

2023 LiveLaw (SC) 25

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
M.R. SHAH; J., C.T. RAVIKUMAR; J.

January 9, 2023

CRIMINAL APPEAL NO. 67/2023 [Special Leave to Appeal (Crl.) No(s). 8371/2022]

STATE REPRESENTED BY THE INSPECTOR OF POLICE versus M. MARIDOSS & ANR.

Summary - Supreme Court takes exception to Madras High Court quashing an FIR in four days without giving adequate time for investigation.

Code of Criminal Procedure, 1973; Section 482 - As per the settled position of law, it is the right conferred upon the Investigating Agency to conduct the investigation and reasonable time should be given to the Investigating Agency to conduct the investigation unless it is found that the allegations in the FIR do not disclose any cognizable offence at all or the complaint is barred by any law.

(Arising out of impugned final judgment and order dated 14-12-2021 in CRLOP(MD) No. 19872/2021 passed by the High Court of Judicature at Madras at Madurai)

For Petitioner(s) Mr. Sanjay R. Hegde, Sr. Adv. Dr. Joseph Aristotle S., AOR Mr. Shobhit Dwivedi, Adv. Mr. Raghav Gupta, Adv. Mr. Sharukh Ali, Adv. Mr. Tanay Hegde, Adv.

ORDER

As per the office report, the respondents are served. None is present on behalf of the respondents.

Leave granted.

Feeling aggrieved and dissatisfied with the impugned judgment and order dated 14.12.2021 passed by the Madurai Bench of Madras High Court in Crl.O.P. No. 19872 of 2021, by which the High Court has allowed the said application filed by the accused under Section 482, CrPC and caused the criminal proceedings for the offences under Sections 124A, 153A, 504, 505(1)(b) and 505(2) of the IPC, the State has preferred the present appeal.

Mr. Sanjay Hegde, learned senior counsel appearing on behalf of the State has vehemently submitted that the impugned judgment and order passed by the High Court quashing and setting aside the criminal proceedings in exercise of the powers under Section 482, CrPC is just contrary to the decision of this Court in the case of **State of Uttar Pradesh & Another v. Akhil Sharda & Other**; reported in **2022 SCC Online SC 820** as well as the reported decision of this Court in the case of **M/s Neeharika Infrastructure Pvt. Ltd v. State of Maharashtra & Others**; reported in (2020) 10 SCC 180. It is submitted by learned counsel that in the present case, the High Court, while quashing the criminal proceedings, has exceeded in its jurisdiction while exercising the powers under Section 482, CrPC.

It is further submitted that by the impugned judgment and order, the High Court has exercised the powers as if the High Court was conducting the trial which as such is not permissible while exercising the powers under Section 482, CrPC at the stage of the consideration for quashing the criminal proceedings under Section 482, CrPC.

It is further submitted that even without giving any sufficient time to the Investigating Agency to complete the investigation and/or even to conduct the investigation in a great hurry, the criminal proceedings are quashed. It is submitted that in the present case, the FIR was lodged on 09.12.2021, the quashing petition was filed on the very next date i.e.

10.12.2021 and the High Court has quashed the criminal proceedings within a period of four days i.e. on 14.12.2021. By making the above statement, it is prayed to allow the present appeal.

We have heard Mr. Sanjay Kapadia, learned senior counsel appearing on behalf of the appellant at length and we have gone through the impugned judgment and order passed by the High Court. By the impugned judgment and order, the High Court has quashed the criminal proceedings for the offences under Sections 124A, 153A, 504, 505(1)(b) and 505(2) of the IPC in exercise of powers under Section 482, CrPC.

From the impugned judgment and order passed by the High Court and the reasoning given by the High Court, it appears that the High Court has quashed the criminal proceedings as if the High Court was conducting the mini trial. The scope and ambiguity of powers to be exercised under Section 482, CrPC has been elaborately dealt with and considered by this Court in the case of ***M/s Neeharika Infrastructure Pvt. Ltd. (supra)***. In para 57, it is observed and held as under:-

“From the aforesaid decisions of this Court, right from the decision of the Privy Council in the case of Khawaja Nazir Ahmad (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 Section 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, recognized to secure the ends of justice or prevent the abuse of the process by Section 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 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. 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 Section 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** (supra) and **Bhajan Lal** (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 Section 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.”

Even otherwise, it is a settled position of law that while exercising powers under Section 482, CrPC, the High Court is not required to conduct the mini trial. What is required to be considered at that stage is the nature of accusations and allegations in the FIR and whether the averments/allegations in the FIR *prima facie* discloses the commission of the cognizable offence or not.

Under the circumstances, the impugned judgment and order passed by the High Court, which is just contrary to the decision of this Court in **M/s Neeharika Infrastructure Pvt. Ltd (supra)** and the other decisions on the points, is unsustainable.

It is also required to be noticed that in the present case without giving any reasonable time to the Investigating Agency to investigate the allegations in the FIR, the High Court has, in haste, quashed the criminal proceedings. The FIR came to be lodged on 09.12.2021, immediately, on the very next date, the quashing petition was filed and within a period of four days i.e. 14.12.2021, the impugned judgment and order has been passed and the criminal proceedings are quashed.

As per the settled position of law, it is the right conferred upon the Investigating Agency to conduct the investigation and reasonable time should be given to the Investigating Agency to conduct the investigation unless it is found that the allegations in the FIR do not disclose any cognizable offence at all or the complaint is barred by any law.

Under the circumstances also, the impugned judgment and order passed by the High Court quashing and setting aside the criminal proceedings deserves to be quashed and set aside.

In view of the above and for the reasons stated above, the present appeal is allowed and the impugned judgment order passed by the High Court quashing the criminal proceedings is hereby quashed and set aside.

The appeal is allowed to the aforesaid extent.

Pending applications also stand disposed of.