
(2007) 11 GAU CK 0034
In the Gauhati High Court

NEPD Marketing Pvt. Ltd. and Another	APPELLANT
Vs	
State of Assam	RESPONDENT

Date of Decision : 23-11-2007

Acts Referred:

Constitution of India, 1950 — Article 226
Criminal Procedure Code, 1973 (CrPC) — Section 154, 155, 156, 482
Penal Code, 1860 (IPC) — Section 120A, 120B, 272, 273, 415
Prevention of Food Adulteration Act, 1954 — Section 10, 12, 14, 14A, 16

Citation : (2008) 3 GLT 470

Hon'ble Judges : I.A. Ansari, J

Bench : Single Bench

Judgement

I.A. Ansari, J.—With the help of this application made u/s 482 Cr.PC., the petitioners have sought for quashing the First Information Report (in short, "the FIR"), which has given rise to Dispur Police Station Case No. 1191/2007 under Sections 120B/420/273 IPC. The FIR, in question, which has been lodged, on 14.09.2007, at Dispur Police Station, by an Executive Magistrate, Kamrup (Metropolitan), Guwahati, alleges, in brief, thus: Pursuant to a conspiracy entered into by NEPD Ltd. and NFPD Marketing Ltd., led by the management and other employees of the said two companies, beverages have been kept stored beyond the expiry date thereof with intention to cheat the general public and to cause grievous hurt to the members of the public. The accused have also, it is alleged, conspired to cause financial loss to the State Government and physical and financial loss to the members of the general public.

2. I have heard Mr. J.M. Choudhury, learned Senior Counsel, appearing on behalf of the petitioners, and Mr. K. Munir, learned Additional Public Prosecutor, Assam.

3. Assailing the registration of the FIR, Mr. Choudhury submits that though the managements of the said two Companies, in conspiracy with their employees, are alleged to have kept stored beverages beyond their expiry date with intention to cheat the general public, the fact remains that mere storage of beverages

beyond the expiry date thereof is not an offence under the Indian Penal Code. Mr. Choudhury also submits that storage of beverages beyond the expiry date thereof may become, in a given case, an offence under the Prevention of Food Adulteration Act (in short, "the PFA Act") provided that the storage of beverages is for sale. There is, however, points out Mr. Choudhury, no assertion, in the FIR, that the storage of beverages was for sale. It is pointed out by Mr. Choudhury that though storage of beverages, beyond expiry date thereof, may be treated as adulterated article of food, such storage would not be an offence unless the storage is for the purpose of sale.

4. In the present case, submits Mr. Choudhury, apart from the fact that there is no accusation that the storage of beverages by the petitioner Companies was for sale, what is also important to note is that storage for sale of an adulterated article is an offence under the PFA Act, which is a special enactment and prescribes special mechanism and procedure for bringing a guilty to book. By registering an FIR as in the case at hand, the police cannot, contends Mr. Choudhury, assume jurisdiction to investigate an offence under the PFA Act and give a go-bye to the provisions of the PFA Act and the provisions of the Prevention of Food Adulteration Rules (in short, "the PFA Rules"). The registration of the FIR by the police for an act or omission, which may constitute an offence under the PFA Act, is without any authority of law, for, the jurisdiction to investigate and lodge complaint, according to Mr. Choudhury, lies with the authorities mentioned in the PFA Act and the PFA Rules.

5. Mr. Choudhury further submits that though an accusation has been made in the FIR that the beverages have been kept stored by the accused Companies with intention to cause grievous hurt to the members of the general public, the fact remains that each of these beverages has a fixed date within which the beverage is considered best for consumption. A product, according to Mr. Choudhury, whose "Best Before" date has expired, may not necessarily be unfit for human consumption or treated as adulterated. In such circumstances, points out Mr. Choudhury, registration of a case u/s 272 IPC is wholly misconceived in law. Hence, merely for the reason that the accused Company has kept in store beverages beyond their "Best Before" date, no FIR could have been legally registered by the police, because no offence, according to Mr. Choudhury, can, in such circumstances, be said to have been committed.

6. Assailing the registration of the FIR for an offence allegedly committed u/s 273 IPC, Mr. Choudhury submits that Section 273 IPC would come into play, when an article of food, which has been rendered noxious or which has become unfit for use as food or drink, is offered or exposed for sale or is sold. There is, however, points out Mr. Choudhury, not even slightest allegation in the FIR that the accused Company has sold or offered or exposed for sale the beverages, whose "Best Before" date has expired. In such circumstances, registration of the FIR, u/s 273 IPC too is, reiterates Mr. Choudhury, wholly misconceived in law.

7. Though allegation has also been made, points out Mr. Choudhury, that the

accused Companies have entered into a conspiracy to cause financial loss to the State Government and also to the members of the general public, nothing is revealed from the FIR to show as to how financial loss can be caused to the State Government or to the general public by mere storage of the beverages, in question, by the accused.

8. In order to attract, points out Mr. Choudhury, penal provisions of Section 420 IPC, there must be accusation of the accused persons, having made false representations or conspired to make false representation, induced, or attempted to induce, persons, deceived by such misrepresentation, to deliver any property or to do or omit to do anything, which such a person would not do or omit to do, but for the deception so played. There is, however, submits Mr. Choudhury, no allegation of misrepresentation having been made by the accused persons to anyone. In such a situation, contends Mr. Choudhury, registration of the case u/s 420 IPC or Section 120B is untenable in law and needs to be quashed.

9. Controverting the submissions made on behalf of the petitioners, Mr. Munir, learned Additional Public Prosecutor, Assam, submits that in the face of the accusations made in the FIR, the police have acted within the ambit of their jurisdiction in registering a case against the accused Companies, their employees and functionaries and, hence, such an FIR, being sustainable in law, cannot be legally quashed.

10. The law with regard to quashing of criminal complaint is no longer res integra. A catena of judicial decisions have settled the position of law on this aspect of the matter. I may refer to the case of R.P. Kapoor v. State of Punjab AIR 1960 SC 866 wherein the question, which arose for consideration, was whether a first information report can be quashed u/s 561A of the Code of Criminal Procedure, 1898. The Court held, on the facts before it, that no case for quashing of the proceeding was made out; Gajendragadkar, J. speaking for the Court observed that though, ordinarily, criminal proceedings instituted against an accused must be tried under the provisions of the Code, there are some categories of cases, where the inherent jurisdiction of the Court can and should be exercised for quashing the proceedings. One such category, according to the Court, consists of cases, where the allegations in the FIR or the complaint, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged ; in such cases, no question of appreciating evidence arises and it is a matter merely of looking at the FIR or the complaint in order to decide whether the offence alleged is disclosed or not. In such cases, said the Court, it would be legitimate for the High Court to hold that it would be manifestly unjust to allow the process of the criminal Court to be issued against the accused. From the case of R.P. Kapoor (supra), it becomes abundantly clear that when a mere look into the contents of a complaint shows that the contents of the complaint, even if taken at their face value and accepted to be true in their entirety, do not disclose commission of offence, the complaint shall be quashed.

11. As a corollary to what has been discussed above, it is also clear that if the

contents of the complaint constitute offence, such a complaint cannot be quashed.

12. Laying down the scope of interference by the High Court in matters of quashing of FIR or complaint, the Apex Court in the leading case of State of Haryana and others Vs. Ch. Bhajan Lal and others, laid down as follows:

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 of the inherent powers u/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 the 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 of 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 made 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 u/s 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 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 allegation 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 u/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 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 malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance of the accused and with a view to spite him due to private and personal private grudge.

13. In the case of Bhajanlal (supra), the Apex Court gave a note of caution on the powers, of quashing of criminal proceeding in the following words:

103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extra ordinary or inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprice.

(Emphasis is added).

14. It is clear from a close reading of the principles laid down in the case of R.P. Kapoor (supra) and Bhajanlal (supra) that broadly speaking, quashing of a First Information Report or a complaint is possible (a) when the allegations made in the First Information Report or the complaint, even if taken at their face value and accepted in their entirety as true, do not prima facie constitute any offence or make out a case against the accused; (b) when the controverted allegations made in the FIR or complaint and evidence collected in support of the same do not disclose the commission of any offence and/or make out a case against the accused; and (c) when the allegations made in the FIR or complaint are so absurd and inherently improbable that on the basis of such absurd and inherently improbable allegations, no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

15. In other words, when the allegations made in a complaint disclose commission of an offence, such a complaint cannot be quashed by relying upon some other materials on which will depend the defence of the accused, for, in such cases, truthfulness or otherwise of the allegations contained in the complaint or the probability of the defence plea can be determined only by effective investigation or at the trial. I am also guided to take this view from the case of State of Bihar and Anr. v. Mohd. Khaliq and Anr. reported in (2002) SCC 652, wherein the Apex Court, while dealing with the quashing of FIR, observed as follows:

7. In Bhajanlal case, this Court has also held that the power of quashing a criminal proceeding should be exercised sparingly and with circumspection and that too in the rarest or rare cases. The present case is not rarest of rare case.

8. In view of the settled legal position and as offences have been disclosed in the FIR, the High Court ought not to have interfered with the investigation and should have permitted the police to complete it. We, accordingly, hold that the High Court has committed a grave error in quashing the entire proceedings and ought not to have thwarted the prosecution. (See also Ram Pratap Yadav Vs. Mitra Sen Yadav and Another, , and Kailash Chandra Pareek v. State of Assam reported in (2003) 2 GLR 305.

16. In the light of the law relating to quashing of FIR, let me, now, turn to the contents of the present FIR and determine if the FIR is sustainable in law.

17. While considering the impugned FIR, what attracts the eyes, most prominently, is that the main accusation of the informant is that the companies, mentioned in the FIR, have kept stored the beverages beyond the expiry date thereof. There is neither any accusation nor is there any material available on record showing that the beverages, in question, have been rendered noxious with the passage of time or have become unfit for human consumption. Even at the time of hearing of this Criminal Petition, it is not asserted, on behalf of the State, that the beverages, in question, stand adulterated or have become noxious or unfit for human consumption with the passage of time. This apart, storage of any article of food, even if such an article is found adulterated or is found to have been rendered noxious or is found to have become unfit for human consumption, cannot be regarded as an offence u/s 272 or 273 IPC unless the food article is alleged to have been adulterated for sale or kept stored for sale or kept stored for sale exposed or offered for sale. There is, however, no allegation made in the impugned FIR that the beverages, in question, have been adulterated for the purpose of sale nor is there any allegation in the FIR that the beverages aforementioned have been kept stored for sale or were exposed or offered for sale.

18. Coupled with the above, sale or storage for sale of an adulterated article is an offence under the PFA Act which is a special enactment and prescribes stringent punishment. Because of the stringent nature of the punishment prescribed under the PFA Act, this Act makes elaborate provisions to safeguard the interest of the accused. In other words, the PFA Act makes special provisions for bringing a wrong doer to book. The safeguards provided to an accused under the PFA Act and the PFA Rules cannot be skirted or discarded by registering a case u/s 273 IPC or even u/s 272 IPC.

19. I may, at this stage, pause to point out that Section 20 of the PFA Act makes provisions for taking of cognizance and trial of offences. For the purpose of this criminal petition, a careful study of the provisions of Section 20 of the PFA Act is of immense importance. Section 20 reads as under:

20. Cognizable and trial of offences-

(1) No prosecution for an offence under this Act, not being an offence u/s 14 or Section 14A shall be instituted except by, or with the written consent of, (the Central Government or the State Government or a person authorized in this behalf, by general or special order, by the Central Government or the State Government.

Provided that a prosecution for an offence under this Act may be instituted by a purchaser or recognised consumer association referred to in Section 12, if he or it produces) in a Court a copy of the report of the public analyst along with the complaint.

(2) No Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence punishable under Sub-section (1AA) of Section 16 shall be cognizable and non-bailable.

20. From a careful reading of the provisions of Section 20 of the PFA Act, what transpires is that an offence, punishable u/s 16 of the PFA Act, is the only offence, which is cognizable. A cognizable offence is one, which can be investigated by the police without the order of the Magistrate. Since it is the offence u/s 16(1AA), which is the only cognizable offence under the PFA Act, one must necessarily turn to the provisions of Section 16(1AA). Section 16(1AA) reads,

Section 16(1AA) If any person in whose safe custody any article of food has been kept under Sub-section (4) of Section 10, tampers or in any other manner interferes with such article, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine which shall not be less than one thousand rupees.

21. When a person tampers or, in any other manner, interferes with an article of food, which has been kept in his safe custody, in terms of Section 10(4) of the PFA Act by a Food Inspector, he is liable to be punished with imprisonment for a term, which would be less than six months, but it may be extended to two years with fine, which shall be less than one thousand rupees. In other words, the only case, wherein the police can register an FIR and investigate a case without an order of the Magistrate is when an information is received by the police, in terms of Section 154 Cr.PC, that a person, who had in his safe custody any article of food in terms of subsection (4) of Section 10, has tampered or has in any other manner interfered with the article of food so kept in his custody. In the present case, when no allegation, as envisaged in Section 16(1AA), has been made against the accused, the police were not competent, in the present case, to investigate the case by registering a case under any of the provisions of the PFA Act.

22. At any rate, when no case, under the PFA Act, has been registered on the basis of the FIR, appropriate it is that the penal provisions of Sections 272 or 273 of the IPC are taken note of. For the purpose of better understanding of the penal provisions of Sections 272 and 273 of the IPC, Sections 272 and 273 of the IPC are reproduced below:

272. Adulteration of food or drink intended for sale. Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

273. Sale of noxious food or drink--

Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

23. A careful reading of Section 272 IPC shows that this penal Section is attracted, when a person adulterates an article of food with the intention to sell such an article or knowing it to be likely that the article will be sold as food or drink. Thus, the gravamen of the charge, u/s 272, is the intention to sell the article as food or drink or the knowledge that the substance is likely to be sold as food or drink. In the case at hand, however, there is no allegation, in the FIR, that the companies mentioned therein or any of their functionaries or employees had kept the beverages, in question, stored with intention to sell the same or knowing that the beverages aforementioned were likely to be sold as food or drink or that the beverages aforementioned were exposed or offered for sale. In such circumstances, Section 272 was not attracted at all and the case could not have, therefore, been registered legally u/s 272 IPC.

24. Turning to Section 273 IPC, what needs to be noted is that whoever sells or offers or exposes for sale any article as food or drink, which has been rendered or has become noxious or unfit for consumption as food or drink, or whoever sells, offers or exposes as food or drink any article knowing or having reason to believe that the same has become noxious as food or drink or is unfit for human consumption, would be liable for punishment u/s 273 IPC. In the present case, the beverages, in question, are not alleged to have been rendered noxious. This apart, even if one presumes that the seized beverages had been rendered noxious or were unfit for human consumption, the fact remains that mere possession or storage of such beverages would not be an offence u/s 273 IPC unless one, who is in possession of such an article of food or drink, sells the same or offers or exposes the same for sale or knows or has reason to believe that such article of food or drink would be sold or offered or would be exposed for sale. In the circumstances of the present case, even the provisions of Section 273 IPC are not attracted.

25. What is, now, of immense importance to note is that Clause (i) of Rule 32 of the PFA Rules introduces the concept of "Best Before" date. For the sake of brevity, the relevant provisions of Rule 32 are reproduced hereinbelow:

Rule 32. Package of food to carry a label--Every package of food shall carry a label and unless otherwise provided in these rules, there shall be specified on every label--

(i) the month and year in capital letters upto which the product is best for consumption, in the following manner, namely:

"Best Before.....Months And Year" OR

"Best Before.....Months From Packaging" OR

"Best Before.....Months From Manufacture" OR

"Best Before Upto Month and Year" OR

"Best Before Within.....Months". (For the Period Upto and Inclusive of 1st Inclusive of 1st September, 2001) From the Date of Packaging/Manufacture"

(Note; Blank be filled up)

Provided that in case of wholesale packages the particulars under clauses (b), (f), (g), (h) and this clause need not be specified:

Provided further that in case of package or bottle containing sterilized or Ultra High Temperature treated milk, soya milk, flavoured milk, any package containing bread, dhokla, bhupuri, pizza, doughnuts, khoa, paneer, or any uncanned package of fruits, vegetable, meat, fish or any other like commodity, the declaration be made as follows:

"Best Before.....Date/Month/Year" "Best Before.....Date/Month/Year" OR

"Best Before.....Days From Packaging" OR

"Best Before.....Days From Manufacture" OR

"Best Before Upto.....Date/Month Year OR

"Best Before Within.....Days From The Date Of Packaging/Manufacture" (For the Period Upto and Inclusive of 1st September 2001)

(Note: (i) Blank be filled up).

(ii) Month and year may be sued in numerals.

(iii) Year may be given in two digits:

Provided also that in case of package containing confectionery weighing 20 g or less, the particulars under Clause (i) may not be specified:

Provided also that the above declaration of best before consumption shall not be applicable to the packages of aspartame and infant milk substitute and infant food.

Provided also that the declaration of best before date for consumption shall not be applicable to--

(a) wines and liquors;

(b) alcoholic beverages containing 10 per cent, or more by volume of alcohol.

Provided also that in case of any bottle containing liquid milk or liquid beverage

having milk as an ingredient, soft drink, carbonated water or ready-to-serve fruit beverages, the declarations with regard to addition of fruit pulp and fruit juice as well as the "date of manufacture" and "best before date" shall invariable appear on the body of the bottle:

Provided also that in case of returnable bottle which are recycled for refilling, where the label declarations are given on the crown, the declaration referred to in the above proviso, with regard to addition to fruit pulp and fruit juice shall be enforced as per the Schedule given below. The bottles on which the year of manufacture is not embossed, the date of replacing such bottle shall be, the 1st day of April, 2008.

..... Sl. Year of manufacture Date of enforcement of No. embossed on the bottle the declarations referred to in the first proviso by replacing old bottles with new bottles.

1.	2002 and beyond but before 01.04.2008	the Commencement of the Prevention of Food Adulteration (Eight Amendment) Rules, 2002.
2.	2001 01.04.2007	
3.	2000 01.04.2006	
4.	1999 01.04.2005	
5.	1998 01.04.2004	
6.	1997 and before	From the date of Comm- encement of the Preven- tion of Food Adulteration (Eight Amendment) Rules, 2002.

..... Provided also that the returnable new glass bottle manufactures and used for packing of such beverages on the date of commencement of the Prevention of Food Adulteration (Eight Amendment) Rules, 2002 shall carry these declarations on its body:

Provided also that the above provisions except date of manufacture and "best before date" shall not apply in respect of carbonated water (plain soda) portable water (impregnated with carbon-dioxide under pressure) packed in returnable glass bottles.

26. Explanation VIII to Clause (i) of Rule 32 is also of great significance. Explanation VIII to Clause (i) of Rule 32 reads as under:

Explanation VIII -- (i) "Best Before" means the date which signified the end of the period under any stated storage conditions during which the product will remain fully marketable and will retain any specific qualities for which tacit or express claims have been made. However, provided that beyond the date the food may still be perfectly satisfactory.

(ii) In addition to the date of best before, any special conditions for the storage of the food shall be declared on the label if the validity of the date depends on such storage.

27. The explanation VIE to Clause (i) of Rule 32 of the PFA Rules, thus, defines "Best Before" as the date, which signifies the period under any stated storage conditions during which the product will remain fully marketable and will retain any specific qualities for which tacit or express claims have been made. However,

beyond the date, fixed as the "Best Before" date, the product may still be perfectly satisfactory and may not have been rendered unfit for human consumption. What is, therefore, extremely important to note is that expiry of the "Best Before" date may not necessarily render an article of food unfit for human consumption. What, thus, becomes transparent is that merely for the reason that an article, manufactured by a company, is found kept stored by the company even after the date, which is fixed as the "Best Before" date has expired, it does not, as a corollary, mean that the company has been found in possession of adulterated article of food or drink and/or that the article, so kept stored, is adulterated or has become noxious or unfit for human consumption. This apart and as already indicated above, storage simplicitor of adulterated article of food or even noxious food is not in itself an offence either under the Indian Penal Code or under the PFA Act.

28. Turning to the registration of the case u/s 420 IPC, what needs to be noted is that Section 420 IPC is an aggravated form of the offence of cheating. There can be no offence u/s 420 IPC unless the act or omission, complained of, constitutes an offence of cheating as defined in Section 415 IPC, which reads,

Cheating--Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat."

29. In the present case, there is absolutely no allegation, in the impugned FIR, to show that the companies mentioned therein, the functionaries or employees thereof have conspired to sell allegedly expired beverages, fraudulently or dishonestly, making a representation that the said beverages were fit for human consumption, though they were not. The ingredients of Section 415 IPC cannot, therefore, be said to have been attracted in the present case. Consequently, no case could have been registered even u/s 420 IPC.

30. What emerges from the above discussion is that there is no accusation that the seized beverages were unfit for human consumption or have become noxious or stand adulterated. In such circumstances, storage simplicitor of the seized beverages cannot be treated to be an offence either under the Indian Penal Code or the PFA Act or the PFA Rules. Thus, it is clear that registration of the FIR under Sections 272 and 273 IPC is wholly misconceived. Moreover, as there is no accusation made in the FIR that the companies mentioned therein or their functionaries or employees have conspired to sell the seized beverages as food or drink fit for human consumption, though the same are not fit for human consumption; hence, registration of the FIR, u/s 420 IPC, too is untenable in law. Furthermore, as no ingredient for any of the offences aforementioned is discernible from the contents of the FIR, registration of the case u/s 120B IPC cannot be sustained, for, a criminal conspiracy, though a substantive offence,

comes into existence only when, in terms of the provisions of Section 120A IPC, more than one person agrees to do or cause to be done an illegal act or an act, which is, otherwise, legal, by illegal means. There is absolutely nothing, in the present FIR, showing that the persons, implicated by the FIR, have agreed to do or cause to be done an illegal act or an act, which is, otherwise, legal by illegal means, registration of the FIR, u/s 120B IPC too is, if I may reiterate, not sustainable in law.

31. Because of what have been discussed and pointed out above, this Court is fully satisfied that even if the contents of the FIR are assumed to be correct and true in their entirety, they do not make out any case of commission of any offence. In such circumstances, allowing the FIR to survive and the investigation to be carried out will amount to abuse of the process of law. This Court is, therefore, firmly of the view that the impugned FIR needs to be quashed.

32. In the result and for the reasons discussed above, this criminal petition succeeds. The impugned FIR and the registration of the case, made on the strength thereof, shall accordingly stand quashed.

With the above observations and directions, this Criminal Petition shall stand disposed of.