(1984) 07 DEL CK 0004

In the Delhi High Court

Case No : Criminal Miscellaneous (Main) Appeal No. 1072 of 1983, Criminal Appeal No''s. 303, 432 and 582 of 1984 and Criminal Miscellaneous Appeal No. 1022 of 1984

Vijay Khanna APPELLANT

Vs

Jumbo Electronics Co. Ltd. and Another RESPONDENT

Date of Decision : 11-07-1984

Acts Referred:

Citation : (1984) CriLJ 1667 : (1984) 2 Crimes 449 : (1984) ILR Delhi 911 : (1985) 1 RCR(Criminal) 20

Hon'ble Judges : H.L. Anand, J

Bench : Single Bench

Advocate : Basudev Prasad, Lalit Bhardwaj, N.B. Sinha, Raj Panjwani and Raj Panjwani, for the Appellant;

Judgement

H.L. Anand, J.

(1) By this petition u/s 482 of the Code of Criminal Procedure, Vijay Khanna, petitioner, challenges proceedings in complaint case No. 311-0, filed by Jumbo Electronics Co. Ltd., respondent No. 1 herein, for alleged offences under Sections 420/465/468 and 471 Indian Penal Code. against the petitioner, and pending in the Court below, as well as the order made by the Court below, on June 4, 1983. by which the court issued the process against the petitioner. By the said order the Court also directed that an intimation be sent about the pendency of the case to the Passport Officer concerned, informing the said officer that the presence of the petitioner was required in the Court in connection with the case.

(2) According to the complaint, a copy of which is enclosed as Annexure-I to the petition, Jumbo Electronics Co. Ltd., the respondent carries on business in London in Video Cassettes and other electronics goods, and Pranab Kumar Banerjee, though whom the complaint is filed, is the company''s representative at New Delhi, who functions under a senior officer of the. Company, Vinod Bajaj, from A-464, defense Colony, in New Delhi. The Company has a telephone no.

611404 at the said premises. It is alleged that various communications between the company and the petitioner took ''place "from A-464, defense Colony. New Delhi." It is alleged that in the last week of August, 1982, petitioner-accused got in touch with Vinod Bajaj on telephone from London at the above number and told him that he was "Managing Director of Comtrex Ltd." and wanted to purchase from the respondent a large-quantity of blank video cassettes worth ? 100,000 against two postdated cheques of ? 50,000 each and that the goods were intended to be exported to India and the cheques would be encased on due dates. It is further alleged that the petitioner requested him to accept his proposal and help him getting the video cassettes representing that he was "a man of lakhs and he should not have any anxiety about the payment and encashment of cheques". According to the complaint, "Vinod Bajaj accepted and believed the representation of the accused. Consequently, Vinod Bajaj informed Mr. Gehani in London that the accused wanted to purchase a large quantity of blank video cassettes worth ?, 1,00,000 against two post-dated cheques of ?, 50,000 tach. Vinod Bajaj further informed Gehani that he has accepted the same." It .is further alleged that the petitioner "developed friendship with Mr. Gehani, Company Secretary and General Manager of the Company at London. The accused used to make small purchases from the complainant company since March, 1982. Slowly and gradually, the accused made him (Gehani) believe that the accused is an honest and reliable person and his financial position was sound." According to the complainant on September 8, 1982, "the accused made a representation to Mr. Gehani that he (petitioner) was a man of lakhs and he was Managing Director of the company Comtrex Ltd. and he wants to purchase blank video cassettes worth ?. 50,000 for export to India. He would give the payment by a post-dated cheques of December 6, 1982", representing "that he had sufficient funds in the bank and when the cheque would be submitted to the Bank the said cheque would be be enchased "A further representation is said to have been made by the petitioner that "he would get the export certificate of the goods from the shipping company so that the Value Added Tax should not be imposed on the complainant." It is alleged that Gehani "acted upon the said false representation of the accused and received a cheque dated 6th December. 1982 for ? 50,000 and delivered the goods to the accused." The goods are said to have been delivered to the petitioner on September 8, 15, 20 and 21, 1982, and it is alleged that when the petitioner took delivery of the "goods on September 20, 1982, he gave another post-dated cheque for 10th December, 1982 for ?. 50,000" with a further assurance "that the accused has funds in the Bank and that the cheque would be honoured and payment would be made to the complainant when the cheque would be presented for encashment." It is alleged that the accused "deceived" the complainant and "fraudulently and dishonestly induced Mr. Gehani so deceived to deliver the goods" and the accused "cheated the complainant by dishonestly inducing the complainant to deliver the goods to him". It is alleged that when asked to give the certificate of shipment as evidence of export of goods to India, petitioner kept on avoiding and ultimately gave 7 invoices containing certificates of shipment on November 23, 1982. The invoices were prepared by the accused in the name of 7 different persons with New Delhi addresses, one of which is also signed by the accused petitioner. According to the complainant, enquiries with regard to the invoices revealed to "the shock and dismay" of the respondent that all the 7 invoices were "forged and fabricated documents" and the respondent came to know that there was no company by the name Comtrex Ltd." and that he (petitioner) was not the managing director of the said company". This, it is alleged, aroused the suspicion of the respondent and when the respondent tried to get in touch with the petitioner at his London office and residence, the respondent was told that the petitioner had "left London on 24-11-82 bag and baggage with his family for Delhi, without informing the complainant". According to the complainant, the respondent was able to contract the accused on telephone from London at New Delhi on 30-11-82 and the "accused assured the complainant that he has sufficient funds in the bank and that cheques would be honoured on the due dates", It is further alleged that the petitioner told the respondent with reference to the invoices that "he was in great difficulty and. Therefore, he sent these invoices to the complainant", implying thereby that they were not genuine. It is further alleged that on December 3, 1982, petitioner telephoned from Delhi and told the complainant "that he would send proper invoices with proper shipping certificates to the complainant. As regards the payment, the accused once again gave an assurance to the complainant that he has sufficient funds in the bank and that cheques would be honored "It is alleged that both the cheques when presented were dishonoured in spite of the assurance given by the petitioner to the contrary. It is alleged that the dishonouring of the cheques "was not accidental but it was intentional. It was a consequence expected by the accused as the accused had no funds in the Bank. This happened in spite of the fact that he went or giving assurances from time to time that the accused has sufficient funds in the Bank and both the cheques would behonored". The complainant proceeds to allege that enquiries revealed that the petitioner never exported the goods to India and the complainant believes that the "accused sold the goods in the local market and took the money and appropriated the same and came to Delhi." It is alleged that the accused cheated the complainant to the tune of Rs. 16 lakhs and no part of the amount had been received so far. It is alleged that "the accused had dishonest intention right from inception and had intent to cheat the complainant and caused a wrongful loss to them and wrongful gain to him, the accused did all this. The complainant would not have delivered the goods but for the inducement that the delivery was being effected against postdated cheques with the assurance that the same would be honoured on presentation on due dates." It is alleged that the representations were made by the accused to the complainant from Delhi through telephone and Therefore, the Delhi Court has jurisdiction. It is further alleged that as far as an Indian citizen is concerned, he would be deemed to have committed an offence in India even if he committed the offence outside the limits of Indian territory, by virtue of Sections 3 and 4 of the Indian Penal Code and that by virtue of Section 182(1) of the Code of Criminal Procedure, the Delhi Court would have jurisdiction because deception was practiced by telecommunication messages "from Delhi to the complainant at London." According to the complainant, Delhi Court would also have jurisdiction "because serious consequences have ensued within this jurisdiction". It is thus alleged that the accused committed forgery and used forged documents for the purpose of cheating and thereby committed offences under Sections 420/465/468 and 471, Indian Penal Code.

(3) Along with the complainant, the respondent enclosed a list of 12 witnesses, including the aforesaid 7 persons, in whose name the invoices were prepared, and 3 documents consisting of Vinod Bajaj''s letter of August 30, 1982, addressed to Gehani, another letter of October 4, 1982, as above, and a copy of the resolution of the company authorising P. K. Benerjee to institute criminal and other cases against the accused. The respondent also

(4) Before the issue of process, the respondent produced preliminary evidence before the court below and it appears from the record that the court took pains to closely cross-examine some of the witnesses, apparently with a view to satisfy itself with regard to the propriety of issuing a process against the petitioner. The respondent produced Public Witness -1, T. P. Gehani, who was cross examined at considerable length by the Court, PW-2, Vinod Bajaj, who was also cross-examined by the Court P.W.3 Pranab Kumar Banerjee. and Public Witness 4, Ranji Dhawan, said to be one of the consignees. By a fairly reasoned order of June 4. 1983, the Court, as mentioned above, summoned the accused for offences under Sections 420/465/468/471 of the Indian Penal Code, besides directing that an intimation of the pendency of the proceedings be sent to the concerned Passport Officer. In the course the order, the Court gave a resume of the allegations contained in the complaint and referred to the preliminary evidence produced by the complainant. The Court below justified the issue of process thus:

THE allegations made in the complaint and offence adduced by the complaint made out a prima case for summoning the accused. The complainant has clearly stated that he made inquiries from the banker of the accused and found that accused did not have balance of more than 5,000 at any time. Meaning thereby that the accused knew the result from the very beginning. Accordingly the accused is directed to be summoned u/s 420/465/468/471 IPC."

(5) The present petition was filed on or about November 25, 1983 and the. proceedings of the complaint and the summoning order are sought to be quashed on the grounds that:

(A) Delhi Court has no jurisdiction to entertain the complaint by virtue of the legal bar of Section 188 of the Code of Criminal Procedure;

(B) the allegations in the complaint do not constitute the offences alleged;

(C) the proceedings are liable to he quashed to prevent the abuse of process of Court and to secure the ends of justice. In the course of the petition, the petitioner has detailed 5 reasons to reinforce the plea of the falsity of the respondents'' case. These reasons which are set out in para 7 of the petition are:

(A) The allegation that there was no company by the name Comtrex Ltd. is falsified by the fact that the Company is duly registered, bearing Corporation license No. 2-296232-8, in the State of Washington, having a bank account in the Barclays Bank, London, bearing No. 40222852 and a telex. The allegation that the petitioner made any purchases from the complainant company or that he ever represented himself as Managing Director of Comtrex Led. were false.

(B) From the allegations in the complaint, it is apparent that the entire story on which the complaint is based is concocted and at any rate the statements regarding any kind of deal with Vinod Bajaj at New Delhi is a cooked up story with an attempt to somehow create jurisdiction within the Union Territory of Delhi;

(C) The allegation that the. accused was carrying on business at Delhi was false,,

(D) The photo copies of the cheques annexed with the complaint were not issued dy Comtrex Inter-national but by another company Trend lake Ltd., a company registered in U.K., in respect of a deal with respondent which did not ultimately come through and the respondent were asked by a telex message not to present the said cheques for encashment. No goods were ever supplied to Trend lake against the aforesaid two cheques. Photo copies of the certificate of incorporation of Trend lake is annexed with the petition.

(E) The allegations of forgery are palpably false. The ingredients of forgery are lacking and no offence is made out against the petitioner.

(6) It is further alleged that the complaint does not make out a criminal case and the allegations in it at the most may disclose "a case of civil liability" and that too against Comtrex Ltd., an. American company, of which, the petitioner was merely an associate in London, as would be clear from the letter issued by the president of the Company to U.S. Embassy in London for renewal of the petitioner''s visa for U.S.A., photo copy of which is annexed to the petition. It is further alleged that the petitioner is a "respectable businessman and a law abiding citizen" and in the facts and circumstances of the case, continuance of criminal proceedings in question against the petitioner "would amount to abuse of the process of court."

(7) I. have heard learned counsel for the parties at considerable length. The principle ground of attack to the validity of the proceedings and of the order, proceeding against the petitioner, was based on lack of jurisdiction in a Delhi Court to entertain the complaint, either because no part of the cause of action arose in Delhi, or in any event, in the absence of previous sanction of the Central Government u/s 188 of the Code of Criminal Procedure, read with Sections 3 and 4 of the Indian Penal Code. During the pendency of the proceedings, the respondent moved the Central Government and apparently obtained the sanction

of the Central Government, which was purported to have been conveyed to the respondent by Government communication of May 25. 1984, a copy of which was enclosed by the respondent with the application, being Cr. M. 1022184. Notice of this application was issued to the petitioner and this application is scheduled to come up for consideration en July 17, 1984. while Judgment in the petition had been reserved.

(8) If the respondent has been able to obtain the sanction of the Central Government, u/s 188 of the Code of Criminal Procedure, as the said respondent claims, and which prima fade, the said respondent has been able to obtain, subject to what the petitioner may have to say with regard to it, the main ground of at track of the petitioner to the proceedings and the summoning order, based on lack of jurisdiction in a Court in Delhi, to entertain the complaint, would not appear to survive, even though it could not be said, even on the respondent''s own allegation, that the complaint had been "filed" with the "previous sanction of the Central Govt." There is, however, good authority for the proposition that a sanction obtained during the pendency of the complaint would ensure for the purpose of the proceedings and would be enough to save the proceedings form being struck down as being without jurisdiction (1). It is, Therefore, unnecessary for me to consider if a part of the cause of action arose within jurisdiction of this Court, by virtue of the telephonic communications, because such an exercise would be unnecessary if a valid sanction has been obtained by the respondent to institute the proceedings. It would, however, be open to the petitioner to satisfy the court below that no sanction as claimed, has been obtained or that the order of sanction, sought to be relied upon by the respondent is otherwise invalid, should that said proceedings survive the challenge on the merits.

(9) That leaves for consideration the question if the allegations in the complaint, and the material in support of it, do not constitute the offences, alleged to have been committed by the petitioner, and if for that reason or otherwise, it is necessary to quash the proceedings to prevent an abuse of process of court or to secure the ends of justice, either because a purely civil dispute is sought to be. raised in criminal proceedings, or because the proceedings have been filed with the mala fide object of putting illegal pressure on the petitioner to settle, what may be described as a purely civil dispute, either between the petitioner and the respondent or between the respondent and any other company.

(10) While the conditions on which, and the circumstances in which, this Court may interfere in criminal proceedings at the threshold have advisedly not been legislatively or judicially delineated or defined with a mathematical precision, it is not difficult to spell out from decided cases broad guidelines in dealing with a challenge to such proceedings at the initial stage, even though it is well-settled that these principles are not of universal application and. as always, each case has to be decided on its own merits. It is, Therefore, well-settled that ordinarily criminal proceedings must be tried under the Code and the High Court would be reluctant to interfere at an interlocutory stage but there are situations where

inclement jurisdiction to quash proceedings can and should be exercised, such as:

(1) where it manifestly appears that there is a legal bar against the institution or continuance of the criminal proceedings in respect of the offence alleged;

(2) where the allegation in the First Information Report or the complaint even if they are taken at their face value and accepted in their entirety do not constitute the offence alleged:

(3) where the allegations do constitute an offence but there is either no legal evidence adduced in support of the case or the evidence adduced clearly, fairly or manifestly fails to prove the charge. In dealing with this class of cases, 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 manifestly and clearly inconsistent. with the accusation made and cases where there is legal evidence which on its appreciation may or may not support the accusation in question. Tn exercising its jurisdiction, the High Court would not embark upon an enquiry as to whether the evidence in question is reliable or not, because that is the function of the trial court and it would not be open to party to invoke the inherent jurisdiction of the Court and contend that on a reasonable appreciation of the evidence, the accusation made against the accused would not be sustained (2).

These tests were slightly widened subsequently and it may be safely said that proceedings may be quashed:

"(1) Where the allegations made in the complaint or the statements of the witnesses recorded in support of the same taken at their face value make out absolutely no case against the accused or the complaint does not disclose the essential ingredients of an offence which is alleged against the accused:

(2) Where the allegations made in the complaint are patently absurd and inherently improbable so that no prudent person can ever reach a conclusion that there is sufficient ground for proceeding, against the accused:

(3) Where the discretion exercised by the Magistrate in issuing process is capricious and arbitrary having been based either on no evidence or on materials which are wholly irrelevant or inadmissible: and

(4) Where the complaint suffers from fundamental legal defects, such as, want of sanction, or absence of a complaint by legally competent authority and the like(3)"

It is, Therefore, manifestly clear that proceedings against an accused in the initial stage can be quashed only if on the face of the complaint or the papers accompanying the same, no offence is constituted. In other words, this test is, that taking the allegations and the complaint, as they are without adding or sub-starting anything, if no offence is made out, then, the High Court would be justified in quashing the proceedings in exercise of its power u/s 482 of the Code(3)."

(11) It is also good to bear in mind the legal requirement in the Code for issue of process and the extent of scrutiny by the Court issuing the process, as indeed, by the High Court, when dealing with a challenge to the validity of the proceedings Section 204 of the Code, which regulates the issue of a process by a Magistrate taking cognizance of an offence, provides that process may be issued if in the opinion of the Magistrate "there is sufficient ground for proceeding". The opinion that there is sufficient ground for proceeding must be distinguished from expressions like "there is ground for presuming that the accused has committed an offence" used in Section 240, 246 and 228 of the Code, in relation to the stage of framing of charge in cases instituted on a police report, cases instituted otherwise than on police report, and of trial before a court of Section respectively. It is likewise distinguishable from the stage at which the Court is required to consider, on the conclusion of the trial, if the case against the accused has been proved or not or whether the accused should be convicted or acquitted. While the stage as: which the Magistrate decides to summon an accused Is, no doubt, an important stage in the proceedings'' ,and must be preceded by an application of judicial mind to the material before the Court to determine if "there is ground for proceedings", the stage nevertheless, does not call for any in-depth examination of the material or possible defenses of an accused, or the mere possibility that on a certain hypothesis being eventually considered and accepted by the Court, the trial may end favorably to the accused, either on the existing material, or on the further material that may be expected to be brought by the complainant, or may be produced by the accused in the course of the trial. It is, however, important to bear in mind the two parameters in dealing with the stage. One is if the allegations in the complaint, and the material in its support, disclose the commission of an offence, the matter must be allowed to proceed, but if it does not, or there are other features, which would justify an inference that the trial would be an exercise in futility, or is otherwise mala fide, an innocent person should not be allowed to be subjected to the hardship and humiliation of a full-dress trial, even though on any reckoning, it would never succeed. The expressions " ends of justice" and "to prevent abuse of the process of any court" used in Section 482 of the Code are intended to work both ways, either when an innocent person is unjustifiably subjected to an undeserving prosecution, or if an ex facie well-merited prosecution is throttled at the threshold ,without allowing the material in support of it to see the light of the day. It is also necessary for Courts to exercise caution in dealing with "negations before a criminal court which also raise dispute between the parties of a civil nature, for which the aggrieved party must ordinarily invoke the aid of a civil process, and to reasonably preclude the possibility that a more convenient forum of a Criminal Court may have been malafide selected by an aggrieved person in preference to a prolix and costly civil process with a view to have an expeditions settlement of a bona fide dispute or to twist the fail of the accused for a settlement for favorable to the party, seeking the aid of the criminal process. In view of increasing overflow of matters from the civil side to. the criminal side, such fears could not be said to be imaginary.

(12) It would be convenient to consider at this stage if, in the context of the aforesaid principles, and in the face of the allegations in the complaint, and the material placed before the Court, the proceedings in the Court below or the order summoning the accused are liable to be quashed.

(13) The complaint is a rather inartistically, if not clumsily, drawn document. It was apparently drawn in a hurry. It does not set out the chronology of events in proper sequence, and the various events on which it is based are almost jumbled up leading to considerable confusion. The manifest intent in the complaint seems to be more to bring the case within the jurisdiction of the Delhi courts rather than clearly make out that there is a case in which a Criminal Court ought to proceed. There are quite a few loose-ends, as indeed, unusual features of the transaction forming subject-matter of the allegations. The respondent is admittedly a company carrying on business in London: so was the petitioner. It is further alleged in the complaint that since March, 1982, the petitioner had been dealing with the company, though the transactions were confined to. what is described in the complaint as "small purchases". It is further alleged that "slowly and gradually the accused made him (Gehani) believe that the accused is an honest and. reliable person and his financial position was sound", ft is further stated that on account of the past dealings, "the accused developed friendship with Mr. Gehani through business enquiries". If that was the position since March, 1982, it would be highly improbable if the petitioner would nevertheless, as the complainant would have this Court believe, contact Vinod Bajaj through telephone from London at the defense Colony No. of the complainant in August, 1982 representing that he was managing director of Comtrex Ltd. and wanted to purchase a large quantity of blank video cassettes against post-dated cheques. It is further brought out in the Vinod Bajaj''s letter of August 30, 1982 addressed to Gehani that he had made the necessary enquiries about the petitioner and that he had good references and could be relied upon and that he had, Therefore, accepted the aforesaid easiness proposition. If the petitioner had already developed friendship with the company''s man in London because of his contact with him and had developed friendship through business ''dealings since March, 1982, it would be highly improbable if the petitioner would have contacted a comparative stranger on telephone In India rather than leave it to Gehani to do the needful. If the complainant was hesitant in dealing with the petitioner either because of the financial implications of the proposed transaction or otherwise, which necessitated a local enquiry, and a satisfaction on the basis of it, where was the question of the company parting with goods on credit merely on the representation of the petitioner as to his status and financial solvency or that the post-dated cheques would be duly honoured. But what is worse is that a transaction of this magnitude should have been entered into in a place like London without resort to any of the well-established modes, both in internal and foreign trade, to ensure payment such as pledge of goods, involvement of a banking institution, some documentation and some form of security, particularly, where according to the complainant, the previous dealings with the petitioner

since March, 1982 were of small sizes. But the petitioner''s version of what may have happened between the parties is also rather intriguing, if not mysterious. Goods are said to have been supplied to Comtrex Ltd., according to the, invoices of the respondent but the two cheques given to the company by the petitioner, though signed by the petitioner, were for Trend lake Ltd. and not Comtrex Ltd. According to the petitioner, he was a mere "associate" in London of Comtrex Ltd. and was apparently carrying on his business in the name of Trend lake Ltd., a London based company. According to him, the two cheques had been issued to the respondent in relation to a transaction proposed between Trend lake and the respondent which, however, misfired and the payment of cheques was stopped by a telex message said to have been sent by Trend lake to the respondent. The petitioner is, however, mysteriously quiet apparently pursuant to the petitioner''s right of silence, while facing a trial, as to any payment made by Carom-tax Ltd. for the consignments .said to have been delivered to them between September 8 and September 21, 1982, as indicated by the 4 invoices, P-1 to P-4. placed on the record by the respondent .Whatever may be the true nature of the transactions between the parties or as to the real dispute between them or between .the respondent and Comtrex Ltd., I have a suspicion, a strong suspicion, that there was more to the transaction between the parties than meets a bare eye and there may be features of the transaction which would be in the common interest of both the parties net to disclose in a Court. In the course of the rather elaborate hearing of this petition, I closely enquired of counsel on both sides as to these features. as to the unusual nature of the transaction, with a view to find out as to what exactly may have happened between the parties. There is, however, no doubt that the allegations in the complaint certainly disclose a serious civil dispute between the parties, which would normally have remained within the precincts of a Civil Court and I won''t be surprised if the matter stead landed in a Criminal Court because the civil proceedings are too prolix and the absurd provisions of the Court Fees Act make it more costly, and neither a civil suit for a decree that may be obtained pursuant to it operates as an instrument of pressure on a debtor, particularly, as is axiomatic, the problem of a creditor starts after he is able to obtain a decree. This would perhaps be particularly so because it was obvious on the allegations in the complaint itself that the petitioner has no assets in India, or in England, and if the respondent is to be believed, he wound up his affairs in London and shifted "bag and baggage" to India after allegedly pocketing a substantial amount of Rs.16 lakh and odd on account of the proceeds of the video cassettes, said to have been delivered by the respondent to the petitioner. I won''t be surprised, Therefore, if in that kind of a situation, the respondent found in the physical presence of the petitioner in Delhi, an opportunity to operate a lever, through the process of criminal court, which is supposed to be comparatively more effective.

(14) Having regard to all these features, I am of the opinion that it is a fit case in which the proceedings against the petitioner should be quashed, leaving the respondent free to file appropriate civil proceedings against the petitioner, even

though it would certainly give to the petitioner considerable time, within which to pay for the goods, if the respondent is to be believed with regard to the transaction in dispute. A number of questions were argued as to the circumstances in which Sections 415 or 420 Indian Penal Code. may be attracted in cases where goods are sold on short credit on the basis of a post-dated cheque, and as to the representation which may be implicit in the delivery of the cheque or as to the representation that may otherwise be made with regard to the willingness and ability of the purchaser to pay for the goods. There was also some debate if the delivery of the goods could be said to have been induced by the delivery of the cheques, or if one or both the cheques were delivered after whole or part of the goods had been delivered, but in the way I have looked at the inherent infirmity in the salient features of the transaction, it is unnecessary to answer these questions. A father question was also raised if the sanction of the Central Government at this stage could cure the defect of seize taken of the complaint by the Court, but in the way I have looked at the nature of the .transaction, it would only be an academic exercise to deal with the question.

(15) In the result, the petition succeeds and the proceedings in the complaint are quashed. The bail bond and the surety bond if any, executed by the petitioner, and the surety, are hereby discharged.Cr. M. 303/84, Cr. M. 432184 and Cr. M.1022/84 are dismissed as anfractuous .There is no substance in Cr. M. 582184 which is also dismissed.

