REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1144 OF 2016
(@ SPECIAL LEAVE PETITION (CRL.) NO. 5478 OF 2015)

THE STATE OF TELANGANA ...APPELLANT(S)

VERSUS

HABIB ABDULLAH JEELANI & ORS ...RESPONDENT(S)

J U D G M E N T

Dipak Misra, J.

The seminal issue that arises for consideration in this appeal, by special leave, is whether the High Court while refusing to exercise inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) to interfere in an application for quashment of the investigation, can restrain the

investigating agency not to arrest the accused persons during the course of investigation.

2. The facts lie in a narrow compass. On the basis of a report by the informant under Section 154 CrPC, FIR No. 205/2014 dated 26.07.2014 was registered at Chandrayanagutta Police Station, Hyderabad for the offences punishable under Sections 147, 148 149 and 307 of the Indian Penal Code (IPC). Challenging the initiation of criminal action, the three accused persons, namely, accused Nos. 1, 2 and 5, (respondent Nos. 1, 2 and 3 herein) invoked inherent jurisdiction of the High Court in Criminal Petition No. 10012 of 2014 for quashing of the FIR and consequential investigation. As the impugned order would show, the learned single Judge referred to the FIR and took note of the submissions of the learned counsel for the petitioners therein that all the allegations that had been raised in the FIR were false and they had been falsely implicated and thereafter expressed his disinclination to interfere on the ground that it was not appropriate to stay the investigation of the case. However, as a submission had been raised that the accused persons were innocent and there had been allegation of false implication, it

would be appropriate to direct the police not to arrest the petitioners during the pendency of the investigation and, accordingly, it was so directed.

3. It is submitted by Mr. Harin P. Raval, learned senior counsel appearing for the State that the informant had sustained grievous injuries and was attacked by dangerous weapons and custodial interrogation of the accused persons is absolutely essential. According to him, the High Court in exercise of inherent power under Section 482 CrPC can quash an FIR on certain well known parameters but while declining to quash the same, it cannot extend the privilege to the accused persons which is in the nature of an anticipatory bail. Learned senior counsel would submit that the nature of the order passed by the High Court is absolutely unknown to the exercise of inherent jurisdiction under Section 482 CrPC and, therefore, it deserves to be axed.

4. Ms. Nilofar Khan, learned counsel appearing for the respondent Nos. 1 to 3 in support of the order passed by the High Court submitted that the custodial interrogation is not necessary in the facts of the case. She would further submit that the plentitude of power conferred on the High Court under

Section 482 CrPC empowers it to pass such an order and there being no infirmity in the order, no interference is warranted by this Court.

5. The controversy compels one to visit the earlier decisions. In ***King Emperor v. Khwaja Nazir Ahmad***[1] while deliberating on the scope of right conferred on the police under Section 154 CrPC, Privy Council observed:-

> "... so it is of the utmost importance that the judiciary should not interfere with the police in matters which are within their province and into which the law imposes upon them the duty of enquiry. In India, as has been shown, there is a statutory right on the part of the police to investigate the circumstances of an alleged cognizable crime without requiring any authority from the judicial authorities, and it would, as their Lordships think, be an unfortunate result if it should be held possible to interfere with those statutory rights by an exercise of the inherent jurisdiction of the Court. The functions of the judiciary and the police are complementary, not overlapping, and the combination of individual liberty with a due observance of law and order is only to be obtained by leaving each to exercise its own function, always of course subject to the right of the Court to intervene in an appropriate case when moved under Section 491 of the Criminal Procedure Code to give directions in the nature of habeas corpus. In such a case as the present, however, the Court's functions begin when a charge is preferred before it and not until then."

[1] AIR 1945 PC 18

6. Having stated what lies within the domain of the investigating agency, it is essential to refer to the Constitution Bench decision in ***Lalita Kumari v. Government of Uttar Pradesh and Ors***[2]. The question that arose for consideration before the Constitution Bench was whether "a police officer is bound to register a first information report upon receiving any information relating to commission of a cognizable offence under Section 154 CrPC or the police officer has the power to conduct a 'preliminary inquiry' in order to test the veracity of such information before registering the same"? While interpreting Section 154 CrPC, the Court addressing itself to various facets opined that Section 154(1) CrPC admits of no other construction but the literal construction. Thereafter it referred to the legislative intent of Section 154 which has been elaborated in ***State of Haryana and Ors. v. Bhajan Lal and Ors.***[3] and various other authorities. Eventually the larger Bench opined that reasonableness or credibility of the information is not a condition precedent for the registration of a case. Thereafter there was advertence to the concept of preliminary inquiry. In that context, the Court opined thus:-

[2] (2014) 2 SCC 1
[3] AIR 1992 SC 604

> "103. It means that the number of FIRs not registered is approximately equivalent to the number of FIRs actually registered. Keeping in view the NCRB figures that show that about 60 lakh cognizable offences were registered in India during the year 2012, the burking of crime may itself be in the range of about 60 lakhs every year. Thus, it is seen that such a large number of FIRs are not registered every year, which is a clear violation of the rights of the victims of such a large number of crimes.
>
> 104. Burking of crime leads to dilution of the rule of law in the short run; and also has a very negative impact on the rule of law in the long run since people stop having respect for the rule of law. Thus, non-registration of such a large number of FIRs leads to a definite lawlessness in the society.
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> 105. Therefore, reading Section 154 in any other form would not only be detrimental to the scheme of the Code but also to the society as a whole. It is thus seen that this Court has repeatedly held in various decided cases that registration of FIR is mandatory if the information given to the police under Section 154 of the Code discloses the commission of a cognizable offence."

7. While dealing with the likelihood of misuse of the provision, the Court ruled thus:-

> "114. It is true that a delicate balance has to be maintained between the interest of the society and protecting the liberty of an individual. As already discussed above, there are already sufficient safeguards provided in the Code which duly protect the liberty of an individual in case of registration of false FIR. At the same time, Section 154 was drafted

> keeping in mind the interest of the victim and the society. Therefore, we are of the cogent view that mandatory registration of FIRs under Section 154 of the Code will not be in contravention of Article 21 of the Constitution as purported by various counsel."

8. The exceptions that were carved out pertain to medical negligence cases as has been stated in ***Jacob Mathew v. State of Punjab***[4]. The Court also referred to the authorities in ***P. Sirajuddin v. State of Madras***[5] and ***CBI v. Tapan Kumar Singh***[6] and finally held that what is necessary is only that the information given to the police must disclose the commission of a cognizable offence. In such a situation, registration of an FIR is mandatory. However, if no cognizable offence is made out in the information given, then the FIR need not be registered immediately and perhaps the police can conduct a sort of preliminary verification or inquiry for the limited purpose of ascertaining as to whether a cognizable offence has been committed. But, if the information given clearly mentions the commission of a cognizable offence, there is no other option but to register an FIR forthwith. Other considerations are not relevant at the stage of registration of FIR, such as, whether

[4] (2005) 6 SCC 1
[5] (1970) 1 SCC 595
[6] (2003) 6 SCC 175

the information is falsely given, whether the information is genuine, whether the information is credible, etc. At the stage of registration of FIR, what is to be seen is merely whether the information given ex facie discloses the commission of a cognizable offence.

9. Be it noted, certain directions were issued by the Constitution Bench, which we think, are apt to be extracted:-

> "120.5. The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.
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> 120.6. As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:
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> (a) Matrimonial disputes/family disputes
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> (b) Commercial offences
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> (c) Medical negligence cases
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> (d) Corruption cases
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> (e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months' delay in reporting the matter without satisfactorily explaining the reasons for delay.
>
> The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

> 120.7. While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time-bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.
>
> 120.8. Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above."

10. We have copiously referred to the aforesaid decision for the simon pure reason that at the instance of the informant the FIR was lodged and it was registered which is in accord with the decision of the Constitution Bench.

11. Once an FIR is registered, the accused persons can always approach the High Court under Section 482 CrPC or under Article 226 of the Constitution for quashing of the FIR. In ***Bhajan Lal*** (supra) the two-Judge Bench after referring to ***Hazari Lal Gupta v. Rameshwar Prasad***[7], ***Jehan Singh v. Delhi Administration***[8], ***Amar Nath v. State of Haryana***[9], ***Kurukshetra University v. State of Haryana***[10], ***State of***

[7] (1972) 1 SCC 452
[8] AIR 1974 SC 1146
[9] (1977) 4 SCC 137 : AIR 1977 SC 2185
[10] (1977) 4 SCC 451 : AIR 1977 SC 2229

Bihar v. J.A.C. Saldanha[11], ***State of West Bengal v. Swapan Kumar Guha***[12], ***Smt. Nagawwa v. Veeranna Shivalingappa Konjalgi***[13], ***Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre***[14], ***State of Bihar v. Murad Ali Khan***[15] and some other authorities that had dealt with the contours of exercise of inherent powers of the High Court, thought it appropriate to mention certain category of cases by way of illustration wherein the extraordinary power under Article 226 of the Constitution or inherent power under Section 482 CrPC could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice. The Court also observed that it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad cases wherein such power should be exercised. The illustrations given by the Court need to be recapitulated:-

> "(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

[11] AIR 1980 SC 326
[12] AIR 1982 SC 949
[13] AIR 1976 SC 1947
[14] (1988) 1 SCC 692 : AIR 1988 SC 709
[15] (1988) 4 SCC 655 : AIR 1989 SC 1

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 concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, 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."

It is worthy to note that the Court has clarified that the said parameters or guidelines are not exhaustive but only illustrative. Nevertheless, it throws light on the circumstances and situations where court's inherent power can be exercised.

12. There can be no dispute over the proposition that inherent power in a matter of quashment of FIR has to be exercised sparingly and with caution and when and only when such exercise is justified by the test specifically laid down in the provision itself. There is no denial of the fact that the power under Section 482 CrPC is very wide but it needs no special emphasis to state that conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the Court.

13. In this regard, it would be seemly to reproduce a passage from ***Kurukshetra University*** (supra) wherein Chandrachud, J. (as His Lordship then was) opined thus:-

> "2. It surprises us in the extreme that the High Court thought that in the exercise of its inherent powers under Section 482 of the Code of Criminal Procedure, it could quash a first information report.

> The police had not even commenced investigation into the complaint filed by the Warden of the University and no proceeding at all was pending in any court in pursuance of the FIR. It ought to be realised that inherent powers do not confer an arbitrary jurisdiction on the High Court to act according to whim or caprice. That statutory power has to be exercised sparingly, with circumspection and in the rarest of rare cases."

14. We have referred to the said decisions only to stress upon the issue, how the exercise of jurisdiction by the High Court in a proceeding relating to quashment of FIR can be justified. We repeat even at the cost of repetition that the said power has to be exercised in a very sparing manner and is not to be used to choke or smother the prosecution that is legitimate. The surprise that was expressed almost four decades ago in ***Kurukshetra University's*** case compels us to observe that we are also surprised by the impugned order.

15. In the instant case, the High Court has not referred to allegations made in the FIR or what has come out in the investigation. It has noted and correctly that the investigation is in progress and it is not appropriate to stay the investigation of the case. It has disposed of the application under Section 482 CrPC and while doing that it has directed that the investigating agency shall not arrest the accused persons. This

direction "amounts" to an order under Section 438 CrPC, *albeit* without satisfaction of the conditions of the said provision. This is legally unacceptable.

16. To appreciate the nature of the order passed, it is necessary to have a survey of the authorities that deal with grant of anticipatory bail. In ***Rashmi Rekha Thatoi and Anr. v. State of Orissa and Ors.***[16] the High Court while rejecting the application for anticipatory bail had directed that if the accused persons surrender, the trial magistrate shall release them on bail on such terms and conditions as he may deem fit and proper. Analysing the scope of Section 438 CrPC as expressed by the Constitution Bench in ***Gurbaksh Singh Sibbia v. State of Punjab***[17] and other decisions, the Court held thus:-

> "33. We have referred to the aforesaid pronouncements to highlight how the Constitution Bench in *Gurbaksh Singh Sibbia (supra)* had analysed and explained the intrinsic underlying concepts under Section 438 of the Code, the nature of orders to be passed while conferring the said privilege, the conditions that are imposable and the discretions to be used by the courts. On a reading of the said authoritative pronouncement and the principles that have been culled out in *Savitri Agarwal*[18] there is remotely no indication that the

[16] (2012) 5 SCC 690
[17] (1980) 2 SCC 565 : AIR 1980 SC 1632
[18] (2009) 8 SCC 325

Court of Session or the High Court can pass an order that on surrendering of the accused before the Magistrate he shall be released on bail on such terms and conditions as the learned Magistrate may deem fit and proper or the superior court would impose conditions for grant of bail on such surrender. When the High Court in categorical terms has expressed the view that it is not inclined to grant anticipatory bail to the petitioner-accused it could not have issued such a direction which would tantamount to conferment of benefit by which the accused would be in a position to avoid arrest. It is in clear violation of the language employed in the statutory provision and in flagrant violation of the dictum laid down in *Gurbaksh Singh Sibbia (supra)* and the principles culled out in *Savitri Agarwal (supra)*. It is clear as crystal the court cannot issue a blanket order restraining arrest and it can only issue an interim order and the interim order must also conform to the requirement of the section and suitable conditions should be imposed."

Elaborating further, the Court held:-

"36. In the case at hand the direction to admit the accused persons to bail on their surrendering has no sanction in law and, in fact, creates a dent in the sacrosanctity of law. It is contradictory in terms and law does not countenance paradoxes. It gains respectability and acceptability when its solemnity is maintained. Passing such kind of orders the interest of the collective at large and that of the individual victims is jeopardised. That apart, it curtails the power of the regular court dealing with the bail applications.

37. In this regard it is to be borne in mind that a court of law has to act within the statutory command and not deviate from it. It is a well-settled proposition of law what cannot be done directly, cannot be done indirectly. While exercising a

> statutory power a court is bound to act within the four corners thereof. The statutory exercise of power stands on a different footing than exercise of power of judicial review. This has been so stated in *Bay Berry Apartments (P) Ltd.* v. *Shobha*[19] and *U.P. State Brassware Corpn. Ltd.* v. *Uday Narain Pandey*[20]."

17. In ***Ranjit Singh v. State of Madhya Pradesh and Ors.***[21] the High Court had directed that considering the nature of the allegation and the evidence collected in the case-diary, the petitioner shall surrender before the competent court and shall apply for regular bail and the same shall be considered upon furnishing necessary bail bond. The said order was challenged before this Court. The two-Judge Bench was constrained to observe:-

> "It is the duty of the superior courts to follow the command of the statutory provisions and be guided by the precedents and issue directions which are permissible in law. We are of the convinced opinion that the observations made by the learned Single Judge while dealing with second application under Section 438 CrPC were not at all warranted under any circumstance as it was neither in consonance with the language employed in Section 438 CrPC nor in accord with the established principles of law relating to grant of anticipatory bail. We may reiterate that the said order has been interpreted by this Court as an order only issuing a direction to the accused to surrender, but as we find, it has really created colossal dilemma in the mind of the learned Additional Sessions Judge. We are pained to

[19] (2006) 13 SCC 737
[20] (2006) 1 SCC 479
[21] (2013) 16 SCC 797

> say that passing of these kind of orders has become quite frequent and the sagacious saying, "a stitch in time saves nine" may be an apposite reminder now. We painfully part with the case by saying so."

18. At this juncture, we are obliged to refer to the decision in ***Hema Mishra v. State of Uttar Pradesh and Ors.***[22] . In the said judgment, the Court was dealing with the power of the High Court of Allahabad pertaining to grant of pre-arrest bail in exercise of extraordinary or inherent jurisdiction and it is significant, for in the State of Uttar Pradesh Section 438 CrPC has been deleted by the State Legislature. Be it noted that constitutional validity of the said deletion was challenged before the Constitution Bench in ***Kartar Singh v. State of Punjab***[23] wherein it has been held that deletion of the application of Section 438 CrPC in the State of Uttar Pradesh is constitutional. The Constitution Bench has ruled held that claim for pre-arrest protection is neither a statutory nor a right guaranteed under Article 14, Article 19 or Article 21 of the Constitution of India. The larger Bench has further observed thus:-

> "368. (17) Though it cannot be said that the High Court has no jurisdiction to entertain an application for bail under Article 226 of the Constitution and

[22] (2014) 4 SCC 453
[23] (1994) 3 SCC 569

> pass orders either way, relating to the cases under the 1987 Act, that power should be exercised sparingly, that too only in rare and appropriate cases in extreme circumstances. But the judicial discipline and comity of courts require that the High Courts should refrain from exercising the extraordinary jurisdiction in such matters."

19. The Allahabad High Court has taken similar view in several judgments, namely, ***Satya Pal v. State of U.P.***[24], ***Ajeet Singh v. State of U.P.***[25], ***Lalji Yadav v. State of U.P.***[26], ***Kamlesh Singh v. State of U.P.***[27] and ***Natho Mal v. State of U.P.***[28].

20. In ***Hema Mishra*** (supra) the Court referred to the decision in ***Amarawati v. State of U.P.***[29] which has been affirmed by this Court in ***Lal Kamlendra Pratap Singh v. State of U.P.***[30]. In ***Lal Kamlendra Pratap Singh*** (supra) it has been held thus:-

> "6. The learned counsel for the appellant apprehends that the appellant will be arrested as there is no provision for anticipatory bail in the State of U.P. He placed reliance on a decision of the Allahabad High Court in *Amarawati* v. *State of U.P. (supra)* in which a seven-Judge Full Bench of the Allahabad High Court held that the court, if it

[24] 2000 Cri LJ 569 (All)
[25] 2007 Cri LJ 170 (All)
[26] 1998 Cri LJ 2366 (All)
[27] 1997 Cri LJ 2705 (All)
[28] 1994 Cri LJ 1919 (All)
[29] 2005 Cri LJ 755 (All)
[30] (2009) 4 SCC 437

> deems fit in the facts and circumstances of the case, may grant interim bail pending final disposal of the bail application. The Full Bench also observed that arrest is not a must whenever an FIR of a cognizable offence is lodged. The Full Bench placed reliance on the decision of this Court in *Joginder Kumar* v. *State of U.P.*[31]"

21. After referring to the same, Radhakrishnan, J. opined thus:-

> "I may, however, point out that there is unanimity in the view that in spite of the fact that Section 438 has been specifically omitted and made inapplicable in the State of Uttar Pradesh, still a party aggrieved can invoke the jurisdiction of the High Court under Article 226 of the Constitution of India, being extraordinary jurisdiction and the vastness of the powers naturally impose considerable responsibility in its application. All the same, the High Court has got the power and sometimes duty in appropriate cases to grant reliefs, though it is not possible to pinpoint what are the appropriate cases, which have to be left to the wisdom of the Court exercising powers under Article 226 of the Constitution of India."

22. Sikri, J. in his concurring opinion stated that though the High Courts have very wide powers under Article 226, the very vastness of the powers imposes on it the responsibility to use them with circumspection and in accordance with the judicial consideration and well-established principles, so much so that

[31] (1994) 4 SCC 260

while entertaining writ petitions for granting interim protection from arrest, the Court would not go on to the extent of including the provision of anticipatory bail as a blanket provision. It has been further observed that such a power has to be exercised very cautiously keeping in view, at the same time, that the provisions of Article 226 are a device to advance justice and not to frustrate it. The powers are, therefore, to be exercised to prevent miscarriage of justice and to prevent abuse of process of law by the authorities indiscriminately making pre-arrest of the accused persons. In entertaining such a petition under Article 226, the High Court is supposed to balance the two interests. On the one hand, the Court is to ensure that such a power under Article 226 is not to be exercised liberally so as to convert it into Section 438 CrPC proceedings, keeping in mind that when this provision is specifically omitted in the State of Uttar Pradesh, it cannot be resorted to as back door entry via Article 226. On the other hand, wherever the High Court finds that in a given case if the protection against pre-arrest is not given, it would amount to gross miscarriage of justice and no case, at all, is made for arrest pending trial, the High Court would be free to grant the

relief in the nature of anticipatory bail in exercise of its power under Article 226 of the Constitution. Keeping in mind that this power has to be exercised sparingly in those cases where it is absolutely warranted and justified.

23. We have referred to the authority in ***Hema Mishra*** (supra) as that specifically deals with the case that came from the State of Uttar Pradesh where Section 438 CrPC has been deleted. It has concurred with the view expressed in ***Lal Kamlendra Pratap Singh*** (supra). The said decision, needless to say, has to be read in the context of State of Uttar Pradesh. We do not intend to elaborate the said principle as that is not necessary in this case. What needs to be stated here is that the States where Section 438 CrPC has not been deleted and kept on the statute book, the High Court should be well advised that while entertaining petitions under Article 226 of the Constitution or Section 482 CrPC, exercise judicial restraint. We may hasten to clarify that the Court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, has the jurisdiction to quash the investigation and may pass appropriate interim orders as thought apposite in law, but it is absolutely inconceivable and

unthinkable to pass an order of the present nature while declining to interfere or expressing opinion that it is not appropriate to stay the investigation. This kind of order is really inappropriate and unseemly. It has no sanction in law. The Courts should oust and obstruct unscrupulous litigants from invoking the inherent jurisdiction of the Court on the drop of a hat to file an application for quashing of launching an FIR or investigation and then seek relief by an interim order. It is the obligation of the court to keep such unprincipled and unethical litigants at bay.

24. It has come to the notice of the Court that in certain cases, the High Courts, while dismissing the application under Section 482 CrPC are passing orders that if the accused-petitioner surrenders before the trial magistrate, he shall be admitted to bail on such terms and conditions as deemed fit and appropriate to be imposed by the concerned Magistrate. Sometimes it is noticed that in a case where sessions trial is warranted, directions are issued that on surrendering before the concerned trial judge, the accused shall be enlarged on bail. Such directions would not commend acceptance in light of the ratio in ***Rashmi Rekha Thatoi***

(supra), ***Gurbaksh Singh Sibbia*** (supra), etc., for they neither come within the sweep of Article 226 of the Constitution of India nor Section 482 CrPC nor Section 438 CrPC. This Court in ***Ranjit Singh*** (supra) had observed that the sagacious saying "a stitch in time saves nine" may be an apposite reminder and this Court also painfully so stated.

25. Having reminded the same, presently we can only say that the types of orders like the present one, are totally unsustainable, for it is contrary to the aforesaid settled principles and judicial precedents. It is intellectual truancy to avoid the precedents and issue directions which are not in consonance with law. It is the duty of a Judge to sustain the judicial balance and not to think of an order which can cause trauma to the process of adjudication. It should be borne in mind that the culture of adjudication is stabilized when intellectual discipline is maintained and further when such discipline constantly keeps guard on the mind.

26. In view of the aforesaid premises, we allow the appeal, set aside the impugned order of the High Court and direct that the investigation shall proceed in accordance with law. Be it

clarified that we have not expressed anything on any of the aspects alleged in the First Information Report.

.....J.
[Dipak Misra]

..... J.
[Amitava Roy]

New Delhi;
January 06, 2017