**(1985) 11 P&H CK 0068**

**In the Punjab And Haryana At Chandigarh**

**Case No :** Criminal Miscellaneous No. 151 of 1984

Tilak Raj and Another — APPELLANT

Vs

Income Tax Officer — RESPONDENT

**Date of Decision :** 25-11-1985

**Acts Referred:**
Criminal Procedure Code, 1973 (CrPC) — Section 482
Income Tax Act, 1961 — Section 278

**Citation :** (1987) 59 CTR 21 : (1987) 165 ITR 46

**Hon'ble Judges :** S.S. Dewan, J

**Bench :** Single Bench

**Advocate :** A.C. Jain, for the Appellant; Ashok Bhan and A.K. Mittal, for the Respondent

## Judgement

S.S. Dewan, J.—In this petition u/s 482 of the Code of Criminal Procedure (for short, "the Code" ), Tilak Raj and Satya Pal, petitioners, have sought quashing of the criminal proceedings initiated by the respondent through a complaint dated March 31, 1977, and in which the petitioners have been charge-sheeted by the trial magistrate for the offence u/s 278 of the Income Tax Act by his order dated February 17, 1985.

2. Without going into the details of the complaint, in substance the allegations therein amount to this that the petitioners, being the partners of a firm known as M/s. Ajay Textile Mills, were lending their names to their co-accused for the purpose of ostensible and fictitious sale to such concerns who had imported wooltops with a view to enable the latter concerns to conceal substantially major part of their income. The petitioners were charged for abetting their co-accused to file false returns before the Income Tax Authorities and thus committing an offence punishable u/s 278 of the Income Tax Act, It is pointed out by learned counsel for the petitioners that there is no material to sustain the framing of the charge against the petitioners. The contention raised is a matter of evidence. The High Court cannot assume the role of a Magistrate. However, in any case, before

invoking the inherent power of this court u/s 482 of the Code, the petitioners are called upon to show some abuse of the process of court or a case of gross injustice which is apparent on the record. No such thing is indicated in the present case. I think that I should not interfere at this stage. In the circumstances, the petition has no force and is accordingly dismissed. The parties through their counsel are directed to appear in the trial court on December 13, 1985.

 