



**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE**

**BEFORE**

**HON'BLE SHRI JUSTICE VIVEK RUSIA**

**&**

**HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI**

**ON THE 8<sup>th</sup> OF JULY, 2025**

**MISC. CRIMINAL CASE No. 10977 of 2023**

***SYED AKHTAR ALI***

*Versus*

***THE STATE OF MADHYA PRADESH***

.....  
**Appearance:**

*None for the applicant.*

*Shri Bhuwan Gautam- Government Advocate for the  
respondent/State.*

.....  
**ORDER**

***Per: Justice Binod Kumar Dwivedi***

This petition under Section 482 of Code of Criminal Procedure, 1973 (for short hereinafter referred to as 'Cr.P.C.') has been preferred for quashment of FIR and subsequent proceedings thereto vide crime No.06/2020 registered at police station Namli, district Ratlam for offences punishable under Sections 409,420,34 of Indian Penal Code, 1860 (for short 'IPC') and Section 13(1)(e) and 13(2) of Prevention of Corruption Act,



1988 (for short 'the PC Act').

2. Brief facts of the case are that the applicant submitted his competitive bid in respect of tender invited in the year 2014 for beautification and other related works to be done at the Kocha Talab situated at Namli, district Ratlam. The tenders were invited by the Nagar Palika Parishad, Namli. The applicant has submitted competitive bid in respect of tender and complied with all the conditions. The bid was accepted by the tendering authorities and after all the documentation and completing the formalities, work order was issued to the applicant and he also completed the work. After completion of the work, one Dilip Choudhary submitted a complaint (Annexure P-1) to the Collector Ratlam on 29.05.2019 in respect of financial corruption done in the work carried out at Kocha Talab and demanded an enquiry by an officer of the SDM level. The collector vide letter dated 30.05.2019 (Annexure P-2) appointed SDO, Revenue, Ratlam to enquire into the matter and submit report in this regard. The SDO, Ratlam submitted technical inspection report (Annexure P-3). Upon receipt of the report, the Collector vide letter dated 17.09.2019 directed the SDO, Ratlam (Rural) to ascertain that FIR be lodged against Narendra Kumar Sonawa, President Nagar Palika Parishad, Namli and



Arum Kumar Ojha, CMO, Nagar Plika Prishad, Namli for financial irregularities done in respect of Kocha Talab work. The SDO, Ratlam vide letter dated 18.09.2019 (Annexure P-5) in compliance of letter Annexure P-4 directed Tehsilar, Ratlam (Rural) to make sure about the registration of FIR against the aforesaid persons. In pursuance thereof FIR (Annexure P-10) vide Crime No.06/2020 was registered at Police Station Namli, district Ratlam for offences punishable under Sections 409,420,34 of IPC and Sections 13(1)(e), 13(2) of the PC Act. The applicant being aggrieved by the aforesaid FIR, has filed this petition for quashment of FIR including the subsequent proceedings thereto.

3. Learned counsel for the applicant submits that the applicant was just a contractor who has submitted bid for the work and completed the work as his bid was accepted. He has no nexus with the offence and is not aware of any financial irregularities whatsoever. He further submits that from perusal of the documents filed alongwith this petition, it is apparent that no iota of evidence is available with regard to the complicity of the applicant in the alleged offences. The case has been registered against the applicant on frivolous and bogus ground with malafide intentions. Even if the allegations leveled against the applicant is taken in its entirety and taken



on the face value do not show the involvement of the applicant in the aforesaid offences. Relying upon the judgment of the Apex Court in the case of *State of Haryana Vs. Bhajan Lal, 1992 Supp (1) SCC 335*, learned counsel for the applicant submits that it will be sheer abuse of the process of law if prosecution is allowed to continue against the applicant. Hence, prays for allowing this petition and quashing the FIR and subsequent proceedings thereto against the applicant.

4. Learned counsel for the respondent/State submits that FIR was registered against the applicant on 04.01.2020 and thereafter only charges have been framed and the trial is at advance stage, therefore on this ground alone this petition deserves to be dismissed. That apart, learned counsel for the respondent further submits that after due enquiry FIR was registered and during investigation ample evidence has been collected to establish the complicity of the applicant in the aforesaid alleged offences. This Court cannot carryout roving enquiry while exercising inherent powers provided under Section 482 of Cr.P.C. therefore, as no case is made out for exercising inherent powers vested in this Court, the petition be dismissed.

5. Before dwelling into the merits of the case, it is apt to reproduce the guidelines given by the Apex Court in the case of **Bhajan**



**Lal (Surpa)** which reads as under:-

“In the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code of Criminal Procedure, the following categories of cases are given by way of illustration herein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to given an exhaustive list of myriad kinds of cases wherein such power should be exercised:

- (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 F.I.R. 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.”

6. In the case of *Supriya Jain vs. State of Haryana & Ors.* reported in (2023) 7 SCC 711, the Apex Court in para 17 relying on the judgment in the case of *Amit Kapoor vs. Ramesh Chander and another* reported in (2012) 9 SCC 460 has held as under:-

“The principles to be borne in mind with regard to quashing of a charge / proceedings either in exercise of jurisdiction under section 397, Cr. PC or section 482, Cr. PC or together, as the case may be, has engaged the attention of this Court many a time. Reference to each and every precedent is unnecessary. However, we may profitably refer to only one decision of this Court where upon a survey of almost all the precedents on the point, the principles have been summarized by this Court succinctly. In *Amit Kapoor (Supra)*, this Court laid down the following guiding principles:

“27.1. Though there are no limits of the powers of the Court under Section 482 of the Code but the more the power, the more due care and caution is to be exercised in invoking these powers. The power of quashing criminal proceedings, particularly, the charge framed in terms of Section 228 of the Code should be exercised very sparingly and with circumspection and that too in the rarest of rare cases.



27.2. The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents submitted therewith prima facie establish the offence or not. If the allegations are so patently absurd and inherently improbable that no prudent person can ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the Court may interfere.

27.3. The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.

27.4. Where the exercise of such power is absolutely essential to prevent patent miscarriage of justice and for correcting some grave error that might be committed by the subordinate courts even in such cases, the High Court should be loath to interfere, at the threshold, to throttle the prosecution in exercise of its inherent powers.

27.5. Where there is an express legal bar enacted in any of the provisions of the Code or any specific law in force to the very initiation or institution and continuance of such criminal proceedings, such a bar is intended to provide specific protection to an accused. 27.6. The Court has a duty to balance the freedom of a person and the right of the complainant or prosecution to investigate and prosecute the offender.

27.7. The process of the court cannot be permitted to be used for an oblique or ultimate/ulterior purpose.

27.8. Where the allegations made and as they appeared from the record and documents annexed therewith to predominantly give rise and constitute a 'civil wrong' with no 'element of criminality' and does not satisfy the basic ingredients of a criminal offence, the court may be justified in quashing the charge. Even in such cases, the court would not embark upon the critical analysis of the evidence. 27.9. Another very significant caution that the courts have to observe is that it cannot examine the facts, evidence and materials on record to determine whether



there is sufficient material on the basis of which the case would end in a conviction; the court is concerned primarily with the allegations taken as a whole whether they will constitute an offence and, if so, is it an abuse of the process of court leading to injustice. 27.10. It is neither necessary nor is the court called upon to hold a full-fledged enquiry or to appreciate evidence collected by the investigating agencies to find out whether it is a case of acquittal or conviction.

27.11. Where allegations give rise to a civil claim and also amount to an offence, merely because a civil claim is maintainable, does not mean that a criminal complaint cannot be maintained. 27.12. In exercise of its jurisdiction under Section 228 and/or under Section 482, the Court cannot take into consideration external materials given by an accused for reaching the conclusion that no offence was disclosed or that there was possibility of his acquittal. The Court has to consider the record and documents annexed therewith by the prosecution.

27.13. Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but is an opinion formed *prima facie*. 27.14. Where the charge-sheet, report under Section 173(2) of the Code, suffers from fundamental legal defects, the Court may be well within its jurisdiction to frame a charge.

27.15. Coupled with any or all of the above, where the Court finds that it would amount to abuse of process of the Code or that the interest of justice favours, otherwise it may quash the charge. The power is to be exercised *ex debito justitiae* i.e. to do real and substantial justice for administration of which alone, the courts exist.





27.16. These are the principles which individually and preferably cumulatively (one or more) be taken into consideration as precepts to exercise of extraordinary and wide plenitude and jurisdiction under Section 482 of the Code by the High Court. Where the factual foundation for an offence has been laid down, the courts should be reluctant and should not hasten to quash the proceedings even on the premise that one or two ingredients have not been stated or do not appear to be satisfied if there is substantial compliance with the requirements of the offence.”

7. From perusal of the summary of the report prepared by SDO, Ratlam at the behest of Collector, Ratlam reveals that by infringement of rule, procedure for operation of works of Nagar Palika Parishad, Rs.6.98 lacs loss has been caused to the Government. Without taking sanction from the Government, the amount of grant received in Yojna Mad of Rs.142.90 lacs, Rs.40 lacs has been transferred in other banks in violation of provisions enshrined in Section 10(3) of M.P. Nagar Palika Adhiniyam, 1996. Even after availability of amount in Yojna Mad, an amount of Rs.51,24,371/- has been paid from other heads. It has also been mentioned in the enquiry report by the then CMO, Nagar Palika Parishad, Namli that Arun Kumar Ojha, Narendra Sonawa and contractor Sayed Akhtar Ali all responsible for the commission of offences which caused loss to the Government to the tune of Rs.1,10,00,757/-. On the basis of the enquiry report, FIR was registered and after investigation found the applicant



involved in the commission of aforesaid offence. The trial Court after framing of charges which were not assailed at the proper stage by the applicant, this petition has been filed at the fag end of trial.

8. Taking into account the material available on record and the stage of trial, coupled with the fact that it is not a case where *prima facie* no case is made out against the applicant. Even taking the material available on record on its face value, we are of the considered view that no case is made out for quashment of FIR and the subsequent proceedings thereto qua the applicant.

9. Resultantly, the petition being devoid of merits fails and is hereby **dismissed**.

**(VIVEK RUSIA)**  
**JUDGE**

**(BINOD KUMAR DWIVEDI)**  
**JUDGE**

*RJ*