

State of Andhra Pradesh v. Goloconda Linga Swamy, (2004) 6 SCC 522.

SUPREME COURT OF INDIA

Before:- S.N. Variava and Arijit Pasayat, JJ.

STATE OF ANDHRA PRADESH – Appellant

Versus

GOLOCONDA LINGA SWAMY and another – Respondents

Criminal Appeal No. 1180 of 2003.

27.7.2004.

CrPC S. 482 - Quashing - Types of materials the High Court can assess to quash an FIR - Court drew a fine distinction between consideration of materials that were tendered as evidence and appreciation of such evidence - Only such material that manifestly fails to prove the accusation in the FIR can be considered for quashing an FIR.

- **The authority of the court exists to advance justice and prevent injustice.**
- **The court has the power to prevent the abuse of its authority.**
- **The court can quash any proceeding if it finds that it amounts to an abuse of the court's process or if quashing the proceedings would serve the ends of justice.**
- **The court may examine the question of fact when no offense is disclosed by the complaint.**
- **When seeking to quash a complaint, the court can assess the allegations and determine if any offense is made out, even if the allegations are accepted in their entirety.**

Held,

Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent such abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation or 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.

- **It is important to distinguish between cases where there is no legal evidence or where there is evidence that is clearly inconsistent with the accusations made, and cases where there is legal evidence that may or may not support the accusation.**
- **The High Court should not usually question the reliability of evidence or whether the accusation would be sustained. That is the function of the trial judge.**
- **The court should be careful and consider all relevant facts and circumstances before issuing a process under Section 482 of the Code, to avoid being an instrument in the hands of a private complainant to harass any person needlessly.**
- **The Section is not meant to be used by an accused to short-circuit a prosecution and bring about its sudden death.**

Held,

In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusation. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge. Judicial process no doubt should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the Section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death.

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