REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1592 OF 2023
(@ SLP (CRL.) NO. 6688 OF 2017)

CHANCHALPATI DAS …APPELLANT

VERSUS

THE STATE OF WEST BENGAL & ANR. …RESPONDENTS

WITH

CRIMINAL APPEAL NO. 1593 OF 2023
(@SLP (CRL.) NO. 6689 OF 2017)

MADHUPANDIT DAS …APPELLANT

VERSUS

THE STATE OF WEST BENGAL & ANR. …RESPONDENTS

J U D G M E N T

BELA M. TRIVEDI, J.

Leave granted.

2. Both the appeals arise out of the common judgment and order dated 22.03.2017 passed by the High Court at Kolkata in CRR No. 1490 of 2013 and CRR. No. 3307 of 2013 whereby the High Court has dismissed both the Criminal Revision Applications seeking quashing of the charge-sheet filed against the appellants-accused, in respect of the FIR no. 33 of 2009 registered at Ballygunge Police Station, for the offences under Sections 468, 471, 406 and 120-B of IPC. As transpiring from the record, the appellant Madhu Pandit Das (accused no.1) is the President of ISKCON, Bengaluru since 1984 and the appellant Chanchalpati Das (accused no. 2) is the Vice President of ISKCON, Bengaluru since 1985. Both of them claim to be the global spiritual leaders and humanitarians. According to the appellants, the International Society for Krishna Consciousness (ISKCON), Bengaluru, is a society registered in 1978 under the Karnataka Societies Registration Act, 1960.

3. As per the case of the respondent-complainant on 30.09.2006, a letter in the form of complaint was addressed to the officer in charge, Ballygunge Police Station, Kolkata, by the General Manager, ISKCON, Kolkata, in which it was alleged *inter alia* that the International Society for Krishna Consciousness (ISKCON), Mumbai is a Society registered since 1971 under the Societies Registration Act, 1860 and Bombay Public Trust Act, 1950, having

its registered office at Hare Krishna Land, Juhu, Mumbai-49. The said Society has many branches/offices all over India including one located at 3C, Albert Road, Kolkata- 700019. The Governing Council of the said Society known as “Bureau” is the highest administrative body. The said Bureau at the relevant time had entrusted Sri Adridharan Das, who was the President of the said Kolkata Branch, with the management of the assets and properties situated at Kolkata Branch, which included a 42-seat deluxe bus of Ashok Leyland make, model Viking Alpsv 4/37-222 WB passenger bus, bearing registration no. WB25A-0454, engine No. WSH 104189, chassis No. WSH042296. The said bus used to be parked at the premises of Kolkata Branch.

4. It was further alleged that when the new management took over the management of the said branch at Kolkata, the said bus was not found in the premises of the said branch. Therefore, Sri Jagdartiha Das, one of the Managers wrote a letter dated 23rd November, 2001 to the Regional Transport Officer, Barasat, Kolkata not to issue any duplicate registration certificate, tax card etc. in respect of the said bus. It was further stated in the said letter dated 30th September, 2006 that a report was also made to the police station on 22.05.2002, however subsequently they came to know that the said bus was in the illegal custody of Sri Madhu

Pandit Das, residing at Hare Krishna HilIs, Rajaji Nagar, Bengaluru, Karnataka. It was also alleged that Mr. Adridharan Das had entered into a criminal conspiracy with Mr. Madhu Pandit Das and others, and that Mr. Adridharan Das had committed theft as well as criminal breach of trust in respect of the said vehicle, which was taken to Bengaluru. It was also alleged that the original registration certificate of the said vehicle was lying at the Kolkata Branch, and that neither Mr. Adridharan Das nor Mr. Madhu Pandit Das or any other person had any authority to get the said vehicle transferred to Bengaluru or to change the name of the registered owner of the said vehicle.

5. It is further case of the respondent-complainant that since the Ballygunge Police Station had not taken notice of the said letter dated 30.09.2006, the complainant Radha Raman Das, the Branch Manager of ISKCON, Kolkata had filed a private complaint in the year 2009 in the court of Chief Judicial Magistrate, Alipore, against the accused Madhu Pandit Das, Chanchalpati Das, Mahajan Das and Adridharan Das seeking investigation under Section 156(3) of Cr.P.C. The said case was registered as criminal case no. 747 of 2009 in the court of Chief Judicial Magistrate, Alipore.

6. It appears that the said Court Petition under Section 156(3) of Cr.P.C was registered as FIR being no. 33 at the Ballygunge Police Station on 20.02.2009 for the offences under Section 379/

411/ 406/ 408/ 120-B/ 468/ 471 IPC. The investigating officer on the completion of investigation submitted the charge-sheet being no. 58 in the court of Chief Judicial Magistrate, Alipore against the accused Madhu Pandit Das, Chanchalpati Das, Mahajan Das and Adridharan Das, for the offences under Section 468, 471, 406 and 120-B IPC on 23.10.2010.

7. The appellant-accused Chanchalpati Das filed a petition being CRR No. 1490 of 2013 and the appellant-accused Madhu Pandit Das filed a petition being CRR No. 3307/2013 before the High Court of Kolkata seeking quashing of proceedings of criminal case no. 747 of 2009 pending before the CJM, Alipore. The High Court vide the common impugned judgement and order dismissed both the Criminal Revisions.

8. The learned Senior Advocate Mr. Shyam Divan for the appellants vehemently submitted that the prosecution initiated against the appellants by the respondent-complainant was only an attempt to harass the appellants under the guise of the bus theft case to settle the personal scores with appellants, as the appellants were able to create around 30 ISKCON/Hare Krishna Movement associated Centres under the aegis of ISKCON Bengaluru, who follow the teachings of Srila Prabhupada, by keeping him as the sole Diksha Acharya. He further submitted that the allegations in the complaint/FIR are not only absurd and improbable, but there is

no reasonable possibility of the appellants being convicted for the alleged offences after the trial. Relying upon the documents with regard to the transfer of registration of the bus in question, he submitted that the said bus was registered at Kolkata on 20.11.1998, however thereafter was registered at Bengaluru on 22.05.2002 after the execution of necessary documents of transfer and at present the bus is lying in the dump yard at Vrindavan, Uttar Pradesh. According to him, filing of an FIR in 2009 for the alleged theft of bus taken place in 2002, was sheer abuse of process of law. Even the Investigating Officer has failed to collect and produce any documents or evidence along with the charge-sheet with regard to the alleged forgery and fabrication of documents. Mr. Diwan has placed reliance on the decisions in ***State of Haryana and Ors. Vs. Bhajan Lal and Ors.***[1], in ***G. Sagar Suri and Anr. Vs. State of U.P. and Ors.***[2], in ***Madhavrao Jiwajirao Scindia and Ors. Vs. Sambhajirao Chandrojirao Angre and Ors.***[3], in ***Subal Ghorai and Ors. vs. State of West Bengal***[4] to buttress his submissions. Lastly, he submitted that to put a quietus in the matter, the ISKCON Bengaluru is ready and

1 1992 Supp. (1) SCC 335
2 (2000) 2 SCC 636
3 (1988) 1 SCC 692
4 2013 (4) SCC 607

willing to purchase a latest model brand new Ashok Leyland bus in the name of ISKCON Kolkata directly.

9. *Per contra*, learned Senior Advocate Mr. K. Venugopal appearing on behalf of respondent no. 2-complainant submitted that both the appellants have been charged by the respondent no. 1 State for the offence under Sections 468, 471, 406 and 120-B IPC as per the final report submitted by the investigating officer and there being a *prima facie* case made out against the appellants, which even the High Court had recorded in the impugned order, this Court may not interfere with the same. According to him, the documents of registration produced by the appellants, claiming to have been received under the RTI from the concerned Regional Transport Authority, Bengaluru, have been produced for the first time before this Court and the same could not be taken into consideration. He further submitted that the underlying complaint pertained to only one luxury bus in comparison to the huge business empire including real estate built by the appellant-accused, cannot detract from, or minimise the gravity of the offences of forgery, cheating and breach of trust allegedly committed by the appellants. He also submitted that the proposal of appellants-accused to give a new bus to ISKCON Kolkata cannot be accepted, as the offences alleged against the appellants

are not compoundable under Section 320 of Cr.P.C. Mr. Venugopal has placed reliance on the decisions in ***Central Bureau of Investigation Vs. Maninder Singh***[5]***; State of Gujarat Vs. Gajanand M. Dalwadi (Dead) by LRS.***[6]***; Jasbir Singh vs. Tara Singh and Ors.***[7]***; Jagdish Ram Vs. State of Rajasthan & Anr.***[8]***; Kaptan Singh Vs. State of Uttar Pradesh and Ors.***[9]***; Central Bureau of Investigation Vs. Arvind Khanna***[10] in support of his submissions that the criminal proceedings against the appellants may not be quashed.

10. Having gone through the pleadings of the parties and the documents on record and having anxiously considered the submissions made by the learned counsel for the parties, it emerges that according to the complainant-respondent, a letter in the form of complaint was written by the Branch Manager of the ISKCON Kolkata, on 30.09.2006 addressed to the officer in-charge, Ballygunge Police Station, Kolkata, in respect of an alleged theft of a bus having taken place in 2001, however, no action was taken by the said police station. Though, the complainant had reported the matter to the concerned Police Station earlier on 22nd May, 2002, however, no action was taken in

5 (2016) 1 SCC 389
6 (2008) 1 SCC 716
7 (2016) 16 SCC 441
8 (2004) 4 SCC 432
9 (2021) 9 SCC 35
10 (2019) 10 SCC 686

that regard. It is pertinent to note that with regard to the said allegations against the concerned police station, there is nothing on record to suggest that either the said report dated 22.05.2002 or the letter dated 30.09.2006 was ever received by the concerned police station or any follow up action was taken by the respondent-complainant in that regard. According to the respondent-complainant, since no action was taken on the letter dated 30th September, 2006 written to the concerned Police Station, the complaint was lodged in the court of Chief Judicial Magistrate, Alipore on 10th February, 2009, which was registered as C.R. Case No. 747 of 2009, seeking investigation under Section 156(3) of Cr.P.C.

11. It is again pertinent to note that, even as per the case of the complainant, the alleged incident of bus theft had taken place in the year 2001, and it was only in 2009 that the substantial complaint was made in the Court of Chief Judicial Magistrate, Alipore. It is just not believable that the concerned Ballygunge Police Station, Kolkata would not have taken any action on the report made in 2002 on behalf of the powerful body like the ISKCON Kolkata, or on the letter dated 30.09.2006 written by the Branch Manager of the ISKCON, Kolkata. The respondent no. 2-complainant also did not take any concrete action for getting the

said complaint registered with regard to the alleged theft of bus for a long period of eight years, till the complaint in the Court was filed in the year 2009. In the opinion of the Court such an inordinate delay of eight years in filing the complaint in the court itself would be a sufficient ground to quash the proceedings. If the luxury bus owned by the ISKCON, Kolkata Branch in 1998 was so precious to them, they would not have sat silent for such a long time of eight years. In our opinion, the criminal machinery set into motion by filing the complaint for the alleged incident which had taken place eight years ago, that act itself was nothing but a sheer misuse and abuse of the process of the court.

12. That apart, from the bare perusal of the complaint filed before the Court, on the basis of which the FIR was registered at the Ballygunge Police Station on 20th February, 2009, it is discernible that except bald allegations made in the complaint with regard to the theft of bus in question there was no material or document produced by the complainant to substantiate the allegations against the appellants. Even after the investigation of the said complaint, there was no evidence collected by the investigating officer to prima facie satisfy the ingredients constituting the alleged offences under Sections 468, 471, 406 and 120B of IPC. Even if the allegations made in the complaint as well as in the

Chargesheet are taken at their face value none of the ingredients constituting the alleged offences are culled out. The learned Senior Counsel Mr. Shyam Divan for the appellants had strenuously urged relying upon the documents pertaining to the transfer of ownership and registration of the said bus, that the said documents were executed by the then authorized persons of the ISKCON Kolkata, in our opinion, the said documents could not be considered in these proceedings, the same being not the part of the charge-sheet papers. In any case, there is nothing to suggest from the other documents on record of the instant appeals that the investigating officer had even bothered to collect any cogent or substantive evidence against the appellants to prosecute them for the alleged offences. There was no expert opinion obtained or scientific evidence collected on the documents allegedly forged to show as to by whom, when and how the theft of vehicle and forgery of documents were committed. Under the circumstances, allowing such prosecution to continue would not only be an empty formality but would be gross wastage of court's precious time.

13. It cannot be gainsaid that the High Courts have power to quash the proceedings in exercise of powers under Section 482 of Cr.P.C. to prevent the abuse of process of any Court or otherwise to secure the ends of justice. Though the powers under Section

482 should be sparingly exercised and with great caution, the said powers ought to be exercised if a clear case of abuse of process of law is made out by the accused. In the ***State of Karnataka Vs. L. Muniswamy and Ors.***[11] had held that the criminal proceedings could be quashed by the High Court under Section 482 if the court is of the opinion that allowing the proceedings to continue would be an abuse of the process of the court or that the ends of justice require that the proceedings are to be quashed.

14. This Court, way back in 1992 in the landmark decision in case of ***State of Haryana and Ors. Vs. Bhajan Lal and Ors*** (Supra), after considering relevant provisions more particularly Section 482 of the Cr.P.C. and the principles of law enunciated by this Court relating to the exercise of extra-ordinary powers under Article 226, had laid down certain guidelines for the exercise of powers of quashing, which have been followed in umpteen number of cases. The relevant part thereof reads as under:

> "102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

11 (1977) 2 SCC 699

(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 Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

15. In ***State of A.P. Vs. Golconda Linga Swamy & Another***[12] this Court had observed that the Court would be justified to quash the proceedings if it finds that initiation or continuance of such proceedings would amount to abuse of the process of Court.

12 2004 (6) SCC 522

16. As regards inordinate delay in filing the complaint it has been recently observed by this Court in ***Hasmukhlal D. Vora & Anr. vs. State of Tamil Nadu***[13] that though inordinate delay in itself may not be a ground for quashing of a criminal complaint, however unexplained inordinate delay must be taken into consideration as a very crucial factor and ground for quashing a criminal complaint.

17. In the light of afore-stated legal position, if the facts of the case are appreciated, there remains no shadow of doubt that the complaint filed by the respondent-complainant after an inordinate unexplained delay of eight years was nothing but sheer misuse and abuse of the process of law to settle the personal scores with the appellants, and that continuation of such malicious prosecution would also be further abuse and misuse of process of law, more particularly when neither the allegations made in the complaint nor in the chargesheet, disclose any prima facie case against the appellants. The allegations made against the appellants are so absurd and improbable that no prudent person can ever reach to a conclusion that there is a sufficient ground for proceeding against the appellants-accused.

18. Before parting, a few observations made by this Court with regard to the misuse and abuse of the process of law by filing false and frivolous proceedings in the Courts need to be reproduced. In the

13 2022 SCC Online SC 1732

Court. In ***Dalip Singh vs. State of Uttar Pradesh and Others***[14] it was observed that:

> "1. For many centuries Indian society cherished two basic values of life i.e. "satya" (truth) and "ahimsa" (non-violence). Mahavir, Gautam Buddha and Mahatma Gandhi guided the people to ingrain these values in their daily life. Truth constituted an integral part of the justice-delivery system which was in vogue in the pre-Independence era and the people used to feel proud to tell truth in the courts irrespective of the consequences. However, post-Independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings."

19. In ***Subrata Roy Sahara vs. Union of India and Others***[15] it was observed as under:

> "191. The Indian judicial system is grossly afflicted with frivolous litigation. Ways and means need to be evolved to deter litigants from their compulsive obsession towards senseless and ill-considered claims."

20. We would like to add that just as bad coins drive out good coins from circulation, bad cases drive out good cases from being heard on time. Because of the proliferation of frivolous cases in the courts, the real and genuine cases have to take a backseat and are not being heard for years together. The party who initiates and continues a frivolous, irresponsible and senseless litigation or who

14 (2010) 2 SCC 114
15 (2014) 8 SCC 470

abuses the process of the court must be saddled with exemplary cost, so that others may deter to follow such course. The matter should be viewed more seriously when people who claim themselves and project themselves to be the global spiritual leaders, engage themselves into such kind of frivolous litigations and use the court proceedings as a platform to settle their personal scores or to nurture their personal ego.

21. Having regard to the facts and circumstances of the present case and for the reasons stated hereinabove, we deem it appropriate to quash the criminal proceedings pending against the appellants in the Court of Chief Judicial Magistrate, Alipore, arising out of the FIR No. 33 of 2009 registered at Ballygunge Police Station, and quash the same.

22. The appeals stand allowed, with cost of Rs. 1,00,000/- which shall be deposited by the respondent-complainant in the office of the Supreme Court Advocates-on-Record Association.

……. J.
[AJAY RASTOGI]

…….J.
[BELA M. TRIVEDI]

NEW DELHI
18.05.2023

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

SLP (Crl) NO. 4539 OF 2023

MADHUPANDIT DAS ...PETITIONER

VERSUS

THE STATE OF WEST BENGAL & ANR. ...RESPONDENTS

WITH

SLP (Crl) NO. 4603 OF 2023

CHANCHALPATI DAS ...PETITIONER

VERSUS

THE STATE OF WEST BENGAL & ANR. ...RESPONDENTS

J U D G M E N T

BELA M. TRIVEDI, J.

1. Both the petitions arise out of the order dated 17.02.2023 passed by the High Court at Kolkata in CRR 4062 of 2022 whereby the High Court has directed the concerned Judicial Magistrate at Alipore to specifically fix the date for consideration of the charge within one month from the date of communication of order and further to conclude the trial within ten months taking recourse to the provision contained in Section 309 of Cr.P.C.

2. In view of the judgment passed by this Court in Criminal Appeal No. 1592 of 2023 (@ SLP (CRL.) NO. 6688 OF 2017) & Criminal Appeal No. 1593 of 2023 (@SLP (CRL.) NO. 6689 OF 2017), the present petitions do not survive and stand disposed of accordingly.

……. J.
[AJAY RASTOGI]

…….....J.
[BELA M. TRIVEDI]

NEW DELHI
18.05.2023