



CrPC S. 482 - Judicial comity and judicial discipline demands that higher courts should follow the law - High Court has passed the orders staying the investigations of the FIRs and ECIR in question in utter disregard of the said settled legal position. [PLRonline 438700]

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High Court has passed the orders staying the investigations of the FIRs and ECIR in question in utter disregard of the said settled legal position - In our opinion, it's a matter of serious concern that this is despite the legal position settled by this Court in catena of decisions - Without undermining the powers of the High Court under Section 482 of Cr.PC to quash the proceedings if the allegations made in the FIR or complaint prima facie do not constitute any offence against the accused, or if the criminal proceedings are found to be manifestly malafide or malicious, instituted with ulterior motive etc., we are of the opinion that the High Court could not have stayed the investigations and restrained the investigating agencies from investigating into the cognizable offences as alleged in the FIRs and the ECIR, particularly when the investigations were at a very nascent stage - It hardly needs to be reiterated that the inherent powers under Section 482 of Cr.PC do not confer any arbitrary jurisdiction on the High Court to act according to whims or caprice - The statutory power has to be exercised sparingly with circumspection and in the rarest of rare cases. In a way, by passing such orders of staying the investigations and restraining the investigating agencies from taking any coercive measure against the accused pending the petitions under Section 482 Cr.PC, the High Court has granted blanket orders restraining the arrest without the accused applying for the anticipatory bail under Section 438 of Cr.PC.

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