

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

CRM(M) No. 90/2020
CrlM Nos. 921/2022, 1783/2021 and 210/2020

Reserved on: 27.12.2022
Pronounced on: 10.03.2023

Bopinder Singh Dua.

..... Petitioner(s)

Through: Mr. Sunil Sethi, Senior Advocate
Mr. Parimoksh Seth, Advocate.

V/s

UT of J&K.

.....Respondent(s)

Through: Ms. Monika Kohli, Sr. AAG.

CORAM:

HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE.

JUDGEMENT

01. In the instant petition filed under section 482 of the Code of Criminal Procedure, the petitioner seeks quashment of FIR No. 25/2019 dated 23rd October 2019 (hereinafter for short the impugned FIR) registered with Police Station Anti-Corruption Bureau, Jammu (hereinafter for short the ACB) for commission of offence under Section 5(1)(e) read with Section 5(2) of the Jammu and Kashmir Prevention of Corruption Act, 2006 (hereinafter for short the Act of 2006), including the consequent proceedings.

Facts:- Following facts stem out from the petition.

- The petitioner is stated to have been borne on the establishment of J&K Small Scale Industries Development Corporation and after rendering a considerable period of service and obtaining various promotions, reached to the level of Managing Director of the Corporation in the year 2002 and finally retired upon attaining the age of superannuation in November, 2012.

- During the period of his working an FIR no. 10/1997 came to be registered against the petitioner by the then Vigilance Organization, for allegedly having accumulated assets disproportionate to his known source of income.
- The said FIR No. 10/1997 is stated to have been closed after conducting investigation therein “**As Not Proved**” followed by filing of “ **Closure Report**” before the Court of Special Judge, Anti-Corruption, Jammu, and accepted by the said Court on 17.04.2000.
- The impugned FIR for commission of offence under Section 5(1)(e) read with section 5(2) of the Act of 2006, is stated to have been registered against the petitioner after seven years of his retirement on the similar allegations on which FIR 10/1997 supra was registered.

02. The impugned FIR is being assailed in the instant petition *inter alia* on the grounds urged in the petition.

03. Response to the petition has been filed by the respondent wherein, it is being admitted that that the impugned FIR came to be registered against the petitioner after him having retired as Managing Director SICOP, for having accumulated huge assets both moveable as well as immovable, disproportionate to his known sources of income by indulging in corrupt and illegal practice.

It is being stated in the response that as per the details/facts gathered during secret inquiries conducted, the petitioner was found to have abused and misused his official position, having invested his ill-gotten money from time to time in various business ventures in his name and in the name of his family members. The following are the details of alleged moveable and immovable properties reflected in the response having been found during the said inquiries:

- (i) 09 different factories under different name and style established by him and his family member. Few factories mentioned are M/S Modern Plastics, M/S Neptune Plastics and Modern Fabrications.

- (ii) Large number of goods carrier/trucks purchased by him as well as his family members.
- (iii) A double storey palatial house in Nanak Nagar, Jammu constructed over 2 kanals of land.

Besides above allegations, it is also being averred that during the course of search conducted while investigating **FIR No. 23/2019** registered with police station Anti-Corruption Bureau, Jammu, against one Shri Jasvinder Singh Dua (MD Handicrafts Corporation), nephew of the petitioner herein, having been appointed illegally in SICOP during working of the petitioner therein in the SICOP, the following valuable assets as well are stated to have been recovered during the said search from the premises of the petitioner prima facie establishing that the petitioner has resorted to corrupt and illegal practices, taking advantage of his lucrative posting acquiring huge assets, both moveable and immovable: -

- (a) Golden ornaments total weighing 1.834 kg;
- (b) Silver weighing 1.470 kg;
- (c) Cash amounting Rs. 9,57,400/-

It is being admitted in the response that the FIR No. 10/1997, registered against the petitioner under the Act of 2006 earlier though came to be closed, yet, the period of service of the petitioner covered in the said FIR is not subject matter of investigation in the impugned FIR which has been registered against the petitioner by following due course of law and is based on facts, clearly attracting the ingredients of the offence/s covered in the impugned FIR.

04. A reply to the aforesaid response of the respondent has been filed by the petitioner by way of supplementary affidavit having been taken on record by this Court in terms of order dated 17th February 2022.

05. In the aforesaid supplementary affidavit, it is being averred that the petitioner/deponent belongs to an affluent business family of Jammu and instead of continuing with his family business, the petitioner/deponent opted to serve as a public servant and that the family of the petitioner/deponent in

the year 1977, owned as many as eight factories/business concerns, to which nine additional factories got added up till 1998.

It is further stated that apart from aforesaid factories, the family of the petitioner/deponent have had transport/truck business as well and both the businesses/factories, stand reflected in the statement issued by the District Industries Centre, Jammu.

It is further averred that the petitioner/deponent set up one factory under the name and style of Indo Japan Rubber Industries at Digiana Jammu in the year 1975 before joining government service and same stands verified by the respondent in the earlier FIR 10/1997 and the said factory used to be managed by the father and brother of the petitioner/deponent till his retirement and after his retirement, by the petitioner/deponent himself.

It is further averred in the supplementary affidavit that the petitioner got judicially separated from his wife in the year 1997 and has been living separately, which fact have had been earlier noticed and verified by the investigating agency while investigating FIR 10/1997 supra.

It is also averred that the petitioner/deponent is living on the first floor of the residential house belonging to his wife situated at Nanak Nagar, Jammu, and his wife is living along with her son and daughter-in-law on the ground floor of the same house and that during searches conducted by the respondents, nothing came to be recovered from the premises of the petitioner/deponent i.e. the first floor of the house, however, some cash and jewellery articles were recovered from the ground floor i.e. the residence of ex-wife of the petitioner, son and daughter-in-law, which articles included Stri-Dhan (jewellery) of the wife, and the daughter-in-law, which jewellery also had been part of the jewellery received by the wife of the petitioner/deponent in year 1977 on his marriage and on different occasions/anniversaries including birth of his son, marriage of his son and birth of his grandson, comprising of approximately 300 grams of gold, having been verified in the earlier investigation of FIR 10/1997 supra by the respondents.

It is further averred that son of the petitioner/deponent has been carrying on family business and earning handsomely, reflected and revealed in the Income Tax Returns filed by the son of the petitioner/ deponent.

It is reiterated in the supplementary affidavit that the respondents registered the impugned FIR after a gap of seven years from the date of his superannuation and, as such, after his retirement, the provisions of the Act of 2006 are not either attracted or applicable to him, in that, the petitioner having been ceased to be a **public servant** as defined in the Act of 2006.

It is also reiterated that the petitioner/deponent after his retirement, is running his transport business and is also earning from house rent and is an income tax payee thereof and that insofar as residential house is concerned, the single storeyed residential house together with land appurtenant thereto, fell to the share of the petitioner/deponent, upon inheritance after the death of his father in the year 1991 and that same stands even verified in the closure report of FIR 10/1997 supra. Insofar as double storeyed residential house situated at Nanak Nagar, Jammu, is concerned, it is stated that the same came to be acquired by the wife of the petitioner/deponent upon her judicial separation from the petitioner/deponent, pursuant to an exchange deed dated 18th of September 1985 and same as well have had been verified during the course of investigation of FIR No. 10/1997 supra.

06. The respondents have also filed response to the aforesaid supplementary affidavit of the petitioner, wherein it is being averred that the facts pleaded by the petitioner/ deponent in the supplementary affidavit could be taken into account during investigation of impugned FIR and that the FIR 10/1997 supra relates to check period up to the year 1997, whereas the impugned FIR relates to check period beyond the year 1997.

It is being also averred that the petitioner can be proceeded against under the provisions of Act of 2006, notwithstanding his retirement.

Heard counsel for the parties and perused the records.

07. Mr. Sunil Sethi, the learned senior counsel appearing for the petitioner reiterated the contentions raised and the grounds urged in the

petition and would contend that the provisions of the Act of 2006 are not attracted against the petitioner having regard to Sub Section (2)(c) of Section 2 of the Act of 2006, as the petitioner has admittedly worked in a corporation, established under an Act and is not liable to be proceeded against, as such, after his retirement.

Mr. Sethi, would further contend that even otherwise as well, the impugned FIR is liable to be quashed in view of the law laid down by the Apex Court in case titled as “**Charansingh v. State of Maharashtra**” reported in “**(2021) 5 SCC 469**” as the said FIR came to be registered without holding of a preliminary inquiry, mandatorily to be conducted in cases of misconduct or of corrupt practice.

Mr. Sethi would further contend that the respondent while registering the impugned FIR and setting into motion investigation thereof, overlooked the investigation conducted as also the closure report filed in earlier FIR 10/1997 supra.

According to Mr. Sethi, the respondents have registered the impugned FIR after a gap of seven years from the date of superannuation of the petitioner and in the process, have abused their power and process of law, and would therefore seek quashment of the impugned FIR.

08. On the Contrary, Ms. Monika Kohli, learned Senior Additional Advocate General while opposing the submissions made by Mr. Sethi would contend that the impugned FIR has been registered validly and legally against the petitioner and that under and in terms of the Act of 2006, the petitioner has been validly and lawfully proceeded against for commission of offence covered in the FIR, notwithstanding his retirement as an employee of the Corporation.

Ms. Kohli, would further contend that the investigation in the impugned FIR in law cannot be scuttled merely on the basis of contentions raised and the grounds urged by the petitioner in the petition and instead the petitioner should volunteer to cooperate with the investigation of the case in order to prove his innocence and to dispel the veracity of the allegations levelled against him. Ms. Kohli thus would pray for dismissal of the petition.

09. The First issue that emerges for consideration of this Court would be as to whether the petitioner falls within the ambit and scope of expression “**Public Servant**” as defined in Sub Section (2)(c) of Section 2 of the Act of 2006.

To advert to this issue, it becomes imperative to refer to Sub Section (2)(c) supra herein which reads as follows:

[(2)] For the purpose of this Act the expression “public servant” means a public servant as defined in Section 21 of the State Ranbir Penal Code and shall include,-

- (a) a person who is or has been a member of either House of State Legislature or a member (including Minister of State) of the Council of Ministers;
- (b) every person who is or has been under the employment of Government whether on permanent, temporary or work-charge basis;
- (c) every officer, servant or member (by whatever name called) of a Corporation or of a corporate or other body which is established by or under an Act of the State Legislature or of Parliament in force in the State

[(3) Words and expressions used herein are not defined but defined in the Jammu and Kashmir State Vigilance Commission Act, 2011, shall have the meanings, respectively, assigned to them in that Act.]

A further reference to Section 21(xv) of Ranbir Penal Code, Svt 1989, also becomes imperative herein which reads as under: -

21. Public Servant.---The word “public servant” denote a person falling under any of the descriptions hereinafter following, namely :-

First.---Every civil servant of the State.

.....

.....

.....

.....

Fifteenth.—Every officer or servant, and every member (by whatever name called) of a corporation engaged in trade or industry or of any other autonomous body which is established by an Act of

the State Legislature or of as Government company as defined in any law for the time being in force in the State;]

A combined reading of Sub Section (2)(c) of the Act of 2006 supra and Section 21 of the Rambir Panel Code supra would manifestly show that the said sections defines a public servant and includes therein various categories of persons/officers/servants and members. Though Clauses (a) & (b) of Sub Section (2) of Section 2 of the Act of 2006 refers to a person who is or has been and Clause (c) does not provide so is or has been.

It is well established canon of construction that a penal statute should be strictly construed and cannot be enlarged or extended by intendment, implication or by equitable consideration meaning thereby that the language in the penal statute cannot be enlarged beyond the ordinary limit of its terms in order to carry in effect the general purpose for which statute is enacted.

The Apex court in case titled as **“A. R. Antulay vs. R. S. Nayak”** reported in AIR 1984 SC 718, has provided that it is well established canon of construction that the Court should read the Section as it is and cannot rewrite it to suit its convenience, nor does any canon of construction permit the Court to read the Section in such a manner as to render it to some extent-otiose.

The Apex Court also in case titled as **“R. S. Nayak Vs. A. R. Antulay”** reported in 1984 (2) SCC 183, has also provided that the Prevention of Corruption Act was intended to make effective provision for the prevention of bribe and corruption rampant amongst the public servant and that it is a social legislation defined to curb illegal activities of the public servants and is designed to be liberally construed so as to advance its object.

The Apex Court further in case titled as **“State of Madhya Pradesh Vs. Sh Ram Singh”** reported in 2000 (5) SCC 88, has laid down that the rule of construction is so universally accepted that it need not be supported by precedents. Adopting this rule of construction arises upon

ambiguity or where two views are possible of a provision, it would be the duty of the Court to adopt that construction which would advance the object underlying the Act, to make effective provision for the prevention of bribery and corruption and at any rate not to defeat it.

In view of the aforesaid principles of law laid down by the Apex Court qua the rules of interpretation thus, in case a section is susceptible to two interpretations, then the one that defines cause of the Act is to be preferred and an interpretation that leads to absurd results has to be avoided in a given case.

10. The petitioner admittedly having been an officer/servant/member of a corporation cannot, in view of aforesaid position of law qua interpretation of a statute, claim that he cannot be subjected to the provisions of the Act after his retirement, as the plain reading of Sub Section (2) Clause (c) *supra ex facie* suggest that the same is wide enough to include inservice as well as retired officer/servants/ member, of a corporation as said clause does not make any such distinction. Furthermore, one has to see the status of the officer/servant/member of a corporation at the time of the commission of the act complained of, as otherwise any other meaning would result into absurdity. This proposition also lends support from judgment of the Apex Court though passed in the context of a sanction required for prosecution of a public servant in cases titled as **“Lalu Prasad alias Lalu Prasad Yadav”** reported in **“(2007) 1 Supreme Court Case 49”**; **“Station House Officer, CBI/ACB/Bangalors vs B.A. Srinivasan & Anr”** reported in **“(2002) 2 Supreme Court Cases 153”** and **“Kalicharan Mahapatra vs State of Orissa”** reported in **“(1998) 6 Supreme Court Cases 411”** wherein following has been laid down:

“There is no indication anywhere in the above provisions that an offence committed by a public servant under the Act would vanish off from penal liability at the moment he demits his office as public servant. His being a public servant is necessary when he commits the offence in order to make him liable under the Act. He cannot commit any such offence after he demits his office. If the interpretation now sought to be placed by the appellant is accepted it would lead to the absurd position that any public servant could commit the

offences under the Act soon before retiring or demitting his office and thus avert any prosecution for it or that when a public servant is prosecuted for an offence under the Act he can secure an escape by protracting the trial till the date of superannuation.”

In view of the foregoing analysis, the contention of Mr. Sethi that the petitioner being an ex-employee of the corporation would not be subject to the provisions of the Act of 2006 under Clause (c) of Sub Section (2) of Section 2 of the Act of 2006, is misconceived and not acceptable. The contention, therefore, is rejected.

11. Before advertng to the issues other than the above involved in the case and before dealing with the same, the impugned FIR for reference and convenience needs to be extracted and referred hereunder: -

1. As per reliable inputs and details available in ACB, it has come to fore that the then MD SICOP, Sh. Bhupinder Singh Dua (now retired) has accumulated huge assets moveable as well as immovable disproportionate to his known sources of income by indulging in corrupt and illegal practices.

2. As per details/facts gathered based on secret enquiries, Sh. Bhupinder Singh Dua by abuse and misuse of his official position has invested his ill-gotten money from time to time in various business ventures in his name and in the name of his family member. The details of some of moveable/immovable properties raised by retiree officer are reflected as under: -

a. 09 different factories under the different me, and style so established by him and his family members. Few factories mentioned are M/s Modern Plastics, M/s Neptune Plastics and Modern Fabrications.

b. Large number of goods carrier/trucks purchased by him as well as his family members.

3. Moreover, the retiree public servant has also raised a double storey palatial house in Posh Nanak Nagar area over a piece of land measuring 2 kanals approximately which clearly indicates that the accused is having property disproportionate to his known sources which has been acquired by him through illegal and corrupt practices during his service career.

4. During searches conducted at his premises in consequence of FIR No. 23/2019 P/s ACBJ registered against his nephew Sh. Jasvinder Singh Dua, (now MD Handicraft Corporation S&E) related to his entry in SICOP illegally and under patronage of his uncle Sh. Bhupinder Singh Dua who was at that time GM SICOP, the following valuable assets have been recovered from his premises.

- a. Golden ornaments total weighing 1.834 kg.
- b. Silver weighing 1.470 kg.
- c. Cash amounting Rs. 957400/-

5. Thus, in consequence of his indulgement in corrupt and illegal practice and having taken advantages of his lucrative posting, the officer has acquired huge assets, both movable and immovable by investing proceedings of his ill-gotten money in such properties. The facts related to disproportionate assets of the accused disclose commission of criminal misconduct under section 5 (1)(e) J&K PC Svt. 2006 punishable under section 5(2) of the Act. Consequently, a case Fir No. 25/2019 is registered against Bhupinder Siongh Dua S/o S. Puran Singh Dua R/o H.No.20 Sector No. 2 Nanak Nagar, Jammu, then MD Sicop in P/s Anti-Corruption Bureau Jammu and investigation is entrusted to Dy.SP Davinder Singh of P/S ACBJ.

12. Indisputably, the petitioner previously have had been got implicated in FIR 10/1997 supra allegedly for having accumulated huge assets disproportionate to his known source of incomes by indulging in corrupt and illegal practice prior to the registration of impugned FIR, which FIR admittedly came to be closed after a thorough investigation was conducted therein by the respondents as “**not proved**” and consequently a **closure report** filed thereof accepted by the Court of Special Judge, Anti-Corruption, Jammu on 17th April 2000.

It is also not in dispute that the petitioner retired from service in the month of November 2012 and after a considerable period of seven years, impugned FIR came to be registered against the petitioner during the course of investigation in FIR 23/2019 dated 9th October 2019 along with one of his relative, namely Jasvinder Singh Dua, alleging to have committed offences under section 5(1)(d), section 5(2) of the Act of 2006 read with section 120-

B of RPC, which FIR became subject matter of two petitions filed under section 561-A Cr.PC 482 Cr.PC one filed by the petitioner and the other by said Jasvinder Singh Dua, which petitions came to be allowed by this Court on 5th May 2022, quashing the said FIR 23/2019.

13. In the impugned FIR the petitioner is alleged to have committed offence under section 5(1)(e) read with Section 5(2) of the Act of 2006.

Section 5(1)(e) reads as under: -

5. Criminal misconduct. — (1) A public servant is said to commit the offence of criminal misconduct

(e) if he or any person on his behalf is in possession or has, at any time during the period of his office, been in possession, for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income.

Section 5(2) reads as under: -

Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to seven years and shall be liable to fine:

Provided that the court may, for any special reasons recorded in writing impose a sentence of imprisonment of less than one year but not less than six months.

What emerges from above is that in order to constitute an offence under Section 5(1)(e) inasmuch as for the purpose of proving the offence on one hand known sources of income must be ascertained viz-a-viz the possession of property or resources which were disproportionate to the known sources of income of the public servant and the inability of the public servant to account for it on the other.

The crux of a charge under Section 5(1)(e) read with Section 5(2) of the Act of 2006 is that the public servant is in possession of assets which are disproportionate to his **known sources of income** for which he cannot satisfactorily account. The word disproportionate means relatively large or small and a public servant therefore cannot be held to be in possession of disproportionate assets if the assets are not relatively too

large thus, the question as to whether the assets are so disproportionate as to attract the provisions of the Act of 2006 has to be examined in each case by reference to the duration of check period and the extent of disproportionate assets. The onus is upon public servant to satisfactorily account the source of such properties disproportionate to his known source of income and if the explanation offered by the accused is plausible satisfactorily explaining the properties acquired by him, the offences would not be attracted.

14. Reverting back to the case in hand, record tends to show that the broad allegations levelled against the petitioner in both the FIR 10/1997 supra and the impugned FIR have had been accumulation of assets in the shape of two houses, fleet of trucks and factories. In the impugned FIR, however, only gold/silver jewellery and cash belonging to the other family members of the petitioner have been added upon the seizure of the same from the ground floor of the house of the petitioner, wherein his wife, son and his daughter-in-law are residing. Insofar as factories are concerned, investigating agency found eleven factories belonging to relatives of the petitioner and consequently, submitted the closure report in earlier FIR 10/1997 supra without one being owned by the petitioner and that in the impugned FIR, nine factories are alleged to be belonging to the petitioner, when actually and factually, the petitioner owns none.

15. Perusal of the CD file produced by the respondents would reveal that after conducting search of the premises of the residential house of the petitioner, the respondents claimed to have recovered golden ornaments etc.

16. Perusal of the CD file further tends to show that in the impugned FIR, the respondents have included golden/silver jewellery and the amount of cash, having been seized admittedly from the ground floor of the house of the petitioner, which house stands scrutinized and investigated into by the respondents in earlier FIR 10/1997. Perusal of the record would further reveal that in earlier FIR 10/1997, the respondents have had brought under investigation the factories belonging to the relatives of the petitioner and had verified the same, having found none of them belonging to the petitioner. Although in the impugned FIR, nine factories are alleged to be belonging to

the petitioner, however, perusal of the CD reveals that they said allegation and assertion has not been substantiated by the investigating agency. The assertion of the petitioner that there has been a judicial separation between him and his wife in 1997, has not been disputed or else denied by the respondents, so is also not being disputed and denied by the respondents that the petitioner is living separately in the first floor of the house at Nanak Nagar and his wife and children in the ground floor and that whatever recoveries have been made during investigation had been made from the ground floor and not from the first floor where the petitioner is living. Perusal of the CD file reveals that petitioner and his other family members have accounted for the jewellery and cash recovered appropriately and satisfactorily and owing to that, the respondents, therefore, have failed to make any headway in the investigation of the case and to substantiate the allegations levelled against the petitioner much less the offenses alleged to have been committed by him as covered in the impugned FIR.

CD file would further reveal that ever since the date of undertaking of the investigation and the initial recoveries made thereof by the respondents during the course of investigation, no headway has been made in the investigation from initial stage, so much so no incriminating material or evidence worth the name, has been collected by the investigating agency against the petitioner for supporting the case set up by the investigating agency, that too in view of the fact that there has been no stay granted by this Court against conducting of investigation in the impugned FIR.

17. A further perusal of the CD file and material collected thereof would manifestly demonstrate that it is highly unsafe to make the conviction of the petitioner upon the evidence collected so far by the investigating agency as the basis of the prosecution case and evidence collected during the course of investigation renders it highly improbable to have the petitioner charged and convicted for the offences covered in the impugned FIR. This Court cannot overlook the fact that the respondents in the earlier FIR 10/1997 and the present impugned FIR, have levelled broad allegations viz-a-viz the same and similar assets against petitioner as noticed in the preceding paras.

18. This Court cannot also overlook the law laid down by the Apex Court laid down in a recent judgement passed in case titled as “**Charan Singh vs State of Maharashtra**” reported in “**2021 (V) SCC 469**”, wherein it has been held to be permissible and desirable as well to hold an inquiry first in case where the allegations are of misconduct, of corrupt practice, before registration of an FIR in order to ascertain as to whether on the basis of material collected during such an enquiry, there is substance in the allegations levelled. In the instant case, however, the respondents have not admittedly conducted any preliminary enquiry in line with the principle of law laid down by the Hon’ble Supreme Court in the judgment supra but have straightaway proceeded to register the impugned FIR. Had the respondents followed the mandate of law laid down by the apex court in the judgment supra, possibly the situation would have been different and the impugned FIR would not have come into being.

19. The another aspect of the matter as well cannot be ignored by this Court, though having been noticed in the preceding paras, being registration and closure of earlier FIR 10/1997 supra against the petitioner under the Act of 2006, as also FIR 23/2019 having been quashed by this Court again registered under the provisions of Act of 2006. The impugned FIR is 3rd in succession registered by the respondent against the petitioner and broadly with the same and similar allegations against the petitioner. The law is no more *res integra* that registration of successive FIRs in connection with same or connected cognizable offenses have been held to be violative of Article 21 of the Constitution.

20. Insofar as exercise of inherent powers enshrined under Section 482 Cr.P.C is concerned, law is settled and is no more *res-integra* that in exercise of the wholesome power vested in the High Courts under Section 482 Cr.P.C, the High Court is entitled to quash a proceeding, if it comes to the conclusion that allowing the proceedings to continue would be an abuse of process of the Court or that the ends of justice require that the proceedings ought to be quashed. The saving of the High Courts’ inherent powers, both in civil and criminal matters, is designed to achieve a solitary public purpose, which is that the Court proceedings ought not to be permitted to degenerate into a weapon of harassment or persecution. In a

criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceedings in the interest of justice. The ends of justice are higher than the ends of mere law, though justice has got to be administered according to the laws made by the legislature.

A reference in regard to above to the latest judgment of the Apex Court passed in the case titled as, “**Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and Ors.**, reported in 2021 SCC Online SC 315”, would be relevant herein.

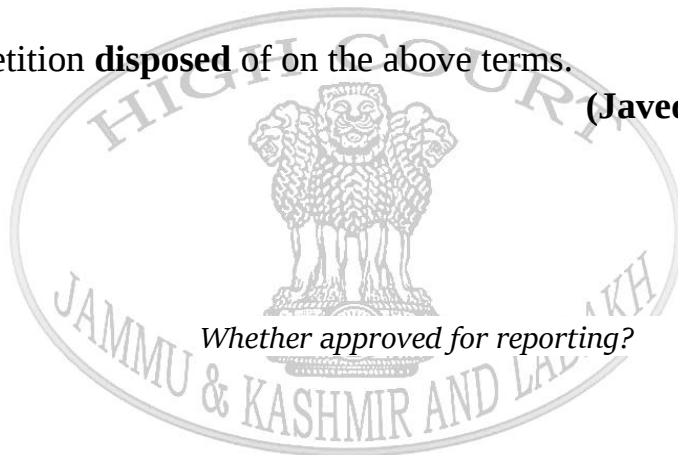
21. The submissions made by counsel for the respondents inasmuch as judgements cited in support of the said submissions do not lend any support to the case of the respondent and by no sense of imagination, can said to be potent enough to dislodge the case set up by the petitioner.

22. For what has been observed considered and analysed hereinabove, the exercise of inherent jurisdiction enshrined under Section 482 CrPC is held to be warranted. Accordingly, petition is allowed and impugned FIR is quashed.

23. Petition **disposed** of on the above terms.

(Javed Iqbal Wani)
Judge

JAMMU:
10.03.2023
“Hamid”



Whether approved for reporting? Yes/No