

(2009) 02 AHC CK 0176
In the Allahabad High Court
Case No : Criminal M.A. No. 27469 of 2007

Sheoraj Singh Ahlawat and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 13-02-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 155(2), 156(1), 161, 190(1), 482
Penal Code, 1860 (IPC) — Section 323, 498A, 506

Citation : (2009) 2 ACR 1205

Hon'ble Judges : Ravindra Singh, J

Bench : Single Bench

Advocate : Rajiv Gupta, Dilip Kumar and Rajrshi Gupta, for the Appellant; V.P. Yadav, R.K. Maurya, I.K. Chaturvedi and B.P. Yadav and A.G.A., for the Respondent

Judgement

Ravindra Singh, J.—This application has been filed by the applicants Sheoraj Singh Ahlawat, Smt. Anjul Ahlawat, Naveen Ahlawat, Neena Sirohi and Major Meghna Ahlawat with a prayer to quash the entire proceedings of F.R. No. 56 of 2007 pending in the court of Additional Civil Judge (Junior Division)/Judicial Magistrate, Court No. 3, Bulandshahr and to quash the order dated 2.11.2007 passed by Additional Civil Judge (Junior Division)/Judicial Magistrate, Court No. 3, Bulandshahr arising out of the Case Crime No. 145 of 2006 under Sections 498A, 323 and 506, I.P.C. Police Station Agota, district Bulandshahr (F.R. No. 56 of 2007) by which learned Magistrate concerned has rejected the final report, taken the cognizance and issued the process against the applicants.

2. The facts in brief of this case are that F.I.R. of this case has been lodged by opposite party No. 2 Smt. Renu Ahlawat on 14.12.2006 at 3.15 p.m. in respect of the incident which had occurred from 28.9.1998 to 10.12.2006 in Case Crime No. 145 of 2006 under Sections 498A, 323 and 506, I.P.C. alleging therein that her marriage was solemnized with the applicant No. 3 Naveen Ahlawat on 28.9.1998, at the time of marriage, the husband of O. P. No. 2 was posted as Captain in Indian Army. After three years of marriage, from their wedlock, one

female child was borne but after marriage of O. P. No. 2, demand of dowry was raised by the applicants for which she was subjected to cruelty. It was told by her father who paid about rupees four lacs in respect to that demand but they were not satisfied and continuously they were raising the demand of dowry for which she was beaten by them. Thereafter on 15.8.2003, she was forced to reduce in writing that she would never go in the company of applicant Naveen Ahlawat and obtained her signature on blank paper. It was disclosed by her to her father that she was also beaten by her husband and by her father-in-law and they had extended the threats also for which the father of O. P. No. 2 collected his relatives, asked the applicants to behave properly but they were not convinced and in the night of 18.10.2006, she was badly beaten, its complaint was made by her to the higher officers of the Army on 19.10.2006, thereafter she came to the house of her parents on 10.12.2006, she went to Delhi for taking certificate of her daughter. She was caught hold by mother-in-law and father-in-law and husband. She alongwith her daughter were forcibly taken by a car and they were taken out on a road of Sihi at about 8.00 p.m. with extending the threats and when protest was made by O. P. No. 2, she was beaten by them. The witnesses Jitendra Singh and Brijveer Singh came there who also made an attempt to save her life, but her husband Naveen Ahlawat taken out the revolver and asked to kill them, then they fled away from the place of occurrence and they made hue and cry, thereafter the father-in-law, mother-in-law and husband of O. P. No. 2 fled away leaving them on the road of Sihi, after lodging the F.I.R., the matter was investigated by the Investigating Officer, who without doing proper investigation, submitted the final report in the court of learned A.C.J.M. II, Bulandshahr, the same was protested by O. P. No. 2 alongwith her affidavit and the affidavits of Jitendra Singh and Brijveer Singh, thereafter learned Additional Civil Judge (Junior Division)/ Judicial Magistrate, Court No. 3, Bulandshahr rejected the final report taken the cognizance in exercise of power conferred u/s 190(1)(b), Cr. P.C. and summoned the applicants to face the trial for the offences punishable under Sections 498A, 323 and 506, I.P.C. on 2.11.2007.

3. Being aggrieved from the order dated 2.11.2007, the applicants have filed this application with prayer to quash the impugned order dated 2.11.2007 and the criminal proceedings pending against the applicant by way of exercising inherent power conferred u/s 482, Cr. P.C.

4. Heard Sri Dileep Kumar, Sri Rajiv Gupta, Sri Rajrshi Gupta, learned Counsel for the applicants, learned A.G.A for the State of U. P., Sri I. K. Chaturvedi, Sri B. P. Yadav and Sri R. K. Maurya, learned Counsel for opposite party No. 2.

5. It is contended by learned Counsel for the applicants that the applicants are peace loving and law abiding persons, they have never been involved in any criminal activity and their antecedents are absolutely clean. The applicant No. 1 Sheoraj Ahlawat is a retired Major General of Indian Army, he has retired from his post on 1.6.2005. Applicant No. 2, Smt. Anjul Ahlawat is his wife, applicant No. 3, Naveen Ahlawat, is Lieutenant Colonel, he joined in the Indian Army after

obtaining the degree of Bachelor of Engineering. Applicant No. 4 Smt. Neena Sirohi is daughter of the applicant Nos. 1 and 2, she is serving in I.C.I.C.I. Prudential at N.O.I.D.A. after obtaining the degree of Bachelor of Engineering. The applicant No. 5 is husband of applicant No. 4 and he is son-in-law of applicant Nos. 1 and 2, he is serving in the Indian Army in the capacity of Territorial Army Officer. The marriage of applicant No. 3 was solemnized with O. P. No. 2 on 28.9.1998 in accordance with the Hindu rights and customs. In a most moderate fashion, there was no give and take of dowry in any form amongst the parties. Thereafter both the husband and wife were living in cordial and affectionate relations and they were blessed with a daughter, who was born on 3.8.2001 at Military Hospital, Jodhpur. The applicant No. 3, who is husband of the O. P. No. 2 was posted at Kalingpong (West Bengal), where advance facilities were not available. The best medical facilities were provided by applicant No. 1 to O. P. No. 2 and even applicant No. 1 stayed at Jodhpur. The applicant No. 3, being an Army Officer, could not be available to provide desired company to his wife O. P. No. 2 as per her wishes, therefore, she was requested to live alongwith her father-in-law and mother-in-law where all the facilities were available, thereafter she was brought by applicant No. 3 to Kalingpong at his official residence where she stayed about two years, thereafter, applicant No. 3 was shifted to Delhi where he joined service in November, 2003, at that juncture the marriage dispute arose between them on account of non-adjustment of O. P. No. 2 with army life of applicant No. 3. Thereafter, the differences became wider and O. P. No. 2 started to neglect her husband applicant No. 3, even she was not ready to perform her marriage duties and she started to live in her parental house. The dispute could not be sorted out in spite of the intervention of applicant Nos. 1 and 2 because they were having one son, one daughter-in-law and only one grand-daughter and ultimately due to differences between the husband and wife, the Suit No. 923 of 2005 was filed by applicant No. 3 for seeking divorce but O. P. No. 2 did not participate in the proceedings of this suit and ultimately, the suit was allowed and ex parte decree was passed on 31.5.2006. Its information was given to applicant No. 3 to the Headquarter of the Army and concerned Unit, the same was published on 28.8.2006, thereafter, the concerned unit of the Headquarter informed the opposite party No. 2 through its letter dated 3.10.2006, confirmation was sought about any step taken by her in respect of the said divorce decree by 5.11.2006. In its reply, opposite party No. 2 had written letter dated 2.11.2006 to Deputy Director Integrated Headquarter of M.D. (Army) by informing that she had not taken any step against the judgment and decree dated 31.5.2006, thereafter, after expiry of the period of limitation, she filed an appeal against the divorce decree. By that time, the applicant No. 3 had re-married with Miss Aditi on 30.10.2006. The said marriage was registered before the Registrar Hindu Marriage, Meerut on 3.11.2006. Its information was furnished by applicant No. 3 to Army Headquarter as per rules of the Indian Army vide letter dated 25.11.2006, thereafter, O. P. No. 2 sent an application dated 13.12.2006 to the S.S.P., Bulandshahr in which false and frivolous allegations have been made on which the F.I.R. of this case

has been registered.

6. The investigation of the case was done by the Investigating Officer who came to the conclusion that the applicants have been falsely implicated, therefore, the final report dated 10.6.2006 has been submitted in the court of learned Magistrate concerned, the same was protested by O. P. No. 2 by way of filing her affidavit and the affidavits of Brijveer Singh and Jitendra Singh but learned Magistrate concerned illegally rejected the final report after considering the material collected by the Investigating Officer as well as affidavits of opposite party No. 2, Brijveer Singh and Jitendra Singh, learned Magistrate has not relied upon police report and has taken the cognizance after considering extraneous materials, i.e., affidavits of opposite party No. 2, Brijveer Singh and Jitendra Singh, the learned Magistrate concerned has passed illegal order dated 2.11.2007, hence it is liable to be set aside. It is further contended by learned Counsel for the applicants that in the present case, fact and circumstances clearly show that the F.I.R. lodged against the applicants by O. P. No. 2 is based on false and frivolous allegation. It has been lodged after decree of the divorce suit and after re-marriage of applicant No. 3 with Miss Aditi on 30.10.2006. On the face of record, it appears that the F.I.R. lodged by O. P. No. 2 is full of mala fide. It is further contended that even on the basis of the F.I.R. and material collected by the Investigating Officer no specific allegation has been made against applicant Nos. 4 and 5. They are sister and brother-in-law of applicant No. 3, but Magistrate concerned has summoned them without any reason. The prosecution of the applicants is illegal. It is being made for the purpose of harassment by O. P. No. 2 due to ulterior motive. The prosecution of the applicants is not justified, it is misuse the process of the law, therefore, to meet ends of justice, it is necessary to quash the proceedings of the present case pending against the applicants.

7. In reply of the above contention, it is submitted by learned A.G.A. and counsel for the opposite party No. 2 that the applicants are persons of high status but they have not properly behaved with O. P. No. 2. According to the allegation made against them that they were demanding the dowry and to fulfil the same, they were subjecting the opposite party No. 2 to the cruelty. The father of the applicant No. 2 had made the efforts to satisfy the demand of dowry also and had tried to convince them by his relatives. The opposite party No. 2 is having a daughter, she has been compelled by her in-laws not to live in the company of her husband and on the basis of the allegation made in the F.I.R. prima facie offence under Sections 498A, 323 and 506, I.P.C. is made out. During investigation also, the prosecution story is fully supported by opposite party No. 2 and other witnesses but under the influence of the applicants, who are admittedly having very high status, the Investigating Officer submitted the final report in the court of learned Magistrate concerned without any reason, the same has been produced by O. P. No. 2 and she has filed her affidavit alongwith the affidavits of witnesses Brijveer Singh and Jitendra Singh, thereafter, learned Magistrate concerned has passed the impugned order dated 2.11.2007 by which

the final report has been rejected. The cognizance has been taken and the applicants have been summoned to face the trial for the offences punishable under Sections 498A, 323 and 506, I.P.C. after perusing the case diary only. It has been clearly mentioned by learned Magistrate concerned in the impugned order that he has perused the case diary including the statement of O. P. No. 2 and statements of witnesses Brijveer Singh and Jitendra Singh, recorded u/s 161, Cr. P.C. which prima facie discloses the commission of the offence under Sections 498A, 323 and 506, I.P.C. and it has been clearly mentioned by learned Magistrate concerned in the order dated 2.11.2007 that he has taken the cognizance in exercise of power conferred u/s 190(b) of Cr. P.C. Learned Magistrate has not considered any extraneous material as the affidavits of O. P. No. 2 and witnesses Brijveer Singh and Jitendra Singh, It is further contended that the suit seeking the divorce was filed by the applicant No. 3 in which ex parte decree was obtained, as contended by learned Counsel for the applicants that its information was given to Army Head Quarter as per rules of the Army on which explanation of the opposite party No. 2 was sought by the Army Authority by 5.11.2006, but admittedly, prior that the applicant No. 3 performed the remarriage with Miss Aditi on 30.10.2006, it shows that the applicants were in any way interested in keeping the O. P. No. 2 as house wife, they were interested in re-marriage and O. P. No. 2 was subjected to cruelty by them. There is no reason of the false implication of the applicants and there is no material to show that the proceedings initiated against the applicant are mala fide or on account of some other reason, the proceedings have been initiated to harass them. It is further contended that the inherent powers u/s 482, Cr. P.C. may be exercised to make such orders as may be necessary to give effect to any order, the order to prevent abuse of process of any Court or otherwise to secure the ends of justice, such powers may be exercised sparingly with care and caution.

8. In the present case, none of the above mentioned circumstance exists and prima facie offence under Sections 498A, 323 and 506, I.P.C. is made out. Learned Magistrate has not committed any error in rejecting the final report taking cognizance and summoning the applicants to face the trial vide impugned order dated 2.11.2007. There is no illegality in the impugned order, therefore, the prayer for quashing the impugned order as well as the criminal proceedings of the present case may be refused.

9. Considering the facts and circumstances of the case, submission made by learned Counsel for the applicants, learned A.G.A. and counsel for the opposite party No. 2, it appears that in the present case, the F.I.R. has been lodged by O. P. No. 2 who is wife of applicant No. 3, daughter-in-law of the applicant Nos. 1 and 2 and she is sister-in-law of applicant Nos. 4 and 5, after its investigation, the final report has been submitted by the Investigating Officer in the court of learned Magistrate concerned, the same was protested by the opposite party No. 2 alongwith her affidavit and the affidavits of Brijveer Singh and Jitendra Singh, thereafter learned Magistrate concerned rejected the final report, taken the cognizance of the case and summoned the applicants to face the trial for the

offences punishable under Sections 498A, 323 and 506, I.P.C. The learned Magistrate has considered case diary only for the purposes of taking the cognizance in exercise of powers conferred u/s 190(1)(b) of Cr. P.C. Learned Magistrate concerned has clearly mentioned in the impugned order that he has considered the statements of O. P. No. 2 and the witnesses Brijveer Singh and Jitendra Singh recorded u/s 161, Cr. P.C. by the Investigating Officer during investigation which prima facie discloses commission of the offence under Sections 498A, 323 and 506, I.P.C. and it has been subsequently mentioned by learned Magistrate in the impugned order that he has taken the cognizance in exercise of the powers conferred u/s 190(1)(b) of the Cr. P.C. Learned Magistrate has passed the impugned order dated 2.11.2007 in which other facts have also been narrated. In narration of such facts, it cannot be said that the learned Magistrate concerned has considered the extraneous material also for the purpose of taking cognizance because in the present case, it has been specifically mentioned by learned Magistrate concerned that he has perused the case diary and the statements of O. P. No. 2 and witnesses Brijveer Singh and Jitendra Singh, therefore, learned Magistrate concerned has not considered any extraneous materials for the purposes of taking cognizance. Learned Magistrate concerned has adopted a proper procedure in taking cognizance of this case.

10. The perusal of the F.I.R. and the statements of opposite party No. 2 and witnesses Brijveer Singh and Jitendra Singh, prima facie discloses the commission of the offence punishable under Sections 498A, 323 and 506, I.P.C., therefore, learned Magistrate concerned did not commit any error in summoning the applicants to face the trial for the offences punishable under Sections 498A, 323 and 506, I.P.C. From the perusal of the record it also appears that there was nothing to show that the prosecution of the applicants has been made due to mala fide or to unleash vendetta to harass the applicants. The allegation made against the applicants prima facie discloses the offence punishable under Sections 498A, 323 and 506, I.P.C. Learned Magistrate concerned has not committed any error in passing the impugned order dated 2.11.2007 and the applicant No. 3 has performed the remarriage after obtaining the ex parte decree of divorce. There is no circumstance as envisaged u/s 482, Cr. P.C. to exercise the inherent powers. It has been dealt with by the Apex Court in the case of Renu Kumari v. Sanjay Kumar and others (63) 2008 ACC 237: 2008 (3) ACR 2079 (SC), its relevant paragraphs are as under:

7. Exercise of power u/s 482, Cr. P.C. in a case of this nature is the exception and not the rule. The section does not confer any new powers on the High Court. It only saves the inherent power which the Court possessed before the enactment of Cr. P.C. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely, (i) to give effect to an order under Cr. P.C., (ii) to prevent abuse of the process of Court, and (iii) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. The

Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognizes and preserves inherent powers of the High Courts. All Courts, whether civil or criminal possess, in the absence of any express provision; as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in the course of administration of justice on the principle of "quando lex alicui concedit, concedere videtur id sine qua res ipsa esse non potest" (when the law gives a person anything, it gives him that without which it cannot exist). While exercising the powers under the section, the Court does not function as a Court of appeal or revision. Inherent jurisdiction under the section, though wide, has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised ex debito iustitiae to do real and substantial justice for the administration of which alone the Courts exist. Authority of the Court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the Court has the power to prevent abuse. It would be an abuse of process of the Court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers the Court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of Court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the report, the Court may examine the question of fact. When a report is sought to be quashed, it is permissible to look into the materials to assess what the report has alleged and whether any offence is made out even if the allegations are accepted in toto.

8. 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) Whether it manifestly appears that there is a legal bar against the institution or continuance, e.g., want of sanction;
- (ii) Whether the allegations in the first information report or complaint taken at their face value and accepted in their entirety do not constitute the offence alleged ;
- (iii) Whether the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge. (SCR p. 393).

9. 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, 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. The 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. The scope of exercise of power u/s 482, Cr. P.C. and the categories of cases where the High Court may exercise its power under it relating to cognizable offences to prevent abuse of process of any Court or otherwise to secure the ends of justice were set out in some detail by this Court in R.S. Raghunath Vs. State of Karnataka and another, A note of caution was, however, added that the power should be exercised sparingly and that too in the rarest of rare case. The illustrative categories indicated by this Court are as follows:

102. 1. Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offences or make out a case against the accused.

2. Where the allegations in the first information report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers u/s 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

3. Where the uncontroverted allegations made in the F.I.R. or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

4. Where the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated u/s 155(2) of the Code.

5. Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and /or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private

and personal grudge.

10. As noted above, the powers possessed by the High Court u/s 482, Cr. P.C., are very wide and the very plenitude of the power requires great caution in its exercise. The 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. 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. When 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 the 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. (See *Dhanalakshmi Vs. R. Prasanna Kumar and Others, State of Bihar and Another Vs. P.P. Sharma, IAS and Another, Mrs. Rupan Deol Bajaj and another Vs. Kanwar Pal Singh Gill and another, State of Kerala and Others Vs. O.C. Kuttan and Others, State of U.P. Vs. O.P. Sharma, Rashmi Kumar (Smt) Vs. Mahesh Kumar Bhada, ; Satvinder Kaur Vs. State (Govt. of N.C.T. of Delhi) and Another, and Rajesh Bajaj Vs. State NCT of Delhi and Others*,

11. The above position was again reiterated in *State of Karnataka Vs. M. Devendrappa and Another, State of M. P. v. Awadh Kishore Gupta (48) 2004 ACC 206 (SC): 2004 (13) AIC 735: 2004 (2) ACR 1738 (SC)* and *State of Orissa v. Saroj Kr. Sahoo (54) 2006 ACC 297 (SC): 2006 (37) AIC 117: 2006 (1) ACR 1 (SC)*.

11. In view of the above discussions, learned Additional Civil Judge (Junior Division)/Judicial Magistrate, Court No. 3 has not committed any error in passing the impugned order dated 2.11.2007 in Case Crime No. 145 of 2006 (F.R. No. 56 of 2007) under Sections 498A, 323 and 506, I.P.C., Police Station Ajota, district Bulandshahr whereby the learned Magistrate has taken cognizance and summoned the applicants to face the trial and there is no illegality in the prosecution of the applicants. Criminal proceedings of the above mentioned case do not suffer from any illegality or irregularity which require any interference by this Court, therefore, prayer for quashing the order dated 2.11.2007/the

proceedings of the above mentioned case, is refused.

12. However, considering the facts and circumstances of the case, it is directed that applicant Nos. 1,2 and 3 shall appear before the Court concerned within 30 days from today, till then, N.B. issued against them shall be kept in abeyance. In case they apply for bail, the same shall be heard and disposed of on the same day by the courts below.

13. So far as applicant Nos. 4 and 5 are concerned, they are sister and brother-in-law of applicant No. 3, the specific allegations are not made against them and they were living separately, in case they apply for discharge application, before the Court concerned, within 30 days from today, through their counsel, the same shall be heard and disposed of in accordance with the provisions of law. Till the disposal of the discharge application, bailable warrant/NBW, if issued against them, shall be kept in abeyance.

With the above, this application is disposed of finally.