

(2002) 09 MP CK 0032

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 1676 of 2000

Raghav Chandra and Others

APPELLANT

Vs

Smt. Tarvinder Kaur

RESPONDENT

Date of Decision : 17-09-2002

Acts Referred:

Constitution of India, 1950 — Article 165(2)
Criminal Procedure Code, 1973 (CrPC) — Section 197, 482
Penal Code, 1860 (IPC) — Section 395, 427, 448

Citation : (2003) CriLJ 2205 : (2003) 1 MPHT 151

Hon'ble Judges : Narain Singh "Azad", J

Bench : Single Bench

Advocate : Ajay Mishra, Dy. Advocate General, for the Appellant; Vasant Daniel, for the Respondent

Judgement

Narain Singh `Azad", J.—The petitioners seek quashment of Criminal Case No. 66/2000, pending against them in the Court of J.M.F.C., Jabalpur, wherein, cognizance of offences punishable under Sections 395, 448 and 427 of the IPC is taken, on the private complaint filed by the respondent.

2. As per the complaint, on 8th June, 1992, at 10 p.m., petitioner Nos. 1 to 3, who were then posted as Collector, Addl. Collector and City Magistrate, Jabalpur respectively, came to the residence of respondent situated at 1142, Prem Nagar, Jabalpur, along with 200 to 250 Policemen and surrounded the same. At the same time, Sardar Swarnjeet Singh, the elder brother of respondent's husband and Dashmesh Singh Sethi alias Montu, the son of the sister of respondent's husband, who were staying at the residence of respondent, also reached her residence in Premier Padmini Car, belonging to the husband of the respondent, bearing No. MUZ-2067. The police personnels searched this car and then only permitted Sardar Swarnjeet Singh so also Montu to enter the house of the respondent, who at that time, was staying at her maternal home situated at Muzaffarnagar. All the police persons were in uniform and were carrying deadly weapons like rifles and pistols. Sardar Swarnjeet Singh and Montu are stated to

have narrated this sequence of incident to the respondent, that they saw Sardar Hardeep Singh, the husband of the respondent sitting in drawing room along with petitioner Nos. 1 and 2, who were in plain clothes. There were some more persons in plain clothes and out of these persons, Raghav Chandra, petitioner No. 1, directed petitioner No. 3 K.C. Jain, to search the entire house. Then K.C. Jain, the petitioner No. 3 along with Policemen, searched the house wherein, petitioner No. 2 Brijendra Kumar also joined K.C. Jain, after some time. Petitioner No. 1 then asked Hardeep Singh to handover the keys"of locked almirahs, who expressed his inability on the ground that the keys are with his wife (respondent), who was at Muzaffarnagar, that time. Then Raghav Chandra directed to break open the locks of almirahs and therefore, K.C. Jain and Brijendra Kumar, got the locks of almirahs broke-open, through the help of policemen. Raghav Chandra further directed K.C. Jain to seize all the gold ornaments and cash amount from the almirahs. At the same time, one plain clothed person not only took away money from a child's purse, but they took away with them the remote control of the television also. The suit-case (attache) of Sardar Swarnjeet Singh was also searched, which contained a total amount of Rs. 30,000/-, brought by Swarnjeet Singh from Akola for making purchases at Delhi. The petitioners took away the aforesaid money also with them. K.C. Jain snatched the gold chain of Dashmesh Singh Sethi alias Montu in which word "Montu" was inscribed in english letters on gold. This golden chain inclusive of locket weighed 15-16 gms. One golden ring on which english letter "M" was inscribed so also Titan watch, which Montu was wearing, were also taken away by K.C. Jain. The other accused policemen cooked breakfast in the kitchen of the petitioner and utilised the entire food material available in the kitchen, including milk, Rasna, Tea, Coffee power, etc., and broke most of the valuable crockery, deliberately. The accused persons along with entire police force stayed at the petitioner's residence till 5 a.m. on 9th June, 1992, At the time of this incident, petitioner Nos. 1 to 3 along with other plain clothed persons entered in the girls hostel, who were making preparation for their exams to be commenced the next morning and unnecessarily interrogated them till late night. Then the girls were called in the residential portion of the respondent's house where they were again questioned till 5 a.m. on 9-6-1992. Thereafter, the accused took away the respondent's husband with them and got the residential portion of the house locked by Sardar Swarnjeet Singh, who along with Dashmesh Singh alias Montu, went to the respondent's sister-in- law, namely Smt. Jasbeer Kaur Chandok, resident of 363, Napier Town, Jabalpur, where at that time, the respondent was also present. In the company of Sardar Swarnjeet Singh, Smt. Jasbeer Kaur and Montu respondent reached her residence at about 5 p.m. on 11-6-92, when the lock was opened by Sardar Swarnjeet Singh.

3. On 2nd July, 1992, the respondent's husband was released, who was in a very bad physical condition. After a period of 15-20 days, the condition of respondent's husband improved, who also told the petitioner that nothing incriminating was found in his possession, yet he is falsely implicated. Then the

petitioner went to the Garha Police Station for seeking an information as to how much money and gold ornaments are recorded to have been seized, at the time of incident dated 8th of June, 1992, but no seizure memo was available at the Police Station at that time. Since Police Garha did not receive the report of the respondent, she sent the F.I.R. to S.P. Jabalpur, on 27-8-92 through registered post. Thereafter, through registered post, the respondent submitted an application to His Excellency, the Governor of Madhya Pradesh on 6-8-92 for grant of sanction for prosecution, as required u/s 197 of the Cr.PC, but no sanction was received in a fortnight and hence under the aforesaid circumstances, the respondent filed a private complaint against petitioner Nos. 1 to 3, on 5-9-92, for offences punishable under Sections 395, 402, 427, 448 and 469 read with Section 34 of the IPC, which is marked as Annexure A-3. The copies of statements of witnesses of respondent, are cumulatively marked as Annexure A-4.

4. It is not being disputed that on 13-10-1993, the learned J.M.F.C., Jabalpur, dismissed the complaint of the respondent for want of sanction u/s 197 of the Cr.PC. The respondent challenged this order dated 13-10-93, in Criminal Revision No. 162/93, wherein, by setting aside the order dated 13-10-93, passed by J.M.F.C., Jabalpur, the learned Xth Addl. Sessions Judge, Jabalpur, remanded the case on 15-2-1994 and directed to proceed further. Then, an application u/s 319, Cr.PC, was filed on behalf of the respondent, which is marked as Annexure A-6, but on 19-4-94 this application also stood rejected by J.M.F.C. wherein, a permission to add the names of the petitioner Nos. 4 to 18, as accused in the complaint was sought. Thereafter, by order dated 15-6-94, the learned J.M.F.C. dismissed the respondent's complaint u/s 203, Cr.PC. The respondent challenged both the aforesaid orders dated 19-4-94 and 15-6-94 passed by J.M.F.C. in Criminal Revision No. 139/94, wherein, setting aside both the impugned orders, it was directed by the learned Xth Addl. Sessions Judge, Jabalpur, on 4-10-96, that respondent be permitted to add the names of the proposed accused, as stated in her application moved u/s 319 of the Cr.PC, and then after affording her an opportunity to lead evidence in respect of additional accused, so also to examine the other listed witnesses, who were not examined, the case be considered afresh. A copy of this order dated 4-10-96, is marked as Annexure A-7. Then after affording the aforesaid opportunity to the respondent, the learned J.M.F.C. took cognizance of offences punishable under Sections 395, 448 and 427 of the IPC, against the petitioners on 1-2-2000.

5. The respondent filed a petition u/s 482 of the Cr.PC before this Court, bearing M.Cr.C. No. 36/99, wherein, this Court directed the Trial Court to proceed with the complaint case expeditiously. This order is marked as Annexure A-8. The copy of complete proceedings of respondent's complaint case since initial stage to order dated 1-2-2000, is marked as Annexure A-9.

6. According to the petitioners, on 8th June, 1992, one Jitendra Khateek, whose brother Shailendra Khateek was to appear in the P.M.T. Examination, informed

petitioner No. 1, i.e., Collector, Jabalpur, that the respondent's husband, who is running "Deepika Coaching Class, Jabalpur" is demanding an amount of Rs. 50,000/- for making three question papers of P.M.T. available before the dates of examination. It was also informed that for the first two papers, a total amount of Rs. 40,000/- is being demanded (Rs. 20,000/- for each paper) and for the third paper Rs. 10,000/-. On receipt of this information, petitioner No. 1 directed petitioner No. 3 to look into the matter, who sent this information to police, where it was recorded in Rojnamcha. Jitendra Khateek had brought an amount of Rs. 10,000/- with him therefore, it was decided that Jitendra Khateek would be sent to the respondent's husband Hardeep Singh Anand, with an amount of Rs. 20,000/- inclusive of Rs. 10,000/- which was the official money. Then, an amount of Rs. 10,000/- was made available to Jitendra Khateek, who entered the house of Hardeep Singh Anand and handed over the money to him. Petitioner No. 3 along with police party entered the house of Hardeep Singh Anand and inquired about the amount of Rs. 20,000/-, paid by Jitendra Khateek. Hardeep Singh Anand took out the money from the pocket of his Baniyan and handed over to the Police. Thus, Crime No. 353/92, for offences punishable u/s 420 of the IPC and Sections 3/4 of the Examination Adhiniyam, was registered against Hardeep Singh Anand (husband of the respondent), who was arrested. A copy of the police report submitted in respect of Crime No. 353/92, by Police Station, Garha, is marked as Annexure A-1.

7. Then on the next day, i.e., on 9-6-92, one Arun Kumar lodged a written report against Hardeep Singh Anand with these allegations that for getting the children of P.C. Bansal and his elder brother selected in P.M.T. Examination, which was scheduled in the year 1991, Hardeep Singh Anand obtained an amount of Rs. 85,000/- but none could be selected. On demand, Hardeep Singh Anand returned an amount of Rs. 68,000/- only and that too, after many efforts, and rest of the amount, he is not willing to return. On receipt of this F.I.R., another Crime No. 354/92, stood registered at P.S. Garha, against Hardeep Singh, for offences punishable u/s 420 of the IPC and under Sections 3/4 of the Examination Adhiniyam. A copy of charge-sheet is marked as Annexure A-2.

8. It is also submitted on behalf of the petitioners that on account of action of the police authorities, the respondent who is the wife of Hardeep Singh, has filed this false complaint against the petitioners for offences punishable under Sections 395, 402, 427, 448 and 449/34 of the IPC, on 5-9-92, by way of counter-blast. It is further submitted on behalf of the petitioners that they being the public servants, the sanction for their prosecution was required to be obtained u/s 197 of the Cr.PC as ordered by the learned J.M.F.C. on 13-10-93, because the alleged action was taken by them, in discharge of their public duties, but the learned Revisional Court, erred in setting aside the aforesaid order on 15-2-94, in Criminal Revision No. 162/93, without issuing a notice to the petitioners. The copy of this order is marked as Annexure A-5.

9. This petition is being resisted on the ground of its maintainability also. On this

point, it is submitted by Shri Vasant Daniel, Advocate, appearing for the respondent that unless specially authorised by the Governor, as provided in Clause 2 of Article 165 of the Constitution, the Advocate General, Additional Advocate General, Deputy Advocate General, Government Advocate or Deputy Government Advocate, cannot appear in a criminal case on behalf of a person, who is an accused and hence this petition, filed by Shri G.S. Ahluwalia, Govt. Advocate, on behalf of the accused of Criminal Case No. 66/2000, pending in the Court of J.M.F.C., Jabalpur, is not maintainable, because he is not proved to have been so authorised in this behalf. In support of this argument, Shri Vasant Daniel has drawn the Court's attention to TA.C. Rajendran v. P.A. Ayyapan, reported in 1986 Cr.LJ 1287, wherein, it is found dictated by a Division Bench of Kerala High Court that-

"The Advocate General has the duty to represent the Government in the High Court in proceedings, civil or criminal, original or appellate, in which Government is a party provided of course, he has been so directed specially by the Government. It is equally true that the Advocate General is debarred from accepting a brief from any private person in any criminal case in any Court. These provisions in the "Rules" thus have created a taboo in the Advocate General accepting a brief from any private person in any criminal case in any Court of his own accord. But it should be remembered that the Advocate General is bound to perform such other duties of a legal character, the Governor would assign to him from time to time. He is also bound to discharge the functions conferred on him by or under the Constitution or any other law for the time being in force. These are constitutional duties, the Advocate General is bound to discharge; and therefore, if the Advocate General is specifically authorised by the Governor to appear on behalf of a person who is an accused in a criminal case notwithstanding the above provisions in the Rules, I am of the view, that the Advocate General is bound to perform that function because that is a constitutional duty fastened on him under Art. 165 of the Constitution."

10. It is also argued by Shri Daniel, appearing for the petitioner that Shri G.S. Ahluwalia, G.A., on 23-3-2000, falsely represented himself to have been duly appointed and authorised to file this petition on behalf of the petitioners, who are accused of Criminal Case No. 66/2000, and thereby, misusing his capacity of being Govt. Advocate, secured the stay order in connection with aforesaid Criminal Case No. 66/2000, pending in the Court of J.M.F.C., Jabalpur and hence this petition is liable to be rejected on account of fraud played by Shri G.S. Ahluwalia, on the Court. In this connection, Shri Vasant Daniel has drawn my attention to Chandra Shashi v. Anil Kumar Verma 1995 SCC (Cr.) 239; Indian Bank Vs. M/s. Satyam Fibres (India) Pvt. Ltd., and United India Insurance Co. Ltd, v. Rajendra Singh and Ors., United India Insurance Co. Ltd. Vs. Rajendra Singh and Others,

11. So far as objection relating to maintainability is concerned, the maintainability of a Criminal Revision No. 48/2000, was also challenged in this

Court on the same grounds, wherein, it is found dictated by this Court in the matter of Digvijay Singh and Others Vs. Arvind Singh Bhadoriya, and at para 7 at page 323, it has been held that-

"As per rules of business made under Article 166 of the Constitution of India of the transaction of the business of the Government, the officers of various ranks of the department of Government authorise the officers of the various rank of the department of Government to act on behalf of the Governor. The Advocate General for the State is the highest Law Officer of the State and therefore he can be authorised by a letter signed by a competent officer of the Law and Legislative Affairs Department of the Government of Madhya Pradesh, to act as per directions given by the Government. The procedure adopted by the Government in this behalf does not appear to be improper or incorrect."

It is also made clear in Paragraph 6 of the aforesaid pronouncement that it is in the competence of the Government to decide to defend the accused of a private complaint, who are the public servants even if they are prosecuted in personal capacity.

12. From the office file of Advocate General, Shri Ajay Mishra, the Addl. Advocate General has quoted a note-sheet dated 11th March, 2000, which is signed by Shri V.K. Tankha, the Advocate General. This note-sheet runs as under :--

NOTE-SHEET

As per my discussion with Law Minister and Home Minister I hereby grant sanction to file petition u/s 482 of Cr.PC against the order dated 1-2-2000 passed in Criminal Case No. 66/2000 to defend the State Officers in public interest and in the interest of the State Administration. Formal orders can be obtained from the State Government if need be.

Sd/- (V.K. Tankha) Advocate General, M.P.

Jabalpur Dated : 11-3-2000

It is noteworthy that this petition is filed on 14th March, 2000, i.e., after a period of 3 days from the recording of aforesaid note-sheet by A.G. On this note-sheet, the receipt of Fax dated 16th October, 2000, purports to have been noted by Shri G.S. Ahluwalia, Govt. Advocate, who filed this petition. This Fax also forms part of the file of the Advocate General, to which the Court's attention is drawn by Shri Ajay Mishra, Addl. Adv. General, during the course of argument. This Fax of Law & Legislative Department of Govt. of Madhya Pradesh, Bhopal, dated 16-10-2000, is a memo addressed to the Advocate General, the extract of the said memo runs as under :--

^^Jh fnyhi uk;d vfrfjDr egkf/koDrk tcyiqj ds i= fnukad 13&10&2000 ds vuqlkj U;kf;d eft- ds U;k;ky; esa vfHk;qDrx.k ds fo:) yksd lsod ds ukrs yksd ?R;ksa ds fuoZgu ds nkSjku fd, x, dk;Z ds ifj.kkeLo:i muds fo:) ifjokn izLrq fd;k x;k Fkk ftls U;kf;d eft- Jh m"kk Jksf=; ds vkns"k fn- 1&2&2000 ds vuqlkj /kkjk

395]448]427 Hkk-na-la- ds vUrxZr vijk/k dks iathc) fd;k x;k gSA

2- mDr vkns"k ds fo:) /kkjk 482] na-iz-la- ds vUrxZr m?kjoknh@vfHk;qDrx.k dh vksj ls ek- mPp U;k;ky; esa ;kfpdk izLrqr dh xbZ gSA

3- mDr ;kfpdk esa jkT; "kklu dh vksj ls vfHk;qDrx.k dks i{k leFkZu fd, tkus dk fu.kZ; fy;k x;k gSA

4- vr% vkils vuqjks/k gS fd lqlaxr ;kfpdk esa ;kfpdkdrkZx.k ds fy, "kklu dh vksj ls i{k leFkZu fd, tkus dk d"V djsa rFkk dh xbZ dk;Zokgh dh tkudkjh bl foHkkx dks nh tkosA**

13. Thus, inconsonance to the decision taken by the Ministries of Law and Home of the State Govt. which is recorded by A.G. on 11-5-2000, formal order is communicated to Advocate General by aforesaid Fax dated 16-10-2000, and thus on 11-3-2000, the Govt. Advocate is found to have been authorised to file this petition, which is submitted by him on 14-3-2000. Consequently, repelling the objection raised on the point of maintainability, on behalf of the respondent, I hold that Shri G.S. Ahluwalia, the Govt. Advocate, who filed this petition on 14-3-2000 on behalf of the petitioners, was duly authorised in this behalf and hence the petition is maintainable. It is also opined that neither Shri G.S. Ahluwalia, played any fraud on Court on 23-3-2000, while seeking stay order nor this petition is liable to be quashed on this ground.

14. Now coming on the point of availability of protection of provision contained u/s 197 of the Cr.PC (hereinafter referred to as "the Code"), to these petitioners, against their prosecution in Criminal Case No. 66/2000, it is found dictated by their Lordships of Supreme Court in P.K. Pradhan Vs. The State of Sikkim represented by the Central Bureau of Investigation, , wherein it is found dictated by their Lordships of the Supreme Court that-

"The legislative mandate engrafted in Sub-section (1) of Section 197 touches the jurisdiction of the Court itself. It is a prohibition imposed by the statute from taking cognizance. Different tests have been laid down in decided cases to ascertain the scope and meaning of the relevant words occurring in Section 197 : "any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty". The offence alleged to have been committed must have something to do, or must be related in some manner, with the discharge of his official duty. No question of sanction can arise u/s 197, unless the act complained of is an offence; the only point for determination is whether it was committed in the discharge of official duty. There must be a reasonable connection between the act and the official duty. It does not matter even if the act exceeds what is strictly necessary for the discharge of the duty, as this question will arise only at a later stage when the trial proceeds on the merits. What a Court has to find out is whether the act and the official duty are so inter-related that one can postulate reasonably that it was done by the accused in the performance of official duty, though possibly in excess of the needs and requirements of the situation. An official act can be performed in the

discharge of official duty as well as in dereliction of it. For invoking protection u/s 197 of the Code, the acts of the accused complained of must be such that the same cannot be separated from the discharge of official duty, but if there was no reasonable connection between them and the performance of those duties, and the official status furnishes only the occasion or opportunity for the acts, then no sanction would be required. If the case as put forward by the prosecution fails or the defence establishes that the act purported to be done is in discharge of duty, the proceedings will have to be dropped."

It is further found explained by their Lordships of Supreme Court in aforesaid case that-

"It is well settled that question of sanction u/s 197 of the Code can be raised any time after the cognizance; may be immediately after cognizance or framing of charge or even after the time of conclusion of trial and after conviction as well. But there may be certain cases where it may not be possible to decide the question effectively without giving opportunity to the defence to establish that what he did was in discharge of official duty. In order to come to the conclusion whether claim of the accused that the act that he did was in course of the performance of his duty was a reasonable one and neither pretended nor fanciful, can be examined during the course of trial by giving opportunity to the defence to establish it. In such an eventuality, the question of sanction should be left open to be decided in the main judgment which may be delivered upon conclusion of the trial."

But looking to the facts of the present case, the point of determination and availability of protection provided u/s 197 of the Code, to the petitioners, is not required to be deferred for being decided at a later stage or at the time of final judgment.

15. For adjudging if the acts of the petitioners fall in the category of public duty or same may be said to have been done in performance of public duty, it is useful to refer to following part of a landmark decision of the Supreme Court, delivered in the case of Pukhraj Vs. State of Rajasthan and Another, , that-

"2. The law regarding the circumstances under which sanction u/s 197 of the Code of Criminal Procedure is necessary is now well settled as a result of the decisions from *Hori Ram Singh's* 1939 FCR 159 : (AIR 1969 FC 43) case to the latest decision of this Court in *Bhagwan Prasad Srivastava Vs. N.P. Mishra*,). While the law is well settled the difficulty really arises in applying the law to the facts of any particular case. The intention behind the section is to prevent public servants from being unnecessarily harassed. The section is not restricted only to cases of anything purported to be done in good faith, for a person who ostensibly acts in execution of his duty still purports so to act, although he may have a dishonest intention. Nor is it confined to cases where the act, which constitutes the offence, is the official duty of the official concerned. Such an interpretation would involve a contradiction in terms, because an offence can never be an

official duty. The offence should have been committed when an act purports to be done in the execution of duty. The test appears to be not that the offence is capable of being committed only by a public servant and not by anyone else, but that it is committed by a public servant in an act done or purporting to be done in the execution of his duty. The section cannot be confined to only such acts as are done by a public servant directly in pursuance of his public office, though in excess of the duty or under a mistaken belief as to the existence of such duty. Nor need the act constituting the offence be so inseparably connected with the official duty as to form part and parcel of the same transaction. What is necessary is that the offence must be in respect of an act done or purported to be done in the discharge of an official duty. It does not apply to acts done purely in a private capacity by a public servant. Expressions such as the "capacity in which the act is performed", "cloak of office" and "professed exercise of office" may not always be appropriate to describe or delimit the scope of the section. An act merely because it was done negligently does not cease to be one done or purporting to be done in execution of a duty. In *Hori Ram Singh's case* (supra), Sulaiman, J., observed :--

"The section cannot be confined to only such acts as are done by a public servant directly in pursuance of his public office, though in excess of the duty or under a mistaken belief as to the existence of such duty. Nor is it necessary to go to the length of saying that the act constituting the offence should be so inseparably connected with the official duty as to form part and parcel of the same transaction."

In the same case, Varadhacharia, J., observed :--

"There must be something in the nature of the act complained of that attaches it to the official character of the person doing it." In affirming this view, the Judicial Committee of the Privy

Council observed in AIR 1948 128 (Privy Council)) :

"A public servant can only be said to act or purport to act in the discharge of his official duty, if his act is such as to lie within the scope of his official duty..... The test may well be whether the public servant, if challenged, can reasonably claim that, what he does, he does in virtue of his office".

In *Matajog Dobey Vs. H.C. Bhari*,) the Court was of the view that the test laid down that it must be established that the act complained of was an official act unduly narrowed down the scope of the protection afforded by Section 197. After referring to the earlier cases the Court summed up the results as follows :--

"There must be a reasonable connection between the act and the discharge of official duty; the act must bear such relation to the duty that the accused could lay a reasonable, but not a pretended or fanciful claim, that he did it in the course of the performance of his duty."

16. Now, in applying the aforesaid test, in the facts of the present case, it is

noted that in respect of same incident dated 8-6-92, in respect of which Crime No. 353/92, is registered against Hardeep Singh Anand, the husband of respondent, at P.S. Garha, for offences punishable u/s 420 of the IPC and u/s 3/4 of the Examination Adhinyam, and the facts of which are detailed in para 6 of this order, (a copy of police report submitted in respect of Crime No. 353/92, at Police Station, Garha, is marked as Annexure A-1) the respondent/complainant, who is wife of Hardeep Singh Anand, has filed a complaint on 5-9-92, registered as Cr. Case No. 66/2000, pending in the Court of J.M.F.C., Jabalpur, against these petitioners for offences punishable under Sections 395, 402, 427, 448 and 469 of the IPC, of course stating different facts which, are dictated in paras 2 and 3 of this order. It is also to be borne in mind that against Hardeep Singh, the husband of respondent/complainant, another Crime No. 354/92 is also registered at Police Station, Garha, on 9-6-92, on a written report lodged by Arun Kumar Agrawal, for offences punishable u/s 420 of the IPC and Section Section 3/4 of the Examination Adhinyam, on the facts detailed in para 7 of this order. A copy of charge-sheet of Crime No. 354/92 is marked as Annexure A-2.

17. Thus, on considering the facts on which aforesaid Crime Nos. 353/92 and 354/92, are registered against Hardeep Singh, the husband of respondent/complainant, at Police Station, Garha, on 8-6-92 and 9-6-92, respectively for offences punishable u/s 420 of the IPC and 3/4 of the Examination Adhinyam, along with facts of complaint registered as Criminal Case No. 66/2000, which is filed by respondent, the wife of Hardeep Singh Anand, it is noted that by way of counter blast of registration of aforesaid Crime Nos. 353/92 and 354/92, and the action taken in this regard against Hardeep Singh Anand, in connection with aforesaid Crime Nos., the respondent has filed the complaint, with a view of unnecessarily harass the petitioners, who are public servants. It is found observed by Supreme Court in the case of Pukhraj v. State of Rajasthan (supra) that, the intention behind Section 197 of the Cr.PC, is to prevent public servants from being unnecessarily harassed and hence, I am of the considered opinion that the alleged act of the petitioners, which forms subject matter of aforesaid Criminal Case No. 66/2000, may reasonably claimed by these petitioners, to have been done in discharge of their official duty and thus the protection provided u/s 197 of the Cr.PC, is available to them, which is meant to assure them to discharge the official duty fairly and fearlessly. In fact, it is this type of prosecution which is desired to be deprecated by making provision u/s 197 of the Cr.PC.

18. Consequently, on account of lack of sanction to prosecute these petitioners, in Criminal Case No. 66/2000, which is pending in the Court of J.M.F.C., Jabalpur, the respondent has misused the process of the Court, by filing the complaint and getting the same registered, which is liable to be quashed in exercise of inherent powers.

19. In result, Criminal Case No. 66/2000, pending in the Court of J.M.F.C., Jabalpur, against these petitioners, stands quashed accordingly. A copy of this

order be sent to the concerning J.M.F.C.