

(2014) 12 MAD CK 0238

In the Madras High Court

Case No : Crl. O.P. (MD) No. 22281 of 2014 and M.P. (MD) Nos. 1 and 2 of 2014

S. Inbaraj

APPELLANT

Vs

The Superintendent of Police, Thoothukudi District

RESPONDENT

Date of Decision : 19-12-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 154, 156(3), 173, 200, 227
Penal Code, 1860 (IPC) — Section 420, 498(A)

Citation : (2014) 12 MAD CK 0238

Hon'ble Judges : S. Vaidyanathan, J

Bench : Single Bench

Judgement

S. Vaidyanathan, J.—This petition is filed seeking a direction to the 2nd respondent to take the complaint dated 01.12.2014 made by the petitioner into investigation and register the same in accordance with law and file final report before the concerned Judicial Magistrate within the time limit that may be stipulated by this Court.

2. M.P. (MD). No. 1 of 2014 has been preferred by the petitioner, praying to recall the order dated 16.06.2014, passed in Crl. O.P. (MD) No. 22281 of 2014, dated 08.12.2014.

3. M.P. (MD). No. 2 of 2014 has been filed on behalf of S.P. Shanmuganathan, Minister of State Tourism, Tamil Nadu, praying to implead the petitioner as one of the respondent in the recalling petition filed by the third respondent in M.P. (MD) No. 1 of 2014 in Crl. O.P. (MD) No. 22281 of 2014.

4. This Court, by an order dated 08.12.2014, disposed of the Criminal Original Petition in Crl. O.P. (MD) No. 22281 of 2014, permitting the petitioner to avail alternative remedy available to him in accordance with law as on the complaint dated 01.12.2014, the police submitted a closure report dated 07.12.2014 before this Court and also handed over the copy to the Senior Advocate appearing for the petitioner.

5. On 09.12.2014, the learned Counsel appearing for the petitioner mentioned before this Court that the petitioner has received summons dated 06.12.2014 asking him to appear on 09.12.2014 at 10.00 a.m. and hence, the closure report should not be accepted as it has been created for the purpose of this case. Apart from that, according to him misrepresentation and fraud have been played by the respondent police in sending the closure report dated 07.12.2014 at 10.19 a.m., on 08.12.2014 just before the commencement of the Court hours. There was no enquiry conducted by the police, as it could be seen from the summons dated 06.12.2014.

6. He has contended that when there is a fraud on the part of the respondent police and as there is a misrepresentation of the fact, that the closure report has been hurriedly prepared and suppressing the enquiry to be held on 09.12.2014, an order has been obtained fraudulently and hence the original order can be recalled. He relied upon the decision of this Court, wherein on 10.12.2014, I have rejected the petition to recall the order invoking the inherent powers of this Court under Section 482 of Criminal Procedure Code (in short "Cr.P.C."), as there is a bar under Section 362 Cr.P.C., and that in paragraph "25" has observed that in the rarest of the rare cases, the High Court can recall its own judgment if it has been obtained by fraud. In paragraph "25" the word "review" has been erroneously mentioned and it should read as "recall".

7. Mr. R. Anand, learned Counsel appearing in M.P. (MD) No. 2 of 2014, who has also filed a petition to implead/intervene in the petition, contended that once the order has been passed, for recalling the said order he is entitled to be heard and he has objection to recall the order. He has admitted for an order to be obtained registering the complaint, in view of the decision reported in Anju Chaudhary Vs. State of U.P. and Another, , the intervenor has no locus standi, but, however is entitled to be heard in the petition to recall. When the intervenor has locus standi in the main petition, he has no locus standi in the intervening petition in the Miscellaneous petition to recall. The relevant paragraphs are extracted below:

"30. The rule of audi alteram partem is subject to exceptions. Such exceptions may be provided by law or by such necessary implications where no other interpretation is possible. Thus rule of natural justice has an application, both under the civil and criminal jurisprudence. The laws like detention and others, specifically provide for post-detention hearing and it is a settled principle of law that application of this doctrine can be excluded by exercise of legislative powers which shall withstand judicial scrutiny. The purpose of the Criminal Procedure Code and the Indian Penal Code is to effectively execute administration of the criminal justice system and protect society from perpetrators of crime. It has a twin purpose; firstly to adequately punish the offender in accordance with law and secondly to ensure prevention of crime. On examination, the scheme of the Criminal Procedure Code does not provide for any right of hearing at the time of registration of the First Information Report. As already noticed, the registration forthwith of a cognizable offence is the statutory duty of a police officer in charge

of the police station. The very purpose of fair and just investigation shall stand frustrated if pre-registration hearing is required to be granted to a suspect. It is not that the liberty of an individual is being taken away or is being adversely affected, except by the due process of law. Where the Officer In-charge of a police station is informed of a heinous or cognizable offence, it will completely destroy the purpose of proper and fair investigation if the suspect is required to be granted a hearing at that stage and is not subjected to custody in accordance with law. There would be the pre-dominant possibility of a suspect escaping the process of law. The entire scheme of the Code unambiguously supports the theory of exclusion of audi alteram partem pre-registration of an FIR. Upon registration of an FIR, a person is entitled to take recourse to the various provisions of bail and anticipatory bail to claim his liberty in accordance with law. It cannot be said to be a violation of the principles of natural justice for two different reasons. Firstly, the Code does not provide for any such right at that stage. Secondly, the absence of such a provision clearly demonstrates the legislative intent to the contrary and thus necessarily implies exclusion of hearing at that stage. This Court in the case of Union of India and another Vs. W.N. Chadha, clearly spelled out this principle in paragraph 98 of the judgment that reads as under:

"98. If prior notice and an opportunity of hearing are to be given to an accused in every criminal case before taking any action against him, such a procedure would frustrate the proceedings, obstruct the taking of prompt action as law demands, defeat the ends of justice and make the provisions of law relating to the investigation lifeless, absurd and self defeating. Further, the scheme of the relevant statutory provisions relating to the procedure of investigation does not attract such a course in the absence of any statutory obligation to the contrary."

31. In the case of Samaj Parivartan Samudaya and Others Vs. State of Karnataka and Others, , a three-Judge Bench of this Court while dealing with the right of hearing to a person termed as "suspect" or "likely offender" in the report of the CEC observed that there was no right of hearing. Though the suspects were already interveners in the writ petition, they were heard. Stating the law in regard to the right of hearing, the Court held as under:

"50. There is no provision in CrPC where an investigating agency must provide a hearing to the affected party before registering an FIR or even before carrying on investigation prior to registration of case against the suspect. CBI, as already noticed, may even conduct preregistration inquiry for which notice is not contemplated under the provisions of the Code, the Police Manual or even as per the precedents laid down by this Court. It is only in those cases where the Court directs initiation of investigation by a specialised agency or transfer investigation to such agency from another agency that the Court may, in its discretion, grant hearing to the suspect or affected parties. However, that also is not an absolute rule of law and is primarily a matter in the judicial discretion of the Court. This question is of no relevance to the present case as we have already heard the

interveners."

32. While examining the above-stated principles in conjunction with the scheme of the Code, particularly Section 154 and 156(3) of the Code, it is clear that the law does not contemplate grant of any personal hearing to a suspect who attains the status of an accused only when a case is registered for committing a particular offence or the report under Section 173 of the Code is filed terming the suspect an accused that his rights are affected in terms of the Code. Absence of specific provision requiring grant of hearing to a suspect and the fact that the very purpose and object of fair investigation is bound to be adversely affected if hearing is insisted upon at that stage, clearly supports the view that hearing is not any right of any suspect at that stage".

8. Even assuming for the sake of arguments that M.P. (MD) No. 2 of 2014 is allowed, the Court is going to hear the matter afresh, in which case, he will have no locus standi in the main petition in view of the decision extracted supra. The intervenor sought to rely upon the decision of this Court in Divine Retreat Centre Vs. State of Kerala and Others, wherein in paragraph 51, it has been held as follows:

"51. The order directing the investigation on the basis of such vague and indefinite allegations undoubtedly is in the teeth of principles of natural justice. It was, however, submitted that the accused gets a right of hearing only after submission of the charge-sheet, before a charge is framed or the accused is discharged vide Section 227 and 228 and 239 and 240 Cr.P.C. The appellant is not an accused and, therefore, it was not entitled for any notice from the High Court before passing of the impugned order. We are concerned with the question as to whether the High Court could have passed a judicial order directing investigation against the appellant and its activities without providing an opportunity of being heard to it. The case on hand is a case where the criminal law is directed to be set in motion on the basis of the allegations made in anonymous petition filed in the High Court. No judicial order can ever be passed by any court without providing a reasonable opportunity of being heard to the person likely to be affected by such order and particularly when such order results in drastic consequences of affecting one's own reputation. In our view, the impugned order of the High Court directing enquiry and investigation into allegations in respect of which not even any complaint/information has been lodged with the police is violative of principles of natural justice."

9. The Honourable Supreme Court in number of cases even in the cases referred to has dealt with the power of the High Court and the jurisdiction under 482 Cr.P.C. and the relevant paragraph is extracted below.

"There is nothing like unlimited arbitrary jurisdiction conferred on the High Court under Section 482 Cr.P.C. The Power under Section 482 has to be exercised sparingly, carefully and with caution only where such exercise is justified by the tests laid down in the Section itself. Section 482 does not confer any new power

on the High Court but only saves the inherent power which the Court possessed before the enactment of the Criminal Procedure Code, 1973. There are three circumstances under which the inherent jurisdiction may be exercised, namely, (i) to give effect to an order under the CrPC (ii) to prevent abuse of the process of Court, and (iii) to otherwise secure the ends of justice."

10. The Honourable Supreme Court has not considered in this case the powers of Section 362 Cr.P.C. when a fraud has been played by the other side to obtain an order. Hence, this decision will not be helpful to the intervenor.

11. He further relied upon the decision of the Honourable Apex Court in a decision in Hari Singh Mann Vs. Harbhajan Singh Bajwa and Others, .

12. I have taken note of this judgments and considered the same in paragraph "12" of my decision dated 10.12.2014 in CrI. O.P. (MD) No. 20355 of 2014 which is extracted below.:

"12. In all the above decisions, it has been highlighted that the High Court has no jurisdiction to alter or review its own judgment or order except to the extent of correcting any clerical or arithmetical error. Practice of filing criminal miscellaneous petition after disposal of the main case and issuance of fresh directions in such petition is unwarranted and amounts to abuse of process of court and once a matter is finally disposed of, the Court, in the absence of a specific statutory provision, becomes functus officio in respect of that matter. The inherent power of the court under Section 482 cannot be exercised for doing that which is specifically prohibited by the Code such as under Section 362.

In view of the above, the decision will not be helpful to him.

13. He also relied upon the decision in Sunil Kumar Vs. State of Haryana, and contended that once the Court delivers the judgment, it will become functus officio and thereafter, will not reconsider and modify the same. After dismissal of appeal against conviction by High Court, application filed before it for modification of its judgment and order of dismissal, was rightly dismissed by the High Court in that case.

14. In that case also, the Honourable Supreme Court has not dealt with the situation like the present case in hand wherein the order was obtained by suppression or fraud.

15. The learned Additional Advocate General appearing for the respondent police has also reiterated the same contention and contended that the order cannot be recalled as High Court will become functus officio and the High Court has given liberty to the petitioner to agitate his remedy in accordance with law including filing a private complaint.

16. He has also referred to the decision of Kushalbai Ratanbhai Rohit and Others Vs. The State of Gujarat, wherein it is held that once the order is signed, it is become final and the Court cannot recall the order. If it is not signed, the

Court empowers to recall the order, but once it signed, it will become *functus officio* and Section 362 Cr.P.C., is a bar and it puts an embargo to call or recall any judgment passed in the criminal case.

17. In this case, the Honourable Supreme Court has also referred to the yet another judgment in *Surendra Singh and Others Vs. The State of Uttar Pradesh*, and paragraphs 8 & 9 read thus:

"8. This Court has also dealt with the issue in *Surendra Singh and Others Vs. The State of Uttar Pradesh*, observing as under:

Now up to the moment the judgment is delivered Judges have the right to change their mind. There is a sort Of "*locus poenitentiae*" and indeed last minute alterations often do occur. Therefore, however much a draft judgment may have been signed beforehand, it is nothing but a draft till formally delivered as the judgment of the Court. Only then does it crystallize into a full fledged judgment and become operative. It follows that the Judge who "delivers" the judgment, or causes it to be delivered by a brother Judge, must be in existence as a member of the Court at the moment of delivery so that he can, if necessary, stop delivery and say that he has changed his mind. There is no need for him to be physically present in court but he must be in existence as a member of the Court and be in a position to stop delivery and effect an alteration should there be any last minute change of mind on his part. If he hands in a draft and signs it and indicates that he intends that to be the final expository of his views it can be assumed that those are still his views at the moment of delivery if he is alive and in a position to change his mind but takes no steps to arrest delivery.

But one cannot assume that he would not have changed his mind if he is no longer in a position to do so. A Judge's responsibility is heavy and when a man's life and liberty hang upon his decision nothing can be left to chance or doubt or conjecture; also, a question of public policy is involved. As we have indicated, it is frequently the practice to send a draft, sometimes a signed draft, to a brother Judge who also heard the case. This may be merely for his information, or for consideration and criticism. The mere signing of the draft does not necessarily indicate a closed mind. We feel it would be against public policy to leave the door open for an investigation whether a draft sent by a Judge was intended to embody his final and unalterable opinion or was only intended to be a tentative draft sent with an unwritten understanding that he is free to change his mind should fresh light drawn upon him before the delivery of judgment.

9. Thus, from the above, it is evident that a Judge's responsibility is very heavy, particularly, in a case where a man's life and liberty hang upon his decision nothing can be left to chance or doubt or conjecture. Therefore, one cannot assume, that the Judge would not have changed his mind before the judgment become final.

18. It is true, in this case, I have signed the order. But, the Honourable Supreme Court has not dealt with the situation wherein the order has been obtained by

fraud and the Apex Court has held that if the order has been obtained by fraud it can be recalled.

19. In the matter of Padmasundara Rao and Others Vs. State of Tamil Nadu and Others, the Honourable Supreme Court has held as follows:

"Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. There is always peril in treating the words of speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case, said Lord Morris in *Herington Vs. British Railways Board* (1972) 2 WLR 537. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases".

20. In view of the decision extracted above, the decision, quoted by the intervenor and the learned Additional Advocate General will not be helpful to the facts of the case.

21. I have discussed the events narrated by the intervenor since I allowed him to argue. That does not mean that he has locus standi.

22. In view of the decision reported in *Anju Chaudhary Vs. State of U.P. and Another*, the intervenor's petition is rejected and as there is a misrepresentation of fact and fraud, and that the summons dated 06.12.2014 clearly states that the petitioner should appear for enquiry on 09.12.2014 and that the closure report has been prepared by the Inspector of Police without the knowledge of the pendency of the proceedings that the Sub-Inspector of Police has signed the letter asking the petitioner to appear for enquiry, the contention of the intervenor and the learned Additional Advocate General are rejected. In view of the discussions, I find much force in the contentions of the petitioner and hence, the order passed by this Court is recalled.

23. As the order has been recalled, now this Court will have to consider on the facts available before me as to whether the prayer has got to be granted as such.

24. The Honourable Supreme Court in the matter of *Lalita Kumari Vs. Govt. of U.P. and Others*, held as follows:

"110) Therefore, in view of various counter claims regarding registration or non-registration, what is necessary is only that the information given to the police must disclose the commission of a cognizable offence. In such a situation, registration of an FIR is mandatory. However, if no cognizable offence is made out in the information given, then the FIR need not be registered immediately and perhaps the police can conduct a sort of preliminary verification or inquiry for the limited purpose of ascertaining as to whether a cognizable offence has been committed. But, if the information given clearly mentions the commission of a cognizable offence, there is no other option but to register an FIR forthwith. Other considerations are not relevant at the stage of registration of FIR, such as,

whether the information is falsely given, whether the information is genuine, whether the information is credible etc. These are the issues that have to be verified during the investigation of the FIR. At the stage of registration of FIR, what is to be seen is merely whether the information given ex facie discloses the commission of a cognizable offence. If, after investigation, the information given is found to be false, there is always an option to prosecute the complainant for filing a false FIR.

Conclusion/Directions:

111) In view of the aforesaid discussion, we hold:

- i) Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.
- ii) If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.
- iii) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.
- iv) The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.
- v) The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.
- vi) As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:
 - a) Matrimonial disputes/family disputes
 - b) Commercial offences
 - c) Medical negligence cases
 - d) Corruption cases
 - e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay.

The aforesaid are only illustrations and not exhaustive of all conditions which

may warrant preliminary inquiry.

vii) While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.

viii) Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above."

25. In view of the above decision, the entire guidelines mentioned in paragraph 111 will have to be read as a whole and not in isolation. Hence, the police will have to enquire into the complaint and in case, prima facie case is made out, then they can register a case and such exercise should be completed within 30 days therefrom. If the complaint is closed, a copy of the closure report will have to be forwarded to the petitioner/complainant and the petitioner is entitled to work out his remedy in accordance with law.

26. The petitioner contended that this Court should give a positive direction for registering the case as in the closure report, the police have enquired about the incident with several persons and such an enquiry is nothing but investigation and the proper investigation can be done only after the registration of F.I.R., and after the F.I.R. registered and after investigation, if the police comes to the conclusion that it has got to be closed on the ground of "Mistake of Facts", they have to forward the same to the Judicial Magistrate, wherein, he will have to file a protest petition and the Magistrate may consider the protest petition or convert the protest petition under Section 200 Cr.P.C. and/or to order further investigation as per Section 173 of Criminal Procedure Code.

27. He also contended that it is a mandatory duty cast upon the police to register the F.I.R. and they cannot shirk in doing their duty. It is nothing but abdication of their powers.

28. He further contended that if the police is going to register the case, there is no need for him to invoke Section 200 Cr.P.C. If after registration of F.I.R., an adverse report/referred charge sheet has been filed, he would agitate the same before the Judicial Magistrate after the same sent by the police to the Judicial Magistrate. He further submitted that in this case, the investigation has been done and thereafter, the police decided not to register the F.I.R. This is not what is contemplated under Section 154 Cr.P.C.

29. According to the petitioner, once the complaint discloses a cognizable offence, a case has got to be registered. A preliminary enquiry is required, only if a cognizable offence is not made out. Only after registration of F.I.R., based on

the averments in the complaint, the veracity of the statements can be gone into. If the complaint does not disclose a cognizable offence, only then inquiry is needed. If the complaint discloses cognizable offence, the inquiry is not at all required and that is the spirit of the decision of the Honourable Supreme Court in paragraph "111" in Lalita Kumari Vs. Govt. of U.P. and Others, is the contention of the petitioner.

30. In reply, the learned Additional Advocate General appearing for the respondent that the police has inquired 10 persons and the preliminary enquiry does not form part of the investigation. He further contended that in paragraph 111(vi) of the decision of the in Lalita Kumari Vs. Govt. of U.P. and Others, , what is stated by the Honourable Supreme Court is only the illustrative where the preliminary enquiry can be made and it is not exhaustive. He further submitted that offence under Section 498(A) IPC pertains to matrimonial dispute and it is a cognizable offence. If there is a cheque bounce offence under Section 420 IPC, it is a cognizable offence and a commercial offence.

31. He further submitted that almost all the corruption cases are cognizable offences. The Honourable Supreme Court has in no way stated that only in a non-cognizable offence, a preliminary enquiry has to be conducted. Out of 5 illustrations extracted supra in paragraph 111(6) namely,(a), (b) and (d), it is very clear that where cognizable offences are involved, the Court ordered preliminary enquiry.

32. In this case also, for arriving at a conclusion, as to whether the cognizable offence is made out or not, preliminary enquiry has been conducted and the contention of the petitioner that it shall form part of investigation, is not correct.

33. A complete reading of paragraph 111 of the above decision would clearly show that the Constitution Bench has not demarcated preliminary enquiry in respect of the non-cognizable offence and no preliminary enquiry in case of cognizable offence. He further submitted that the Inspector of Police and the Sub-Inspector of Police acted parallelly and the Inspector of Police closed a complaint after enquiry, whereas, without knowing the consequences, the Sub-Inspector of Police has issued a letter asking the petitioner to appear for enquiry.

34. Heard both sides.

35. If the Honourable Supreme Court have decided that no preliminary enquiry is required, if the complaint discloses cognizable offence, there is no need for the Honourable Apex Court to give the golden guidelines to be followed. If the contention of the petitioner is accepted, the Honourable Supreme Court could have restricted with paragraph 111(1) itself. The reason for giving eight elaborative guidelines, is to enable the police to act on the complaint. The Honourable Supreme Court has stated that F.I.R. is mandatory if the information discloses a commission of cognizable offence and no preliminary enquiry is permissible. In paragraph 111(vi), it has been stated that the police has to conduct a preliminary enquiry and it depends on the facts and circumstances of

each case. If the contention of the petitioner has got to be accepted, the purpose of 111(vi) will become redundant. Paragraph 111 has got to be read as a whole and the purport of para 111(i) and 111(vi) if read together, it is very clear that enquiry has got to be conducted for deciding as to whether a cognizable offence is made out or not, as the Honourable Supreme Court laid down that the illustration of 111(vi) only illustrative and not exhaustive.

36. As rightly pointed out by the learned Additional Advocate General, the matrimonial dispute/family dispute attracting under Section 498(A) IPC, commercial offence attracts 420 IPC, corruption cases are all cognizable offences, wherein, a preliminary enquiry has got to be made. The complaint alone is not sufficient. In certain cases to make an incident as a cognizable offence wordings can be borrowed from the provisions of the I.P.C. or other enactments. If paragraphs 111(i) and the first sentence of 111(iii) are read together, if an enquiry discloses a commission of cognizable offence, F.I.R. must be registered, but that can't be read in isolation.

37. Hence, the contention of the petitioner that if the complaint by the petitioner states/mention cognizable offence, the police will have to register the F.I.R. without an enquiry, cannot be accepted. A preliminary enquiry is a mandatory to decide as to whether the offence is cognizable offence or not, before registering F.I.R. The contention of the petitioner that after enquiry and thereafter registering a complaint would mean that putting the cart before the horse is not correct, more particularly, in view of the decision of the Honourable Supreme Court in Lalita Kumari Vs. Govt. of U.P. and Others, and the relevant paragraphs extracted supra and discussed above.

38. Hence, I am not accepting the contention of the original petitioner that this Court should exercise its extraordinary powers, to direct the police to register the case in terms of the decision of the Honourable Apex Court mentioned supra. The police will have to enquire into the complaint complete the enquiry within 30 days and in case a cognizable offence is made out, it is open to them to register the F.I.R. In case of closure of the said complaint, a copy of the closure report shall be furnished to the petitioner within seven days from the date of closure. The entire narration of the facts mentioned supra, is only for the disposal of the Criminal Original Petition and connected Miscellaneous petitions. This will not have a bearing on the police who is going to conduct a preliminary enquiry or investigation at a later date, if cognizable offence is made out after registering the F.I.R. or the closure of case as "Mistake of Fact" or in any other form or mode. Hence, the Criminal Original Petition is disposed of in the above terms. In view of the observations, the earlier closure report stands cancelled and hence it is open to the respondent police to decide the matter afresh in accordance with law. Before parting with the judgment, I am constrained to express that the approach adopted by the police (in closing the complaint) is perfunctory.