

(1993) 04 MAD CK 0051

In the Madras High Court

Case No : Criminal R.C. No"s. 422 and 423 of 1993, Criminal R.P. No"s. 419 and 420 of 1993

P.C. Verghese and others

APPELLANT

Vs

C.K. Kumarasamy

RESPONDENT

Date of Decision : 21-04-1993

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 307
Madras University Act, 1923 — Section 3
Penal Code, 1860 (IPC) — Section 500

Citation : (1993) LW(Cri) 440

Hon'ble Judges : Arumugham, J

Bench : Single Bench

Advocate : N.T. Vanamamalai, S. Ashok Kumar and A. Sasidharan, for the Appellant; A.A. Setvam, for the Respondent

Judgement

Arumugham, J.—Both the above revisions filed under Sections 307 and 401 of the Code of Criminal Procedure are directed against the respective orders by learned Xth Metropolitan Magistrate, Madras in C.M.P. No. 893 of 1993 in C.C. No. 8981 of 1993 and CMP. No. 83 of 1989 in C.C. No. 8917 of 1984. Both Criminal Miscellaneous Petitions filed u/s 256 of Code of Criminal Procedure praying for the acquittal of the accused in both the cases on the ground that the complainant in both the cases is one and the same viz., the Registrar of the Madras University and since he has demisted his office on 18.2.1984, during the pendency of the said case before the trial court, he has filed the respective complaints in his individual capacity without any authorisation or approval from the Madras University and that his appearance in all the subsequent hearings after his retirement even though were available is deemed to be absent and that accordingly by virtue of S. 256 of the Criminal Procedure Code, the acquittal of the accused in both the cases were sought for. But however, on a consideration of the relief asked for in the said petitions, on the basis of the grounds urged therein, in the context of the objections raised on behalf or the Respondent

herein, learned trial Magistrate on appreciation of facts and law involved therein has not declined to accept the case of the revision petitions and as such he has rejected the relief asked for challenging the same, the present revisions are directed.

2. The facts stated by the Respondent herein which led to the prosecution are as follows:

The revision Petitioners in both the cases being the editor, printer and publisher of the English News Daily by name "Indian Express" by its edition dated 23.9.1983 have published the following news item:

Now that the Chief Minister has been awarded an Honorary Doctorates from the University of Madras, he should do his best to restore the new corrupt University to its old glory. The accounts of the celebrations should be carefully checked first.

The above passage of news was extracted in para 5 of the compliant given in C.C. No. 3917 of 1984 involved in Crl.R.C. No. 423 of 1989. Similarly, in the same English Daily "Indian Express" dated 21st September, 1993. at page 14 in para 5, of the complaint, the following news was extraded in C.C. No. 3381 of 1983 involved in Crl.R.C. No. 472 of 1989 has been printed and published by the Respondent accused.

The Madras University in a mood of expensiveness has conferred honorary doctorate on a number of well-known personalities. While the services of some of the "chosen" could be landed, the reasons for so "honouring" some others are questionable to say the least.

It is a shame that once the renowned University boasting of such students as C. Rajagopalachari, Alladi Krishnaswami Iyer, K.S. Krishnan, C.V. Raman, C.P. Ramasamy Iyer and whole galxy of intellectuals, today produces graduates who need to put in not an iota of effort to earn a degree. Indeed, considering the abysmally standards and rampant administrative ills, coursing through its time-tested walls, it is debatable whether a doctorate or degree of the Madras University is worth anything. It is open house at the University today. Palm-power, not brain-power will get you the g(u)iltedged scrolly. And if, by chance, one hard working individual gets through, more luck to him. Yes after 100 of disseminating knowledge, it is time to stop and take stock.

Editor.

3. The printing and publishing of the above extracted news items in the English Daily viz. Indian Express of the respective dates referred to above were alleged to have serious imputations made against the Madras University on a whole and the news item per se defamatory according to the complainant Respondent. It is to be noticed that it has been specifically pleaded in the complaint given in C.C. No. 8821 of 1983 in para 9, particularly as follows:

This article, is per se defamatory of the Madras University, defaming each

member of the University, individually and collectively, as the Madras University consists of a definite, identifiable body persons, as stated above and the defamatory imputations of corruption and incapacity in the impugned article reflect on each and every officer and member of the class of persons, as such, who constitute the body corporate of the Madras University and tends to devalue the doctorates and degrees conferred by the Madras University

4. In para 14 of the above said compliant, it has also been noticed as follows: -

The impugned article having been read by friends, associates and members of the public, a few of whom have been cited as witnesses herein, has caused them to loose the high regard, esteem and value, which they had hitherto or the doctorates and degrees of the Madras University, and for its officers and members both individually and collectively as a corporate body.

5. In para 12 is of the complaint involved in C.C. No. 8817 of 1984 also, it has been specifically alleged that the news item published therein are per se defamatory and has thereby caused harm to the complaint and each and every member and officer, both individually and collectively.

6. In para 7 of the above complaint, it has been specifically pleaded as follows:

The said publication is per se defamatory of the Madras University, defaming each member and officer of the University, individually and collectively, as the Madras University consists of a definite, identifiable body of persons, constituted as a body corporate under the Madras University Act 1923.

This body consists of (1) The Chancellor, (2) Pre-Chancellor, (3) Vice-Chancellor, (4) Registrar (5) Deputy Registrar (6) Controller of Examinations and such other persons as may be declared to be officers of the University by Statute and member of the Senate, the Syndicate and the Academic Council, totalling in all 460 persons, each exercising such powers and performing such duties as may be prescribed

7. One cannot fail to take note of the individual capacity as a Registrar of Madras University, the Respondent complainant has lodged criminal proceedings against the revision Petitioners for the alleged offences u/s 499 read with Ss. 500 and 501 of the Indian Penal Code which were taken cognisance of, on the file, by learned trial Magistrate. In both the complaints, it is seen that the Respondent by his name C.K. Kumarasamy, S/o. late P. Karapanna Mudaliar, residing at No. 17, Soundara Pandian Street, Ashok Nagar, Madras - 600 083 was the complainant as the Registrar of University of Madras and as such he has filed the said complaint. So also, the allegations made in para 10 of the complaint in C.C. No. 8817 of 1984 at page 4 read as follows:

The impugned defamatory article has been read by several of my friends and acquaintances a few of whom have been cited as witnesses hereunder. Because of the said news item, they have lost the good opinion and regard which they hitherto had for me and the Madras University.

8. In this background, projecting the basis that since the alleged imputation made in the news items extracted above, has been made against the Madras University, without going into the merits and since it has not been projected against any individuals like the Respondent complainant viz. the Registrar of the Madras University, the complainant Respondent herein has no locus standi to initiate the criminal prosecution for the alleged offences and that even so in the context of any authorisation or approval by the Syndicate or Senate of the Madras University was obtained, the present complaints are not at all maintainable and that further since the complainant viz., the Registrar has demitted his office on 15.2.1984 as the Registrar of Madras University, his appearance, if any, subsequent to his retirement cannot be deemed to be his presence before the trial court and that therefore the accused are entitled to the acquittal by virtue of Section 256 of the Code of Criminal Procedure and that the said two grounds were urged before the trial court and that in the context of the serious objection held on behalf of the Respondent, the impugned orders were passed.

9. Mr. N.T. Vanamamalai, learned senior counsel appearing on behalf of both the revisions Petitioner, while canvassing the grounds of revisions, attacked mainly that since the Respondent a complainant has filed the complaint in his individual capacity by referring his name and address and in the capacity of the Registrar of the Madras University he is not the aggrieved persons to lodge any criminal prosecution as defined u/s 199 of the Code of Criminal Procedure and that in view of the said provision of law, only the aggrieved persons alone can maintain the criminal action for the offences falling under Chapter XXI of the Indian Penal Code and that therefore the complaint is not at all maintainable in law and liable to be rejected. Of course, this ground has not been specifically pleaded in the petition filed u/s 256 of the Code of Criminal Procedure before the Trial court. It has to be noticed that the only ground under which the petition u/s 256 of the Code of Criminal Procedure was filed, is that since the complainant has demitted his office on 15-2-1984 as the Registrar of Madras University and for all further hearings, even if he appears, his presence is to be deemed as absent and that therefore u/s 256 of the Code of Criminal Procedure the Lower Court ought to have acquitted the accused under the above circumstances. The same ground was urged before me in these revisions besides the first one referred to above.

10. The next contention urged by learned senior counsel on behalf of the revision Petitioners is that since the Madras University is a corporate body being governed by several functionaries like the Chancellor, Pro-Chancellor, Vice-chancellor, Syndicate, Senate, Council and so on consisting of several hundred members, in all, it is not known against whom the alleged imputation has been projected individually and that even so to entertain the complaint in his individual capacity as registrar in the context of no written authorisation for approval by any governing body viz., corporate body of Madras University, the present proceedings are vitiated with no sanctity of law.

11. Per Contra, Mr. A.A. Selvam, learned Counsel appearing for the Respondent, complainant contended that the petitions filed before the trial Court u/s 256 of the Code of Criminal Procedure do not contain the first contention and the grounds now being projected before the court of law has not been taken on behalf of the revision Petitioners while the impugned order was passed by learned trial Magistrate and secondly, learned Counsel, contended to have the relief of acquittal even before the trial commenced, it is not proper to invoke Section 256 of the Code of Criminal Procedure in both the cases for the simple reasoning that Section 256 is applicable only for the complainants who were conspicuously absent before the trial court during the relevant hearings and in these cases, the Respondent has been continuously making his, appearance before the trial court and while stating so, learned Counsel contended that since the complaint was lodged by the Respondent, When he was functioning as Registrar of the Madras University, long prior to his retirement, on 15-2-1984 and since on the date of his retirement, the proceedings were pending before the court, this circumstance would not be available to the revision Petitioners to invoke the relief provided u/s 256 of the Code. Nextly, learned Counsel contended that the alleged news item and the imputation inherent therein have since been directly projected against the Madras University, which is admittedly, a body corporate, but however, against an identifiable or identified persons or groups. By virtue of Section 11 of the Indian Penal Code and explanation 2 to Section 499 of the Indian Penal Code, the Respondent complainant since he felt aggrieved upon the said defamatory news item, in his individual capacity as well as the Registrar of the Madras University is competent to file the complaint without any authorisation or approval of any of the governing bodies of the Madras University and therefore, the whole of the contentions projected on behalf of the revisions Petitioners are totally untenable and as such the impugned order passed by the learned Magistrate is perfectly correct and no error of law has been committed in doing so.

12. In the light of the above rival contentions, the only point that arises for consideration is whether the impugned order passed by learned trial Magistrate is erroneous, bad in law and as such liable to be set aside?.

13. To appreciate the first contention urged by learned senior counsel Mr. N.T. Venamamalai on behalf of the revision Petitioners, it has become useful for me to advert to Section 199 of the Code of Criminal Procedure which runs as follows:

No court shall take cognisance of an offence punishable under Chapter XXI of the Indian Penal Code except upon a complaint made by some person aggrieved by the offence;

A mere glance of this provision is categorical that only an aggrieved person by the alleged offence falling under Chapter XXI of the Indian Penal Code which includes Ss. 499, 500 and 501 of the Indian Penal Code is entitled to file a complaint before the court of law under this provision. In so far as the legal aspects enunciated in the above Section is concerned, there is no dispute or

controversy at the Bar. But however, it was contended on behalf of the revision Petitioners whether the Respondent complainant in the instant cases is not the aggrieved persons comes within the definition of the above Section of law so as to entitle to file the present complaints and therefore the said complaints have to be rejected. Of course, as was rightly pointed out by learned Counsel Mr. A.A. Selvam, appearing for the Respondent complainant the said ground was not taken in the complaints filed u/s 256 of the Code of Criminal Procedure before the trial Court. But a contention was raised during the course of his argument and this contention was countered on behalf of the revision Petitioners and learned Counsel for the Respondent complainant has stated that the Respondent complainant is the proper and aggrieved person entitled to file the said complaints by virtue of the above section of law.

14. To substantiate the first contention as above referred, Mr. N.T. Vanamamalai, learned senior counsel, brought to my notice, the two circumstances:

(1) In paragraphs 1 and 2 of the both the complaints involved in instant cases, the Respondent complainant has however filed the complaint in his individual capacity as Registrar of Madras University by giving his residential address but not the University.

(2) If any of the members of the University or the governing body feel aggrieved of the alleged publication of news item as defamatory, then one would normally expect that a complaint could have been lodged on behalf of the University by representing any of the persons.

(b) who are taking part in the governing body including the present-complainant the Registrar and that in the absence of the same, and in the context of the above said two circumstances without any authorisation or approval by the governing body of the corporate entity viz., the Madras University, the complainants in both the cases are liable to be rejected in view of the mandatory nature of S. 199 of the Criminal Procedure Code.

15. In short, it was contended that the Registrar in his individual capacity viz., the Respondent complainant herein is not the person deemed to be aggrieved as provided in the above Section of law.

16. To substantiate the above contention, learned senior counsel drew my attention to Section 3 of the Madras University Act 1923, which runs as follows:

The University: (1) The First Chancellor, Pro-Chancellor and Vice-Chancellor of the University and the first members of the senate, the Syndicate (and) the Academic council and all persons who may hereafter become such officers or members so long as they continue to hold such office or membership are hereby constituted a body corporate by the name of the University of Madras.

(2) The University shall have perpetual succession and a common seal and shall sue and be sued by the name of the University of Madras.

S. 12(a)(1) of the Act has also been relied on which says:

(1) The Registrar shall be a whole-time paid Officer of the University appointed by the Syndicate for such period and on such terms as may be prescribed by Statutes.

(2) The Registrar shall exercise such powers and perform such duties as may be prescribed.

(3) In all suits and other legal proceedings by or against the University, the pleadings shall be signed and verified by the Registrar and all processes in such suits and proceedings shall be issued to, and served on, the Registrar.

17. One more provision to quote in the said Act which is necessary to appreciate this case is Section 6 which runs as follows:

The following shall be the Officers of the University:

(1) The Chancellor (2) Pro-Chancellor (3) Vice-Chancellor (4) Registrar and (5) Such other persons as may be declared by the Statutes to be officers of the University.

18. It is thus seen, a combined reading of Ss. 5, 8 and 12 of the Madras University Act, 1923, amended upto date would make clear that:

1. The Madras University is a body corporate constituted by the first Chancellor, Pro-chancellor, vice- Chancellor and the first member of the Syndicate, academic council and all other persons who may become such officers or members so long as they continue to hold such office.

2. The University shall have perpetual succession and common seal and shall sue and be sued by the name of the University of Madras.

3. The registrar is one of the Officers of the Madras University.

4. He (Registrar) shall be deemed to be a whole time paid officer of the University of Madras as appointed by the Syndicate for such period and on such terms as may be prescribed by the statutes and he has to exercise such powers and duties as may be prescribed and

5. He in the capacity of a Registrar shall sign all the suits and other legal proceedings initiated in a court of law on behalf of or against the University and he shall be in charge of all the processes to be served.

19. Basing reliance upon the above and the conjoined effect of the above privileges of law, learned senior counsel on behalf of the revision Petitioners has persuaded me to see that the alleged imputations extracted in the complaints have since not been projected directly against the Respondent complainant as a Registrar, but since he filed the complaints in his individual capacity, they cannot be deemed to be filed by or on behalf of the Madras University and that in the absence of any approval or authorisation to the complainant Respondent, no

court would allow the criminal proceedings to be lodged by the Respondents as an aggrieved person as contemplated u/s 199 of the Criminal Procedure Code. A proper reading of the Sections of law referred to above and the facts thereof extracted thereupon make it clear that for the offences falling under Chapter XXI of the Indian Penal Code alleging defamatory remarks or publication of news item against the University, the University as a body corporate by passing proper resolutions or by way of giving proper approval or authorisation to any of its members viz. The officers referred to in Ss. 3, 8 and 12 of the Act can lodge the criminal prosecution as an aggrieved person as defined u/s 199 of the Criminal Procedure Code. If not, a persons who may be an officer or a body corporate or employee of the University and who has filed a complaint cannot be deemed to be the person aggrieved, as under the Code of Criminal Procedure.

20. Per-contra, Mr. A.A. Selvam, learned Counsel appearing for the Respondent complainant brought to my notice that the explanation 2 to Section 499 of the Indian Penal Code read with Section 11 of the Indian Penal Code clearly fortify the fact that the reference made in Section 199 of Code of Criminal Procedure to the aggrieved person refers also to the present complainant who as a Registrar of the University though admitted is a body corporate is also entitled to file a criminal complaint as defined in Section 199 of the Code of Criminal Procedure in the light of the legal ratio laid down by the Apex Court in the following cases:

21. In *Sahib Singh Mehra Vs. State of Uttar Pradesh*, the Supreme Court has held as follows:

Explanation II to Section 499 makes it clear that there can be a definition of an individual persons and also of a "collection of persons". Such a collection of persons must be identifiable in the same that one could with certainly say that the particular group had been defined as distinguished from the rest of the community. The prosecuting staff of Aligarh, and even the prosecuting staff in the State of Uttar Pradesh would be such as identifiable group or "collection of persons".

22. The impugned remarks were per se defamatory of the group of persons referred to. The tenor of the article does not indicate that the purpose of the Appellant in publishing those remarks were "public good". No enquiry could have been started by the Government on such a publication implying the acceptance of bribes to believe or suspect that the public prosecutors were corrupt and thus affected the reputation of the prosecuting staff adversely. Unless proved otherwise, the presumption is that every persons has a good reputation.

23. In another case held between *G. Narasimhan, G. Kasturi and K. Gopalan Ors. Vs. T.V. Chokkappa*, , the Supreme Court has observed as follows:

(1) Section 198 lays down an explanation to the general Rule that a complaint can be filed by anybody whether he is an aggrieved person or not and modifies that rule by permitting only an aggrieved person to move the Magistrate in cases of defamation. The Section is mandatory, so that if a Magistrate were to take

cognizance of the offence of defamation on a complaint filed by one who is not an aggrieved persons, the trial and conviction of the accused would be void and illegal".

(2) A defamed imputation against a collection of persons falls within Explanation 2 to Section 499 I.P.C. But when that explanation speaks to a collection of persons as capable of being defamed such collection of persons must be a definite and a determined body so that the imputations in question can be said to relate to its individual members of companies.

24. Though the facts involved in the above cited reference before the Supreme Court are totally distinguishable from the fact which is involved in the instant cases, it is to be seen that the alleged imputations due to publication of news item above referred to appear to have been made not against any individual persons but on the other hand, they were made against the University as a whole. At no place, the alleged publication of the said news item particularly refers to the Respondent complainant either in his individual capacity or as a Registrar of the Madras University by referring to his designation, that position has been admitted and there was no controversy or dispute about the same. If this be the position, then by virtue of Sections 3 and 8 of the Madras University Act, 1923 by reading them properly, would actually mean a corporate body consists of several persons and employees including the dignitaries specifically referred to in the above sections of law coupled with the members of the Syndicate, Senate, Council and so on consisting of more than 600 members in all as has been specifically pleaded in the complaints. Therefore, if the alleged imputation is taken to mean against the University as a corporate body as a whole, then one can understand to lodge any criminal prosecution for the alleged defamation by virtue of any of the sections provided under Chapter XXI of the Indian Penal Code and then the complaint must be by an aggrieved person. In this context, though the University, being admittedly a corporate body, consisting or several members, dignitaries and senate and council, can be identified or an identifiable group has not come forward to give any authorisation or approval even for the sake of formality for the Respondent complainant to lodge the present complaints in the instant cases as an aggrieved person. I may say so, in the context that the alleged imputations of the defamatory remarks have not been referred to the present complainant-Respondent either in his individual capacity or as a Registrar but he is a paid employee for such specific period and for the purpose of specific terms. Sections 3 and 12(A) of the Madras University Act provides that the University as a Corporate body shall have the perpetual succession and a common seal and shall sue and be sued by the name of the University of Madras and that in the suits and other legal proceedings by or against the University, the pleadings shall be signed and verified by the Registrar, since both the above sections are mandatory in nature, while launching the complaints involved in instant cases, the Respondent ought not to have adopted this formality, particularly in the context that the alleged imputations arising out of the news item published by the accused revision Petitioners did not project or

involve him directly or indirectly. The whole mischief, it appears can be identified only in para 2 of both the complaints involved in the cases i.e. it was alleged that the Respondent has filed the complaints involved in these cases in the capacity as a Registrar of the University of Madras. By saying so, it is seen that he has not filed the complaint on behalf of the University as a whole which is a body corporate but as if he was the persons aggrieved by the defamatory news item published by the revision Petitioners, but certainly he is not an aggrieved person as defined.

25. In the context of the above legal ratio, enunciated by the Apex Court in both the cases referred to above, though the body of persons constituting the corporate body or the Madras University can be identified or identifiable in the absence of any resolution or authorisation or sort of the governing body of the University the corporate body has not come forward with any grievance upon the alleged defamatory remarks made by the revision Petitioners. I am of the view that the present complainant cannot be deemed to be an aggrieved person as defined in Section 199 of the Code and as such is not a competent person to lodge the complaint in question. In this regard, for the aforesaid reasons, I am totally unable to persuade myself to countenance the arguments advanced by Mr. A.A. Selvam, learned Counsel appearing for the Respondent complainant.

26. True, to substantiate the question that the Madras University is a corporate Body and without the written authorisation or approval by such corporate body, an individual of that body cannot sue or initiate any legal proceedings in a court of law and that too, a criminal complaint for the offence of defamation in the context of Section 199 of the Criminal Procedure Code, Mr. N.T. Vanamamalai, learned senior counsel appearing for the revision Petitioners has relied on the following case law:

1. In *Bacha F. Guzdar Vs. Commissioner of Income Tax, Bombay*, the Supreme Court held that the shareholder by purchase of the share does not acquire any interest in the Assessee of the company till after the company is wound up. The position of a shareholder of a company is altogether different from that of a partner of a firm. A company is a juristic entity distinct from the shareholders but the firm is a collective name or an alias for all the partners.

2. In *Tata Engineering and Locomotive Co. Ltd. Vs. State of Bihar and Others*, it has been held as follows:

The position of a corporation is that it is in law equal to a natural person and has a legal entity of its own that entry is entirely separate from that of its shareholders. It bears its own name and has to seal of its own. Its assets are separate and distinct from those of its members. It was sue and be used exclusively for its own purpose. Its creditors cannot obtain satisfaction from the aspects of its members. The liability of the members or shareholders is limited to the capital invested by them. The creditors of the members have no right so the aspects of the corporation. However, there are same composition to the rule that

the corpn., or a company has a juristic or legal unity had the doctrine of lifting the veil of a corpn. and examining its face in substance has been applied in many cases but the same does not apply in the present case.

27. In the light of the above legal form, specifically enunciated by the Supreme Court and by virtue of Section 199 of the Code of Criminal Procedure and after careful consideration and analysis of the active pleadings and rival contentions, I am of the view that learned trial Magistrate has not even locked into the above legal position and that he proceeded to consider the matter on casually only on factual aspects which according to me, is an erroneous approach and cannot be sustained. Thus having regard to the other contentions projected before me in the light of the observations given above, I am constrained to hold that the impugned order passed by learned trial Magistrate in rejecting the contentions made on behalf of the revision Petitioners is not correct but clearly erroneous and as such liable to be set aside by interfering with the same.

28. One other legal question that arises in these cases is as to how, in the present circumstances and factual aspects of the projected cases, the revisions filed against the impugned orders which were passed in applications u/s 256 of the Code of Criminal Procedure in view of the specific mandate in sub-S.(2) of Section 397 of the Code of Criminal Procedure were maintainable. When this question was raised, Mr. N.T. Vanamamalai, learned senior counsel relied on a case in *Amar Nath and Others Vs. State of Haryana and Another*, which has been considered in *Madhu Limaye Vs. The State of Maharashtra*, for the position that though the order passed in interlocutory application tiled in a criminal case, is technically deemed to be an interlocutory order if it is seen that if the relief sought for in the said interlocutory application is accepted then it would amount to the termination of whole proceedings. The Supreme Court has held that such an order cannot be deemed to be an interlocutory order or interim Order but deemed to be a final order and that therefore a revision can lie u/s 397(2). The Apex Court in the above referred citation viz. *Amaranth and Ors. v. State of Haryana* (1977 CrL. L.J. 1891 : AIR 1977 SC 2105) has held as follows:

(para 1894 - para 6)

The main question which falls for determination in this appeal is as to what is the connotation of the term "interlocutory order" as appearing in Sub-section (2) of Section 397 which bats any revision of such an order by the High Court. The term ". order" is a term of well-known legal significance and does not present any serious difficulty. It has been used in various statutes including the Code of Civil Procedure, Letter Patent of the High Courts and other like statutes. In Webster's New World Dictionary "interlocutory", has been defined as an order other than final decision, Decided cases have laid down that interlocutory order to be appealable must be those which decide the rights and liabilities of the parties concerning a particular aspect. It seems to us that the term "Interlocutory order" in Section 397(2) of the 1973 Code has been used in a restricted sense and not in any broad or artistic sense. It nearly denotes orders

of a purely interim or temporary nature which do not decide or touch the important rights of the liabilities of the parties. Any order which substantially affects the rights of the accused, or decided certain rights of the parties cannot be said to be an interlocutory order so as to bar a revision to the High Court against that order, because that would be against the very object which formed the basis for insertion of this particular provisions in Section 397 of 1973 Code. Thus, for instance, orders summoning witnesses, adjourning cases, passing orders for bail, calling for reports and such other steps in aid of the pending proceeding, may no doubt amount to interlocutory orders against which no revision would lie u/s 397(2) of the 1973 Code. But orders which are matters of moment and which affect or adjudicate the rights of the accused or a particular aspect of the trial cannot be said to be interlocutory order so as to be outside the purview of the revisional jurisdiction of the High Court.

29. In the light of the above legal ratio clearly laid down by the Apex Court and applying the case to the facts of the present cases, it is made clear that if the relief asked for by the revision Petitioners before learned magistrate is accepted, then it would amount to a final disposal of the proceedings and that in the said context, the matter involved therein assumes every importance and momentum as has been specified in the terms of the Supreme Court and that therefore in as-much as in this matter a valuable right of the revision Petitioners is involved and identified, the impugned orders passed by learned Magistrate cannot be deemed to be an interlocutory nature so as to attract the specific bar provided u/s 397 of the Criminal Procedure Code. Therefore, I am constrained to hold that the present revisions are maintainable.

30. With regard to the contention that the non-maintainability of the complaints filed by the Respondent complainant for the offences falling under Chapter XXV of the India Penal Code was not taken as a ground in the petitions filed before learned magistrate as contended by learned Counsel for the Respondent. I may straight away observe that though the same has not been specifically pleaded in the petitions, but however, the said contention was raised before the court below during the course of argument on behalf of the revision Petitioners, that aspect has been considered by learned Magistrate. Nevertheless, since the said ground, projected is a pure question of law, regarding the very maintainability of the complaints themselves, it can be raised even during the course of the present revisions and this Court is competent to adjudicate over the same, as it is a pure question of law. Therefore, in this context, it is not possible for me to uphold the contention made on behalf of the Respondent complainant.

31. Thus, having considered the legal aspects involved in these cases as projected by the Bar, in the light of the case law referred to above, a pure question of law emerged out with regard to the maintainability of the very complaint and that since learned Magistrate has totally overlooked the same, but however, proceeded merely on considering the factual aspects with great constraint, I am inclined to hold that the impugned order passed by learned

Magistrate is totally erroneous and cannot be sustained any more and as such it is liable to be set aside. The applicability of Section 256 of the Code of Criminal Procedure for getting the relief of acquittal of the accused revision Petitioners on the ground that the presence of the complainant after he has demitted his office on 15-2-1984 is deemed to be totally absent and the said contention in the light of the aforesaid reason and the error of law identified in the impugned order have now become out of point and as such need not necessarily be gone into. I would make it clear that it is enough at this juncture to point out that while exercising the revisional jurisdiction this Court can interfere even suo motu for the purpose of setting aside the impugned order in case serious error of law was identical and also quash the complaints involved in these revision. For all the above said reasonings and opinion, I have to quash the whole proceedings involved in the instant cases on the file of Metropolitan Magistrate, Egmore, Madras, by setting aside the impugned order.

32. In the result, both the revisions succeed and accordingly, the same are allowed. The respective impugned orders passed in C.M.P. No. 595 of 1988 in C.C. No. 5821 of 1983 and C.M.P. No. 23 of 1989 in C.C. No. 8821 of 1983 and 8817 of 1984 are hereby set aside and consequently they very complaint in C.C. No. 8821 of 1983 and 8817 of 1984 themselves are hereby quashed. The revision Petitioners accused are hereby acquitted .