

**(2020) 03 MP CK 0233**

**In the Madhya Pradesh High Court**

**Case No : Miscellaneous Criminal Case No. 19449 Of 2018**

Amarjeet Singh Chhabra And Another

APPELLANT

Vs

State Of M.P. And Another

RESPONDENT

**Date of Decision : 03-03-2020**

**Acts Referred:**

Constitution Of India, 1950 — Article 226

Code Of Criminal Procedure, 1973 — Section 482

Indian Penal Code, 1860 — Section 34, 120B, 420, 465, 467, 468, 471

**Citation : (2020) 03 MP CK 0233**

**Hon'ble Judges : Vishnu Pratap Singh Chauhan, J**

**Bench : Single Bench**

**Advocate : Sourabh Singh Thakur, Vishal Yadav**

**Final Decision : Dismissed**

## **Judgement**

1. Both the applicants have filed this petition for invoking inherent powers engrafted under Section 482 of the Code of Criminal Procedure, 1973 for quashing of first information report and charge sheet prepared in connection with Crime No.22/2018 registered at Police Station, Budhar, Distt. Shahdol for the offences punishable under Sections 420, 465, 467, 468, 471 and 120-B read with Section 34 of IPC.

2. Having heard learned counsel for the parties, perused the case diary. It is not disputed that in Crime No.22/2018 after investigation charge sheet has been filed and the case registered as RCT No.173/2018 pending in the Court of JMFC, Budhar, Distt. Shahdol.

3. The case of prosecution against the applicants, in short, is that Harvansh Singh who is near relative of both the applicants lodged a report alleging therein that co-accused Romi alias Navdeep Singh Chhabra received the cheque of the bank account of complainant-Harvansh Singh and made forged entry of Rs.two lakh and also made a forged signature of complainant-Haravansh Singh (respondent No.2). After submission of cheque, he received Rs.two lakh. Police

investigated the matter and found that applicant No.1-Amarjeet Singh is the father of applicant No.2-Romi alias Navdeep Singh and both conspired with each other and after making forged signatures of the complainant-Harvansh Singh, received Rs.two lakh from the account of complainant.

4. Perused the case diary, FIR and evidence of complainant-Harvansh Singh. Samples of handwriting and signature of applicant No.2-Romi alias Navdeep Singh sent to the State Examiner and the report is still awaited.

5. After perusal of whole evidence, this Court finds that some materials are available on record to proceed against the applicants. Learned counsel for the applicants submits that respondent No.2-Harvansh Singh had filed an affidavit before the trial Court and copy of which has already been annexed along with this petition. Perused the affidavit filed by respondent No.2 in the Court in connection with the application filed by both the applicants for granting bail. It cannot be said that respondent No.2 has settled the matter with both the applicants.

6. Hon'ble Apex Court in the case of State of Haryana & Ors. Vs. Ch. Bhajanlal & ors. [AIR 1992 SC 604] has culled out seven categories for quashing of the FIR or complaint. If any criminal proceeding falls on that category, the Court may quash the FIR and criminal proceeding. However, so far as present case is concerned, this Court finds that on the basis of the facts, the case of the applicants does not fall in any categories of the said judgment. Hon'ble Apex Court in para-109 of the said judgment has held as under :

"109. 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 F.I.R. 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."

7. Hon'ble Apex Court in the case of State of M.P. Vs. Awadh Kishore Gupta and others, (2004) 1 SCC 691 has held as under :

"... 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 Janta Dal Vs. H.S. Chowdhary and Raghubir Sharan (Dr.) Vs. State of Bihar.) 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....."

8. Hon'ble Apex Court in the case of Varala Bharath Kumar and another Vs. State of Telangana and another, AIR 2017 SC 4434 in para-7 has held as under :

"7. It is by now well settled that the extraordinary power under Article 226 or inherent power under Section 482 of the Code of Criminal Procedure can be exercised by the High Court, either to prevent abuse of process of the court or otherwise to secure the ends of justice. Where allegations made in the First Information Report/the complaint or the outcome of investigation as found in the Charge Sheet, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out the case against the accused; where the allegations do not disclose the ingredients of the offence alleged; where the uncontroverted allegations made in the First Information Report or complaint and the material collected in support of the same do not disclose the commission of offence alleged and make out a case against the accused; 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, the power under Article 226 of the Constitution of India or under Section 482 of Code of Criminal Procedure may be exercised."

While exercising power under Section 482 or under Article 226 in such matters, the court does not function as a Court of Appeal or Revision. Inherent jurisdiction under Section 482 of the Code though wide has to be exercised sparingly, carefully or with caution and only when such exercise is justified by the tests specifically laid down under Section 482 itself. It is to be exercised ex debito justitiae to do real and substantial justice, for the administration of which alone courts exist. The court must be careful and see that its decision in exercise of its power is based on sound principles. The inherent powers should not be exercised to stifle a legitimate prosecution. Of course, no hard and fast rule can be laid down in regard to cases in which the High Court will exercise its extra ordinary jurisdiction of quashing the proceedings at any stage."

9. On the basis of the forgoing discussions and the law laid down by Hon'ble

Apex Court in the above cited cases, this Court is not inclined to quash the FIR and criminal proceeding emanating thereto.

10. Accordingly, this petition is devoid of any substance and the same is hereby dismissed. There shall be no order as to cost.

11. If any interlocutory application is pending, the same stands dismissed.