



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

WEDNESDAY, THE 22<sup>ND</sup> DAY OF MAY 2024 / 1ST JYAISHTA, 1946

CRL.MC NO. 2344 OF 2024

CRIME NO.761/2023 OF MEDICAL COLLEGE POLICE STATION,

THIRUVANANTHAPURAM

CR NO.761 OF 2023 OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE,

THIRUVANANTHAPURAM

PETITIONER/ACCUSED NO.1:

VIGNESH KUMAR BALASUNDAR

AGED 33 YEARS

S/O.BALASUNDAR, SAI SUNDARRAJAN APPARTMENT, NO.4A,  
VATHRI NAGAR, KUVUNDANPALAYAM, COIMBATORE, TAMILNADU,  
PIN - 641030

BY ADVS.

N.L.BITTO

MITHUL T ANTO

RESPONDENTS/STATE/COMPLAINANT:

- 1 THE STATE OF KERALA  
REP. BY THE SUB INSPECTOR OF POLICE, MEDICAL COLLEGE  
POLICE STATION, THIRUVANANTHAPURAM, THROUGH THE  
PUBLIC PROSECUTOR, HIGH COURT OF KERALA AT ERNAKULAM,  
PIN - 682031
- 2 SNEHA SUNDER RAJAN  
AGED 30 YEARS  
D/O.SUNDER RAJAN, PRA-29, JEEVAN NAGAR, POTTAKUZHI  
DESOM, PATTAM P.O., THIRUVANANTHAPURAM, PIN - 695004  
R1 BY SR.PUBLIC PROSECUTOR SRI.RENJIT GEORGE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON  
22.05.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**CR****ORDER**

Dated this the 22<sup>nd</sup> day of May, 2024

This Criminal Miscellaneous Case has been filed under Section 482 of the Code of Criminal Procedure, 1973, to quash Annexure 1 FIR in Crime No.761/2023 of Medical College Police Station, Thiruvananthapuram, alleging commission of offence punishable under Section 498A r/w Section 34 of the IPC.

2. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

3. According to the learned counsel for the petitioner, a private complaint filed before the Magistrate Court, was forwarded to the police, whereby, FIR in Crime No.761/2023 was registered. But the complaint and the FIR do not disclose essentials to constitute an offence punishable under Section 498A r/w Section 34 of the IPC. Therefore, the FIR is liable to be quashed.

4. It is submitted by the learned Public Prosecutor that, the contents in the complaint filed by the 2<sup>nd</sup> respondent herein, prima facie, discloses materials warranting investigation for the



offence on the basis of FIR registered. Therefore, quashment of FIR cannot be considered and the same deserves dismissal.

5. Adverting to the essentials to quash FIR, the Hon'ble Apex Court in **[1992 Supp (1) SCC 335 : (AIR 1992 SC 604)] (State of Haryana and others v. Bhajan Lal and others)** 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 Art.226 or the inherent powers under S.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 channelized 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 F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under S.156(1) of the Code except under an order of a Magistrate within the purview of S.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 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."*

6. In the decision of the Hon'ble Apex Court in **Suresh Kumar Goyal and others v. State of Uttar Pradesh and another** reported in **[2019 (14) SCC 318] : [AIR 2019 SC 535]**, in paragraph No.12, it was held as under:

*"12. While dealing with the jurisdiction under S.482 Cr.P.C. to quash the proceedings at the stage of issuance of process, or at the stage of committal, or at the stage of framing of charges, that is to say before the commencement of actual trial, in the light of material placed on record by the accused, this Court in Rajiv Thapar v. Madan Lal Kapoor (2013 AIR SCW 784) laid down as under: (SCC pp. 347-48, paras 28-30)*

*"28. The High Court, in exercise of its jurisdiction under S.482 Cr.P.C., must make a just and rightful choice. This is not a stage of evaluating the truthfulness or otherwise of the allegations levelled by the prosecution / complainant against the accused.*



*Likewise, it is not a stage for determining how weighty the defences raised on behalf of the accused are. Even if the accused is successful in showing some suspicion or doubt, in the allegations levelled by the prosecution / complainant, it would be impermissible to discharge the accused before trial. This is so because it would result in giving finality to the accusations levelled by the prosecution/complainant, without allowing the prosecution or the complainant to adduce evidence to substantiate the same. The converse is, however, not true, because even if trial is proceeded with, the accused is not subjected to any irreparable consequences. The accused would still be in a position to succeed by establishing his defences by producing evidence in accordance with law. There is an endless list of judgments rendered by this Court declaring the legal position that in a case where the prosecution / complainant has levelled allegations bringing out all ingredients of the charge(s) levelled, and have placed material before the Court,*



*prima facie* evidencing the truthfulness of the allegations levelled, trial must be held.

29. The issue being examined in the instant case is the jurisdiction of the High Court under S.482 Cr.P.C., 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 S.482 Cr.P.C., 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 S.482 Cr.P.C. 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 S.482 Cr.P.C. to quash such criminal proceedings, for that would prevent abuse of process of*





*the court, and secure the ends of justice.*

*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 S.482 Cr.P.C.:*

*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?*

*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 S.482 Cr.P.C. 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."*

*In para 30.5 of the above judgment, it has been held that in case the judicial conscience of this Court is persuaded to quash the criminal proceedings in exercise of power vested in it under S.482 Cr.PC for doing justice to the accused, then, the same should be resorted to as it would save precious court time, which would otherwise be wasted in holding a trial,*



*especially when it is clear that the same would not conclude in the conviction of the accused.*

7. In a more recent decision of a three Judge Bench in **Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and Others**, reported in [2021 (3) KHC 25 : AIR 2021 SC 1918 : 2021 LiveLaw (SC) 211], the Hon'ble Apex Court enunciated the following principles in relation to the Court exercising its jurisdiction under Art.226 of the Constitution or S.482 of the Cr.P.C.:

*"80. In view of the above and for the reasons stated above, our final conclusions on the principal / core issue, whether the High Court would be justified in passing an interim order of stay of investigation and / or "no coercive steps to be adopted", during the pendency of the quashing petition under S.482 Cr.PC and/ or under Art.226 of the Constitution of India and in what circumstances and whether the High Court would be justified in passing the order of not to arrest the accused or "no coercive steps to be adopted" during the investigation or till the final report / charge sheet is filed under S.173 Cr.P.C., while dismissing / disposing of / not entertaining / not quashing the criminal proceedings / complaint / FIR in exercise of powers under S.482 Cr.P.C. and / or under Art. 226 of the*



*Constitution of India, our final conclusions are as under:*

- i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence;*
- ii) Courts would not thwart any investigation into the cognizable offences;*
- iii) It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on;*
- iv) The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the 'rarest of rare cases (not to be confused with the formation in the context of death penalty).*
- v) While examining an 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 in the FIR / complaint;*
- vi) Criminal proceedings ought not to be scuttled at the initial stage;*
- vii) Quashing of a complaint / FIR should be an exception rather than an ordinary rule;*
- viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since*



*the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere;*

*ix) The functions of the judiciary and the police are complementary, not overlapping;*

*x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;*

*xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;*

*xii) The first information report is not an encyclopedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint / FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file*



*an appropriate report / summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;*

*xiii) The power under S.482 Cr.P.C. is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the court;*

*xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra): (AIR 1992 SC 604), has the jurisdiction to quash the FIR / complaint;*

*xv) When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under S.482 Cr.P.C., only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency / police to investigate the allegations in the FIR;*

*xvi) The aforesaid parameters would be applicable and / or the aforesaid aspects are*



*required to be considered by the High Court while passing an interim order in a quashing petition in exercise of powers under S.482 Cr.P.C. and / or under Art.226 of the Constitution of India. However, an interim order of stay of investigation during the pendency of the quashing petition can be passed with circumspection. Such an interim order should not require to be passed routinely, casually and / or mechanically. Normally, when the investigation is in progress and the facts are hazy and the entire evidence / material is not before the High Court, the High Court should restrain itself from passing the interim order of not to arrest or "no coercive steps to be adopted" and the accused should be relegated to apply for anticipatory bail under S.438 Cr.P.C. before the competent court. The High Court shall not and as such is not justified in passing the order of not to arrest and / or "no coercive steps" either during the investigation or till the investigation is completed and / or till the final report / chargesheet is filed under S.173 Cr.P.C., while dismissing / disposing of the quashing petition under S.482 Cr.P.C. and/or under Art. 226 of the Constitution of India.*



xvii) *Even in a case where the High Court is prima facie of the opinion that an exceptional case is made out for grant of interim stay of further investigation, after considering the broad parameters while exercising the powers under S.482 Cr.P.C. and/or under Art.226 of the Constitution of India referred to herein above, the High Court has to give brief reasons why such an interim order is warranted and / or is required to be passed so that it can demonstrate the application of mind by the Court and the higher forum can consider what was weighed with the High Court while passing such an interim order.*

xviii) *Whenever an interim order is passed by the High Court of "no coercive steps to be adopted" within the aforesaid parameters, the High Court must clarify what does it mean by "no coercive steps to be adopted" as the term "no coercive steps to be adopted" can be said to be too vague and / or broad which can be misunderstood and / or misapplied. (emphasis supplied)".*

8. In the decision in **Usha Chakraborty and Another v. State of West Bengal and Another** reported in **[AIR 2023 SC 688]**, the Hon'ble Apex Court





quashed criminal proceedings after noticing that the attempt was to give a cloak of criminal offence to a civil dispute.

Relevant paragraphs from the judgment are as under: -

*"5.1 In Paramjeet Batra v. State of Uttarakhand and Others (AIROnline 2012 SC 724), this Court held: -*

*"12. While exercising its jurisdiction under S.482 of the Code of the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of the facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court."*



*5.2 In Vesa Holdings Private Limited and Another v. State of Kerala and Others (2015 AIR SCW 2245), it was held that: -*

*“13. It is true that a given set of facts may make out a civil wrong as also a criminal offence and only because a civil remedy may be available to the complainant that itself cannot be a ground to quash a criminal proceeding. The real test is whether the allegations in the complaint disclose the criminal offence of cheating or not. In the present case there is nothing to show that at the very inception there was any intention on behalf of the accused persons to cheat which is a condition precedent for an offence under S.420 IPC. In our view the complaint does not disclose any criminal offence at all. The criminal proceedings should not be encouraged when it is found to be mala fide or otherwise an abuse of the process of the court. The superior courts while exercising this power should also strive to serve the ends of justice. In our opinion in view of these facts allowing the police investigation to continue would amount to an abuse of the process of the court and the High Court committed an error in refusing to exercise the power under S.482*



*of the Criminal Procedure Code to quash the proceedings."*

*5.3 In Kapil Aggarwal and Others v. Sanjay Sharma and Others (AIR 2021 SC 1241), this Court held that S.482 is designed to achieve the purpose of ensuring that criminal proceedings are not permitted to generate into weapons of harassment.*

*5.5 In Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and Others, 2021 (3) KHC 25, AIR 2021 SC 1918, 2021 LiveLaw (SC) 211, this Court laid down the following principles of law: -*

*"57. From the aforesaid decisions of this Court, right from the decision of the Privy Council in the case of Khawaja Nazir Ahmad (AIR 1945 PC 18) (supra), the following principles of law emerge:*

- i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into cognizable offences;*
- ii) Courts would not thwart any investigation into the cognizable offences;*



iii) *However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on;*

iv) *The power of quashing should be exercised sparingly with circumspection, in the 'rarest of rare cases'. (The rarest of rare cases standard in its application for quashing under S.482 Cr.P.C. is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court);*

v) *While examining an 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 in the FIR / complaint;*

vi) *Criminal proceedings ought not to be scuttled at the initial stage;*



vii) *Quashing of a complaint / FIR should be an exception and a rarity than an ordinary rule;*

viii) *Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice of the process by S.482 Cr.P.C.*

ix) *The functions of the judiciary and the police are complementary, not overlapping;*

x) *Save in exceptional cases where non - interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;*

xi) *Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to*



*act according to its whims or caprice;*

*xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint / FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report / summary before the learned Magistrate which may be considered by the learned*



*Magistrate in accordance with the known procedure;*

*xiii) The power under S.482 Cr.P.C. is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court; xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (AIR 1960 SC 866) (supra) and Bhajan Lal (AIR 1992 SC 604) (supra), has the jurisdiction to quash the FIR / complaint; and*

*xv) When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under S.482 Cr.P.C., only has to consider whether or not the allegations in the FIR disclose the commission of a*



*cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency /police to investigate the allegations in the FIR."*

9. In the decision in **Gulam Mustafa v. State of Karnataka** reported in **[2023 KHC 6550 : 2023 KLT OnLine 1614]** after referring **State of Haryana and others v. Bhajan Lal and others** (supra) and other decisions, the Hon'ble Apex Court held in paragraph Nos.27 to 35 as under:

*27. This Court, in S W Palanitkar v. State of Bihar, 2002 (1) SCC 241, held:*

*"... whereas while exercising power under S.482 CrPC the High Court has to look at the object and purpose for which such power is conferred on it under the said provision. Exercise of inherent power is available to the High Court to give effect to any order under CrPC, or to prevent abuse of the process of any court or otherwise to secure the ends of justice. This being the position, exercise of power under S.482 CrPC should be consistent with the scope and ambit of the same in the light of the decisions aforementioned. In*





*appropriate cases, to prevent judicial process from being an instrument of oppression or harassment in the hands of frustrated or vindictive litigants, exercise of inherent power is not only desirable but necessary also, so that the judicial forum of court may not be allowed to be utilized for any oblique motive. When a person approaches the High Court under S.482 CrPC to quash the very issue of process, the High Court on the facts and circumstances of a case has to exercise the powers with circumspection as stated above to really serve the purpose and object for which they are conferred." (emphasis supplied)*

28. *In State of Karnataka v M Devendrappa, 2002 (3) SCC 89, it was decided:*

*"6. Exercise of power under S.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 alicui concedit, concedere videtur et id sine quo res ipsae 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 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 exercise of the powers court would be justified to quash any proceeding if it finds that initiation / 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."*

29. *In Uma Shankar Gopalika v State of Bihar, 2005 (10) SCC 336, at Para 7 thereof, it was held that when the complaint fails to disclose any criminal offence, the proceeding is liable to be quashed under S.482 of the Code:*

*"In our view petition of complaint does not disclose any criminal offence at all much less any offence either under S.420 or S. 120 - B IPC and the present case is a case of purely*



*civil dispute between the parties for which remedy lies before a civil court by filing a properly constituted suit. In our opinion, in view of these facts allowing the police investigation to continue would amount to an abuse of the process of court and to prevent the same it was just and expedient for the High Court to quash the same by exercising the powers under S.482 Code which it has erroneously refused."(emphasis supplied)*

30. The law on the subject was also examined in *Parbatbhai Aahir v State of Gujarat, 2017 (9) SCC 641*. In *Habib Abdullah Jeelani, 2017 (2) SCC 779*, it was opined:

*"inherent power in a matter of quashment of FIR has to be exercised sparingly and with caution and when and only when such exercise is justified by the test specifically laid down in the provision itself there is no denial of the fact that the power under S.4 82 CrPC is very wide but it needs no special emphasis to conferment of wide power requires the Court to be more cautious. It casts an onerous and more diligent duty on the Court." (emphasis supplied)*

31. In *Vinod Natesan v State of Kerala, 2019 (2) SCC 401*, position outlined hereunder:

*"11. ... Even otherwise, as observed hereinabove, we are there was no criminality on part of the accused and a civil dispute is*



*tried to be converted into a criminal dispute. Thus to continue the criminal proceedings against the accused would be an abuse of the process of law. Therefore, the High Court has rightly exercised the powers under S.482 CrPC and has rightly quashed the criminal proceedings. In view of the aforesaid and for the reasons stated above, the present appeal fails and deserves to be dismissed and is accordingly dismissed."* (emphasis supplied)

32. The legal position was also considered in *Kamal Shivaji Pokarnekar v State of Maharashtra, 2019 (14) SCC 350*. In *Mahendra K C v State of Karnataka, 2021 SCC OnLine SC 1021*, this Court stated:

*"23. ... the High Court while exercising its power under S.482 of the CrPC to quash the FIR instituted against the second respondent - accused should have applied the following two tests: i) whether the allegations made in the complaint, prima facie constitute an offence; and ii) whether the allegations are so improbable that a prudent man would not arrive at the conclusion that there is sufficient ground to proceed with the complaint."*

33. We are equally mindful of *Arnab Manoranjan Goswami v State of Maharashtra, 2021 (2) SCC 427*, where at Paragraph 68, it was stated that "... The other end of the spectrum is equally important: the recognition by S.482 of the power inhering in the



*High Court to prevent the abuse of process or to secure the ends of justice is a valuable safeguard for protecting liberty." We are at one with this comment. A detailed exposition of the law is also forthcoming in Neeharika Infrastructure Pvt. Ltd. v State of Maharashtra, 2021 SCC OnLine SC 315, which we have factored into, while adjudicating the instant lis.*

*34. Insofar and inasmuch as interference in cases involving the SC/ST Act is concerned, we may only point out that a 3 Judge Bench of this Court, in Ramawatar v State of Madhya Pradesh, 2021 SCC OnLine SC 966, has held that the mere fact that the offence is covered under a 'special statute' would not inhibit this Court or the High Court from exercising their respective powers under Art. 142 of the Constitution or S.482 of the Code, in the terms below:*

*"15. Ordinarily, when dealing with offences arising out of special statutes such as the SC/ST Act, the Court will be extremely circumspect in its approach. The SC / ST Act has been specifically enacted to deter acts of indignity, humiliation and harassment against members of Scheduled Castes and Scheduled Tribes. The SC/ ST Act is also a recognition of the depressing reality that despite undertaking several measures, the Scheduled Castes / Scheduled Tribes continue to be subjected*



*to various atrocities at the hands of upper - castes. The Courts have to be mindful of the fact that the SC / ST Act has been enacted keeping in view the express constitutional safeguards enumerated in Art. 15, Art. 17 and Art.21 of the Constitution, with a twin fold objective of protecting the members of these vulnerable communities as well as to provide relief and rehabilitation to the victims of caste based atrocities.*

*16. On the other hand, where it appears to the Court that the offence in question, although covered under the SC / ST Act, is primarily civil or private where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. On similar lines, when considering a prayer for quashing on the basis of a compromise / settlement, if the Court is satisfied that the underlying objective of the SC/ST Act would not be contravened or diminished even if the felony in question goes unpunished, the mere fact that the offence is covered under a 'special*



*statute' would not refrain this Court or the High Court, from exercising their respective powers under Art. 142 of the Constitution or S.482 Cr.P.C." (emphasis supplied)*

*35. We have bestowed anxious consideration to the precedents cited by learned counsel for the respondents and are of the view that the same are inapposite to the factual scenario herein. Suffice it would be to state that while the propositions laid down therein are not disputed, they do not prejudice the version of the present appellant. Tapan Kumar Singh (supra) and Naresh (supra) indicate that the FIR need not be a detailed one, as it is only to initiate the investigative process and the police should ordinarily be allowed to investigate. This is the general rule, but not a fetter on this Court or the High Court in an appropriate case.*

10. Summing up the circumstances where quashment of FIR is permissible under Section 482 of the Cr.P.C., the same are as under:

1) Power under Section 482 of the Cr.P.C. can be invoked to quash FIR. But, quashment of FIR is not a rule, but is an exception in an appropriate case.





2). 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.

3). It is to be exercised *ex debito justitiae* (in accordance with the requirement of justice) to do real and substantial justice for the administration of which alone courts exist.

4). 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 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 exercise of the powers court would be justified to quash any proceeding if it finds that initiation / continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice.

5). 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. When the FIR read along with the FIS/complaint constitute disclosure of commission of a cognizable offence/offences, for which, an investigation is essential, quashment of FIR, dropping investigation is not legally permissible and in such cases, the courts should dismiss challenge against FIR at the threshold to facilitate investigation to ascertain the truth of the allegations by collecting evidence in support of the allegations. Staying investigation in such cases is a grave injustice towards the aggrieved/victim, since the same would chain the hands of the investigating officer to move further and during the operation of stay, the accused can easily destroy material evidence to screen himself from punishment.

11. On perusal of the complaint containing 30 paragraphs, the same discloses prima facie, the essentials to register a crime alleging commission of offence under Section 498A r/w Section 34 of the IPC, by the accused. Therefore, quashing of the FIR at the very inception, could not be justified.

Accordingly, this Criminal Miscellaneous Case is dismissed,



with liberty to the petitioner, to defend the case, in accordance with law.

Sd/-  
**A. BADHARUDEEN**  
**JUDGE**

Bb



APPENDIX OF CRL.MC 2344/2024

PETITIONER'S ANNEXURES

ANNEXURE 1                    A TRUE COPY OF THE FIR ALONG WITH THE COMPLAINT FILED BEFORE THE JFCM THIRUVANANTHAPURAM DATED 9/6/2023

ANNEXURE 2                    A TRUE COPY OF THE DIVORCE PETITION FILED BY THE 2ND ACCUSED BEFORE THE HMOP.636 OF 2022 FAMILY COURT COIMBATORE DATED 23/3/2022

ANNEXURE 3                    A TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE RESPONDENT IN HMOP.636 OF 2022 OF THE FAMILY COURT COIMBATORE DATED 18/4/2023

RESPONDENTS' ANNEXURES    NIL