminal proceedings/proceedings is malicious. *Whether the criminal proceedings was/were malicious or not, is not required to be considered at this stage. The same is required to be considered at the conclusion of the trial. In any case, at this stage, what is required to be considered is a prima facie case and the material collected during the course of the investigation, which warranted the accused to be tried.*" (Emphasis supplied)

23. It was specifically stated in the complaint that the accused wife had taken the gold ornaments and cash worth ₹15.00 lacs in connivance with her parents. These allegations clearly show the commission of offences punishable under Sections 379 and 120B of IPC at this stage.

24. It was submitted that the learned Trial Court had not passed a reasoned order. This submission is not acceptable. Learned Trial Court had discussed the contents of the complaint and the statements of the witnesses to conclude that offences punishable under Sections 406, 407, 420 and 427 of Cr.P.C. were not made out; however, the offence punishable under Sections 379 and 120-B of IPC were made. The order is quite detailed and reasoned. The fact that the learned Trial Court had not issued the summons under all the Sections mentioned in the complaint and had given the reasons, negate the plea of the petitioners that the learned Trial Court had not applied its mind while issuing the summons.

25. It was laid down by the Hon'ble Supreme Court in ***U.P. Pollution Control Board v. Mohan Meakins Ltd., (2000) 3 SCC 745: 2000 SCC OnLine SC 589***, that there is no need to record reasons while issuing the summons. It was observed:

> 6. In a recent decision of the Supreme Court it has been pointed out that the legislature has stressed the need to record reasons in certain situations such as dismissal of a complaint without issuing a process. There is no such legal requirement imposed on a Magistrate for passing detailed order while issuing summons vide ***Kanti Bhadra Shah v. State of W.B. [(2000) 1 SCC 722: 2000 SCC (Cri) 303]***

The following passage will be apposite in this context: (SCC p. 726, para 12)

> "12. If there is no legal requirement that the trial court should write an order showing the reasons for framing a charge, why should the already burdened trial courts be further burdened with such extra work. The time has reached to adopt all possible measures to expedite the court procedures and to chalk out measures to avert all roadblocks causing avoidable delays. If a Magistrate is to write detailed orders at different stages merely because the counsel would address arguments at all stages, the snail-paced progress of proceedings in trial courts would further be slowed down. We are coming across interlocutory orders of Magistrates and Sessions Judges running into several pages. *We can appreciate it if such a detailed order has been passed for culminating the proceedings before them. But it is quite unnecessary to write detailed orders at other stages, such as issuing process, remanding the accused to custody, framing of charges, passing over to next stages in the trial.*"
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> (emphasis supplied)

26. This position was reiterated in ***State of Gujarat v. Afroz Mohammed Hasanfatta, (2019) 20 SCC 539 2019 SCC OnLine SC 132*** wherein it was observed:

> 22. In summoning the accused, it is not necessary for the Magistrate to examine the merits and demerits of the case and whether the materials collected is adequate for supporting the conviction. The court is not required to evaluate the evidence and its merits. The standard to be adopted for summoning the accused under Section 204 CrPC is not the same at the time of framing the charge. For issuance of summons under Section 204 CrPC, the expression used is "there is sufficient ground for

> proceeding...”; whereas for framing the charges, the expression used in Sections 240 and 246 IPC is “there is ground for presuming that the accused has committed an offence...”. At the stage of taking cognizance of the offence based upon a police report and for issuance of summons under Section 204 CrPC, detailed enquiry regarding the merits and demerits of the case is not required. The fact that after investigation of the case, the police have filed a charge sheet along with the materials thereon may be considered as sufficient ground for proceeding for the issuance of summons under Section 204 CrPC.

27. It was submitted that the contents of the complaint are false and the same should be quashed. It was laid down by the Hon’ble Supreme Court in ***State of Maharashtra v. Maroti, (2023) 4 SCC 298: 2022 SCC OnLine SC 1503*** that the High Court exercising the power under Section 482 of Cr.P.C. cannot examine the truthfulness, sufficiency and admissibility of the evidence. It was observed:

> **21.** If FIR and the materials collected disclose a cognizable offence and the final report filed under Section 173(2)CrPC on completion of investigation based on it would reveal that the ingredients to constitute an offence under the POCSO Act and a prima facie case against the persons named therein as accused, the truthfulness, sufficiency or admissibility of the evidence are not matters falling within the purview of exercise of power under Section 482CrPC and undoubtedly they are matters to be done by the trial court at the time of trial. This position is evident from the decisions referred to supra.
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> **22.** In the decision in ***M.L. Bhatt* v. *M.K. Pandita*** [***M.L. Bhatt* v. *M.K. Pandita***, (***2023) 12 SCC 821: 2002 SCC OnLine***

> ***SC 1300: JT (2002) 3 SC 89]***, this Court held that while considering the question of quashing of FIR the High Court would not be entitled to appreciate by way of sifting the materials collected in course of investigation including the statements recorded under Section 161CrPC.
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> **23.** In the decision in ***Rajeev Kourav v. Baisahab [Rajeev Kourav v. Baisahab, (2020) 3 SCC 317 : (2020) 2 SCC (Cri) 51]***, a two-judge Bench of this Court dealt with the question as to the matters that could be considered by the High Court in quashment proceedings under Section 482CrPC. It was held therein that statements of witnesses recorded under Section 161CrPC being wholly inadmissible in evidence could not be taken into consideration by the Court while adjudicating a petition filed under Section 482CrPC. In that case, this Court took note of the fact that the High Court was aware that one of the witnesses mentioned that the deceased victim had informed him about the harassment by the accused, which she was not able to bear and hence wanted to commit suicide. Finding that the conclusion of the High Court to quash the criminal proceedings, in that case, was on the basis of its assessment of the statements recorded under Section 161CrPC, it was held that statements thereunder, being wholly inadmissible in evidence could not have been taken into consideration by the Court while adjudicating a petition filed under Section 482CrPC. It was also held that the High Court committed an error in quashing the proceedings by assessing the statements recorded under Section 161CrPC.

28. No other point was urged.

29. Therefore, the present matter is not such where the extraordinary power under Section 482 of Cr.P.C. is to be exercised. Hence, the present petition fails and the same is dismissed.

30. The observation made herein before shall remain confined to the disposal of the petition and will have no bearing, whatsoever, on the merits of the case.

**(Rakesh Kainthla)**
**Judge**

2nd January, 2024
(Chander)