appellant, we fail to see what will be gained by the appellant by reproducing an incorrect clause of the Trust Deed. We are satisfied that non-mention of the word "not" is only a mistake, which is neither deliberate nor with any intent to mislead this Court. The complainant cannot be allowed to make any capital of such mistake.

24. We, thus, come to the conclusion that in the present case, the Appellate Court has failed to exercise its jurisdiction under Section 391 Cr.P.C. and has committed error in rejecting the applications under Section 391 Cr.P.C. (14 Kha and 17 Kha). The order of the Appellate Court dated 02.11.2015 as well as order of the High Court dated 15.03.2016 are set aside. The applications 14 Kha and 17 Kha stand allowed. We further direct that appellant be permitted to lead oral evidence to prove the contents of the Deed dated 18.10.1989 by leading at-least one witness. The Appellate Court shall receive the additional evidence as directed above and complete the exercise within six months from the date of production of certified copy of this order before it. The Criminal Appeal, thereafter shall be decided expeditiously. The appeal is allowed accordingly.

***Result*:-** Appeal allowed.

ABC 2019 (I) 175 SC

ACQUITTAL & BAIL CASES

SUPREME COURT OF INDIA

(Uday Umesh Lalit & Dr. Dhananjaya Y. Chandrachud, JJ.)

Criminal Appeal No. 56 of 2019

(Arising out of Special Leave Petition (Crl.) No.8143 of 2018)

(From Allahabad High Court)

Decided On 11 January, 2019

SRI SURESH KUMAR GOYAL AND OTHERS - Appellant(s).

Versus

STATE OF UTTAR PRADESH AND ANOTHER - Respondent(s).

Law Covered*:-** ***(A) Code of Criminal Procedure, 1973 — Section 482 — Quashing of the proceedings at the stage of issuance of process — or at the stage of committal— or at the stage of framing of charges— before the commencement of actual trial —Steps to be considered by High Court — (i) whether the material relied upon by the accused is sound, reasonable, and indubitable i.e. the material is

of sterling and impeccable quality? — (ii) whether the material relied upon by the accused would rule out the assertions contained in the charges levelled against the accused — (iii) whether the material relied upon by the accused has not been refuted by the prosecution/ complainant; and/or the material is such that it cannot be justifiably refuted by the prosecution/complainant? — (iv) whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice? — If the answer to all the steps is in the affirmative, the judicial conscience of the High Court should persuade it to quash such criminal proceedings — Rajiv Thapar and Others v. Madan Lal Kapoor — relied. (Para 12)

(B) Code of Criminal Procedure, 1973 — Sections 345(2) & 482 — Indian Penal Code, 1860 — Sections 420, 323 & 504 —Complaint against father brother & brother-in-law over custody of shares — Application for discharge —Shares in question, right since the date of acquisition have always been in the custody of Appellant No.1. (father) —the acquisition was from the funds of father — Allegation by complainant that the funds came from his bank account but no material placed in support —the father had disowned Respondent No.2 — Allegations of beating & intimidation completely devoid of any substance — Held, the present criminal complaint is nothing but an attempt to wreck vengeance against the father & other relatives — Quashed — appellant discharged. (Para 13)

Facts:- *In the present appeal the order passed by the Allahabad High Court, dismissing application preferred by the appellants u/s 482 CrPC, has been challenged. As per the facts, Respondent No.2 filed a complaint against his father, brother and brother-in-law alleging therein that he had purchased shares in his name and jointly with his brother. The said shares were in the custody of his father and when he demanded back his original shares and bonus shares, the appellants misbehaved with him and refused to disclose anything to him. It was thus alleged that the appellants had betrayed and cheated Respondent No.2 and were guilty of offences punishable u/ss 406, 420, 467, 471, 323, 504, 506, 447 and 448 IPC. However, the trial Court found that no ground to summon the appellants for trial was made out and the application was dismissed. The aforesaid order was, however, set aside by the Sessions Court and remanded the matter. The appellants preferred application u/s 482 CrPC in the High Court. Said application was disposed of by the High Court observing that if the appellants moved an application u/s 245(2) CrPC the same be heard and disposed of expeditiously. Accordingly, an application u/s 245(2) CrPC was moved for discharge which was rejected by the Additional Chief Judicial*

Magistrate and it was observed that sufficient grounds to frame charges u/ss 420, 323 and 504 IPC were made out. The aforesaid order was challenged u/s 482, CrPC, however, the application was dismissed as noted above.

In the present appeal it was observed by the hon'ble Supreme Court that that the father of the complainant (Appellant no.1) had disowned him and had filed civil proceedings seeking appropriate orders against him, the present criminal complaint is nothing but an attempt to wreck vengeance against the father, brother and the brother-in-law of the complainant. It was held that the instant criminal complaint is an abuse of the process of Court and is required to be quashed.

Law of relief:- Unawareness of complainant regarding material details is fatal to prosecution.

Held:- While dealing with the jurisdiction under Section 482 CrPC to quash the proceedings at the stage of issuance of process, or at the stage of committal, or at the stage of framing of charges, that is to say before the commencement of actual trial, in the light of material placed on record by the accused, this Court in ***Rajiv Thapar and Others v. Madan Lal Kapoor, (2013) 3 SCC 330*** laid down as under:-

> 30. Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashment raised by an accused by invoking the power vested in the High Court under Section 482 CrPC:
>
> 30.1. *Step one*: whether the material relied upon by the accused is sound, reasonable, and indubitable i.e. the material is of sterling and impeccable quality?
>
> 30.2. *Step two*: whether the material relied upon by the accused would rule out the assertions contained in the charges levelled against the accused i.e. the material is sufficient to reject and overrule the factual assertions contained in the complaint i.e. the material is such as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false?
>
> 30.3. *Step three*: whether the material relied upon by the accused has not been refuted by the prosecution/complainant; and/or the material is such that it cannot be justifiably refuted by the prosecution/complainant?

30.4. *Step four*: whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

30.5. If the answer to all the steps is in the affirmative, the judicial conscience of the High Court should persuade it to quash such criminal proceedings in exercise of power vested in it under Section 482 CrPC. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as proceedings arising therefrom) specially when it is clear that the same would not conclude in the conviction of the accused." (Para-12)

In the present case the shares in question, right since the date of acquisition have always been in the custody of Appellant No.1. The material on record is absolutely clear that the acquisition was from the funds of Appellant No.1. The complainant has merely alleged that the funds came from his bank account but beyond such allegations no material has been placed on record at any stage. The stand taken by the appellants in their application under Section 245 (2) CrPC is quite clear that the shares can be sold in the market and the proceeds can be divided between Appellant No.2 and Respondent No.2. If Respondent No.2 is insisting on having complete ownership in respect of the concerned shares, the matter must first be established before a competent forum. We have considered the material on record through the steps indicated in **Rajiv Thapar v. Madan Lal Kapoor** (supra) and are convinced that the instant case calls for interference under Section 482 CrPC. Further, from the facts that Appellant No.1 had disowned Respondent No.2 and had filed civil proceedings seeking appropriate orders against them, we are also convinced that the present criminal complaint is nothing but an attempt to wreck vengeance against the father, brother and the brother in law of the complainant. The instant criminal complaint is an abuse of the process of Court and is required to be quashed. (Para-13)

Counsel:- ***For Appellant(s):*** *Mr. Venkita Subramoniam T.R, Adv.*

For Respondent(s): *Mr. Amlan Kumar Ghosh , Adv.*

Cases Referred:-

Rajiv Thapar and Others v. Madan Lal Kapoor, (2013) 3 SCC 330, (Para-12)

JUDGMENT

a ***UDAY UMESH LALIT, J.: -*** 1. Leave granted. This appeal challenges the order dated 29.05.2018 passed by the High Court of Judicature at Allahabad dismissing application preferred by the appellants under Section 482 CrPC being Application No.22324 of 2011.

b 2. Respondent No.2 filed Complaint No.3804 of 2009 in the Court of 3rd Additional Chief Judicial Magistrate, Ghaziabad on 02.12.2009 against Appellant Nos.1, 2 and 3 namely his father, brother and brother-in-law. The main allegations as set out in paragraphs 3, 4, 5, 7 and 10 of the Complaint were as under:-

c

> "3. THAT Complainant had purchased 2 folios consisting of 100 shares of Reliance Industry. 1st folio was in the name of the Complainant and accused no.2 and 2nd folio was in the joint names of accused no.2 and complainant. The
> d address in these shares is House no. KC-102/2, Kavi Nagar, Ghaziabad. Thereafter Reliance company sent to complainant 100 shares in the year 1997 and 200 shares of their company in this year itself.
>
> 4. THAT all the accused in furtherance of their
> e conspiracy beat the Complainant and threw him out of the house along with his children in the year 1998 for mala fide reasons. They also forged signatures of complainant in the years 1997 and 2006 and illegally procured bonus shares and when complainant demanded back his original shares and
> f bonus shares from them, they misbehaved with the complainant and refused to disclose anything to him. The complainant is presently living in Chiranjiv Vihar with his children for the sake of lives of himself and his children and
> g also to maintain peace in the family.
>
> 5. THAT Folio number of the shares is 068119227 and complainant is not aware of the number of 2nd folio and he will provide it later on whenever he comes to know of it. Because all the shares are in the custody of the accused. Not
> h only this, 100 shares of M/s. Amrit Banaspati Co. Ltd., belonging to Complainant, are also in the custody of the accused.
>
> 7. THAT all the original shares had been handed over to accused no.2 by the complainant after purchasing them for safe custody.

10. THAT all shares of complainant are in custody of accused and cost of the shares is approx. Rs.4.50 Lacs."

3. It was thus alleged that the appellants had betrayed and cheated Respondent No.2 and were guilty of offences punishable under Sections 406, 420, 467, 471, 323, 504, 506, 447 and 448 IPC. However, by his order dated 18.06.2010 the 3rd Additional Chief Judicial Magistrate, Ghaziabad found that no ground to summon the appellants for trial was made out and the complaint being devoid of merits was liable to be dismissed under Section 203 CrPC. The aforesaid order was, however, set aside in Criminal Revision No.179 of 2010 preferred by Respondent No.2 by the Additional Sessions Judge, Court No.2, Ghaziabad, who by his order dated 11.11.2010 remanded the matter with a direction to pass fresh orders after granting an opportunity of hearing to Respondent No.2. The appellants being aggrieved, preferred application under Section 482 CrPC being Application No.9156 of 2011 in the High Court. Said application was disposed of by the High Court on 23.03.2011 observing that if the appellants moved an application under Section 245(2) CrPC the same be heard and disposed of expeditiously.

4. Accordingly, an application under Section 245(2) CrPC was moved by the appellants. Paragraphs 6 to 15 of the application for discharge dealt with acquisition of shares of Reliance Industries Ltd.

"6. THAT true and correct position is that an application for allotment of 100 debentures of M/s. Reliance Polythene Limited was given by the co- applicant, Suresh Goyal in the year 1993. This application was filed by him for allotment of shares in the names of his sons i.e. Arun Kumar Goyal (i.e. the complainant) and Devinder Kumar Goyal and for which the said co-applicant had given a cheque of his own bank.

7. THAT thereafter Reliance Polythene Limited issued 100 debentures of their Company being Debenture Nos. 004959401 to 004959500 vide Master Folio No.68119227 and Certificate No.0049595 on the basis of above application of applicant Suresh Kumar Goyal on 15.4.1993.

8. THAT thereafter above said 100 debentures were converted by M/s. Reliance Polythene Limited into shares and accordingly issued 100 shares bearing Share Nos.154702201 to

154702300 in the names of Arun Kumar Goyal (i.e. the complainant) and Devinder Kumar Goyal vide Master Folio no.68119227 and Certificate No.00545523. It is pertinent to mention here that conversion of debentures into 100 shares vide Master Folio No.68119227 was done by the above said company in pursuance of their own policy and no application for this conversion was ever given by the applicant.

9. THAT later on M/s. Reliance Polythene Limited merged with M/s. Reliance Industries Limited and thereafter 25 shares of this company in lieu of above said 100 shares were allotted by the company according to their policy bearing Share Nos. 400314745 to 400314769 in the names of Arun Kumar Goyal (i.e. complainant) and Devinder Kumar Goyal vide Folio No.68119227 and Certificate No.056387476. It is pertinent to mention here that this conversion of shares into 25 shares was also done by the Company under their own policy. The above shares were issued under Folio No.68119227.

10. THAT thereafter M/s. Reliance Industries Limited issued 25 shares of their company in the names of Arun Kumar Goyal (i.e. complainant) and Devinder Kumar Goyal bearing Share Nos.400314745 to 400314769 Folio No.68119227 and Certificate No.056387476.

11. THAT later on Reliance Industries Limited divided its company into 4 companies, whose names are mentioned hereinafter, under their Policy and issued 50 shares each in the joint names of Arun Kumar Goyal (i.e. complainant) and Devinder Kumar Goyal –

(a) Reliance Energy Ventures Limited: Folio No.001486420, Certificate No. 000148642, Share Nos.0007302483 to 0007302532 dated 27.1.2006 – Total No. of shares 50.

(b) Reliance Communication Ventures Limited: Folio No.001486420, Certificate No. (Illegible) Share Nos. (Illegible) dated (Illegible) – total no. of shares 50.

(c) Reliance Resources Limited: Folio No.001486420, Certificate No.000148642, Share Nos. 0007302483 to 0007302532 dated 27.1.2006 – Total No. of shares 50.

(d) Reliance Capital Ventures Limited: Folio No.001486420, Certificate No.000148642, Share Nos. 0007302483 to 0007302532 dated 27.1.2006 – Total No. of shares 50.

12. THAT thereafter 3 new Companies were formed in the names of Reliance Capital Limited, Reliance Energy Limited and Reliance Power Limited under the Company Policy after merging all the above named 4 companies and following shares were issued in the joint names of Arun Kumar Goyal (i.e. complainant) and Devinder Kumar Goyal –

(a) M/s. Reliance Capital Limited: Master Folio No.102341601, Certificate No.016334160, share Nos. 0225139303 to 0225139305 = 2 Shares.

(b) M/s. Reliance Energy Limited: Master Folio No.102341601, Certificate no. 015734160, share Nos.0213764143 to 0213764145 = 3 Shares.

(c) M/s. Reliance Power Limited: Master Folio No.20148620, Certificate no. (Illegible), share Nos. 23978999076 to 2397899087 = 12 Shares.

13. THAT thereafter M/s. Reliance Industries Limited under its Company policy issued 50 bonus shares in the joint names of Arun Kumar Goyal (i.e. complainant) and Devinder Kumar Goyal vide Folio No.608119227, Certificate No.622733328, Share Nos.002226357219 to 00222357268 dated 28.11.2009.

14. THAT in this manner it would be apparent from the above facts that 100 shares of Reliance Industries Co.; 2 shares of Reliance Capital Limited; 3 shares of Reliance Energy Limited; and 12 shares of Reliance Power Limited have been issued in the joint names of Arun Kumar Goyal (i.e. complainant) and Devinder Kumar Goyal. These shares were sent by the company at House No.KC-102/2, Kavi Nagar, Ghaziabad i.e. the address maintained in their records. The originals of all the above shares are available with Devinder Kumar Goyal. In this manner, it would be apparent from the above that neither the applicants nor the complainant have purchased these shares from the open market. All the shares have been allotted by the company in lieu of the money paid

by Suresh Kumar Goyal (i.e. father of Arun Kumar Goyal and Devinder Kumar Goyal) although these shares have been issued by company in the joint names of Arun Kumar Goyal and Devinder Kumar Goyal. None of the applicants had given any application in writing for collecting bonus shares nor any one of them ever attempted to sell any of these shares. Therefore allegation of the complainant that applicants have obtained bonus shares by cheating and/or by forging his signatures, is patently wrong and false and accused emphatically deny the same. (illegible).

15. THAT it thus becomes evident from perusal of above facts that no shares have been purchased by Arun Kumar Goyal either from the Company or from the open market."

5. Similarly, the acquisition of shares of M/s. Amrit Vanaspati Company Ltd. was also dealt with and it was asserted:-

"18. THAT all the above shares are in joint names. It is pertinent to mention here that no one can either sell or transfer the shares which are in the joint names nor anyone can change the address, unless and until both the shareholders agree and sign for this.

19. THAT no other shares have been purchased except the above shares. Therefore, the allegations of complainant that he will furnish details/information of one other folio as and when he becomes aware of that, are patently wrong, false and baseless and applicants emphatically deny such allegations.

20. THAT it is thus evident from the above facts that all the shares allotted by M/s. Reliance Industries have been issued in the joint names of Arun Kumar Goyal (i.e. complainant) and Devinder Kumar Goyal. Resultantly Complainant and Devinder Kumar Goyal have equal share in the above shares. Originals of all these shares are in the possession of Devinder Kumar Goyal.

21. THAT similarly shares allotted by M/s. Amrit Vanaspati Company are also in the joint names of Arun Kumar Goyal (i.e. complainant) and Devinder Kumar Goyal and consequently both the complainant and Devinder Kumar

Goyal have equal shares in them. The originals of these shares are also in possession of Devinder Kumar Goyal.

22. THAT Anil Kumar Garg has absolutely nothing to do with this case. He is the real Son-in- law of Suresh Kumar Goyal and that is why he too has been falsely implicated in this case.

23. THAT Suresh Kumar Goyal and Devinder Kumar Goyal even offered the Complainant-Arun Kumar Goyal to collect money of his half share in the above shares after selling them in the open market. But he is not ready for this offer. He is not entitled to demand all the shares."

6. The application for discharge was rejected by the Additional Chief Judicial Magistrate, Court No.3, Ghaziabad vide his order dated 14.06.2011. While so rejecting, it was observed that sufficient grounds to frame charges under Sections 420, 323 and 504 IPC were made out.

7. The aforesaid order was challenged by the appellants by filing application under Section 482 CrPC namely Application No.22324 of 2011. The High Court noted the contentions on behalf of the appellants as under:

"As applicant no. 1 was not happy with the conduct of the opposite party no.2, he disowned him and also filed O.S. No.406 of 2007 in the court of Civil Judge (Senior Division), Ghaziabad for a decree of declaration. A criminal complaint was also initiated by applicant no.1 against the opposite party no.2 under Sections 420, 406, 409, 321, 323, 385, 442 IPC.

.....

On 2.12.2009, the opposite party no. 2 filed a Complaint Case No.3884 of 2009 against the applicants on the ground that opposite party no. 2 had purchased shares from the Reliance Industries in the name of complainant and applicant no. 2. It is further alleged in the complaint that in the year 1997 and in the year 2006 by making forged signature of the complainant bonus shares were received by the applicants and original shares were also in the possession of the applicants. In spite of demand same has not been handed over to the complainant. It is further alleged in the complaint that applicants with mala fide intention on 9.10.2007 sent a letter to the company which was received to the company on

10.10.2007 and thereafter complainant on 15.8.2009 and 17.8.2009 sent mails to the company in this regard.

It is submission of the learned counsel for the applicants that shares were purchased by the applicant no. 1, although they were also in the name of opposite party no.2. At no point of time any forgery has been committed and preparation of any act cannot be termed as forgery."

8. However, the High Court observed that in a petition under Section 482 CrPC disputed questions of fact could not be gone into and whether the shares were purchased by the appellants or by Respondent No.2 was a matter of evidence and as such no interference was called for. The aforesaid application was thus dismissed by the High Court on 29.05.2018, which decision is presently under challenge.

9. In support of the appeal, it was submitted that the instant complaint was a counter blast after Appellant No.1 had disowned Respondent No.2 by issuing an advertisement in the newspaper and swearing an affidavit to that effect; and after he had filed a civil suit seeking injunction against Respondent No.2 from coming to the house of the appellants and causing any hindrance; and after a criminal complaint was filed by the Appellant No.1 against Respondent No.2. It was submitted that as disclosed in the application under Section 245(2) CrPC, the entire funding for acquisition of the shares in question had come from Appellant No.1 in the year 1992-1993 when Respondent No.2 was a youngster aged about 24 years. In support of the assertion that the acquisition was from the funds of Appellant No.1, the photocopies of the concerned bank accounts were also placed on record. On the other hand, the learned counsel for Respondent No.2 reiterated the submission that the issue of ownership was essentially a question of fact which had to be decided in the pending complaint and that the matter ought not to be entertained in an application for discharge. In support of the submission that Respondent No.2 had acquired those shares from his own funds, reliance was placed upon a typewritten extract showing debit entries of Rs.1250/-, Rs.1250/- and Rs.500/- dated 04.05.1993, 08.06.1994 and 15.10.1994 which extract was however without any details.

10. This Court adjourned the matter to enable the parties to arrive at an amicable settlement whereafter the appellants agreed to

withdraw all the cases filed by them against Respondent No.2 on the condition that similar such cases filed by Respondent No.2 against them also be withdrawn, giving quietus to all the proceedings between the parties. Respondent No.2, however, did not agree to the proposal.

11. The thrust of the allegations in the complaint is that the shares in question were acquired from the funds of the complainant, though they have always stood in the names of the complainant and his brother. It is also accepted that the shares have always been in the custody of the father i.e. Appellant No.1. Beyond mere allegation that the funds for acquisition came from his bank account, nothing has even been suggested by the complainant. The entries dated 04.05.1993, 08.06.1994 and 15.10.1994 relied upon by him are much after the issuance of 100 debentures by Reliance Polythene Ltd. on 15.04.1993. As detailed in the application under Section 245(2) CrPC the basic acquisition was these 100 debentures which investment, with the passage of time, got converted and progressed to the present level. The complainant was not even aware of these details. The allegations of beating and intimidation are of the year 1998 and completely devoid of any substance. The question is: are these aspects sufficient to invoke the jurisdiction to discharge the appellants or should the appellants be made to go through the rituals and rigour of trial.

12. While dealing with the jurisdiction under Section 482 CrPC to quash the proceedings at the stage of issuance of process, or at the stage of committal, or at the stage of framing of charges, that is to say before the commencement of actual trial, in the light of material placed on record by the accused, this Court in ***Rajiv Thapar and Others v. Madan Lal Kapoor, (2013) 3 SCC 330*** laid down as under:-

> **"28.** The High Court, in exercise of its jurisdiction under Section 482 CrPC, must make a just and rightful choice. This is not a stage of evaluating the truthfulness or otherwise of the allegations levelled by the prosecution/complainant against the accused. Likewise, it is not a stage for determining how weighty the defences raised on behalf of the accused are. Even if the accused is successful in showing some suspicion or doubt, in the allegations levelled by the prosecution/ complainant, it would be impermissible to discharge the accused before trial. This is so because it would result in giving finality to the accusations levelled by the prosecution/

complainant, without allowing the prosecution or the complainant to adduce evidence to substantiate the same. The converse is, however, not true, because even if trial is proceeded with, the accused is not subjected to any irreparable consequences. The accused would still be in a position to succeed by establishing his defences by producing evidence in accordance with law. There is an endless list of judgments rendered by this Court declaring the legal position that in a case where the prosecution/ complainant has levelled allegations bringing out all ingredients of the charge(s) levelled, and have placed material before the Court, prima facie evidencing the truthfulness of the allegations levelled, trial must be held.

29. The issue being examined in the instant case is the jurisdiction of the High Court under Section 482 CrPC, if it chooses to quash the initiation of the prosecution against an accused at the stage of issuing process, or at the stage of committal, or even at the stage of framing of charges. These are all stages before the commencement of the actual trial. The same parameters would naturally be available for later stages as well. The power vested in the High Court under Section 482 CrPC, at the stages referred to hereinabove, would have far-reaching consequences inasmuch as it would negate the prosecution's/complainant's case without allowing the prosecution/complainant to lead evidence. Such a determination must always be rendered with caution, care and circumspection. To invoke its inherent jurisdiction under Section 482 CrPC the High Court has to be fully satisfied that the material produced by the accused is such that would lead to the conclusion that his/their defence is based on sound, reasonable, and indubitable facts; the material produced is such as would rule out and displace the assertions contained in the charges levelled against the accused; and the material produced is such as would clearly reject and overrule the veracity of the allegations contained in the accusations levelled by the prosecution/ complainant. It should be sufficient to rule out, reject and discard the accusations levelled by the prosecution/complainant, without the necessity of recording any evidence. For this the material relied upon by the defence should not have been refuted, or

alternatively, cannot be justifiably refuted, being material of sterling and impeccable quality. The material relied upon by the accused should be such as would persuade a reasonable person to dismiss and condemn the actual basis of the accusations as false. In such a situation, judicial conscience of the High Court would persuade it to exercise its power under Section 482 CrPC to quash such criminal proceedings, for that would prevent abuse of process of the court, and secure the ends of justice.

30. Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps to determine the veracity of a prayer for quashment raised by an accused by invoking the power vested in the High Court under Section 482 CrPC:

30.1. *Step one*: whether the material relied upon by the accused is sound, reasonable, and indubitable i.e. the material is of sterling and impeccable quality?

30.2. *Step two*: whether the material relied upon by the accused would rule out the assertions contained in the charges levelled against the accused i.e. the material is sufficient to reject and overrule the factual assertions contained in the complaint i.e. the material is such as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false?

30.3. *Step three*: whether the material relied upon by the accused has not been refuted by the prosecution/complainant; and/or the material is such that it cannot be justifiably refuted by the prosecution/complainant?

30.4. *Step four*: whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

30.5. If the answer to all the steps is in the affirmative, the judicial conscience of the High Court should persuade it to quash such criminal proceedings in exercise of power vested in it under Section 482 CrPC. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as proceedings arising therefrom) specially when it is

clear that the same would not conclude in the conviction of the accused."

13. In the present case the shares in question, right since the date of acquisition have always been in the custody of Appellant No.1. The material on record is absolutely clear that the acquisition was from the funds of Appellant No.1. The complainant has merely alleged that the funds came from his bank account but beyond such allegations no material has been placed on record at any stage. The stand taken by the appellants in their application under Section 245(2) CrPC is quite clear that the shares can be sold in the market and the proceeds can be divided between Appellant No.2 and Respondent No.2. If Respondent No.2 is insisting on having complete ownership in respect of the concerned shares, the matter must first be established before a competent forum. We have considered the material on record through the steps indicated in **Rajiv Thapar v. Madan Lal Kapoor** (supra) and are convinced that the instant case calls for interference under Section 482 CrPC. Further, from the facts that Appellant No.1 had disowned Respondent No.2 and had filed civil proceedings seeking appropriate orders against them, we are also convinced that the present criminal complaint is nothing but an attempt to wreck vengeance against the father, brother and the brother in law of the complainant. The instant criminal complaint is an abuse of the process of Court and is required to be quashed.

14. We, therefore, allow this appeal, set aside the orders passed by the Courts below and allow the application for discharge under Section 245(2) CrPC in complaint No.3804 of 2009 on the file of third Additional Chief Judicial Magistrate, Ghaziabad.

15. Since we have found that the initiation of complaint was not a *bona fide* exercise, we direct Respondent No.2 to pay a sum of Rs.25,000/- (Rupees twenty five thousand only) within two months from today to each of the appellants by way of costs for initiating frivolous litigation.

***Result*:-** Appeal allowed and initiation of complaint was found not a *bona fide* exercise, cost imposed for initiating frivolous litigation.

March 2019