

(2010) 08 GUJ CK 0035
In the Gujarat High Court

Case No : Criminal Miscellaneous Application No. 4963 of 2010

Sandip Jaykishan Rathod, Sarpanch and Others	APPELLANT
Vs	
State of Gujarat and Another	RESPONDENT

Date of Decision : 10-08-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 173, 173(2), 482
Penal Code, 1860 (IPC) — Section 143, 147, 148, 365, 435
Prevention of Damage to Public Property Act, 1984 — Section 3, 7

Citation : (2010) 08 GUJ CK 0035

Hon'ble Judges : S.J. Mukhopadhaya, C.J; K.M. Thaker, J

Bench : Division Bench

Advocate : B.M. Mangukiya and Bela A. Prajapati, s 1-3, for the Appellant; Krina Calla, Asst. Public Prosecutor for Respondent 1, for the Respondent

Judgement

K.M. Thaker, J.—In this application, preferred u/s 482 of Criminal Procedure Code 1973 (hereinafter referred to as "the Code") the three applicants have prayed that the First Information Report ("FIR" for short) lodged with Umargam Police Station which has been registered as C.R. No. I - 20 of 2010 for the alleged commission of offences punishable under Sections 143, 147, 148, 435, 365 and 506(2) of Indian Penal Code ("IPC" for short) and Sections 3 and 7 of the Damage to Public Properties Act, 1984, may be quashed and set aside.

2. The applicants have inter alia claimed that the said FIR - complaint is vexatious and abuse of process of law. It is also claimed that the allegations made in the complaint - FIR are absurd and it has been filed with an ulterior motive of pressurising the applicants who have raised voice against certain illegal and unauthorised activities of some of the industrial units who have been discharging untreated effluent which has adversely affected the soil of the nearby villages and the marine life in the sea. The applicants have preferred present application on the premise that the FIR - complaint even if taken on its face value, is absurd and deserves to be quashed at threshold.

3. The applicant No. 1 is Sarpach of village Saronda, the applicant No. 2 is Sarpanch of village Nargol and the applicant No. 3 is Sarpanch of village Tadgam.

4. It transpires from the record, and particularly from the copy of the FIR, that one Mr. H.G. Patil, who claim to be the site supervisor of M/s Jain Irrigation System Limited (the company which is executing contract of installing pipe line for disposal of wastes from the Industrial Estate of Gujarat Industrial Development Corporation, at Sarigam) lodged the FIR at or around 2.30 p.m on 13.3.2010 with the Umergam Police Station. It has been alleged in the FIR/complaint that on 13.3.2010 while the workers were executing the work for laying the pipe line, Mr. Yatinbhai Bhandari, Sarpanch of village Nargol (applicant No. 2 herein) went to the site along with other 30 to 40 persons at around 10.30 a.m. and started quarrel with the complainant and then hit him with a stick blow. After some time Mr. Bhandari - the applicant No. 2 was joined by Mr. Chintamani Ramubhai Dubla, Sarpanch of village Tadgam (applicant No. 3 herein) who also had reached the site with about 100 to 115 persons including some female. After the applicant No. 3 joined the applicant No. 2 with the group of persons, the applicant No. 2 and other persons hit the complainant with stick and fist blows and also hit some of the workmen.

4.1 It has also been alleged in the said FIR/complaint that the HDPE pipes which were lying at the site, were set ablaze. The complainant has also alleged that the said act of the accused of setting the pipes ablaze resulted into damage of about Rs. 20 lacs. The complainant also alleged that the accused also threatened to kill him. The said FIR/complaint came to be registered as C.R. No. I - 20 of 2010.

4.2 After the said FIR/complaint was lodged all the three applicants, though separately, applied for anticipatory bail. The application for anticipatory bail preferred before the Additional Sessions Judge, Fast Track Court, Valsad, by present applicant No. 1 was dismissed by the learned Sessions Judge vide order dated 31.3.2010. The application for anticipatory bail preferred by the present applicant Nos. 2 and 3, before the District & Sessions Court, Fast Track Court, Valsad, was dismissed by order dated 31.3.2010. The applicant No. 1, thereafter, preferred the application for anticipatory bail before the High Court. The said application was registered as Criminal Misc. Application No. 3466 of 2010. Since the Court was not inclined to grant the application it was withdrawn under the order dated 5.5.2010. The applicant Nos. 2 and 3 had filed application being Criminal Misc. Application No. 3471 of 2010, seeking anticipatory bail. Since the Court was not inclined to grant the application, the said application was also withdrawn under the order dated 5.5.2010. After the applications for anticipatory bail came to be dismissed/withdrawn as aforesaid, the applicants have preferred present application u/s 482 of the Code seeking quashment of the FIR/complaint registered as C.R. No. I-20 of 2010.

At the outset it may be noted that the learned Single Judge, after initial hearing of present application, passed order dated 12.5.2010. The relevant part reads thus:

Learned Counsel for the applicants submits that the applicants have voiced their grievances against the polluting industries of the area and, as a result thereof, a public interest litigation was filed and various orders came to be passed by the Division Bench....

It appears that the impugned complaint is an off-shoot of the direction issued by the Division Bench of this Court in the public interest litigation, therefore, it is desirable that this matter may be placed before the Division Bench, after obtaining appropriate order from Honourable the Chief Justice.

5. It is in view of the said order that present application is before us.

5.1 Mr. Mangukiya learned advocate has appeared for the applicants. Ms. Krina Calla learned AGP has appeared for the opponent State. We have heard the learned Counsel. We have also perused the record of present application.

6. Mr. Mangukiya learned advocate for the applicants has submitted that the FIR/complaint has been lodged with ulterior motive and as an arm-twisting method. He submitted that the said FIR/complaint is vexatious and sheer abuse of process of law. He has also submitted that the FIR/complaint has been lodged with a view to harassing applicants who have raised protest against the industrial units in GIDC's Sarigam industrial estate which are causing pollution. He referred to the Writ Petitions being SCA No. 7652 of 2009, SCA No. 3393 of 2010 and SCA No. 3181 of 2010 and submitted that the SCA No. 7652 of 2009 brought to the notice of this Court illegal acts of the industrial units in GIDC Sarigam estate and the applicants are party to the proceedings of said SCA No. 7652 of 2009 and therefore the FIR/complaint has been lodged against them as a measure of retaliation. He also submitted that even if the allegations made in the FIR/complaint are taken on face value, it becomes apparent that they are absurd and even made only with a view to harassing the applicants. Mr. Mangukiya learned advocate for the applicant referred to the rejoinder affidavit filed by the applicant No. 1 and submitted that according to the communication dated 22.10.2008 signed by the notified area officer, the work awarded to M/s Jain Irrigation System Limited was fully executed and that therefore by the said communication dated 22.10.2008 the said authority had issued completion certificate. In light of the said communication, he submitted that the complainant and the industrial units against whom the orders came to be passed in the above referred Writ Petitions being SCA No. 7652 of 2009, SCA No. 3393 of 2010 and SCA No. 3181 of 2010 have committed a fraud in alleging that when the work of laying pipe lines was being executed the accused-applicants committed offence as alleged in the complaint/FIR. Mr. Mangukiya learned advocate for the applicants has submitted that in view of such facts the FIR/complaint deserves to be quashed and set aside.

7. The application has been opposed on behalf of the opponent by Ms. Krina Calla learned AGP. Reply affidavit stating relevant factual aspect has been filed. She has submitted that the investigation is going on and the Court may not

foreclose the investigation by quashing the FIR/complaint, as prayed for by the applicants. She referred to the applications filed by the applicants seeking anticipatory bail and submitted that after having failed to obtain anticipatory bail, the applicants have now filed present application seeking quashment of the FIR/complaint which, in the facts of the case ought not to be granted.

7.1 Learned AGP submitted that during investigation certain statements came to be recorded and from the said statement it has emerged that the incident as alleged did take place and the complainant and two other persons were injured and were treated by the Medical Officer, Maroli, Umargam. She also submitted that further investigation is necessary.

7.2 While dealing with the submissions of the learned Counsel for the applicants, and particularly the submission regarding some fraud or irregularity said to have been committed in execution of the contract awarded by GIDC, she submitted that if anything comes up during the investigation then appropriate steps in accordance with law will be taken, however that could not be ground for quashing present FIR/complaint. She also referred to the orders rejecting anticipatory bail preferred by the applicants before the Sessions Court and thereafter before this Court.

It is not in dispute that the investigation is pending and is in progress. The present application is preferred at a stage when the chargesheet has yet not been filed and a complaint about alleged commission of offence punishable u/s 143, 147, 148, 435, 365 and 506(2) read with Sections 3 and 7 of the Damage to Public Properties Act 1984 has been lodged against the accused and the investigation is in progress.

8. The applicants have vehemently contended that the complaint/FIR is absolutely frivolous and vexatious. It has also been claimed by the applicants that with a view to causing harassment and as a measure of retaliation the complaint/FIR has been lodged. To substantiate the said allegation, it has been submitted that the applicants have, along with other villagers raised voice against some of the industrial units situate in the Sarigam Industrial Estate of GIDC who are found to be causing pollution and as a result of the protest raised against such units the High Court has passed certain directions, including orders of closure of some of the industrial units in the Writ Petitions which include Public Interest Litigation and that since the applicants are party to the said petitions, they have been targeted.

9. Lest any of the observations affect or influence the investigation and/or case of the either side, we refrain from making any observation and/or reference to any factual aspect at this stage.

10. While it is true that certain proceedings including proceedings by way of Public Interest Litigation have been initiated against the polluting units, it should be noted that the petitions being SCA No. 3393 of 2010, SCA No. 3181 of 2010 and SCA No. 7652 of 2009 have been initiated/filed by the persons/parties other

than the applicants, and the applicants herein have only subsequently got themselves impleaded in SCA No. 7652 of 2009 by filing a Civil Application. The present applicants, therefore, are not the persons who initiated the action. The first petition (SCA No. 7652 of 2009) in the line of the three petitions referred to by the applicants was filed in or around 22/27.7.2009 by "Lord's Seaside Cooperative Housing Service Society Ltd." and not by the present petitioners. It was in the said petition that subsequently i.e. in December 2009 about seven persons including present three applicants sought permission by filing Civil Application No. 13036 of 2010 for being impleaded as party to the proceedings of SCA No. 7652 of 2009. They claimed to be the persons directly affected by the pollution. In the said Civil Application (which was filed 5 months after the petition was filed) on 10.12.2009 the Court passed following order:

We find that the intervening petitioner intends to support the cause of the petitioner. Counsel appearing for the original petitioner has no objection. According to the Counsel appearing for the respondent, even without intervenor they can assist the Court.

We are of the view that the intervenors be allowed to join as co-petitioners. One of the Counsel may lead the case. Civil Application stands disposed of.

11. Thus, there were in all seven applicants, in the said application which included the applicants, who subsequently requested for joining the proceedings but were not the original petitioners. It is in the backdrop of the aforesaid facts that the allegation by the applicants that since they have raised voice against the polluting units they have been targeted and vexatious complaint has been got registered by an employee of the limited company to whom the contract has been awarded, become a matter of investigation and evidence.

12. The powers of the Court u/s 482 of the Code are, as held by the Apex Court, wide however should be exercised cautiously and sparingly. As held by the Hon'ble Apex Court, the wider the power, the grater should be circumspection.

12.1 In present case, the learned AGP has pointed out that it has been prima facie found during the investigation process that the complainant and other two persons/workmen were injured and had to be treated by the Medical Officer. In this context we may refer to paragraph 2 of the reply affidavit made by one Mr. B.S. Ahir, ASI of Umargam Police Station, which reads thus:

I state that the investigation was carried out pursuant to the FIR dated 13.3.2010. I state that during the investigation the statement of some witnesses were recorded. I state that the said witnesses have supported the version of complainant and therefore, it cannot be said that there is no prima facie case against the applicant which is required to be further investigated. I state that the complainant and 2 others had got injuries and they were treated by the Medical Officer, Maroli, Umargam. I state that the injuries were received by the complainant and 2 others and the deponent herein will present the case papers for perusal of this Hon'ble Court.

12.2 Thus, there appear to be some prima facie material regarding the incidence as alleged in the FIR/complaint having taken place which prima facie appear to have resulted into some injuries to the complainant and other two persons.

12.3 On the other hand the applicants have, by their rejoinder affidavit, alleged that as per the certificate dated 22.10.2008 signed by notified area officer GIDC, Sarigam, the contract awarded to the company (of which the complainant is an employee) M/s Jain Irrigation System Limited had been already executed and completed and that therefore there was no occasion for executing any work of GIDC's contract at the relevant time. The applicants, by referring to the said documents have claimed that the entire story narrated in the FIR/complaint is incorrect. The applicants have, in the rejoinder affidavit, in paragraph 4, averred that:

4. I say that the pipeline which is sought to be laid down by the GIDC, Sarigam was in fact, not fully complete and a false certificate was issued and the money was siphoned away. Certain pipelines were changed under the guise of laying down new pipeline. When said pipeline which is stated to have been laid down in 2007-2008 giving some problem of leakage and problem is landed before this Hon'ble Court in the form of a Public Interest Litigation, said pipeline was sought to be changed and therefore, a private contractor was carrying out the work which is not assigned by GIDC at the time when same was being carried out. Therefore, when every aspect of effluent being discharged which is untreated and was causing serious problem of pollution not only in the sea water but also is surrounding agricultural lands wherefrom said pipeline was passing through, it has become eminent for them to lay down pipeline which in fact it was not laid down at all and false report was prepared and false certificate has been issued. When this fact is learnt by the villagers, as it is reported, that the said pipeline was being laid down at different alignment and therefore, villagers, more particularly women group of the village, objected to and therefore, the contractor could not carry out the work of laying down pipeline and therefore, aforesaid false and frivolous complaint has been filed in which the petitioners have been targeted since the petitioners are the whistle blowers who has not only approached Government by various applications as set out hereinabove, but also placed certain material in the hands of the persons who approached this Hon'ble Court by way of Public Interest Litigation.

Even from the averments made by the applicants in paragraph 4, it prima facie appears that some activity of laying the pipeline was being carried out at the material point of time i.e. on 13.3.2010.

12.4 The said averment in the rejoinder affidavit of the applicants and the details mentioned by the ASI, Mr. Ahir in his affidavit dated 3.8.2010 and the averments in the complaint, prima facie give out, that further investigation may be necessary and it would be too premature to interfere at this stage with the investigation process. The chargesheet has also yet not been filed and that therefore sufficient details and material - which may give prima facie idea - are

yet not available on record, hence at this stage it would be improper and premature for the Court to record any observation - either way. In this view of the matter the process of investigation should not be ordinarily interfered with and/or prematurely closed.

13. At the stage of FIR/complaint, when the facts and material available on record are hazy, it would be too premature to scuttle the investigation process. At this stage the allegations about malafides cannot be examined. The possibility of conviction or otherwise also cannot be examined at this stage. In this regard it is appropriate at this stage to refer to the observations by the Hon''ble Apex Court. In the case between State of Andhra Pradesh Vs. Golconda Linga Swamy and Another, in paragraph 8 the Hon''ble Apex Court observed as follows:

8. As noted above, the powers possessed by the High Court u/s 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. High Court being the highest Court of a State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material.... It would not be proper for the High Court to analyse the case of the complainant in the light of all probabilities in order to determine whether a conviction would be sustainable and on such premises, arrive at a conclusion that the proceedings are to be quashed. It would be erroneous to assess the material before it and conclude that the complaint cannot be proceeded with. In proceeding instituted on complaint, exercise of the inherent powers to quash the proceedings is called for only in a case where the complaint does not disclose any offence or is frivolous, vexatious or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same in exercise of the inherent powers u/s 482 of the Code. It is not, however, necessary that there should be meticulous analysis of the case before the trial to find out whether the case would end in conviction or acquittal.... When an information is lodged at the police station and an offence is registered, then the mala fides of the informant would be of secondary importance. It is the material collected during the investigation and evidence led in Court which decides the fate of the accused person. The allegations of mala fides against the informant are of no consequence and cannot by itself be the basis for quashing the proceeding.

(emphasis supplied)

14. At this stage of the investigation, the Court would not be justified in concluding that there is no material to allow the investigation process to continue and to quash the FIR and thereby to foreclose the investigation at this stage. It

would also not be justified to quash the FIR/complaint at this stage only on the ground that the three applicants are the persons who along with other four persons approached the Court with a request to permit them to join the proceedings relating to SCA No. 7652 of 2009 (claiming that they are persons affected on account of the pollution) by assuming at this stage that, that is the only reason behind the complaint/FIR. If we indulge into such assumption then we will also have to assume, at this stage, and in absence of any evidence that the factum of the injuries to the complainant and other three persons and their treatment by Medical Officer, as narrated in the affidavit of the ASI, are incorrect. It would be a heavy dose of presumption and that too at the stage when investigation is still not over.

15. The Court cannot examine, at this stage the sufficiency and/or reliability of the material with the investigating agency. We would not be justified in quashing the FIR/complaint at this stage on the assumption that the complaint is made on concocted allegations. In view of the affidavit made by the ASI, the Court would also not be justified in assuming at this stage that any incident has not occurred at all. The Hon''ble Apex Court in the case between Swaran Singh and Others Vs. State through Standing Counsel and Another, in paragraph 8 has observed as follows:

8. It may be noted that the trial has still to be held and the appellants will have an opportunity of establishing their innocence in the trial. At this stage all that the High Court can see in the petition u/s 482 Cr.P.C. or in a writ petition, is whether on a perusal of the FIR, treating the allegations to be correct, a criminal offence is prima facie made out or not or whether there is any statutory bar vide Indian Oil Corporation v. NEPC India Ltd. (vide SCC para 12), State of Orissa v. Saroj Kumar Sahoo (vide SCC paras 9 and 10), etc. At this stage the correctness or otherwise of the allegations in the FIR has not to be seen by the High Court, and that will be seen at the trial. It has to be seen whether on a perusal of the FIR a prima facie offence is made out or not.

(emphasis supplied)

16. The allegation made by the applicants that they have been targeted with ill-intention are matter of investigation and evidence and it would be wholly for the investigating agency to look into various aspects connected with FIR/complaint. Assumption of possible harassment is not permissible or justified.

17. The Hon''ble Apex Court has always put a word of caution with regard to any intervention or interference in the process of investigation. In this regard we may refer to the observations of the Hon''ble Apex Court in Sanapareddy Maheedhar and Another Vs. State of Andhra Pradesh and Another, which read thus:

30. ...In dealing with such cases, the High Court has to bear in mind that judicial intervention at the threshold of the legal process initiated against a person accused of committing offence is highly detrimental to the larger public and societal interest. The people and the society have a legitimate expectation that

those committing offences either against an individual or the society are expeditiously brought to trial and, if found guilty, adequately punished. Therefore, while deciding a petition filed for quashing the FIR or complaint or restraining the competent authority from investigating the allegations contained in the FIR or complaint or for stalling the trial of the case, the High Court should be extremely careful and circumspect. If the allegations contained in the FIR or complaint discloses commission of some crime, then the High Court must keep its hands off and allow the investigating agency to complete the investigation without any fetter and also refrain from passing order which may impede the trial. The High Court should not go into the merits and demerits of the allegations simply because the petitioner alleges malus animus against the author of the FIR or the complainant. The High Court must also refrain from making imaginary journey in the realm of possible harassment which may be caused to the petitioner on account of investigation of the FIR or complaint. Such a course will result in miscarriage of justice and would encourage those accused of committing crimes to repeat the same. However, if the High Court is satisfied that the complaint does not disclose commission of any offence or prosecution is barred by limitation or that the proceedings of criminal case would result in failure of justice, then it may exercise inherent power u/s 482 Cr.P.C.

(emphasis supplied)

18. Likewise in the case between S.M. Datta v. State of Gujarat and Anr. 2001 (3) GLH 221 the Hon"ble Apex Court observed that the investigation of an offence is within the exclusive domain of the police department and not the law courts and not the law Courts and the criminal proceedings, in normal course of event ought not be scuttled. In paragraphs 5 and 9 of the judgment the Hon"ble Apex Court observed thus:

5. ...While liberty of an individual are "sacred and sacrosanct" and it is a bounden obligation of the Court to protect them but in the event of commission of a cognizable offence and an offence stand disclosed in the First Information Report, interest of justice requires further investigation by the Investigating Agency. Needless to record that investigation of an offence is within the exclusive domain of the police department and not the law courts. In the event of disclosure of an offence, it is a duty incumbent to investigate into offence and bring the offender to books in order to serve the cause of justice....(emphasis supplied)

9. ...Criminal proceedings, in the normal course of events ought not to be scuttled at the initial stage, unless the same amounts to an abuse of the process of law. In the normal course of events thus, quashing of a complaint should rather be an exception and a rarity than an ordinary rule. The genuineness of the averments in the FIR cannot possibly be gone into and the document shall have to be read as a whole so as to decipher the intent of the maker thereof.

19. In the case between State of Orissa and Another Vs. Saroj Kumar Sahoo, the

Hon''ble Apex Court has observed that while exercising jurisdiction u/s 482 of the Code the High Court would not embark upon the reliability of evidence or into the enquiry whether accusation can be sustained or not. The Hon''ble Apex Court has, in paragraphs 9, 10 and 11 of the judgment observed as follows:

9. In R.P. Kapur Vs. The State of Punjab, this Court summarized some categories of cases where inherent power can and should be exercised to quash the proceedings.

(i) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;

(ii) where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged;

(iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.

10. In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction u/s 482 of the Cr.P.C., the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge. Judicial process should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death....

11. As noted above, the powers possessed by the High Court u/s 482 of the Cr.P.C. are very wide and the very plenitude of the power requires great caution in its exercise. Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard and fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage. See: Janata Dal Vs. H.S. Chowdhary and Others, and Dr. Raghubir Sharan Vs. The State of Bihar, It is the material collected during the investigation and evidence led in court which decides the

fate of the accused person. The allegations of mala fides against the informant are of no consequence and cannot by themselves be the basis for quashing the proceedings....

20. In the case where FIR was lodged and within 12 days, when the investigation was yet not over, and petition u/s 482 was filed, the Hon"ble Apex Court in the case between State of Karnataka and Another Vs. Pastor P. Raju, in paragraph 11 observed as follows:

11. There is another aspect of the matter which deserves notice. The FIR in the case was lodged on 15.1.2005 and the petition u/s 482 Cr.P.C. was filed within 12 days on 27.1.2005 when the investigation had just commenced. The petition was allowed by the High Court on 23.2.2005 when the investigation was still under progress. No report as contemplated by Section 173 Cr.P.C. had been submitted by the incharge of the police station concerned to the Magistrate empowered to take cognizance of the offence. Section 482 Cr.P.C. saves inherent powers of the High Court and such a power can be exercised to prevent abuse of the process of any Court or otherwise to secure the ends of justice. This power can be exercised to quash the criminal proceedings pending in any Court but the power cannot be exercised to interfere with the statutory power of the police to conduct investigation in a cognizable offence. This question has been examined in detail in Union of India (UOI) Vs. Prakash P. Hinduja and Another, where after referring to AIR 1945 18 (Privy Council) H.N. Rishbud and Inder Singh Vs. The State of Delhi, State of West Bengal Vs. S.N. Basak, , Abhinandan Jha and Others Vs. Dinesh Mishra, and State of Bihar and Another Vs. J.A.C. Saldanha and Others, it was observed as under in para 20 of the reports:

20. Thus the legal position is absolutely clear and also settled by judicial authorities that the Court would not interfere with the investigation or during the course of investigation which would mean from the time of the lodging of the First Information Report till the submission of the report by the officer in charge of police station in court u/s 173(2) Cr.P.C., this field being exclusively reserved for the investigating agency.

This being the settled legal position, the High Court ought not to have interfered with and quashed the entire proceedings in exercise of power conferred by Section 482 Cr.P.C. when the matter was still at the investigation stage.

(emphasis supplied)

21. In light of the aforesaid observations by the Hon"ble Apex Court, we are of the view that there is no justification to exercise at this stage, the power u/s 482 of the Code and to quash the FIR/complaint as it would result into prematurely terminating the investigation process.

22. We may, however make it clear that the observations made hereinabove are only prima facie and only for the purpose of present order and should not, in any manner, affect or influence either the investigation process or any applications or

proceedings which may be taken out by either side hereafter in connection with the subject matter of the FIR/complaint and such proceedings, including the investigation process and any application that may be filed by the applicants, may be undertaken and decided without being influenced in any manner by present order.

23. We also clarify that if the applicants prefer any bail application, then the Court shall decide the same on its own merits and without being influenced by this order or without taking into account that various petitions including SCA No. 7652 of 2009 are pending in the Court which are connected with polluting units in the industrial estate.

24. With the aforesaid observations, the application is disposed of at this stage. No costs.

25. After the judgment was delivered, learned Counsel for the petitioners prayed for extension of interim relief which was granted earlier. But for the reasons mentioned in the judgment pronounced today, we are not inclined to extend the interim relief granted earlier. The prayer is rejected.