

46. Moreover, in the facts of the present case looking at the nature of the offence disclosed in the police report, the case which is to be tried would be a summons case and the procedure prescribed for the same would be as per Chapter XX of the Code, wherein there is no distinction with regard to the manner in which the trial is to proceed between cases instituted on a police report and those instituted otherwise than on a police report i.e. a complaint. Accordingly, there would be no material change in the procedure of trial and as such the applicant cannot be said to have been prejudiced by the order of cognizance by the Magistrate, for this reason also.

47. In the case at hand, the proceedings were initiated with the registration of an NCR relating to non-cognizable offence and the investigation was carried out by the police pursuant to an order of the Magistrate under Section 155(2) of the Code and thereafter a police report under Section 173(2) also disclosing non-cognizable offence was placed whereupon cognizance was taken by the Magistrate. In view of the foregoing discussion, these set of facts would correspond to *Case III*, as referred to in paragraph 39 and accordingly, the same would not be covered within the purview of the explanation to Section 2(d) to bring it within the ambit of the term "complaint". The cognizance taken by the Magistrate, therefore, cannot be faulted with.

48. This court is, therefore, not inclined to exercise its inherent jurisdiction under Section 482 of the Code in the facts of the present case.

48. The application thus, fails and is accordingly, **dismissed**.

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**(2022)01ILR A436**  
**ORIGINAL JURISDICTION**  
**CRIMINAL SIDE**  
**DATED: ALLAHABAD 19.01.2022**

**BEFORE**

**THE HON'BLE ASHUTOSH SRIVASTVA, J.**

Application U/S 482 Cr.P.C. No.23667 of 2008

**Bhupinder Singh & Ors.                      ...Applicants**  
**Versus**  
**State of U.P. & Anr.                      ...Opposite Parties**

**Counsel for the Applicants:**  
 Komal Khare, Sri Somesh Khare

**Counsel for the Opposite Parties:**  
 G.A., Sri A.P. Tiwari, Sri S.S. Tripathi

**(A) Criminal Law - The Code of Criminal Procedure, 1973 - Section 482 - Inherent power - Section 200,202 - Indian Penal Code, 1860 - Section 383 - Extortion, Section 386 - Extortion by putting a person in fear of death or grievous hurt , section 506 - Punishment for criminal intimidation .**

Complaint against applicants and two armed unknown persons - allegation - applicants asked complainant to sign certain blank papers - for the purpose of compromising proceedings - refusal - applicants pulled gun on the wife of complainant - applicants summoned to face trial - applicants approached Court for quashing the entire proceedings.(Para - 2 to 6)

**HELD:-** Continuation of the criminal proceedings against the applicants is an abuse of process of the Court and ends of justice requires that the said proceedings be quashed . Entire criminal proceedings quashed. (Para - 22)

**Application u/s 482 Cr.P.C. allowed. (E-7)**

**List of Cases cited:-**

1. St. of Hary. & ors. Vs Bhajan Lal & ors., 1992 Supp (1) SCC 335

2. St. of A.P. Vs Golconda Linga Swamy & anr., (2004) 6 SCC 522

3. Zandu Pharmaceutical Works Ltd. Vs Mohd. Sharaful Haque, 2005(1) SCC 122

(Delivered by Hon'ble Ashutosh  
Srivastava, J.)

1. Heard Sri Somesh Khare, learned counsel for the applicants and Sri A.P. Tiwari, learned counsel representing the Opposite Party No.2. Learned A.G.A. appears on behalf of the State.

2. The instant application under Section 482 Cr.P.C. has been filed seeking quashing of the proceedings of Criminal Complaint Case No.4859 of 2002 (Deepchand Vs. Bhupendra and others) (renumbered as 91 of 2007) under Sections 506, 386 I.P.C., P.S. Turkpatti, District Kushinagar, instituted by the Opposite Party No.2 against the applicants and pending before the court of the learned 2nd Additional Civil Judge (Jr. Division)/Judicial Magistrate, Kasaya, Kushinagar.

3. Briefly stated the facts sworn of unnecessary details are that the Opposite Party No.2, Deep Chand Singh, who was employed as a Workman/Assistant Operator in the establishment of the applicants namely K & T Chemicals Pvt. Ltd., Rampur, Doraha, District Ludhiana, lodged a Criminal Complaint on 07.01.2002 before the Chief Judicial Magistrate, Kasaya, District Kushinagar, against the applicants and two armed unknown persons alleging inter-alia that on 16.12.2001 at about 12:00 noon the applicants who are the Manager, Director and Managing Director of K & T Chemicals Pvt. Ltd., Rampur Doraha Ludhiana along with two gunmen came in a Car and asked the

complainant to sign certain blank papers.

On asking of the complainant to sign certain blank papers the applicants informed him that the papers would be used for the purpose of filing compromise in the case lodged by him against the company in the Tribunal and for withdrawing the same. On the refusal of the complainant the applicants got annoyed and pulled the gun on the wife of the complainant and threatened to abduct her and his child and kill them. The Opposite Party No.2 further stated in the complaint that he had worked in the Company in the capacity of Assistant Operator and on 16.17.2000 night about 2:30 am he lost both his eyes during the course of working and he has lodged a case for compensation in the Labour Tribunal Ludhiana which is pending. The complainant out of fear put his signatures on all five pages. The incident was witnessed by the wife of the complainant, Madan Singh son of late Sitaram Singh and Ram Niwas son of Vijay Bahadur. The applicants left after threatening the family of the complainant. The FIR was not registered despite all efforts and finally the complaint has been lodged with the prayer that the applicants be summoned and punished.

4. The learned Judicial Magistrate, Kasaya, Kushinagar after considering the statements of the Complainant/Opposite Party No.2 and witnesses recorded under Sections 200 and 202 Cr.P.C. and other materials on record dismissed the complaint vide order dated 22.02.2002 being of the view that no ground to prosecute the applicants under Sections 386 and 506 IPC was made out as admittedly both eyesight of the complainant was lost and from the statement of PW-1 and PW-2 the identity of the accused applicants, who were alleged to have visited the complainant, could not be established.

5. The order dated 22.10.2002 of the Judicial Magistrate, Kasaya Kushinagar was carried in Revision before the District and Sessions Judge (FTC) Ist, Kushinagar being Criminal Revision No.61 of 2003. The Revisional Court set aside the order dated 22.10.2002 of the Judicial Magistrate rejecting the complaint being of the view that the learned Magistrate failed in his legal duty to test the statement of the complainant as also the witnesses PW-1 and PW-2 by asking questions. The Revisional Court observed that offence under Sections 386, 506 I.P.C. was made out against the applicants. The Judicial Magistrate was directed to rehear the complainant and pass appropriate orders. The learned Magistrate vide his order dated 13.02.2007 in compliance of the order of the Revisional Court holding that offence under Sections 386 and 506 I.P.C. was made out against the applicants summoned the applicants to face the trial.

6. The applicants in the aforesaid circumstances have approached this Court for quashing the entire proceedings of the complaint case.

7. The Opposite Party No.2, Deep Chand Singh/Complainant has put in appearance and filed his counter affidavit though Sri A.P. Tiwari, Advocate. The application under Section 482 Cr.P.C. is opposed on the ground that the Opposite Party No.2/Complainant lost both of his eyes in an accident in the factory premises during the course of employment on 16/17.08.2000 at 2:30 A.M. and the reconciliation before the D.L.C. failed and the dispute was referred to the Labour Tribunal and since the complainant had lost both his eyes and became helpless and by forcible taking the signatures of the complainant on blank papers the applicants

misused the same and got the case before the Labour Tribunal dismissed as withdrawn.

8. The learned Magistrate did not properly appreciate the averments made in the complaint and statements under Sections 200 & 202 Cr.P.C. and the order rejecting the complaint was rightly set aside by the Revisional Court. After remand, the learned Magistrate is well within his powers to summon the applicants to face the trial. There is no illegality in the order of the learned Magistrate and no interference is called for and the application under Section 482 Cr.P.C. being devoid of merits warrants dismissal.

9. It is submitted by the learned counsel for the applicants that the unfortunate incident which resulted in the loss of both eyesight of the Opposite Party No.2, took place on account of the negligent attitude of the Opposite Party No.2. While working in the chemical factory the workmen are required to put on safety glasses along with safety spectacles which the Opposite Party No.2 did not do. The applicants being sympathetic to the Opposite Party No.2 look him to various eye specialists but efforts to restore his eyesight were in vein. He submits that the incident at the factory took place on 17.08.2000. The alleged occurrence takes place as per version of the complaint of the Opposite Party No.2 on 16.12.2001. The complaint is stated to have been lodged on 07.01.2002. The proceedings before the Labour Court, Ludhiana is stated to have been lodged on 27.08.2002 after about seven months and decided on 01.06.2005 as is evident from Annexure-9 to the affidavit filed in support of the Application under Section 482 Cr.P.C. If the statements

under Sections 200 and 202 Cr.P.C. along with allegations in the complaint are presumed to be true, the alleged obtaining of blank signatures by the applicants for the purpose of compromising the proceedings before the Labour Court, Ludhiana falls flat inasmuch as on the date of the incident, no proceedings before the Labour Court were pending. He submits that the filing of the complaint by the Opposite Party No.2 is nothing, but an abuse of the process of the Court and hence, the entire proceedings are liable to be quashed.

10. He further submits that no offence under Sections 386, 506 IPC is made out against the applicants and learned Magistrate has committed grave error in summoning the applicants to face the trial under the aforesaid sections.

11. The submissions of the learned counsel for the applicants may be summed up as under:

(1) No offence under Sections 386 and 506 IPC can be said to be made out from the allegations made under the complaint.

(2) The complainant has prima facie failed to demonstrate that the elements of Section 383 IPC are available to maintain the criminal complaint.

(3) The Courts below i.e. the learned Magistrate as also the Revisional Court failed in its duty to ascertain that all elements provided for in Section 383 IPC were available and attracted in order to maintain the criminal complaint.

12. In order to appreciate the submissions of the learned counsel for the

applicants, it would be apt to consider the provisions of Sections 386 & 506 IPC. Section 386 IPC provides for punishment for extortion by putting a person in fear of death or grievous hurt. What would constitute extortion is provided under Section 383 of the Indian Penal Code, which reads as under:

**"383. Extortion.** - *Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or anything signed or sealed which may be converted into a valuable security, commits "extortion".*"

13. A bare perusal of the aforementioned provision would demonstrate that the following ingredients would constitute the offence.

1. The accused must put any person in fear of injury to that person or any other person.

2. The putting of a person in such fear must be intentional.

3. The accused must thereby induce the person so put in fear to deliver to any person, any property, valuable security or anything signed or sealed which may be converted into a valuable security.

4. Such inducement must be done dishonestly.

14. Section 386 IPC reads as under:

**"386. Extortion by putting a person in fear of death or grievous hurt.** -

*Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."*

15. It would also be appropriate to understand the words "Valuable and Security" appearing in Section 383 IPC.

16. The term "Valuable as defined in Blacks' Law Dictionary means-Worth a good price, having financial as market value. The term "Security" as defined in the Dictionary means:-

*1. Collateral given or pledged to guarantee the fulfillment of an obligations; esp. the assurance that a creditor will be repaid (sus. With interest) any money or credit extended to a debtor. 2. A person who is bound by some type of guarantee; SURETY. 3. The stat of being secure, esp. from danger or attack. 4. An instrument that evidences the holder's ownership right to firm (e.g. a stock), the holder's creditor relationship with a firm or Government (e.g. a bond). \*A security indicates an interest based on an investment in a common enterprise. Under an important statutory definition, a security is any interest or instrument relating to finances, including a note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in a profit sharing agreement, collateral trust certificate, reorganization certificate or subscription, transferable share, investment contract, voting trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, or certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or*

*warrant or right to subscribe to or purchase any of these things. A security also includes any put, call, straddle, option, or privilege on any security, certificate of deposit, group or index of securities, or any such device entered into on a national securities exchange, relating to foreign currency. 15 USCA {77b(1) Cf. SHARE(2); stock (4).*

17. Now, having regard to the facts and circumstances of the case, the Court is of the opinion that no case under Section 386 IPC can be said to be made out against the applicants from the allegations set out in the criminal complaint lodged against them. The reasons for the same are as under:-

(1) The blank papers allegedly got signed by the applicants from the complainant were never converted into a valuable security. The said blank papers were never used before the Presiding Officer, Labour Court, Ludhiana. There is no allegation in this regard in the complaint or in the statements recorded under Sections 200 and 202 Cr.P.C.

(2) The records reveal that the case before the Labour Court, Ludhiana is Reference No.1396 was got instituted on 27.08.2002 much after the lodging of the complaint on 07.01.2002. On the date of institution of the complainant i.e. on 07.01.2002 there was no proceedings pending before the Labour Court, Ludhiana, where the signed papers could be utilized. Moreover, the proceedings before the Labour Court, Ludhiana were not pressed on the statement of the authorized representative of the workman/ Opposite Party No.2 to the effect that he does not press the reference for the time being on account of technical error i.e. wrong name

of the opposite party and he reserved the right to file fresh dispute after rectifying the error. The reference was answered accordingly with observation that the workman will be at liberty to file fresh dispute after rectifying the error if he so desired vide order dated 02.06.2005 which has been filed on record by the applicants.

(3) The Opposite Party No.2/Complainant has miserably failed to demonstrate that ingredients of Section 383 IPC are available in the complaint so instituted so as to warrant criminal prosecution of the applicants under Section 386 IPC.

(4) The factum that after withdrawal of the case before the Labour Court, Ludhiana no fresh claim was instituted despite liberty having been granted to the Opposite Party No.2 goes a long way in establishing the falsity of the case against the applicants. The criminal complaint against the applicants can safely be said to have been instituted maliciously with ulterior motive and as such is frivolous, vexatious or oppressive and is an abuse of the process of the Court.

(5) The allegations in the complaint regarding criminal intimidation at the instance of the applicants have been made only to add colour to the complaint. The alleged occurrence of the incident appears to be improbable in the wake of the allegations set out in the complaint. No offence under Section 506 IPC can be said to be made out against the applicants.

19. The Apex Court in the case of ***State of Haryana and others Vs. Bhajan Lal and others***, reported in ***1992 Supp (1) SCC 335*** 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) The Code of Criminal Procedure 1973; Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) The Code of Criminal Procedure 1973; 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."*

20. The law laid down in the case of Bhajan Lal (Supra) was reiterated in the case of ***State of Andhra Pradesh Vs. Golconda Linga Swamy and another*** (2004) 6 SCC 522 wherein the Apex Court has observed as under:-

*"5. Exercise of power under Section 482 of the Code in a case of this*

*nature is the exception and not the rule. The Section does not confer any new powers on the High Court. It only saves the inherent power which the Court possessed before the enactment of the Code. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely, (i) to give effect to an order under the Code, (ii) to prevent abuse of the process of court, and (iii) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the Section which merely recognizes and preserves inherent powers of the High Courts. All courts, whether civil or criminal possess, in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice on the principle *quando lex aliquid aliunde concedit, conceditur et id sine quo res ipsa esse non potest* (when the law gives a person anything it gives him that without which it cannot exist). While exercising powers under the Section, the Court does not function as a court of appeal or revision. Inherent jurisdiction under the Section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the Section itself. It is to be exercised *ex debito justitiae* to do real and substantial justice for the administration of which alone courts exist.*

*Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent such abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercises of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.*

*6. In R.P. Kapur v. State of Punjab (AIR 1960 SC 866), this Court summarized some categories of cases where inherent power can and should be exercised to quash the proceedings: (AIR p.869, para 6).*

*(i) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;*

*(ii) where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged;*

*(iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.*

*7. In dealing with the last category, 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 clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge. Judicial process no doubt should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the Section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death. The scope of exercise of power under Section 482 of the Code and the categories of cases where the High Court may exercise its power under it relating to cognizable offences to prevent abuse of process of any court or otherwise to secure the ends of justice were set out in some detail by this Court in State of Haryana v. Bhajan Lal (1992 Supp (1) SCC 335) A note of caution was, however, added that the power should be exercised sparingly and that too in rarest of rare cases. The illustrative categories indicated by this Court are as follows: (SCC pp.378-79 para 102)*

*"(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 F.I.R. 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 F.I.R. 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 S. 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.*

8. As noted above, 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. 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. (See : *The Janata Dal etc. v. H.S. Chowdhary and others, etc.* (AIR 1993 SC 892), *Dr. Raghubir Saran v. State of Bihar and another* (AIR 1964 SC 1)). 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 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/F.I.R. 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 or disclosed in the F.I.R. that the ingredients of the offence or offences are disclosed and there is no material to show that the complaint/F.I.R. is mala fide, frivolous or vexatious, in that event 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 itself be the basis for quashing the proceeding. (See : Mrs. Dhanalakshmi v. R. Prasanna Kumar and others (AIR 1990 SC 494), State of Bihar and another v. P. P. Sharma, I.A.S. and another (1992 Suppl (1) SCC 222), Rupan Deol Bajaj (Mrs.) and another v. Kanwar Pal Singh Gill and another (1995 (6) SCC 194), State of Kerala and others v. O.C. Kuttan and others (1999 (2) SCC 651), State of U.P. v. O. P. Sharma (1996 (7) SCC 705), Rashmi Kumar (Smt.) v.*

*Mahesh Kumar Bhada (1997 (2) SCC 397), Satvinder Kaur v. State (Govt. of NCT of Delhi) and another (1999 (8) SCC 728), Rajesh Bajaj v. State NCT of Delhi and others AIR 1999 SC 1216), State of Karnataka v. M. Devendrappa and another (2002 (3) SCC 89)."*

21. Yet again the Apex Court in the case of **Zandu Pharmaceutical Works Ltd. Vs. Mohd. Sharaful Haque**, reported in **2005(1) SCC 122** observed as under:-

*"11. The scope of exercise of power under Section 482 of the Code and the categories of cases where the High Court may exercise its power under it relating to cognizable offences to prevent abuse of process of any court or otherwise to secure the ends of justice were set out in some detail by this Court in State of Haryana v. Bhajan Lal (1992 Supp (1) 335). A note of caution was, however, added that the power should be exercised sparingly and that too in rarest of rare cases. The illustrative categories indicated by this Court are as follows: (SCC pp.378-79, para 102)*

*"102(1) Where the allegations made in the first information report or the complaint, even if they are taken at their 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 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."*

*As noted above, 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. (See: Janata Dal v. H.S. Chowdhary (1992 (4) SCC 305), and Raghubir Saran (Dr.) v. State of Bihar (AIR 1964 SC 1). 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. 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 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. (See: Dhanalakshmi vs. R. Prasanna Kumar (1990 Supp SCC 686), State of Bihar v. P.P. Sharma (AIR 1996 SC 309), Rupan Deol Bajaj v. Kanwar Pal Singh Gill (1995 (6) SCC 194), State of Kerala v. O.C. Kuttan (AIR 1999 SC 1044), State of U.P. v. O.P. Sharma (1996 (7) SCC 705), Rashmi Kumar v. Mahesh Kumar Bhada (1997 (2) SCC 397), Satvinder Kaur v. State (Govt. of NCT of Delhi) (AIR 1996 SC 2983) and Rajesh Bajaj v. State NCT of Delhi."*

22. In view of the above, and for the reasons stated above, the Court is of the considered opinion that the continuation of the criminal proceedings against the applicants is an abuse of process of the Court and ends of justice requires that the said proceedings be quashed.

23. Consequently, invoking the inherent powers under Section 482 Cr.P.C., the entire criminal proceedings of Complaint Case No.4859 of 2002 (Deep

Chand Vs. Bhupendra & others) (Renumbered as 91 of 2007) under Sections 506, 386 IPC, Police Station Turkpatti, District Kushinagar pending before the 2nd Additional Civil Judge (Jr. Division)/ Judicial magistrate, Kasaya, Kushinagar is hereby quashed.

24. The application stands **allowed**.

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**(2022)011LR A447**

**APPELLATE JURISDICTION**

**CRIMINAL SIDE**

**DATED: LUCKNOW 10.01.2022**

**BEFORE**

**THE HON'BLE RAMESH SINHA, J.**

Criminal Appeal No. 423 of 1995

<b>Lot Prasad</b>		<b>...Appellant</b>
	<b>Versus</b>	
<b>State of U.P.</b>		<b>...Respondent</b>

**Counsel for the Appellant:**

I.B. Singh, Janardhan Singh

**Counsel for the Respondent:**

G.A., Kapil Kumar Bhargava, Neeraj Kumar Tiwari, S.K. Singh Kalhans, Shikha Srivastava, Vijat Kr. Tiwari

**Criminal Law – Indian Penal Code, 1860 – Section 302/34 - Session Judge acquitted three co-accused-convicted Appellant u/s 302/34 IPC-Ante –mortem injuries shows injuries of laathi and danda have not been found on the person of deceased as alleged in the FIR-no attempt made by the informant & ors. family member-to save the deceased-cast doubt upon prosecution case-enmity on record-possibility of false implication cannot be ruled out. All other co-accused acquitted giving benefit of doubt-Appellant entitled for benefit of doubt.**

**Appeal allowed. (E-9)**