SASIKALA PUSHPA AND OTHERS

v.

STATE OF TAMIL NADU

(Criminal Appeal No. 855 of 2019)

MAY 07, 2019

[R. BANUMATHI AND S. ABDUL NAZEER, JJ.]

Code of Criminal Procedure, 1973: s.340 – In a sexual harassment case against the appellants, the appellants filed anticipatory bail applications along with Vakalatnama before the Madurai High Court – While filing the Vakalatnama, it was stated therein that it was signed by appellants before their counsel on 17.08.2016 at Madurai – Challenging the maintainability of bail petition and Vakalatnama, the respondent-State filed preliminary objection and submitted that the Vakalatnama bore signature dated 18.08.2016, however, the first appellant had left for Singapore from New Delhi on 17.08.2016 at 23.15 hours and third appellant had left for Singapore from Bengaluru on 18.08.2016 at 9.30 AM – High Court directed the appellants to appear before the Court on 29.08.2016 and to give their explanation with regard to said preliminary objection – Accordingly appellants appeared and stated that the date mentioned in the Vakalatnama was an inadvertent mistake – High Court found the explanation unsatisfactory and held that the document appeared to be forged and was signed and executed outside Madurai and directed the Registrar (Judicial) to lodge the complaint against the appellants – Accordingly, complaint was lodged against the appellants under ss.193, 466, 468 and 471 IPC – Aggrieved appellants filed instant appeals – Held: There could be no two views about the proposition that even if forgery was committed outside the precincts of the court and long before its production in the court, it would also be treated as one affecting the administration of justice – But in the instant case, the Vakalatnama filed by the appellants seeking anticipatory bail could not be said to be a forged document – Appellants had admitted their signatures in the Vakalatnama and had taken plea that it was mistakenly recorded that it was signed on 18.08.2016 at Madurai – Explanation tendered by the appellants appeared plausible – Fraud

A *implies intentional deception aimed of achieving some wrongful gain or causing wrongful loss or injury to another – Intention being the* mens rea *is the essential ingredient to hold that a fraud has been played upon the court – High Court was not justified in terming the said mistake or error as fraud – The direction to lodge criminal complaint against the appellants is set aside – Penal Code, 1860 –* B *s.195(1)(b).*

Penal Code, 1860: s.195(1)(b) – Prosecution under – Held: Under s.340, the prosecution is to be launched only if it is expedient in the interest of justice and not in every case – Before proceeding to make a complaint regarding commission of an offence referred C *to in s.195(1)(b), the court must satisfy itself that "it is expedient in the interest of justice" – The language in s.340 Cr.P.C. shows that such a course will be adopted only if the interest of justice requires and not in every case – Code of Criminal Procedure, 1973 – s.340.*

Disposing of the appeals, the Court

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HELD : 1.1 It is fairly well settled that before lodging of the complaint, it is necessary that the court must be satisfied that it was expedient in the interest of justice to lodge the complaint. It is not necessary that the court must use the actual words of Section 340 Cr.P.C.; but the court should record a finding E **indicating its satisfaction that it is expedient in the interest of justice that an enquiry should be made. [Para 10] [325-G-H; 326-A]**

Iqbal Singh Marwah v. Meenakshi Marwah **(2005) 4 SCC 370 : [2005] 2 SCR 708 – relied on.**

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2. It appeared from the vakalatnama that appellants No.1 and 3 signed the vakalatnama in Madurai on 17.08.2016; but actually the first appellant did not visit Madurai and left for Singapore from New Delhi on 17.08.2016 at 11.15 PM. In the affidavit filed by the appellants before the High Court, the first G **appellant took the plea that it was a clerical error. Appellant No.1 stated that on 16.08.2016, she and her son-appellant No.2 signed the vakalatnama in New Delhi and that the same was signed through appellant No.3 who was in Bengaluru. It was stated that after receiving the vakalatnama, appellant No.3 reached Madurai on the same day evening by road and handed over the same to** H

the lawyer and returned back to Bengaluru by road on the same day and thereafter, appellant No.3 left for Singapore in the morning of 18.08.2016 at 09.30 AM. According to the appellants, when the vakalatnama was filed in the High Court of Madras at Madurai Bench, it was mistakenly recorded that it was signed on 18.08.2016 in Madurai. The explanation given by the appellants appeared plausible and there was no reason to disbelieve the same and their affidavit dated 29.08.2016. [Para 15] [328-C-F]

3. A vakalatnama is only a document which authorizes an advocate to appear on behalf of the party and by and large, it has no bearing on the merits of the case. There is no reason as to why a party would deliberately furnish a false date and place in the vakalatnama. The appellants have admitted their signatures in the vakalatnama. The sequence of events as stated in the affidavit of the appellants did not make out a case of forgery. The High Court did not record any finding as to why it rejected the plea of the appellants made in the affidavit which was also reiterated by them in their explanation before the court when they personally appeared before the court. [Para 16] [328-F-G; 329-B]

4. There could be no two views about the proposition that even if forgery is committed outside the precincts of the court and long before its production in the court, it would also be treated as one affecting the administration of justice. But in the instant case, the vakalatnama filed by the appellants seeking anticipatory bail cannot be said to be a forged document. The appellants have admitted their signatures in the vakalatnama. They only allege that it was mistakenly recorded that it was signed on 18.08.2016 at Madurai in the presence of the advocate. Of course, the version in the vakalatnama was an incorrect statement. The High Court was not justified in terming the said mistake or error as fraud. Fraud implies intentionally deception aimed at achieving some wrongful gain or causing wrongful loss or injury to another. In the absence of any material to substantiate the allegations, the High Court was not justified in accusing the appellants fraud. Even assuming that the version in the vakalatnama was wrong, mere incorrect statement in the vakalatnama would not amount to create a forged document and it cannot be the reason for

exercising the jurisdiction under Section 340 Cr.P.C. for issuance of direction to lodge the criminal complaint against the appellants. There is no *prima facie* evidence to show that the appellants had intended to cause damage or injury or any other acts. Since the disputed version in the vakalatnama appears to be an inadvertent mistake with no intention to make misrepresentation, the direction of the High Court to lodge a criminal complaint against the appellants cannot be sustained and the same is liable to be set aside. [Paras 18, 19, 21] [329-F-H; 330-A-B; D-E; 331-C-D]

Amarsang Nathaji v. *Hardik Harshadbhai Patel* **(2017) 1 SCC 117 ;** *Chintamani Malviya v. High Court of M.P.* **(2018) 6 SCC 15 – relied on.**

Pepsi Foods Limited and another v. Special Judge Magistrate and others **(1998) 5 SCC 749 ;** *Central Bureau of Investigation v. Ravi Shankar Srivastava, IAS and Another* **(2006) 7 SCC 188:[2006] 4 Suppl. SCR 450 – referred to.**

Case Law Reference

[2005] 2 SCR 708	**relied on**	**Para 10**
(2017) 1 SCC 117	**relied on**	**Para 20**
(2018) 6 SCC 15	**relied on**	**Para 20**
(1998) 5 SCC 749	**referred to**	**Para 22**
[2006] 4 Suppl. SCR 450	**referred to**	**Para 23**

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 855 of 2019.

From the Judgment and Order dated 14.09.2016 of the High Court of Judicature of Madras, Madurai Bench in Crl. O.P. (MD) No. 15370 of 2016.

With

Criminal Appeal Nos. 856, 857, 858, 859 of 2019.

Sanjay R. Hegde, Sr. Adv., Nithin Saravanan, B. Ramaswamy, Ms. Arunima Singh, Ms. Pranjal Kishore, Ms. Priyadarshini, D. Abhinav Rao,Advs. for the Appellants.

M. Yogesh Kanna, S. Partha Sarathi, S. Raja Rajeshwaran, Advs. for the Respondent.

The Judgment of the Court was delivered by

R. BANUMATHI, J. 1. Leave granted.

2. These appeals [SLP(Crl.) Nos.7252, 7287 and 8206 of 2016] arise out of the judgment dated 14.09.2016 passed by the Madurai Bench of Madras High Court dismissing anticipatory bail application in Crl. OP(MD) No.15370 of 2016 filed by the appellants. By the same judgment, the learned Single Judge of the High Court directed the Registrar (Judicial) to lodge a complaint with the jurisdictional police station against the appellants with respect to the alleged forgery committed by them in signing the vakalatnama. Pursuant to the direction of the High Court, the Registrar (Judicial) lodged a complaint with K. Pudur Police Station, Madurai on 19.09.2016, on the basis of which, FIR in Crime No.1331/2016 for the offences punishable under Sections 193, 466, 468 and 471 IPC was registered against the appellants.

3. The first appellant was the then Member of Rajya Sabha and expelled Member of AIADMK Political Party. The third appellant is the husband of the first appellant. A complaint was filed by one Banumathi who was then working as maid in the house of the appellants in the year 2011 alleging that she was sexually harassed while she was working in the house of the appellants. Based on the said complaint, a criminal case was registered against all the appellants in Crime No.5/2016 in All Women's Police Station under Sections 294(b), 323, 344, 354(A) and 506(i) IPC and under Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002. The first appellant denied all the allegations and claimed that the same was result of political vendetta against her.

4. The appellants filed bail application under Section 438 Cr.P.C. in Crl.OP(MD) No.15370 of 2016 against the said offences before the Madurai Bench of Madras High Court along with vakalatnama bearing the signature of appellants No.1 and 3 dated 18.08.2016. The first appellant left for Singapore from New Delhi on 17.08.2016. While filing bail application in Crl.OP(MD) No.15370 of 2016, the appellants filed vakalatnama wherein it was stated that the said vakalatnama was signed by the appellants before Advocate Mr. Vijaykumar on 17.08.2016 at Madurai. Challenging the maintainability of the bail petition and the

A vakalatnama, the respondent-State filed preliminary objections and submitted that appellant No.1 had left for Singapore from New Delhi on 17.08.2016 at 23.15 hours. Similarly, appellant No.3 had left for Singapore from Bengaluru on 18.08.2016 at 09.30 AM. It was alleged that the appellants filed anticipatory bail application on 18.08.2016 as if they were present in Madurai on 17.08.2016 and signed the affidavit and vakalatnama in the presence of an advocate at Madurai. The High Court vide order dated 23.08.2016 directed the appellants to appear before the court on 29.08.2016 and to give their explanation with regard to the said preliminary objection. Accordingly, the appellants appeared before the court on the said date and submitted their affidavit before the High Court stating that the date mentioned in the vakalatnama was an inadvertent mistake.

5. In the impugned judgment, the High Court held that the explanations given by the appellants are not satisfactory and the same is contradictory to the written version as contained in the vakalatnama. Referring to the affidavit filed by the appellants, the High Court pointed out that appellant No.1 has given explanation that she never came to Madurai for signing the vakalatnama and that she had never signed the vakalatnama in the presence of advocate Mr. Vijaykumar at Madurai. The learned Single Judge therefore held that prima facie, it appears that the document has been forged and the same has been signed and executed outside Madurai and produced before this court as though, it has been signed and executed at Madurai and the same has been utilized and filed before the High Court. On the above findings, the High Court directed the Registrar (Judicial) to lodge the complaint against the appellants with the jurisdictional police station. Pursuant to the direction of the High Court, the Registrar (Judicial) lodged a complaint with K. Pudur Police Station, Madurai on 19.09.2016. Based on the complaint lodged by the Registrar (Judicial) of the High Court, FIR in Crime No.1331/2016 was registered with K. Pudur Police Station, Madurai on 19.09.2016 for the offences punishable under Sections 193, 466, 468 and 471 IPC.

6. Being aggrieved, the appellants have filed these appeals. By the order dated 26.09.2016, the Supreme Court directed that no coercive action be taken against the appellants in Crime No.1331/2016 and also in Crime No.5/2016 and granted interim protection to the appellants from arrest.

7. It has been urged by Mr. Sanjay Hegde, learned senior counsel appearing for the appellants that the High Court erred in not considering the fact that the vakalatnama contains the signature of the appellants and that the date thereon is a purely clerical error. It was submitted that the High Court has not recorded a finding to the effect that it is 'expedient in the interest of justice' to lodge a complaint against the appellants and the High Court erred in issuing directions to lodge the complaint to the police for registering criminal case against the appellants. Further, it was contended that the High Court also erred in law in treating the vakalatnama filed by the appellants as the main reason for dismissing the anticipatory bail application.

8. Mr. Yogesh Kanna, learned counsel appearing for the State of Tamil Nadu submitted that the High Court has categorically found that the first appellant has not signed the vakalatnama in Madurai on 18.08.2016 and therefore, the appellants have committed fraud upon the court and the High Court rightly issued directions to the Registrar for lodging complaint against the appellants. The learned counsel further submitted that the first appellant being the then Member of Parliament and her husband-the third appellant being a businessman and influential person are not cooperating with the investigation and the first appellant has given evasive reply to the questions raised by the Investigation Officer. It was submitted that no grounds are made out for setting aside the directions issued by the High Court and for quashing of the FIR No.1331/ 2016 registered on the directions of the High Court. The learned counsel placed reliance upon *Sachida Nand Singh and another v. State of Bihar and another* **(1998) 2 SCC 493**.

9. We have carefully considered the submissions and perused the impugned judgment and other materials placed on record. The point falling for consideration is whether in the facts and circumstances of the case, the court was right in issuing directions to lodge the complaint against the appellants before the concerned police station for forgery and for creation of forged document.

10. It is fairly well settled that before lodging of the complaint, it is necessary that the court must be satisfied that it was expedient in the interest of justice to lodge the complaint. It is not necessary that the court must use the actual words of Section 340 Cr.P.C.; but the court should record a finding indicating its satisfaction that it is expedient in

A the interest of justice that an enquiry should be made. Observing that under Section 340 Cr.P.C., the prosecution is to be launched only if it is expedient in the interest of justice and not on mere allegations or to vindicate personal vendetta, In *Iqbal Singh Marwah v. Meenakshi Marwah* **(2005) 4 SCC 370**, this Court held as under:-

B **"23.** In view of the language used in Section 340 CrPC the court is not bound to make a complaint regarding commission of an offence referred to in Section 195(1)(*b*), as the section is conditioned by the words "court is of opinion that it is expedient in the interests of justice". This shows that such a course will be adopted only if the interest of justice requires and not in every
C case. Before filing of the complaint, the court may hold a preliminary enquiry and record a finding to the effect that it is expedient in the interests of justice that enquiry should be made into any of the offences referred to in Section 195(1)(*b*). This expediency will normally be judged by the court by weighing not
D the magnitude of injury suffered by the person affected by such forgery or forged document, but having regard to the effect or impact, such commission of offence has upon administration of justice. It is possible that such forged document or forgery may cause a very serious or substantial injury to a person in the sense
E that it may deprive him of a very valuable property or status or the like, but such document may be just a piece of evidence produced or given in evidence in court, where voluminous evidence may have been adduced and the effect of such piece of evidence on the broad concept of administration of justice may be minimal. In such circumstances, the court may not consider it expedient in
F the interest of justice to make a complaint. ….."

11. Before proceeding to make a complaint regarding commission of an offence referred to in Section 195(1)(b) Cr.P.C., the court must satisfy itself that "it is expedient in the interest of justice". The language in Section 340 Cr.P.C. shows that such a course will be adopted only if
G the interest of justice requires and not in every case. It has to be seen in the facts and circumstances of the present case whether any *prima facie* case is made out for forgery or making a forged document warranting issuance of directions for lodging the complaint under Section 193, 467, 468 and 471 IPC.

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12. Based on the complaint of one Banumathi for the alleged harassment, a case in Crime No.5/2016 under Sections 294(b), 323, 344, 354-A and 506(i) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 was registered against the appellants. Appellant No.1 filed anticipatory bail application No.1627/2016 before the High Court of Delhi. The High Court of Delhi vide order dated 11.08.2016 granted interim protection to the appellants and directed the appellants to avail the remedy before the court of competent jurisdiction in the State of Tamil Nadu or the High Court of Madras. The High Court of Delhi directed that no coercive action be taken against the appellants in FIR No.5/2016 till 22.08.2016 subject to their joining the investigation as and when directed by the Investigating Officer.

13. Pursuant to the order of the High Court of Delhi, the appellants filed anticipatory bail application before the High Court of Madras at Madurai Bench in Bail Application No.15370/2016 on 18.08.2016. In the said application, preliminary objection was raised by the State alleging "that the appellants have played fraud on the court by filing a vakalatnama signed by them on 17.08.2016 attested by an advocate from Madurai as if appellants No.1 and 3 were present in Madurai on 17.08.2016 whereas appellant No.1 left for Singapore from New Delhi on 17.08.2016". The third appellant left for Singapore from Bengaluru on 18.08.2016. Alleging that they have filed false vakalatnama, the respondent-State raised objection for maintainability of the petition. In the meanwhile, on 22.08.2016, the Investigating Officer included Section 9(I)(n) read with Section 10, Section 16 read with Section 17 of Protection of Children from Sexual Offences Act, 2012 in Crime No.5/2016.

14. The High Court rejected the anticipatory bail application and declined to grant pre-arrest bail in Crime No.5/2016. The High Court held that the first appellant never came to Madurai for signing the vakalatnama in the presence of advocate Vijaykumar and therefore, prima facie it appears that the document has been forged and the same has been signed and executed outside Madurai as though it has been signed and executed at Madurai and the same has been utilized by the appellants before the court. Placing reliance upon *Sachida Nand Singh,* the High Court observed that the act committed by the appellants amount to fraud played upon the court and thus, directed the Registrar (Judicial) to lodge a complaint against all the appellants who signed the vakalatnama in Crl.O.P.(MD) No.15370/2016.

A 15. In the present appeals, we are mainly concerned with the findings of the High Court that by filing the vakalatnama in Crl.O.P.(MD) No.15370/2016, the appellants have played fraud upon the court and the issuance of the direction to the Registrar (Judicial) to lodge the complaint against the appellants for forgery. As pointed out earlier, the appellants have filed Crl.O.P.(MD) No.15370/2016 on 18.08.2016 in which they have filed the vakalatnama wherein it had been stated as under:-

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> "Executed before me this 17th day of August, 2016. Before me, S. Vijaykumar, No.51 law Chambers, High Court Madurai."

The above version in the vakalatnama looks as if appellants No.1 and 3 have signed the vakalatnama in Madurai on 17.08.2016; but actually the first appellant did not visit Madurai and left for Singapore from New Delhi on 17.08.2016 at 11.15 PM. It is pertinent to note that in the affidavit filed by the appellants before the High Court on 29.08.2016, the first appellant has taken the plea that there has been a clerical error. Appellant No.1 has stated that on 16.08.2016, she and her son-appellant No.2 signed the vakalatnama in New Delhi and that the same was signed through appellant No.3 who was in Bengaluru. It is stated that after receiving the vakalatnama, appellant No.3 reached Madurai on the same day evening by road and handed over it to the lawyer and returned back to Bengaluru by road on the same day and thereafter, appellant No.3 left for Singapore in the morning of 18.08.2016 at 09.30 AM. According to the appellants, when the vakalatnama was filed in the High Court of Madras at Madurai Bench, it was mistakenly recorded that it has been signed on 18.08.2016 in Madurai. The explanation given by the appellants appears to be plausible and we find no reason to disbelieve the same and their affidavit dated 29.08.2016.

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16. A vakalatnama is only a document which authorizes an advocate to appear on behalf of the party and by and large, it has no bearing on the merits of the case. We find force in the contention of the learned senior counsel for the appellants that there is no reason as to why a party would deliberately furnish a false date and place in the vakalatnama. Appellant No.1 left for Singapore from New Delhi on the night of 17.08.2016 and appellant No.3 left for Singapore from Bengaluru on the morning of 18.08.2016 at 09.30 AM which fact admitted by both the parties. In the affidavit filed before the High Court, the first appellant clearly stated that she and her son appellant No.2 signed the vakalatnama

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on 16.08.2016 and the same was sent to her husband-appellant No.3 who was in Bengaluru who in turn handed over the same to the advocate at Madurai. The appellants have admitted their signatures in the vakalatnama. The sequence of events as stated in the affidavit of the appellants, in our view, do not make out a case of forgery. The High Court has not recorded any finding as to why it rejected the plea of the appellants made in the affidavit which has also been reiterated by them in their explanation before the court when they personally appeared before the court.

17. Mr. Yogesh Kanna, the learned counsel appearing for the State of Tamil Nadu placed reliance upon *Sachida Nand Singh* and submitted that even if any offence involving forgery of document is committed outside the precincts of the court and long before its production in the court, the same would also be treated as one affecting the administration of justice. After referring to various judgments, in *Sachida Nand Singh,* it was held as under:-

> **"11.** The scope of the preliminary enquiry envisaged in Section 340(1) of the Code is to ascertain whether any offence affecting administration of justice has been committed in respect of a document produced in court or given in evidence in a proceeding in that Court. In other words, the offence should have been committed during the time when the document was in *custodia legis*.
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> **12.** It would be a strained thinking that any offence involving forgery of a document if committed far outside the precincts of the Court and long before its production in the Court, could also be treated as one affecting administration of justice merely because that document later reached the court records."

18. There could be no two views about the proposition that even if forgery is committed outside the precincts of the court and long before its production in the court, it would also be treated as one affecting the administration of justice. But in the present case, the vakalatnama filed by the appellants in Crl.O.P.(MD) No.15370/2016 seeking anticipatory bail in Crime No.5/2016 cannot be said to be a forged document. As pointed out earlier, the appellants have admitted their signatures in the vakalatnama. They only allege that it was mistakenly recorded that it has been signed on 18.08.2016 at Madurai in the presence of the advocate.

A Of course, the version in the vakalatnama is an incorrect statement. In our opinion, the High Court was not justified in terming the said mistake or error as fraud. Fraud implies intentionally deception aimed or achieving some wrongful gain or causing wrongful loss or injury to another. Intention being the *mens rea* is the essential ingredient to hold that a fraud has been played upon the court. The learned counsel for the State has B submitted that upon examination of the signature in the vakalatnama, the hand-writing expert has opined that it is not the signature of the appellants and therefore, the intention of the appellants to create a forged document has been clearly made out. We do not find any merit in the submission as the appellants themselves admitted their signatures in the vakalatnama. C In the light of the statement of the appellants admitting their signatures in the vakalatnama, we do not think that the opinion of the hand-writing expert would stand on any higher footing. There is nothing on record to suggest that the appellants gained anything by playing fraud or practising deception. In the absence of any material to substantiate the allegations, in our view, the High Court was not justified in accusing the appellants D fraud.

19. Even assuming that the version in the vakalatnama is wrong, mere incorrect statement in the vakalatnama would not amount to create a forged document and it cannot be the reason for exercising the jurisdiction under Section 340 Cr.P.C. for issuance of direction to lodge E the criminal complaint against the appellants.

20. In *Amarsang Nathaji* v. *Hardik Harshadbhai Patel* **(2017) 1 SCC 117**, this Court held that before proceeding under Section 340 Cr.P.C., the court has to be satisfied about the deliberate falsehood on a matter of substance and there must be a reasonable foundation for the F charge. Observing that some inaccuracy in the statement or mere false statement may not invite a prosecution, it was held as under:-

> "*6*. The mere fact that a person has made a contradictory statement in a judicial proceeding is not by itself always sufficient to justify a prosecution under Sections 199 and 200 of the Penal Code, G 1860 (45 of 1860) (hereinafter referred to as "IPC"); but it must be shown that the defendant has intentionally given a false statement at any stage of the judicial proceedings or fabricated false evidence for the purpose of using the same at any stage of the judicial proceedings. Even after the above position has emerged

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also, still the court has to form an opinion that it is expedient in the interests of justice to initiate an inquiry into the offences of false evidence and offences against public justice and more specifically referred to in Section 340(1) CrPC, having regard to the overall factual matrix as well as the probable consequences of such a prosecution. (See *K.T.M.S. Mohd.* v. *Union of India* (1992) 3 SCC 178). The court must be satisfied that such an inquiry is required in the interests of justice and appropriate in the facts of the case."

The same view was quoted with approval in *Chintamani Malviya v. High Court of M.P.* **(2018) 6 SCC 15**.

21. Applying the ratio of the above decisions, in our view, there is no *prima facie* evidence to show that the appellants had intended to cause damage or injury or any other acts. Since the disputed version in the vakalatnama appears to be an inadvertent mistake with no intention to make misrepresentation, in our view, the direction of the High Court to lodge a criminal complaint against the appellants cannot be sustained and the same is liable to be set aside.

22. The learned counsel for the State submitted that in Crime No.1331/2016, criminal case was registered based on the direction of the High Court and upon completion of the investigation, charge sheet has also been filed. As held in *Pepsi Foods Limited and another v. Special Judge Magistrate and others* **(1998) 5 SCC 749***,* summoning of an accused in a criminal case is a serious thing; more so to face a trial in criminal case registered with the direction of the High Court. Since the appellants themselves have admitted their signatures in the vakalatnama and the version in the vakalatnama that they have signed at Madurai on 18.08.2016 is an advertent mistake, in our view, even if the trial proceeds, there may not be any possibility of the appellants being convicted for the alleged offences of forgery and for making forged document.

23. In *Central Bureau of Investigation v. Ravi Shankar Srivastava, IAS and Another* **(2006) 7 SCC 188**, it was held as under:-

"**7.** Exercise of power under Section 482 of the Code 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

A power which the Court possessed before the enactment of the Code. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely, (*i*) to give effect to an order under the Code, (*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. …….. In exercise of the powers the 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 complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto."

24. In the facts and circumstances of the present case, in our view, no useful purpose would be served by proceeding with the criminal prosecution against the appellants. Without further going into the merits of the case, we quash the FIR in Crime No.1331/2016 and also quash the charge sheet pending before the concerned Magistrate. The FIR and the charge sheet are quashed only in the facts and circumstances of the present case and to meet the ends of justice. It is made clear that taking advantage of quashing of the case, the appellants shall not resort to any further consequential proceedings.

25. **Crime No.5/2016:-** In the impugned order, the High Court has declined to grant anticipatory bail to the appellants. The Supreme Court vide order dated 26.09.2016 granted interim protection to the appellants in Crime No.5/2016 registered in All Women's Police Station, Pudukkottai, Tuticorin district. The learned senior counsel appearing for the appellants submitted that the appellants have compromised the matter with the victim Banumathi and that based on the compromise, they have already filed quash petition before the High Court of Madras in which the High Court has directed the parties to approach the concerned police station. We are not inclined to go into the merits of the said matter, except to extend interim protection granted to the appellants in Crime No.5/2016 till the disposal of the said case.

26. **Crime No.276/2016:-** On 11.10.2016, the appellants along with other accused are said to have caused damage to the household articles and car of one Suganthi who was the advocate for the victim-Banumathi in Crime No.5/2016. Based on the complaint lodged by one Muthu-a relative of the said Suganthi, a criminal case was registered against the appellants under Sections 147, 148, 448, 506(II) IPC and under Section 3 of the Tamil Nadu Public Property (Prevention of Damage and Loss Act, 1992) in Crime No.276/2016 of Thisayanvilai Police Station, Tirunelveli. The appellants have filed the anticipatory bail application before the High Court and by order dated 18.11.2016, the High Court granted anticipatory bail to appellants No.2 and 3 and the learned Single Judge took the view that custodial interrogation of appellant No.1 is required and declined to grant anticipatory bail to appellant No.1. The order dated 18.11.2016 is the subject matter of challenge in SLP(Crl.) Nos.9064/2016 and 9065/2016. When the matter came up for admission before this Court, *vide* order dated 22.11.2016, this Court has granted interim protection to appellant No.1. Therefore, case against the appellants was registered under Sections 147, 148, 448, 506(ii) IPC and Section 3 of Tamil Nadu Public Property (Prevention of Damage and Loss Act, 1992) in Crime No.276/2016 (Thisayanvilai, Thirunelveli). The High Court declined anticipatory bail to the first appellant by holding that her custodial interrogation is necessary whereas appellants No.2 and 3 were granted anticipatory bail.

27. In the result, all the appeals are disposed of as under:-**SLP(Crl.) No.7252/2016:-** The impugned order of the High Court issuing direction to lodge criminal complaint against the appellants is set aside and the appeal is allowed. Considering the facts and circumstances of the case, the FIR in Crime No.1331/2016 (K. Pudur Police Station) and the charge sheet filed thereon are quashed and the appeal is allowed accordingly. As pointed out in para No.(23), taking advantage of the quashing of the FIR in Crime No.1331 of 2016, the appellants shall not resort to any further or consequential proceedings.

28. **SLP(Crl.) Nos.7287/2016 and 8206/2016:-** The interim protection granted to the appellants in Crime No.5/2016 (AWPS, Pudukkottai, Tuticorin District) is extended till the disposal of the criminal case arising out of Crime No.5/2016.

A 29. **SLP(Crl.) Nos.9064/2016 and 9065/2016:-** The interim protection granted to the appellants by the order dated 22.11.2016 in Crime No.276/2016 (Thisayanvilai Police Station, Thirunelveli) is extended till the disposal of the criminal case arising out of Crime No.276/2016. The appellants are granted anticipatory bail in Crime No.276/2016 which shall hold good till the disposal of the criminal case. So far as quashing of criminal case in Crime No.276/2016, the appellants are at liberty to approach the High Court and the High Court shall consider the same on its own merits.

B

Devika Gujral Appeals disposed of.