IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 04TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.16078 OF 2026 (GM - RES)

BETWEEN:

1 . MR. HARSHIL MATHUR
C/O RAZORPAY SOFTWARE LIMITED
AGED ABOUT 35 YEARS
1ST FLOOR, SJR CYBER,
22, LASKAR HOSUR ROAD,
ADUGODI, BENGALURU – 560 030.
E-MAIL ID- Legal@razorpay.com

2 . MR. SHASHANK KUMAR
C/O RAZORPAY SOFTWARE LIMITED
AGED MAJOR
1ST FLOOR, SJR CYBER,
22, LASKAR HOSUR ROAD,
ADUGODI, BENGALURU – 560 030.
E-MAIL ID- Legal@razorpay.com

... PETITIONERS

Digitally signed by RAKESH S HARIHAR
Location: High Court of Karnataka, Dharwad Bench

(BY SRI SANDESH J.CHOUTA, SR.ADVOCATE A/W
SRI ABHISHEK KUMAR, ADVOCATE)

AND:

UNION OF INDIA
MINISTRY OF CORPORATE AFFAIRS

REPRESENTED BY
HEMANT TYAGI.
THE ASSISTANT DIRECTOR AND
INVESTIGATING OFFICER,
SERIOUS FRAUD INVESTIGATION OFFICE
CENTRAL CRIME BRANCH,

REGD. OFFICE AT:
2ND FLOOR, PT. DEENDAYAL ANTYODAYA BHAWAN,
CGO COMPLEX, LODHI ROAD,
NEW DELHI – 110 003.
Email: inf.sfio@nic.in; hemant.tyagi@gov.in

... RESPONDENT

(BY SRI K.ARVIND KAMATH, ASG A/W
MS.ANUPARNA BORDOLOI, CGC)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA READ WITH SECTION 528 OF BNSS, 2023, PRAYING TO. a. ALLOW THE PRESET WRIT PETITION AND ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT / ORDER / DIRECTION, TO: (I) QUASH COMPLAINT BEARING SPL. C NO. 324/2026 (ARISING OUT OF PCR NO. 33/2025) AT ANNEXURE A PENDING BEFORE THE LIX ADDL CITY CIVIL AND SESSIONS JUDGE AT BENGALURU CITY (CCH-60), IN SO FAR AS IT IMPLICATES THE PETITIONERS (ARRAYED AS ACCUSED NO. 8 AND 9); (II) QUASH THE ENTIRE PROCEEDING ALONG WITH COGNIZANCE ORDER DATED 05.03.2026 AND THE SUMMONS ISSUED PURSUANT THERETO (NOT RECEIVED BY THE PETITIONERS AS ON DATE) AT ANNEXURE B ISSUED BY THE LIX ADDL. CITY CIVIL AND SESSIONS JUDGE AT BENGALURU CITY(CCH-60) IN THE IMPUGNED COMPLAINT; (III) QUASH ALL CONSEQUENTIAL PROCEEDINGS EMANATING THEREFROM QUA THE PETITIONERS.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioners/accused Nos.8 and 9 in Special C.No.324 of 2026 pending before the LIX Additional City Civil and Sessions Judge, Bengaluru arising out of P.C.R.No.33 of 2025 are at the doors of this Court calling in question initiation of proceedings by the respondent/Serious Fraud Investigation Office (hereinafter referred to as 'SFIO' for short).

2. Facts, in brief, germane are as follows: -

The petitioners are the office bearers of Razorpay Private Limited (hereinafter referred to as 'Razorpay' for short), an intermediary. 1st petitioner is the whole time Director and the 2nd petitioner is the Managing Director of the payment aggregator platform/Intermediary - Razorpay. It is the averment that Razorpay is regulated by the Reserve Bank of India and is engaged in the business of providing intermediary payment aggregation services

and implementing payment solutions to third party merchants across diverse sectors. The genesis of the proceedings in the case at hand is on a confidential report of the Registrar of Companies, which is said to have uncovered a network of shell companies with dummy directors created by one Jilian Consultants India Private Limited ('JCIPL'), a wholly owned subsidiary of a company named Fininty Private Limited. Based on the affairs of the said company and 32 other companies, the Government of India by an order dated 09-09-2022 directs investigation into the affairs of the said company under Section 212 of the Companies Act, 2013 (hereinafter referred to as 'the Act' for short). The investigation report is placed before the Government on 31-07-2024 by the respondent/ SFIO. The investigation report by the SFIO forms the sole foundation for the impugned complaint.

3. As per the complaint, one Mad Elephant Network Technology Private Limited ('MENTPL'), which was one of the 33 companies under investigation, was incorporated on 15-11-2019 through JCIPL, allegedly arranging dummy directors completely controlled by Chinese entities. MENTPL subsequently entered into

an arrangement with X10 Financial Services Limited, a non-banking financial company, as a service provider for lending operations through digital platforms and mobile applications. The allegations against MENTPL is that unethical methods were followed for recovery, which was predatory and coercive and generated wrongful gains to MENTPL to the tune of Rs. 56.63/- crores. Insofar as the petitioners are concerned, they are arrayed as accused Nos.8 and 9. The allegations *qua* the petitioners in the impugned complaint pertain to deficiencies and negligence in merchant onboarding processes, including alleged lapses in know your customer ('KYC') verification of MENTPL, non-conduct of due diligence and non-monitoring of transactions of MENTPL by Razorpay. The impugned complaint further alleges that the petitioners being Directors of Razorpay failed to exercise their duties as Directors with due and reasonable care, skill and diligence and exercise of independent judgment and, therefore, were liable to be charged under Section 166 of the Act.

4. The statement of the 1st petitioner was recorded on 16-08-2023, wherein it is said that the 1st petitioner explained that

Reserve Bank of India guidelines were then evolving and onus of doing a full KYC was not on the petitioners. The petitioners challenge the said proceedings in P.C.R.No.33 of 2025 on manifold scores *inter alia* the absence of statutory obligation and imaginary duty cast upon payment aggregators like the Razorpay. They seek complete quashment of proceedings against them – accused Nos.8 and 9.

5. Heard Sri **Sandesh J. Chouta**, learned senior counsel appearing for the petitioners and Sri **K. Arvind Kamath**, learned Additional Solicitor General of India appearing for the respondent.

6.1. The learned senior counsel Sri **Sandesh J. Chouta**, appearing for the petitioners would contend that under Section 212 of the Act, there is no jurisdiction to the SFIO to investigate. It is strictly confined to the affairs of the company named in the order of investigation passed by the Central Government. The order dated 09-09-2022 names JCIPL and 32 companies under investigation. Razorpay is not arrayed as a company under investigation. The petitioners are not the officers of any company under investigation. Mere provision of payment gateway cannot constitute an action in

connection with the affairs of a company under Section 212 of the Act.

6.2. Learned senior counsel would submit that the complaint refers to Section 166 of the Act to bring in allegations against the Directors of Razorpay without it being made an accused. The submission of the learned senior counsel is that Section 166 is wholly inapplicable and misconceived. He would submit that what is alleged against these petitioners is non-verification of KYC norms and negligence. Negligence *per se* would not become an offence is the contention of the learned senior counsel. Amplifying the submission that Razorpay, which is allegedly negligent at the time of onboarding, is not an accused. Without there being any specific allegation against the petitioners, the Director or the Managing Director of Razorpay cannot be dragged in as there is no concept of vicarious liability in criminal jurisprudence.

6.3. Learned senior counsel would further submit that the entire proceedings are barred by limitation. The punishment under Section 166 of the Act is one year with fine. Since the complaint is registered after three years, it would be hit by Section 468 of the

Cr.P.C. The learned senior counsel further would take this Court through the allegations in the complaint to contend that in the absence of *mens rea* and nexus of the petitioners with the Company – MENTPL, the proceedings must not be permitted to be continued. Learned senior counsel would contend that the allegation is non-adherence to KYC obligation. KYC obligation is the duty of the Bank and not an intermediary like Razorpay. Identical intermediaries are left off and Razorpay is singled out. Therefore, the proceedings must be obliterated.

6.4. In the alternative, learned senior counsel submits that cognizance taken by the concerned Court after the onset of BNSS is contrary to law and therefore, must be obliterated and remitted back to the hands of the concerned Court for fresh consideration in terms of Section 223 (1) of the BNSS. He would seek to place reliance on several judgments of the Apex Court, this Court and different High Courts to buttress the aforesaid contentions. These judgments would bear consideration *qua* their relevance in the course of the order.

7. *Per contra*, the learned Additional Solicitor General of India Sri **Arvind Kamath** would vehemently refute the submissions to contend that the petitioners are Directors of Razorpay, a payment aggregator. The offence against the Directors is the one punishable under Section 166 of the Act. The accusations against the petitioners are based upon statutory investigation under Section 212 of the Act. The backdrop of the allegations is that Chinese controlled illegal digital lending operation have made wrongful gains of about Rs.57/- crores through usurious interest at 30% upfront deduction at the time of payment and coercive recovery. Section 212 of the Act has a wide amplitude and it necessarily extends to persons and entities through whom the affairs were conducted and through whom funds were routed. The routing of money has taken place through fake companies. Razorpay was precisely a conduit carrying Rs.320/- crores of MENTPL's transactions. The prosecution of the petitioners flows from the mandate of the statute under Section 212 of the Act, which empowers the Government of India to take action. Insofar as the order of taking cognizance, it cannot be said that a rowing inquiry or a mini-trial must be conducted at the

time of taking of cognizance. He would, therefore, seek dismissal of the petition.

8. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

9. The afore-narrated facts, the role of these petitioners and them coming into the dragnet of crime are all a matter of record. The submission of the learned Additional Solicitor General of India is that, Section 212 of the Act deals with investigation into the affairs of the company and would include the entities through whom company affairs would be conducted and the funds were routed. It becomes apposite to notice Section 212 of the Act. It reads as follows:

> "**212. Investigation into affairs of Company by Serious Fraud Investigation Office.—(1) Without prejudice to the provisions of Section 210, where the Central Government is of the opinion, that it is necessary to investigate into the affairs of a company by the Serious Fraud Investigation Office—**
>
> **(*a*) on receipt of a report of the Registrar or inspector under Section 208;**

> **(*b*) on intimation of a special resolution passed by a company that its affairs are required to be investigated;**
>
> **(*c*) in the public interest; or**
>
> **(*d*) on request from any Department of the Central Government or a State Government, the Central Government may, by order, assign the investigation into the affairs of the said company to the Serious Fraud Investigation Office and its Director, may designate such number of inspectors, as he may consider necessary for the purpose of such investigation.**
>
> …. …. ….
>
> **(14) On receipt of the investigation report, the Central Government may, after examination of the report (and after taking such legal advice, as it may think fit), direct the Serious Fraud Investigation Office to initiate prosecution against the company and its officers or employees, who are or have been in employment of the company or any other person directly or indirectly connected with the affairs of the company."**

Sub-section (1) of Section 212 of the Act permits the Central Government to direct the SFIO to conduct investigation into the affairs of a Company. Sub-section (14) of Section 212 holds that the Central Government may direct the Central Government to initiate prosecution against the company or any other person directly or indirectly connected with the affairs of the company. The submission of the learned Additional Solicitor General of India

is that, Razorpay is a conduit carrying approximately Rs.320/- crores of MENTPL's transactions.

10. The petitioners are arrayed under Section 166 of the Act on the score that they have a fiduciary duty as Directors of Razorpay, especially when a large amount of money, amounting to approximately Rs.320/- crores is involved in the subject transactions. Whether such fiduciary duty is complied with by the petitioners or whether due-diligence is done by the petitioners or otherwise is a disputed question of fact, which can only be considered at the stage of trial.

11. The submission of the learned senior counsel appearing for the petitioner would all be necessary to be considered at a later point in time and not today, in the light of the matter still being at a nascent stage. The primary submission is that Razorpay is not being made as a party to these proceedings and only its directors. While the matter as observed, is still at a nascent stage and is shrouded with seriously disputed questions of facts. While conducting further investigation or taking it a little forward, the role of Razorpay could come about. At this stage of the proceedings,

there is no warrant of interference in the light of the issue, as observed, being shrouded with seriously disputed questions of facts.

12. It is by now too well settled that this Court while exercising its jurisdiction under Section 528 of the BNSS cannot embark upon a mini-trial and adjudicate upon disputed questions of fact by entering into the merits of allegations.

12.1. The Apex Court in the case of **KAPTAN SINGH v. STATE OF UTTAR PRADESH**[1]**,** has held as follows:

"…. …. ….

> **9.1. At the outset, it is required to be noted that in the present case the High Court in exercise of powers under Section 482 Cr.P.C.,, has quashed the criminal proceedings for the offences under Sections 147, 148, 149, 406, 329 and 386 IPC. It is required to be noted that when the High Court in exercise of powers under Section 482 Cr.P.C.,, quashed the criminal proceedings, by the time the investigating officer after recording the statement of the witnesses, statement of the complainant and collecting the evidence from the incident place and after taking statement of the independent witnesses and even statement of the accused persons, has filed the charge-sheet before the learned Magistrate for the offences under Sections 147, 148, 149, 406, 329 and 386 IPC and even the learned Magistrate also took the cognizance.** From the impugned judgment and order [Radhey Shyam Gupta v. State of U.P.,

[1] **(2021) 9 SCC 35**

2020 SCC OnLine All 914] passed by the High Court, it does not appear that the High Court took into consideration the material collected during the investigation/inquiry and even the statements recorded. **If the petition under Section 482 Cr.P.C.,, was at the stage of FIR in that case the allegations in the FIR/complaint only are required to be considered and whether a cognizable offence is disclosed or not is required to be considered. However, thereafter when the statements are recorded, evidence is collected and the charge-sheet is filed after conclusion of the investigation/inquiry the matter stands on different footing and the Court is required to consider the material/evidence collected during the investigation.** Even at this stage also, as observed and held by this Court in a catena of decisions, the High Court is not required to go into the merits of the allegations and/or enter into the merits of the case as if the High Court is exercising the appellate jurisdiction and/or conducting the trial. As held by this Court in Dineshbhai Chandubhai Patel [Dineshbhai Chandubhai Patel v. State of Gujarat, (2018) 3 SCC 104 : (2018) 1 SCC (Cri) 683] in order to examine as to whether factual contents of FIR disclose any cognizable offence or not, the High Court cannot act like the investigating agency nor can exercise the powers like an appellate court. It is further observed and held that that question is required to be examined keeping in view, the contents of FIR and prima facie material, if any, requiring no proof. **At such stage, the High Court cannot appreciate evidence nor can it draw its own inferences from contents of FIR and material relied on. It is further observed it is more so, when the material relied on is disputed. It is further observed that in such a situation, it becomes the job of the investigating authority at such stage to probe and then of the court to examine questions once the charge-sheet is filed along with such material as to how far and to what extent reliance can be placed on such material.**

9.2. In Dhruvaram Murlidhar Sonar [Dhruvaram Murlidhar Sonar v. State of Maharashtra, (2019) 18 SCC 191 : (2020) 3 SCC (Cri) 672] after considering the decisions of this Court in Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , it is held by this Court that exercise of powers under Section 482 Cr.P.C.,, to

quash the proceedings is an exception and not a rule. **It is further observed that inherent jurisdiction under Section 482 Cr.P.C.,, though wide is to be exercised sparingly, carefully and with caution, only when such exercise is justified by tests specifically laid down in the section itself. It is further observed that appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 Cr.P.C.**, Similar view has been expressed by this Court in Arvind Khanna [CBI v. Arvind Khanna, (2019) 10 SCC 686 : (2020) 1 SCC (Cri) 94] , Managipet [State of Telangana v. Managipet, (2019) 19 SCC 87 : (2020) 3 SCC (Cri) 702] and in XYZ [XYZ v. State of Gujarat, (2019) 10 SCC 337 : (2020) 1 SCC (Cri) 173] , referred to hereinabove.

9.3. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand, we are of the opinion that the High Court has exceeded its jurisdiction in quashing the criminal proceedings in exercise of powers under Section 482 Cr.P.C.,

10. The High Court has failed to appreciate and consider the fact that there are very serious triable issues/allegations which are required to be gone into and considered at the time of trial. The High Court has lost sight of crucial aspects which have emerged during the course of the investigation. The High Court has failed to appreciate and consider the fact that the document i.e. a joint notarised affidavit of Mamta Gupta Accused 2 and Munni Devi under which according to Accused 2 Ms Mamta Gupta, Rs 25 lakhs was paid and the possession was transferred to her itself is seriously disputed. It is required to be noted that in the registered agreement to sell dated 27-10-2010, the sale consideration is stated to be Rs 25 lakhs and with no reference to payment of Rs 25 lakhs to Ms Munni Devi and no reference to handing over the possession. However, in the joint notarised affidavit of the same date i.e. 27-10-2010 sale consideration is stated to be Rs 35 lakhs out of which Rs 25 lakhs is alleged to have been paid and there is a reference to transfer of possession to Accused 2. Whether Rs 25 lakhs has been paid or not the accused have to establish during the trial, because the accused are relying upon the said document and payment of Rs 25 lakhs as mentioned in the joint notarised affidavit dated 27-10-2010. It is also required

to be considered that the first agreement to sell in which Rs 25 lakhs is stated to be sale consideration and there is reference to the payment of Rs 10 lakhs by cheques. It is a registered document. The aforesaid are all triable issues/allegations which are required to be considered at the time of trial. The High Court has failed to notice and/or consider the material collected during the investigation.

11. Now so far as the finding recorded by the High Court that no case is made out for the offence under Section 406 IPC is concerned, it is to be noted that the High Court itself has noted that the joint notarised affidavit dated 27-10-2010 is seriously disputed, however as per the High Court the same is required to be considered in the civil proceedings. There the High Court has committed an error. Even the High Court has failed to notice that another FIR has been lodged against the accused for the offences under Sections 467, 468, 471 IPC with respect to the said alleged joint notarised affidavit. Even according to the accused the possession was handed over to them. However, when the payment of Rs 25 lakhs as mentioned in the joint notarised affidavit is seriously disputed and even one of the cheques out of 5 cheques each of Rs 2 lakhs was dishonoured and according to the accused they were handed over the possession (which is seriously disputed) it can be said to be entrustment of property. Therefore, at this stage to opine that no case is made out for the offence under Section 406 IPC is premature and the aforesaid aspect is to be considered during trial. It is also required to be noted that the first suit was filed by Munni Devi and thereafter subsequent suit came to be filed by the accused and that too for permanent injunction only. Nothing is on record that any suit for specific performance has been filed. Be that as it may, all the aforesaid aspects are required to be considered at the time of trial only.

12. Therefore, the High Court has grossly erred in quashing the criminal proceedings by entering into the merits of the allegations as if the High Court was exercising the appellate jurisdiction and/or conducting the trial. The High Court has exceeded its jurisdiction in quashing the criminal proceedings in exercise of powers under Section 482 Cr.P.C.,

13. Even the High Court has erred in observing that original complaint has no locus. The aforesaid observation is made on the premise that the complainant has not placed on record the power of attorney along with the counter filed before the High Court. However, when it is specifically stated in the FIR that Munni Devi has executed the power of attorney and thereafter the investigating officer has conducted the investigation and has recorded the statement of the complainant, accused and the independent witnesses, thereafter whether the complainant is having the power of attorney or not is to be considered during trial.

14. In view of the above and for the reasons stated above, the impugned judgment and order [Radhey Shyam Gupta v. State of U.P., 2020 SCC OnLine All 914] passed by the High Court quashing the criminal proceedings in exercise of powers under Section 482 Cr.P.C., is unsustainable and the same deserves to be quashed and set aside and is accordingly quashed and set aside. Now, the trial is to be conducted and proceeded further in accordance with law and on its own merits. It is made clear that the observations made by this Court in the present proceedings are to be treated to be confined to the proceedings under Section 482 Cr.P.C., only and the trial court to decide the case in accordance with law and on its own merits and on the basis of the evidence to be laid and without being influenced by any of the observations made by us hereinabove. The present appeal is accordingly allowed."

12.2. The Apex Court in the case of **MUSKAN v. ISHAAN KHAN (SATANIYA)[2],** has held as follows:

"…. …. ….

C. ANALYSIS

17. The main issue that arises for our analysis is whether the High Court was right in quashing the criminal

[2] **2025 SCC OnLine SC 2355**

proceedings against the private respondents primarily on the ground that the earlier complaints did not mention the two specific incidents dated 22.07.2021 and 27.11.2022, which were later on added in the FIR and whether the same would not amount to conducting a '*mini trial*' which is clearly prohibited under the scheme of Section 482 of the Cr. P.C.

…. …. ….

22. On the aspect of the powers of the Courts under Section 482 of the Cr. P.C., it is settled that at the stage of quashing, the Court is not required to conduct a *mini trial.* Thus, the jurisdiction under Section 482 of the Cr. P.C. with respect to quashing is somewhat limited as the Court has to only consider whether any sufficient material is available to proceed against the accused or not. If sufficient material is available, the power under Section 482 should not be exercised.

23. This Court in the case of *State of Odisha* v. *Pratima Mohanty*10 held that:

> "**8.2.** It is trite that the power of quashing should be exercised sparingly and with circumspection and in rare cases. As per the settled proposition of law while examining an FIR/complaint quashing of which is sought, the court cannot embark upon any enquiry as to the reliability or genuineness of allegations made in the FIR/complaint. Quashing of a complaint/FIR should be an exception rather than any ordinary rule. Normally the criminal proceedings should not be quashed in exercise of powers under Section 482 CrPC when after a thorough investigation the charge-sheet has been filed. **At the stage of discharge and/or considering the application under Section 482 CrPC the courts are not required to go into the merits of the allegations and/or evidence in detail as if conducting the mini-trial. As held by this Court the powers under Section 482 CrPC are very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the Court."**

24. Further in the case of *Central Bureau of Investigation* v. *Aryan Singh*11, this Court held that at the stage of Section 482 of the Cr. P.C., the High Court is not required to conduct a mini trial.

> **"6. From the impugned common judgment and order [*Aryan Singh* v. *CBI*, 2022 SCC OnLine P&H 4158] passed by the High Court, it appears that the High Court has dealt with the proceedings before it, as if, the High Court was conducting a mini trial and/or the High Court was considering the applications against the judgment and order passed by the learned trial court on conclusion of trial. As per the cardinal principle of law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the powers under Section 482 CrPC, the Court is not required to conduct the mini trial. The High Court in the common impugned judgment and order has observed that the charges against the accused are not proved. This is not the stage where the prosecution/investigating agency is/are required to prove the charges. The charges are required to be proved during the trial on the basis of the evidence led by the prosecution/investigating agency."**
>
> (emphasis supplied)

25. This Court in *Neeharika Infrastructure Private Limited* (supra) gave following directions to the Courts exercising the power under Section 482 of the Cr. P.C.:

> "***Conclusions***
>
> 33. In view of the above and for the reasons stated above, our final conclusions on the principal/core issue, whether the High Court would be justified in passing an interim order of stay of investigation and/or "no coercive steps to be adopted", during the pendency of the quashing petition under Section 482 CrPC and/or under Article 226 of the Constitution of India and in what circumstances and whether the High Court would be justified in passing the order of not to arrest the

accused or "no coercive steps to be adopted" during the investigation or till the final report/charge-sheet is filed under Section 173 CrPC, while dismissing/disposing of/not entertaining/not quashing the criminal proceedings/complaint/FIR in exercise of powers under Section 482 CrPC and/or under Article 226 of the Constitution of India, our final conclusions are as under:

33.1 ….

33.2. Courts would not thwart any investigation into the cognizable offences.

33.3. It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on.

33.4. The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the "rarest of rare cases" (not to be confused with the formation in the context of death penalty).

33.5. <u>While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint.</u>

33.6 ….

33.7. <u>Quashing of a complaint/FIR should be an exception rather than an ordinary rule.</u>

33.8 to 33.11 ….

33.12. The first information report is not an encyclopedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts

to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure.

33.13 and **33.14** …..

33.15. When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482 CrPC, only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR."

(emphasis supplied)

26. Further, this Court in the case of *State of Telangana* v. *Habib Abdullah Jeelani*12 held that:

"13. 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.

14. In this regard, it would be seemly to reproduce a passage from *Kurukshetra University* [*Kurukshetra University* v. *State of Haryana*, (1977) 4 SCC 451 : 1977 SCC (Cri) 613] wherein Chandrachud, J. (as his Lordship then was) opined thus : (SCC p. 451, para 2)

"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.""
>
> (emphasis supplied)

27. We are of the view that the High Court has erred in law by embarking upon an enquiry with regard to credibility or otherwise of the allegations in the complaints and the FIR. Normally, for quashing an FIR, it must be shown that there exists no *prime facie* case against the accused persons. In the present case, from the conjoint reading of the complaints and the FIR, it can be seen that *prime facie* allegations of harassment and demand of dowry are made out, despite that the High Court quashed the FIR against the private respondents primarily on the ground that the earlier two complaints that were filed by the appellant did not mention the specific instances that happened on 22.07.2021 and 27.11.2022 and the same were later on mentioned in the FIR only as an afterthought and was a counterblast to the legal notice sent by respondent no. 1/husband to the appellant as she was not coming back to her matrimonial home. This approach adopted by the High Court, in our considered opinion, amounts to conducting a *mini trial*."

(Emphasis supplied at each instance)

In the light of the afore-quoted judgments of the Apex Court - and the facts obtaining in the case at hand, it is for the petitioners

to come out clean in a full-blown trial. I do not find any warrant of interference at this juncture.

13. For the aforesaid reasons, the petition lacking in merit, stands **rejected.**

Sd/-
(M.NAGAPRASANNA)
JUDGE

Nvj
CT:MJ