A STATE OF ORISSA AND ANR.

v.

SAROJ KUMAR SAHOO

DECEMBER 7, 2005

B [ARIJIT PASAYAT AND TARUN CHATTERJEE, JJ.]

Code of Criminal Procedure, 1973:

Section 482—Inherent powers of High Court—Single Judge of High
C *Court quashed FIR in a case against accused during investigation holding that ingredients of the offences alleged were not in existence—Correctness of—Held: Exercise of the power under S. 482 is the exception and not the rule—It envisages three circumstances under which the inherent jurisdiction may be exercised, namely, (i) to give affect to an order under the Cr.P.C., (ii)*
D *to prevent abuse of the process of court and (iii) to otherwise secure the ends of justice—S. 482 is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death—Powers under S. 482 are very wide and the very plentitude of the power requires great caution in exercise—When the investigation was not complete and at that stage it was impermissible for the High Court to look into materials, the*
E *acceptability of which is essentially a matter for trial—The Court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused—Hence, High Court not justified in quashing the investigation and proceedings in the connected case and the charge sheet.*

F **The respondent filed an application under Section 482 of the Code of Criminal Procedure, 1973 before the High Court for quashing of FIR and connected proceedings registered against him in a case in which investigation was not complete. The High Court quashed the proceedings holding that on perusal of the statements recorded during investigation it was clear that the**
G **ingredients of the offences alleged were not in existence, and it would be an abuse of the process of Court and may lead to gross miscarriage of justice if the proceedings were continued. Hence the appeal.**

Allowing the appeal, the Court

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HELD: 1. Exercise of power under Section 482 of the Code of Criminal Procedure, 1973 is the exception and not the rule. The Section does not confer any new powers on the High Court. It only saves the inherent power which the Court possessed before the enactment of the Cr.P.C. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely, (i) to give effect to an order under the Cr.P.C., (ii) to prevent abuse of the process of court and (iii) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the Section which merely recognizes and preserves inherent powers of the High Courts. All courts, whether civil or criminal possess, in the absence of any express provision, as inherent in their constitution all such powers as are necessary to do the right and to undo a wrong in course of administration of justice on the principle *"Quando lex aliquid alicui concedit, concedere videtur et id sine quo res ipsae esse non potest"* (when the law gives a person anything it gives him that without which it cannot exist). While exercising powers under the Section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the Section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the Section itself. It is to be exercised *ex debito justitiae* to do real and substantial justice for the administration of which alone courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the report the court may examine the question of fact. When a report is sought to be quashed it is permissible to look into the materials to assess what the report has alleged and whether any offence is made out even if the allegations are accepted in toto. [555-C, D, E, F, G, H; 556-A-B]

2. It is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly

A inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 of the Cr.P.C., the High Court would not ordinarily embark upon an enquiry whether the evidence in question in reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge. Judicial process B should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the Section is not C an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death. [556-E, F, G, H]

R.P. Kapur v. *State of Punjab,* AIR (1960) SC 866 and *State of Haryana* v. *Bhajan Lal,* (1992) Supp. 1 335, relied on.

D 3.1. The powers possessed by the High Court under Section 482 of the Cr.P.C. are very wide and the very plentitude of the power requires great caution in its exercise. Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a *prima facie* E decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard and fast rule can be laid down in regard to cases in which the High Court will F exercise its extraordinary jurisdiction of quashing the proceeding at any stage. [558-B, C, D]

Janata Dal v. *Chowdhary,* [1992] 4 SCC 305 and *Raghubir Saran (Dr.)* v. *State of Bihar,* AIR (1964) SC 1, relied on.

G 3.2. It would not be proper for the High Court to analyze the case of the complainant in the light of all probabilities in order to determine whether a conviction would be sustainable and on such premises arrive at a conclusion that the proceedings are to be quashed. It would be erroneous to assess the material before it and conclude that the compliant cannot be proceeded with. When information is lodged at the police station and an offence is registered, H then the *mala fides* of the informant would be of secondary importance. It is

the material collected during the investigation and evidence led in court which decides the fate of the accused person. The allegations of mala fides against the informant are of no consequence and cannot by themselves be the basis for quashing the proceedings. [558-D-E-F]

Dhanalakshmi **v.** *R. Prasanna Kumar,* **[1990] Supp. SCC 686,** *State of Bihar* **v.** *P.P. Sharma,* **AIR (1996) SC 309,** *Rupan Deol Bajaj* **v.** *Kanwar Pal Singh Gill,* **[1995] 6 SCC 194,** *State of Kerala* **v.** *O.C. Kuttan,* **AIR (1999) SC 1044,** *State of U.P.* **v.** *O.P. Sharma,* **[1996] 7 SCC 705,** *Rashmi Kumar* **v.** *Mahesh Kumar Bhada,* **[1997] 2 SCC 397,** *Satyinder Kaur* **v.** *State Govt. of NCT of Delhi,* **AIR (1996) SC 2983,** *Rajesh Bajaj* **v.** *State NCT of Delhi,* **[1999] 3 SCC 259,** *State of Karnataka* **v.** *M. Devendrappa,* **[2002] 3 SCC 89,** *State of M.P.* **v.** *Awadh Kishore Gupta,* **[2004] 1 SCC 691 and** *Jehan Singh* **v.** *Delhi Administration,* **AIR (1974) SC 1140, relied on.**

4. In the present case, the investigation was not complete and at that stage it was impermissible for the High Court to look into materials, the acceptability of which is essentially a matter for trial. While exercising jurisdiction under Section 482 of the Cr. P.C., it is not permissible for the Court to act as if it was a trial Court even when charge is framed at that stage, the Court has to only *prima facie* **be satisfied about existence of sufficient ground for proceeding against the accused. For that limited purpose, the Court can evaluate material and documents on records but it cannot appreciate evidence. The Court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused. [559-D-E]**

Chand Dhawan (Smt.) **v.** *Jawahar Lal,* **[1992] 3 SCC 317, relied on.**

5. When the factual position of the case at hand is considered in the light of principles of law highlighted, the inevitable conclusion is that the High Court was not justified in quashing the investigation and proceedings in the connected case and the charge sheet filed. [560-E]

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 920 of 2003.

From the Judgment and Order dated 1.7.2002 of the Orissa High Court in Crl. Misc. Case No. 3175 of 2001.

WITH

A Crl.A. Nos. 1639 and 1640 of 2005.

M.N. Rao, A. Ramesh and Radha Shyam Jena for the Appellants.

Jana Kalyan Das for the Respondent.

B The Judgment of the Court was delivered by

ARIJIT PASAYAT, J. Leave granted in SLP (Crl.) Nos. 3190 of 2004 and 3199 of 2004.

As the appeals have some common features and links, the appeals are C disposed of by the common judgment. In these appeals challenge is to the legality of orders passed by learned Single Judges of the Orissa High Court quashing the proceedings initiated against respondents on the basis of first information reports lodged by the functionaries of the State of Orissa. Criminal Appeal No. 920 of 2003, and the appeal relatable to SLP(Crl.)No. 3199 of 2004 relates to FIR No. 61 dated 30.12.2000 where investigation was in progress D and appeal relatable to SLP (Crl.) No. 3190 of 2004 relates to FIR No. 43 dated 16.9.2000 where charge sheet had already been filed. The High Court in each case exercised power under Section 482 of the Code of Criminal Procedure, 1973 (in short the 'Cr.P.C.'). In the FIR No. 61 of 2000 accusations were against respondents Saroj Kumar Sahoo and Nalinikanta Muduli.

E Background facts giving rise to the three appeals in a nutshell are as follows:

On 8.1.1997 a trust named Nabaprabhat Trust was registered in which respondent Saroj Kumar Sahoo was the Chairman cum Managing Trustee. It F appears that a registered sale deed No. 386 dated 4.3.1997 was registered before Sub Registrar, Pipli in respect of about 10 acres of land. According to the prosecution on 14.1.1997 the respondent Saroj Kumar Sahoo in the capacity of Chairman cum Managing Trustee of Nabaprabhat Trust applied for establishment of a new polytechnic with approval of All India Council for Technical Education (in short 'AICTE'), though the trust was not having the G requisite land of 20 acres and funds to the tune of Rs.25 lakhs as the trust was registered with a corpus of a paltry sum i.e. Rs.10,000/-. Zerox copy of the sale deed according to the prosecution was submitted to the Director, Technical Education and Training, Orissa for establishment of technical education institution. The respondent got land and shed on the pretext of H using the lands and sheds for *bona fide* industrial use in the Mancheswar

Industrial Estate.

On 25.6.1997 approval for running the technical education institutions was accorded. On 26.7.1997 the respondent Saroj Kumar Sahoo along with Smt. Sukanti Muduli, (mother of Sh. Nalinikanta Muduli), registered gift deed in respect of 10 acres of land and projected to AICTE as if it had got 20 acres of land. The approval was given on 8.8.1997. On 19.11.1998 both respondents Saroj Kumar Sahoo and Nalinikanta Muduli got District Industries Centre Registration for setting up fabrication unit in the same industrial shed and land though technical institutions namely Nillachal Polytechnic and Nilachal Institute of Computer Science were shown to be running in the same industrial land and shed. On 30.12.2000 the investigating agency while investigating cases registered at the Bhubneshwar Vigilance Division police Station Case no. 25/2000 and 43/2000 against Nalinikanta Muduli and his father Sh. Bichitranand Muduli seized some incriminating documents and therefore, FIR was registered. Though orders were passed by the High Court for appearance before concerned Court while rejecting the application for bail under Section 438 Cr.P.C., the respondents never appeared before the concerned Court and on the contrary on 19.4.2001 respondent Saroj Kumar Sahoo filed an application under Section 482 of Cr.P.C. before the High Court for quashing FIR and connected proceedings in Bhubneshwar Vigilance Police Station Case No. 61 of 2000 registered for alleged commission of offences under Sections 120(B), 420, 468 and 471 of Indian Penal Code, 1872 (in short the 'IPC') read with Section 13(2) and 13(1)(a) of the Prevention of Corruption Act, 1988 (in short the 'Act'). During investigation, the Tehsildar, Pipli reported to the investigating agency that the land mentioned in the gift deed was non-existent. By order dated 1.7.2002 a learned Single Judge of the High Court quashed the First Information Report in the concerned case and subsequent proceedings during investigation, so far as Saroj Kumar Sahoo is concerned. The learned Single Judge held that on perusal of the statements recorded during investigation it was clear that the ingredients of the offences alleged were not in existence, and it would be an abuse of the process of Court and may lead to gross miscarriage of justice if the proceedings are continued. Therefore, so far as the respondent Saroj Kumar Sahoo is concerned the proceedings were quashed.

In the appeal relatable to SLP(Crl.) No.3190 of 2004, before the High Court, respondent NaliniKanta Muduli had questioned legality of the proceedings relating to Bhubneshwar Vigilance Police Station Case No. 43 of 2000. In the said allegations which were against respondent Nalinikanata and

A his father Muduli (in short 'Bichitrananda') Bhubneshwar Vigilance PS case no.25 of 2000 was registered against Bichitrananda on the allegation that he had acquired assets disproportionate to his known sources of income. During investigation business premises of Nalinikanta were searched and incriminating materials/documents were seized for which FIR no.43 of 2000 was lodged against Nalinikanta and Bichitrananda. In the appeal relatable to SLP (Crl.) B 3199 of 2004, the challenge before the High Court was to the FIR 61 of 2000. In these cases, learned Single Judge exercised power under Section 482 and gave certain directions which shall be dealt with infra.

Learned counsel for the appellant-State submitted that the scope and C ambit of Section 482 Cr.P.C. has been analysed in various cases. The power is to be exercised sparingly and not in the manner done in the present cases. In Criminal Appeal No. 920 of 2003 the High Court interfered at a stage when investigation was not even over. Similar is the appeal relating to SLP (Crl.) No. 3199 of 2004. The illegality and vulnerability are so manifest that a bare reading of the impugned orders would show that the learned Single Judges D have not kept in view the parameters of Section 482 Cr.P.C. in view. Though, Bichitrananda was not a party in any of the petitions before the High Court, in the Criminal Appeal relating to SLP (Crl.) No. 3190 of 2004, learned Single Judge even quashed the proceedings against him. Interestingly, he even referred to submissions purportedly made on behalf of him in the impugned E order though he was not a party and there was no question of any submission being made by learned counsel on his behalf. The illegality does not end there. Learned Single Judge has even directed renewal of the contractor's licence issued to Zerina Marines Pvt. Ltd. where Nalinikanta is a Director. The allegations are of very serious nature. The investigating agency had collected documentary and oral evidence to substantiate the allegations and the F investigation was in progress. At that stage the interference made by the High Court is clearly uncalled for. The allegations were, *inter alia*, that Nalinikanta gave false information about his educational qualifications and working experience to fraudulently obtain Super Class and Special Class contractor's licenses. He claimed to be Engineering Degree holder whereas in G reality he was not so. Similarly, he had submitted false and forged experience certificate to get the contractor's licenses. Bichitrananda was a member of the Committee of Chief Engineers which granted renewal of license which was submitted after due date. Subsequently license grating authority cancelled Super Class contractor's license.

H In response, learned counsel for the respondents Saroj Kumar Sahoo

and Nalinikanta Muduli submitted that the prosecuting agency is acting with *mala fide* intents in order to harass Bichitranand and with a view to unleash political vendetta the respondents and Bichitrananda are being victimized. Continuance of proceedings against them would be sheer abuse of the process of court. The High Court has analysed the factual position keeping in view the principles relating to exercise of power under Section 482 Cr.P.C. and, therefore, no interference is called for. It is pointed out that though Bichitrananda Muduli was not a party, the High Court on going through the entire records came to hold that an innocent person like Bichitrananda should not be penalized and, therefore, quashed the proceedings so far as he is concerned. Without making him a party in these proceedings the appellants cannot take away the relief granted to him by learned Single Judge.

Exercise of power under Section 482 of the Cr.P.C. in a case of this nature is the exception and not the rule. The Section does not confer any new powers on the High Court. It only saves the inherent power which the Court possessed before the enactment of the Cr.P.C. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely, (i) to give effect to an order under the Cr.P.C., (ii) to prevent abuse of the process of court, and (iii) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognizes and preserves inherent powers of the High Courts. All courts, whether civil or criminal possess, in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice on the principle "quando lex *aliquid alicui concedit, concedere videtur et id sine quo res ipsae esse non potest*" (when the law gives a person anything it gives him that without which it cannot exist). While exercising powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised ex debito justitiae to do real and substantial justice for the administration of which alone courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to

A prevent abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the report, the court may examine B the question of fact. When a report is sought to be quashed, it is permissible to look into the materials to assess what the report has alleged and whether any offence is made out even if the allegations are accepted in toto.

In *R. P. Kapur* v. *State of Punjab* AIR (1960) SC 866 this Court C summarized some categories of cases where inherent power can and should be exercised to quash the proceedings.

(i) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;

D (ii) where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged;

(iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails E to prove the charge.

In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not F support the accusations. When exercising jurisdiction under Section 482 of the Cr.P.C., the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge. Judicial process should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in G exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death. H The scope of exercise of power under Section 482 of the Cr.P.C. and the

categories of cases where the High Court may exercise its power under it relating to cognizable offences to prevent abuse of process of any court or otherwise to secure the ends of justice were set out in some detail by this Court in *State of Haryana* v. *Bhajan Lal,* (1992) Supp 1 335. A note of caution was, however, added that the power should be exercised sparingly and that too in rarest of rare cases. The illustrative categories indicated by this Court are as follows:

> "(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 Cr.P.C. except under an order of a Magistrate within the purview of Section 155(2) of the Cr.P.C..
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> (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 Cr.P.C.
>
> (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 Cr.P.C. 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 Cr.P.C. 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

A motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

As noted above, the powers possessed by the High Court under Section 482 of the Cr.P.C. are very wide and the very plenitude of the power requires great caution in its exercise. Court must be careful to see that its decision in B exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a *prima facie* decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court C and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard and fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage. (See: *Janata Dal* v. *H. S. Chowdhary,* [1992] 4 SCC 305, and *Raghubir Saran (Dr.)* v. *State of Bihar,* AIR (1964) SC 1). It would not be proper for D the High Court to analyse the case of the complainant in the light of all probabilities in order to determine whether a conviction would be sustainable and on such premises arrive at a conclusion that the proceedings are to be quashed. It would be erroneous to assess the material before it and conclude that the complaint cannot be proceeded with. When an information is lodged at the police station and an offence is registered, then the *mala fides* of the E informant would be of secondary importance. It is the material collected during the investigation and evidence led in court which decides the fate of the accused person. The allegations of *mala fides* against the informant are of no consequence and cannot by themselves be the basis for quashing the proceedings. (See: *Dhanalakshmi* v. *R. Prasanna Kumar,* [1990] Supp SCC F 686, *State of Bihar* v. *P. P. Sharma,* AIR (1996) SC 309, *Rupan Deol Bajaj* v. *Kanwar Pal Singh Gill,* [1995] 6 SCC 194, *State of Kerala* v. *O.C. Kuttan,* AIR (1999) SC 1044, *State of U.P.* v. *O.P. Sharma,* [1996] 7 SCC 705, *Rashmi Kumar* v. *Mahesh Kumar Bhada,* [1997] 2 SCC 397, *Satvinder Kaur* v. *State (Govt. of NCT of Delhi,* AIR (1996) SC 2983 and *Rajesh Bajaj* v. *State NCT of Delhil,* [1999] 3 SCC 259).

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The above position was again re-iterated in *State of Karnataka* v. *M. Devendrappa and Anr.,* [2002] 3 SCC 89 and *State of M.P.* v. *Awadh Kishore Gupta and Ors.,* [2004] 1 SCC 691.

H In *Jehan Singh* v. *Delhi Administration,* AIR (1974) SC 1140 while

considering a case under Section 561-A of the Code of Criminal Procedure, 1898 (in short the 'Old Code') corresponding to Section 482 of the Cr.P.C., it was observed as follows :

> "Where at the date of filing the petition under Section 561-A, no charge sheet or a complaint has been laid down in Court and the matter is only at the stage of investigation by Police, the Court cannot, in exercise of its inherent jurisdiction under Section 561-A, interfere with the statutory powers of the Police to investigate into the alleged offence and quash the proceedings. Even assuming that the allegations in the FIR are correct and constitute an offence so as to remove the legal bar to institute proceedings in Court, the Court cannot at that stage appraise the evidence collected by the Police in their investigation. Any petition under Section 561-A at such a stage is, therefore, premature and incompetent."

It is to be noted that the investigation was not complete and at that stage it was impermissible for the High Court to look into materials, the acceptability of which is essentially a matter for trial. While exercising jurisdiction under Section 482 of the Cr.P.C., it is not permissible for the Court to act as if it was a trial Court. Even when charge is framed at that stage, the Court has to only *prima facie* be satisfied about existence of sufficient ground for proceeding against the accused. For that limited purpose, the Court can evaluate material and documents on records but it cannot appreciate evidence. The Court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused. In *Chand Dhawan (Smt.)* v. *Jawahar Lal and Ors.*, [1992] 3 SCC 317, it was observed that when the materials relied upon by a party are required to be proved, no inference can be drawn on the basis of those materials to conclude the complaint to be unacceptable. The Court should not act on annexures to the petitions under Section 482 of the Cr.P.C., which cannot be termed as evidence without being tested and proved.

Learned Single Judges did not keep in view the correct position in law while allowing the petitions filed by the respondents. It baffles us as to how a learned Single Judge while exercising powers under Section 482 Cr.P.C. could even direct grant of renewal of licence. It is somewhat akin to a learned Single Judge of another High Court directing creation of criminal courts to deal with cases under a particular statute. It is baffling how learned Single Judge referred to submissions purportedly made by learned counsel for

A Bichitranand who was not even a party. It is not clear how such submissions if any could be made. The conclusions are based on surmises and conjectures without any material to support them. Learned Single Judge arrived at certain conclusions which are utterly fallacious. It is not clear as to on what basis such conclusions were arrived at. Some of the conclusions, by way of illustration are given below:

B

(a) No work experience certificate is taken as criteria for issue of fresh license.

(b) Renewal of license after three years is an automatic process.

C (c) Educational qualification of Managing Director is not a criteria for issuance of Special Class Contractor, when the allegation was of filing false/forged educational qualification certificate.

D (d) Bichitrananda did not influence any member of the Committee of Chief Engineers though he was a member (This conclusion was arrived at purportedly on the basis of Bichitrananda's submission, though he was not a party).

The grant of relief to Bichitranand when he was not a party is equally indefensible. Therefore, we find no reason to accept the plea of learned counsel for the respondents that he should be heard in these proceedings.

E

When the factual position of the case at hand is considered in the light of principles of law highlighted, the inevitable conclusion is that the High Court was not justified in quashing the investigation and proceedings in the connected case and the charge sheet filed.

F In the background of the legal principles set out above the High Court's impugned orders are indefensible and are accordingly quashed.

So far as Criminal Appeal No. 920 of 2003 and the Appeal relating to SLP (Crl.) No. 3199 of 2004 are concerned, since the investigation is not G complete, we direct that the investigation be completed within a period of six months from today. The respondents are directed to cooperate in the completion of the investigation and shall appear before the investigating officer, as and when required, without fail.

It is submitted by learned counsel for the respondents that interim H protections were given by the High Court as regards the respondents being

on bail. That protection shall continue, but in case the respondents fail to cooperate in the investigation and do not appear before the investigating officer for the purpose of investigation as and when required, the interim protection shall cease to be operative and it shall be open to the investigating agency to move the concerned court for cancellation of the protection which was granted. It is submitted by learned counsel for the respondents that in case charge sheet is filed and in the case where charge sheet is already filed, respondents shall seek discharge. If any such motion is made the concerned Court shall deal with the same in accordance with law. We do not express any opinion about the acceptability or otherwise of such motion, if made.

The appeals are allowed to the aforesaid extent.

V.S.S. Appeals allowed.