

HON'BLE SRI JUSTICE K. LAKSHMAN

CRIMINAL PETITION No.9216 OF 2024

ORDER:

Heard Mr. T.V. Ramana Rao, learned counsel for the petitioners - accused Nos.1 to 3 and Mr. Palle Nageswara Rao, learned Public Prosecutor for the State appearing on behalf of the respondents.

2. This Criminal Petition is filed under Section - 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS'), to quash the proceedings in Crime No.118 of 2024 of Mahadevpur Police Station by calling for records in relation to the said crime.

3. The petitioners herein are arraigned as accused Nos.1 to 3 in the aforesaid Crime. The offences alleged against them are under Section - 223 (b) read with 3 (5) of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS'). The aforesaid crime was registered against the petitioners pursuant to the report given by respondent No.2. The allegations made against the petitioners in the said report are as follows:

- i. Respondent No.2, who was working as Assistant Executive Engineer at Laxmi Barrage, Medigadda. On 26.07.2024 between 12.30 and 2.00 P.M. on the call given by BRS Party working President, petitioner No.1 herein, along with his associates, BRS

Party leaders, petitioner Nos.2 and 3 herein, and their party social media persons and others visited the Medigadda Barrage.

- ii. He saw the Drone Visuals taken by the aforesaid persons during their visit in Electronic Media and the same was brought to the notice of Higher Officials.
- iii. Medigadda Barrage is an important Project to the Telangana State.
- iv. On account of acts of the petitioners, there is a threat to the aforesaid Project.
- v. The petitioners did not take any permission for using the said Drone Camera.
- vi. There was delay in lodging the report with police.
- vii. Therefore, he requested the police of Mahadevpur Police Station to take necessary action.

4. The petitioners filed the present petition to quash the aforesaid proceedings in the crime on the following grounds:

- i) The petitioners are innocent of the offences alleged against them;
- ii) They did not commit any offence as alleged by respondent No.2 - *de facto* complainant.
- iii) They were falsely implicated due to political rivalry.

- iv) To attract an offence under Section - 223 (b) of the BNS, there must be an order promulgated by a public servant, who is lawfully empowered to promulgate such an order and that such an order was violated. In the present case, it is not stated by respondent No.2 that the petitioners violated the order promulgated by a public servant. Therefore, registration of FIR is in violation of the mandatory provisions of Section - 215 (1) (a) of BNS.
- v) The visuals referred to by respondent No.2 are not attributable to the petitioners.

5. Respondent No.1 filed counter opposing quashing the proceedings contending:

- i) The State Government *vide* G.O.Ms. No.92, dated 28.12.2019, constituted a committee for identification of critical/strategically important installations in the State to be retained/included in the Digisky Platform in the Red and Yellow Zones at State Level in view of emerging threats from Drones.
- ii) The Committee, in a Review Committee Meeting held on 17.02.2020, identified all such critical/strategically

important installations including Medigadda Barrage which was included in the Yellow Zone. The said Barrage has also been included in the 'Digital Sky Platform'.

- iii) As per the Drone Rules, 2021, the Ministry of Civil Aviation, Government of India, all the unmanned Aircraft System operations are strictly restricted in the Yellow Zone areas and shall require permission from the concerned Air Traffic Control Authority of Directorate General of Civil Aviation.
- iv) Therefore, the petitioners visiting the Medigadda Barrage on 26.07.2024 without obtaining any permission from the concerned authorities of Civil Aviation deliberately operated a drone camera over and in the premises of Barrage and captured visuals.
- v) Crime No.174 of 2023 of Mahadevpur P.S. pertaining to the damage caused to the pillars of Medigadda Barrage is under investigation and a Judicial Commission is probing into the alleged irregularities and embezzlement of public funds and other serious aspects in the construction of Kaleshwaram Project. The petitioners and others were pushing away the

police personnel and security personnel deployed at the Medigadda Barrage, forcefully entered the premises of Barrage and captured visuals operating a drone camera.

- vi) In view of the above, a memo adding Sections - 3 and 7 of the Officials Secrets Act, 1923 and Section - 10 (A) of the Aircraft Act, 1934 was filed on 08.08.2024 before the concerned Magistrate Court.
- vii) Investigation in the subject crime is pending and scuttling investigation at this stage is improper.
- viii) Thus, the petitioners are not entitled to seek quashment of the proceedings in the aforesaid crime.

ANALYSIS AND FINDINGS OF THE COURT:

6. In the light of the aforesaid rival submissions, it is relevant to note that Section - 223 of BNS (which is akin to Section - 188 of IPC) deals with 'disobedience to order duly promulgated by public servant' and Section - 3 of the BNS deals with 'general explanations'. The same are extracted hereunder:

“223. Disobedience to order duly promulgated by public servant.—Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take

certain order with certain property in his possession or under his management, disobeys such direction,

- (a) shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to six months or with fine which may extend to two thousand five hundred rupees, or with both;
- (b) and where such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both.

Explanation.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.”

“3. General explanation.

1) Throughout this Sanhita every definition of an offence, every penal provision, and every Illustration of every such definition or penal provision, shall be understood subject to

the exceptions contained in the Chapter entitled General Exceptions, though those exceptions are not repeated in such definition, penal provision, or Illustration.

Illustrations

(a) The sections in this Sanhita, which contain definitions of offences, do not express that a child under seven years of age cannot commit such offences; but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age.

(b) A, a police officer, without warrant, apprehends Z, who has committed murder. Here A is not guilty of the offence of wrongful confinement; for he was bound by law to apprehend Z, and therefore the case falls within the general exception which provides that "nothing is an offence which is done by a person who is bound by law to do it".

(2) Every expression which is explained in any Part of this Sanhita, is used in every Part of this Sanhita in conformity with the explanation.

(3) When property is in the possession of a person's spouse, clerk or servant, on account of that person, it is in that person's possession within the meaning of this Sanhita.

Explanation.---A person employed temporarily or on a particular occasion in the capacity of a clerk or servant, is a clerk or servant within the meaning of this sub-section.

(4) In every Part of this Sanhita, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

(5) When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

(6) Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

(7) Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.”

7. With regard to Section - 223 of BNS, in **N.T. Rama Rao v. The State of A.P., rep. by Public Prosecutor**¹ while dealing with the offences under Sections - 188 and 283 of IPC, the learned Single Judge held as under:

“5) Even if the allegation that the petitioner conducted public meetings at three road junctions contrary to the permission accorded for conducting of a public meeting only at one specified place is true, such a direction under Section 30 of the Police Act, 1861 could have been given only by the

¹. Criminal Petition No.5323 of 2009, decided on 17.09.2009

Superintendent or the Assistant Superintendent of Police of the District but not by any of their subordinates. If such a permission is granted under Section 30 of the Police Act, 1861 and is violated, Section 195 (1) (a) of Code of Criminal Procedure mandates that the complaint in this regard has to be made by the public servant concerned or some other person to whom such a public servant is administratively subordinate to enable any Court to take cognizance of an offence under Section 188 of Code of Criminal Procedure. In the present case, the charge sheet was filed by the Sub Inspector of Police, who could not have been the authority to grant permission for the public meeting and therefore, the complaint/charge sheet is in violation of the mandatory provision of Section 195(1)(a) of Code of Criminal Procedure.

6) That apart, the offence alleged to have been committed under Section 283 of the Indian Penal Code by the petitioners and others is obviously in consequence to the alleged offence under Section 188 of Indian Penal Code and is not an independent of the same. Even otherwise, the conduct of public meeting at three road junctions or obstruction to the traffic could not have been considered as causing any danger or injury to any person. In so far as the obstruction in any public way is concerned, which can also be covered by Section 283 of the Indian Penal Code, the charge sheet cites only one witness to

speaking about the traffic jam caused by the road show. But, when the conduct of the public meeting at least at one place has been permitted and if the gathering for that public meeting resulted in any inconvenience by way of obstructing the traffic, the same cannot be considered to be with necessary guilty *mens rea* to construe the existence of an offence punishable under Indian Penal Code. Under the circumstances, none of the offences alleged can be said to have any reasonable basis and in any view, the complaint/charge sheet being in violation of Section 195 (1) (a) of Code of Criminal Procedure, has to fail.

7) As the complaint has failed due to its unsustainability, the proceedings in their entirety have to fail, though the 1st accused alone approached this Court by way of this Criminal Petition.”

8. In **Thota Chandra Sekhar v. The State of Andhra Pradesh, through S.H.O., P.S. Eluru Rural, West Godavari District**² relying on various judgments including **N.T. Rama Rao**¹ and the guidelines laid down by the Hon’ble Supreme Court in **State of Haryana v. Bhajan Lal**³, more particularly, guideline No.6, which says that where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a

². Criminal Petition No.15248 of 2016, decided on 26.10.2016

³. (1992) Supp. 1 SCC 335

specific provision in the Code or the concerned Act, providing efficacious remedy to redress the grievance of the party, a learned Single Judge of High Court of Judicature at Hyderabad for the States of Telangana and Andhra Pradesh quashed the proceedings in the said C.C. by exercising power under Section - 482 of Cr.P.C. It further held that the proceedings shall not be continued due to technical defect of obtaining prior permission under Section - 155 (2) of Cr.P.C. and taking cognizance on the complaint filed by V.R.O. and it is against the purport of Section - 195 (1) (a) of Cr.P.C.

9. In the present case, the Investigating Officer did not follow the aforesaid procedure while registering the aforesaid crime. Thus, the proceedings against the petitioners for the offence under Section - 223 (b) of BNS are liable to be quashed.

10. *Vide* alteration memo dated 08.08.2024, the Investigating Officer added Section - 3 and 7 of the Official Secrets Act, 1923 and 10A of the Aircraft Act, 1934. Therefore, the said provisions including Section - 2 (8) of the Official Secrets Act are relevant and the same are extracted hereunder:

The Official Secrets Act, 1923:

“2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

- (1) xxxxx
- (2) xxxxx
- (3) xxxxx
- (4) xxxxx
- (5) xxxxx
- (6) xxxxx
- (7) xxxxx

(8) **“prohibited place”** means—

(a) any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, camp, ship or aircraft belonging to, or occupied by or on behalf of, Government, any military telegraph or telephone so belonging or occupied, any wireless or signal station or office so belonging or occupied and any factory, dockyard or other place so belonging or occupied and used for the purpose of building, repairing, making or storing any munitions of war, or any sketches, plans, models or documents relating thereto, or for the purpose of getting any metals, oil or minerals of use in time of war;

(b) any place not belonging to Government where any munitions of war or any sketches, models, plans or documents relating thereto, are being made, repaired, gotten or stores under contract with, or with any person on behalf of, Government, or otherwise on behalf of Government; (c) any place belonging to or used for the purpose of Government which is for the time being declared by the Central Government, by notification in the Official Gazette, to be a prohibited place for the purposes of this Act on the ground

that information with respect thereto, or damage thereto, would be useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in English 'and in the vernacular of the locality;

(d) any railway, road, way or channel, or other means of communication by land or water (including any works or structures being part thereof or connected therewith) or any place used for gas, water or electricity works or other works for purposes of a public character, or any place where any munitions of war or any sketches, models, plans, or documents relating thereto, are being made, repaired, or stored otherwise than on behalf of Government, which is for the time being declared by the Central Government, by notification in the Official Gazette, to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or the destruction of obstruction thereof, or interference therewith, would be- useful to an enemy, and to which a copy of the notification in respect thereof has been affixed in English and in the vernacular of the locality;

(9) xxxxx

(10) xxxxx”

“3. Penalties for spying.—(1) If any person for any purpose prejudicial to the safety or interests of the State—

(a) approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place; or

(b) makes any sketch, plan, model, or-note which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy; or

(c) obtains, collects, records or publishes or communicates to any other person any secret official code or pass word, or any sketch, plan, model, article or note or other document or information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy or which relates to a matter the disclosure of which is likely to affect the sovereignty and integrity of India, the security of the State or friendly relations with foreign States; he shall be punishable with imprisonment for a term which may extend, where the offence is committed in relation to any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, factory, dockyard, camp, ship or aircraft or otherwise in relation to the naval, military or air force affairs of Government or in relation to any secret official code, to fourteen years and in other cases to three years.

(2) On a prosecution for an offence punishable under this section, it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the State, and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case or his conduct or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State; and if any sketch, plan, model, article, note, document, or information relating to or used in any prohibited place, or relating to anything in such a place, or any secret official code or pass word is made, obtained, collected, recorded, published or communicated by any person other than a person acting under lawful authority, and from the

circumstances of the case or his conduct or his known character as proved it appears that his purpose was a purpose prejudicial to the safety or interests of the State, such sketch, plan, model, article, note, document, 3[information, code or pass word shall be presumed to have been made], obtained, collected, recorded, published or communicated for a purpose prejudicial to the safety or interests of the State.”

“7. Interfering with officers of the police or members of the Armed Forces of Union.—(1) No person in the vicinity of any prohibited place shall obstruct, knowingly mislead or otherwise interfere with or impede, any police officer, or any member of 3[the Armed Forces of the Union] engaged on guard, Sentry, patrol, or other similar duty in relation to the prohibited place.

(2) If any person acts in contravention of the provisions of this section, he shall be punishable with imprisonment which may extend to 4[three years], or with fine, or with both.”

The Aircraft Act, 1934:

“10A. Adjudication of penalties.—(1) Notwithstanding anything contained in sub-section (2) of section 10, the Central Government may, in making any rule under section 4, 5, 7, 8, 8A or section 8B, provide for imposition of penalty not exceeding rupees one crore for the contravention of any rule for which no other punishment has been provided elsewhere in the Act, or in the rules made thereunder, for such contravention.

(2) The Central Government may, by an order published in the Official Gazette, appoint such number of officers not below the rank of Deputy Secretary to the Government of India or equivalent, as it considers necessary, to be designated officers for adjudging penalty under sub-section (1), in such manner as the Central Government may, by notification in the Official Gazette, make rules.

(3) The Central Government may, while appointing designated officers under sub-section (2), also specify their jurisdiction in that order.

(4) Where the designated officer is satisfied that any contravention of the provisions of the rules has been committed by any person, he may, by an order in writing, impose penalty on such person stating the nature of contravention, the provision of rules which has been contravened and the reasons for imposing such penalty: Provided that the designated officer shall, before imposing any penalty, give a reasonable opportunity of being heard to such person.

(5) Any person aggrieved by an order made under sub-section (4) may prefer an appeal to an appellate officer having jurisdiction in the matter who is next higher in rank to the designated officer who has passed such order.

(6) Every appeal under sub-section (5) shall be filed within thirty days from the date on which the copy of the order made by the designated officer is received by the aggrieved person and shall be in such form and manner, and be accompanied by such fees, as the Central Government may, by notification in the Official Gazette, make rules.

(7) The appellate officer may, after giving the parties to the appeal an opportunity of being heard, pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against.”

11. In the alteration memo, the Investigating Officer stated that during the course of investigation, he has examined respondent No.2 - *de facto* complainant as LW.1 and recorded his statement under Section - 180 of BNSS. He visited the scene of offence and conducted scene observation *panchanama* in the presence of mediators. On change of Investigating Officer, the present Investigating Officer re-examined respondent No.2 - LW.1. He has also examined and recorded the statements of Mr. L. B Bheema Raju, Deputy Executive Engineer as LW.2, Mr. G. Gangadhar, Assistant Engineer as LW.3, Mr. B.Srinivas, Assistant Executive Engineer, as LW.4, Mr. A. Ravikanth, Assistant Executive Engineer as LW.5, who are all working in Irrigation Sub-division-IV of Medigadda (Lakshmi) Barrage, Ambatpally. All of them in one-voice stated that on 26.07.2024 at about 12.30 to 02.00 PM, on the call given by petitioner No.1, petitioner Nos.2 and 3 and other party workers of BRS Party including Social Media representatives visited Medigadda Barrage. They came to the barrage collectively. They have also flown drone camera on the barrage into the air. They have sent the

said visuals/videos to the Social Media. They have not obtained any permission from the competent authority and they have not informed the said fact to any authority. It is a prohibited area and, therefore, they have to take permission.

12. The Investigating Officer recorded the statement of Mr. E. Upender, Head Constable and Mr. M. Chandra Mohan, Constable of Mahadevpur Police Station and also Mr. Kaparaveni Mahesh, Secured Guard at Medigadda Barrage as LWs.6 to 8. They have also stated in the aforesaid lines.

13. On consideration of the said statements, the Investigating Officer filed alteration memo, dated 08.08.2024 adding the aforesaid provisions of law. It is further stated that if any person including the petitioners herein wants to fly a drone on the barrage, they shall obtain prior permission from the concerned department as per the Drone Rules, 2021. It is prohibited area for flying drones. Even then, the petitioners and other persons penetrated onto the barrage along with BRS party workers and flew the drone.

14. As per Section - 2 (8) (d) of the Official Secrets Act, an area will be called prohibited place on declaration of the said place as

prohibited area by the Central Government by way of issuing Notification in the Official Gazette.

15. It is relevant to note that the Government of Telangana has issued G.O.Ms. No.92, dated 28.12.2019 constituting a Committee for identification of critical/strategically important installations in the State to be retained/included in the “Digisky Platform” in the Red and Yellow Zones at State Level. The said Committee has submitted its report dated 17.02.2020 along with categorization list of Vital/Critical Installations/Projects of the State for inclusion in the “Digisky Platform”. Medigadda Barrage is also included in the said list, but the same was not notified as prohibited place in terms of Section - 2 (8) (d) of the Official Secrets Act by the Central Government.

16. It is also relevant to note that the Central Government has issued a Notification *vide* GSR 589 (E), dated 25.08.2021 notifying the Drone Rules, 2021. Rule - 3 (g) of the Drone Rules deals with ‘digital sky platform’; Rule Section - 3 (l) deals with ‘green zone’, yellow zone’ and ‘red zone’ and the same are extracted hereunder:

“(l) **“green zone”** means the airspace of defined dimensions above the land areas or territorial waters of India, up to a vertical distance of 400 feet or 120 metre that has not been designated as a red zone or yellow zone in the airspace map

for unmanned aircraft system operations and the airspace upto a vertical distance of 200 feet or 60 metre above the area located between a lateral distance of 8 kilometre and 12 kilometre from the perimeter of an operational airport:

“yellow zone” means the airspace of defined dimensions above the land areas or territorial waters of India within which unmanned aircraft system operations are restricted and shall require permission from the concerned air traffic control authority. The airspace above 400 feet or 120 metre in the designated green zone and the airspace above 200 feet or 60 metre in the area located between the lateral distance of 8 kilometre and 12 kilometre from the perimeter of an operational airport, shall be designated as yellow zone;

“red zone” means the airspace of defined dimensions, above the land areas or territorial waters of India, or any installation or notified port limits specified by the Central Government beyond the territorial waters of India, within which unmanned aircraft system operations shall be permitted only by the Central Government.”

17. Rule - 25 deals with ‘access to digital sky platform’, and Rule - 26 deals with ‘safe operation’. The same are also extracted hereunder:

“25. Access to digital sky platform.—The nodal officers of State Governments, Union Territory Administrations and law enforcement agencies shall be provided direct access to the digital sky platform.”

“26. Safe operation.— No person shall operate an unmanned aircraft system in a manner, either directly or indirectly, as to endanger the safety and security of any person or property.”

18. As discussed above, Medigadda Barrage is not notified as prohibited area in terms of the procedure laid down under Aircraft Act. Without considering the said aspects, the Investigating Officer added Sections - 3 and 7 of the Official Secrets Act and Section - 10A of the Aircraft Act. In the counter filed by the Investigating Officer, he has placed reliance on G.O.Ms.No.92, dated 28.12.2019 and letter dated 17.02.2020 of the Inspector General of Police, Intelligence, Telangana State, Hyderabad, along with categorization list of vital installations/projects of the State for inclusion in the ‘Digisky Platform’. Therefore, the alteration memo dated 08.08.2024 adding the aforesaid provisions of law are contrary to the procedure laid down under the Official Secrets Act and the Aircraft Act.

19. It is relevant to note that Section - 10A of the Aircraft Act deals with adjudication of penalties. As per the said section, power to adjudicate penalties is with the Central Government. Therefore, the Investigating Officer cannot add Section - 10A of the Aircraft Act.

Without considering the said aspects, the Investigating Officer added Section - 10A of the Aircraft Act.

20. In **State of Jharkhand v. Dr. Nishkant Dubey**⁴, the Apex Court had an occasion to deal with the procedure to be followed under the Aircraft Act. Paragraph Nos.39, 40 and 41 are relevant and the same are extracted hereunder:

“**39.** This Court is further of the view that the Aircraft Act, 1934 as well as the Rules framed thereunder including Rule 14(ix) of Airport (Security) Rules, 2011 is a complete Code which deals with safety and security of civil aviation and aerodrome. The Aircraft Act, 1934 also prescribes a special procedure for taking cognizance of any offence punishable under the Aircraft Act, 1934 i.e, the complaint must be made by or with the prior sanction of the Aviation authorities. Section 12B is in the nature of a pre-condition for taking cognizance by a Court.

40. Section 5 of the Code stipulates that “*if any special law or local law for the time being in force contemplates any special jurisdiction or power or any special form of procedure prescribed, unless there is something to the contrary, to be found, it is the provisions of the special law or the local law which would prevail.*” Further, Clause (2) of Section 4, Code mandates that “*all offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any*

⁴. 2025 SCC OnLine SC 126

enactment for the time being in force regulating the manner or place of investigation, inquiring into, trying or otherwise dealing with such offences.”

41. Consequently, as a complaint can be made/filed by an authorised officer alone under the Special Act i.e. the Aircrafts Act, 1934, before the concerned Court, the local police can only forward the material collected by it during the investigation to such authorised officer. It shall be open to the authorised officer to take a decision in accordance with law with regard to filing or non-filing of a complaint.”

21. Mr. T.V. Ramana Rao, learned counsel for the petitioners, placed reliance on the principle laid down in the following decisions:

- i. **Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre**⁵;
- ii. **Mohammad Wajid v. State of U.P.**⁶; and
- iii. **Kim Wansoo v. State of Uttar Pradesh**⁷.

a) In **Madhavrao Jiwajirao Scindia**⁵, the Apex Court held that the Court cannot be utilized for any oblique purpose and where in the opinion of the Court chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the Court may while taking into consideration

⁵. (1988) 1 SCC 692

⁶. 2023 SCC OnLine SC 951

⁷. 2025 SCC OnLine SC 17

the special facts of a case also quash the proceeding even though it may be at a preliminary stage.

b) As per the complaint dated 29.07.2024, the alleged incident took place on 26.07.2024 between 12.30 and 2.00 P.M. Respondent No.2 in the capacity of Assistant Executive Engineer, Irrigation Sub-Division No.5, Ambatipally, lodged the aforesaid complaint with Mahadevpur Police Station on 29.07.2024 at 22:00 hours. Thus, there is delay of almost 3½ days in lodging the complaint. As stated above, respondent No.2 is an Assistant Executive Engineer in Sub-Division No.5 of Irrigation Department at Ambatipally. He has not explained the said delay in lodging the complaint. The only explanation offered by him is that on going through the Visuals in Electronic Media, he has brought the said fact to the notice of his Higher Officials and that Medigadda Barrage is an important project and, therefore, there is threat to the said barrage due to flying of drones, visiting of the same by the petitioners and others. The said explanation offered by respondent No.2 is unsatisfactory. On coming to know about the said alleged incident, he should have informed to the Higher Officials and on receipt of permission, he should have lodged the complaint immediately. The same are lacking in the complaint dated 29.07.2024. Thus, there is delay

of 3½ days in lodging the complaint and the explanation offered by respondent No.2 for such delay is unsatisfactory.

c) In **Mudavath Jyothi v. The State of Telangana**⁸, this Court on consideration of the fact that there was delay of 69 days in lodging the complaint and also considering other facts, quashed proceedings against accused No.1 therein.

d) In **Mohammad Wajid**⁶, the Apex Court observed in paragraph No.34, which is relevant and the same was extracted as under:

“34. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the

⁸. Crl.P.No.6427 of 2019, decided on 01.06.2021

necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.”

e) In **Kim Wansoo**⁷, the Apex Court held that where there are vague allegations, and if the allegations made in the complaint are taken as true, the same would not disclose commission of any offence, make out a case against accused, asking the accused to stand the trial will be nothing but an abuse of process of law. In such circumstances, FIR has

to be quashed in exercise of its powers under Section - 482 of Cr.P.C. by the High Court.

22. In the light of the aforesaid principle, as discussed above, admittedly there is delay of 3½ days in lodging the complaint and the Investigating Officer did not follow the procedure laid down under Section - 223 (b) of the BNS. The Investigating Officer cannot add Sections - 3 and 7 of the Official Secrets Act in the absence of Notification in the official Gazette by the Central Government notifying the Medigadda Barrage as prohibited area in terms of Section - 2 (8) (d) of the Official Secrets Act, and as per Section - 10A of the Aircraft Act, it is the Central Government, which has power to adjudicate penalties.

23. In **Bhajan Lal**³, the Apex Court cautioned that power of quashing should be exercised very sparingly with circumspection and that too in the rarest of rare cases. While examining a complaint, quashing of which is sought, Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or in the complaint. The Apex Court in the said judgment laid down certain guidelines/parameters for exercise of powers under Section - 482 of Cr.P.C., which are as under:

"(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 offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 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 FIR 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 FIR 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 under Section 155(2) of the Code.

(5) Where the allegations made in the FIR 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 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."

The said principle was reiterated by the Apex Court in catena of decisions.

24. In the light of the aforesaid discussion, continuation of the proceedings against the petitioners in Crime No.118 of 2024 of Mahadevpur Police Station is an abuse of process of law and, therefore, the same are liable to be quashed.

25. The present Criminal Petition is accordingly allowed quashing the proceedings in Crime No.118 of 2024 of Mahadevpur Police Station against the petitioners - accused Nos.1 to 3 alone.

As a sequel thereto, miscellaneous petitions, if any, pending in the criminal petition shall stand closed.

21st April, 2025
Mgr

K. LAKSHMAN, J