

## P.V. Prabhakara Rao Vs Enforcement Directorate

**Court:** Andhra Pradesh High Court

**Date of Decision:** March 11, 1998

**Acts Referred:** Civil Procedure Code, 1908 (CPC) â€” Section 132

Criminal Procedure Code, 1973 (CrPC) â€” Section 482

Foreign Exchange Regulation Act, 1973 â€” Section 13, 18(1), 19(1), 40, 40(3)

Penal Code, 1860 (IPC) â€” Section 174, 193, 228

**Citation:** (1998) 2 ALD 677 : (1998) 1 ALD(Cri) 613 : (1998) 1 ALT(Cri) 392 : (1998) CriLJ 2507

**Hon'ble Judges:** R. Bayapu Reddy, J

**Bench:** Single Bench

**Advocate:** Mr. C. Padmanabha Reddy for Mr. C. Praveen Kumar, for the Appellant; Mr. B. Adinarayana Rao, SC for Central Government and Public Prosecutor, for the Respondent

### Judgement

1. This Criminal Petition is filed u/s 482 Cr.P.C. by the accused in C.C.No. 17/98 on the file of the Special Judge for Economic Offences,

Hyderabad for quashing the proceedings therein.

2. The first respondent herein, which is the Enforcement Directorate (Foreign Exchange Regulation Act), Hyderabad, represented by its Chief

Enforcement Officer, Hyderabad, filed a complaint before the Special Judge for Economic Offences, Hyderabad against the petitioner herein, who

is the accused, for the offences under Sections 56 read with Section 40 of the Foreign Exchange Regulation Act, 1973 (for short, "the Act"),

contending as follows :

The complainant is a Central Government Investigating Agency relating to the offences covered under the Act. The role of the petitioner herein is

suspected regarding unauthorised receipt of payments and kick backs in this country and abroad in the case popularly known as "Urea Scam",

where it came to be known during the course of investigation that huge amounts were received by various persons by way of commissions and a

part of such amount was received through "Hawala" channels in India. In connection with the investigation in the said case, the petitioner was

required to be interrogated and examined by the complainant In that connection, summons were issued on number of occasions at the instance of

the complainant u/s 40 of the Act requiring the petitioner herein to appear before the complainant at Hyderabad for being examined and

interrogated and he however disobeyed the summons even though he was having knowledge of such summons which could not be served upon

him personally and which were affixed to the door of his residence. Such summons were issued on the last occasion on 17-2-98 requiring the

petitioner to appear before the complainant on 23-2-1998 and inspite of the same, he failed to appear before the complainant and instead gave an

evasive reply. Non-appearance of the petitioner in pursuance of such summons u/s 40 of the Act is an offence punishable u/s 56 of the said Act.

As such, the complaint was filed before the Special Judge for Economic Offences, Hyderabad on 28-2-1998 for the offence u/s 56 read with

Section 40 of the Act

3. After going through the contents of the complaint filed on 28-2-98 and after recording the sworn statement of the Chief Enforcement Officer,

who filed the complaint on behalf of the complainant, the learned Special Judge for Economic Offences took the case on file on 5-3-1998 for the

above said offences and issued Non Bailable Warrants to secure the presence of the petitioner as it was felt that summons might not be served on

him in view of his past conduct, and as the case, which was taken on file, is a warrant case.

4. The accused has chosen to file the present Criminal Petition u/s 482 Cr.P.C. for quashing those proceedings in C.C. 17/98, contending that the

failure to attend before the complainant in pursuance of the summons issued u/s 40 of the Act is not an offence punishable u/s 56 of the Act; that

Section 56 of the Act does not cover such cases; that the petitioner/ accused has been suffering from heart trouble and was undergoing treatment

in various Hospitals and was taking rest as per the advice of the Doctors and could not, therefore, attend before the complainant in pursuance of

the summons issued to him; that he had in fact appeared before the complainant on two prior occasions when similar summons were issued to him

and he was examined by the complainant on those occasions; that he is not involved as an accused in the "Urea Scam" case; that the complainant

has been harassing him by issuing repeated summons to appear before it; that there is no prima facie case against him for any offence under the

Act; that the learned Special Judge for Economic Offences has, however, ignored all these circumstances and took the case on file against him; that

he also issued Non-Bailable Warrants for his arrest instead of issuing summons to him at the first instance and that in view of such circumstances,

the proceedings in C.C.17/98 shall be quashed.

5. Even before admission, Sri B. Adinarayana Rao, Advocate for the first respondent took notice on 9-3-1988 and the matter was posted on 10-

3-1998 for hearing both sides. On 10-3-1998 Sri C. Padmanabha Reddy, senior Counsel appearing for the petitioner and Sri B. Adinarayana

Rao, learned Advocate appearing for the first respondent/complainant addressed their arguments at length in support of their respective

contentions regarding the points in dispute in the present case and the matter is being disposed of on merits as the arguments were addressed by

both sides at length with regard to all the disputed aspects.

6. The point for consideration is whether there are valid and justifiable reasons for quashing the proceedings in C.C. 17/98 on the file of the Special

Judge for Economic Offences, Hyderabad, which were taken on file against the petitioner/accused for the offences u/s 56 read with Section 40 of

the Foreign Exchange Regulation Act, 1973 ?

7. The facts in the case are not disputed. The petitioner is said to be required for the purpose of interrogation for the alleged offence under the

provisions of the Act in connection with the case came to be popularly known as ""Urea Scam"", and as such the respondent, who is the Chief

Enforcement Officer, Enforcement Directorate, issued summons to the petitioner as contemplated u/s 40 of the Act to appear before him for the

purpose of such interrogation. As seen from the complaint petition and the sworn statement given by the respondent before the lower Court, such

summons were issued on a number of occasions, and the latest summons were issued on 3-2-98 requiring the petitioner to appear before the

respondent on 11-2-98, and as he did not appear in pursuance of those summons, fresh summons were issued on 17-2-98 requiring the petitioner

to appear on 23-2-98. It is now admitted, as seen from the replies given by the petitioner that he was aware of such summons even though the said

summons could not be personally served on him as he was absent at his residence. It is also admitted that he did not appear before the respondent

in pursuance of any of those summons for the purpose of interrogation as required in those summons. Instead, he appears to have sent replies

dated 16-2-98 and 22-2-98 expressing his inability to appear before the respondent for the reasons mentioned in those replies, and requiring the

respondent to send a questionnaire and promising to answer such questionnaire. The summons issued to the petitioner u/s 40 of the Act were to

require him to be present personally before the respondent for the purpose of interrogation and not for sending any replies to any questionnaire that

might be furnished to him by the respondent. Therefore, the respondent came to the opinion, in view of such conduct of the petitioner in not

obeying the summons to appear personally before him, that he had contravened the directions given to him in the said summons issued as

contemplated u/s 40 of the Act. Inasmuch as he felt that the provisions of Section 40 of the Act were contravened by the petitioner, the respondent

filed the complaint before the lower Court u/s 56 of the Act for punishing the petitioner for contravention of such directions given in the summons

under the Act. After going through the averments in the complaint petition and after recording the sworn statement of the respondent, the lower

Court came to the opinion that there is prima facie material to take the complaint on file, and as such the complaint was taken on file for the offence

under Sections 56 read with 40 of the Act on 5-3-98 as CC.No.17/ 98. These facts are not disputed by the learned Counsel for the petitioner

even though he tries to contend that such summons were unnecessarily issued by the respondent with a view to harass the petitioner even though

the petitioner has not committed any offence in the ""Urea Scam"".

8. The main contention of the learned Counsel for the petitioner in the present proceedings is that even if the petitioner is said to have failed to

appear before the respondent for the purpose of interrogation in pursuance of the summons served on him, such contravention of the directions

contained in the summons issued u/s 40 of the Act is not an offence punishable u/s 56 of the Act, under which the complaint was filed by the

respondent and taken on file by the lower Court, and therefore, the proceedings in the above said criminal case should be quashed. His contention

in this regard is that Section 56 of the Act speaks about offences with reference to amount or value, and it is identified and substantiated only in

terms of extent and value of the money involved in the offence, that contravention of the provisions of Section 40 by failing to obey the directions

contained in the summons to appear before the respondent, cannot be computed in terms of value or amount so as to attract the provisions of

Section 56, and therefore, the complaint filed by the respondent u/s 56 of the Act cannot be taken cognizance and the lower Court has erred in

doing so. He has also tried to rely upon the decision of the Kerala High Court rendered in *Itty v. Assistant Director*, 1991 (2) KLT 441 and the

unreported decision of the Madras High Court in *Crl. O.P.No.5468/96 (C. Sampath Kumar v. Enforcement Officer, Enforcement Directorate)*

and in *Crl. O.P.No.5629/96 (A.N. Dyaneswaran v. Enforcement Officer, Enforcement Directorate)* dated 1-8-97 rendered by Jayarama Chouta,

J. in support of his contentions. But such contentions of the learned Counsel for the petitioner cannot be accepted in view of the nature of the

offences alleged in the present case and the relevant provisions of the Act.

9. Section 40 of the Act relates to power of the concerned authorities to summon persons to give evidence and produce documents whenever it is

required to do so. Section 40 of the Act reads as follows:

40. Power to summon persons to give evidence and produce documents -(1) Any gazetted officer of Enforcement shall have power to summon

any person whose attendance he considers necessary either to give evidence or to produce a document during the course of any investigation or

proceeding under this Act.

(2) A summons to produce documents may be for the production of certain specified documents or for the production of all documents of a certain

description in the possession or under the control of the person summoned.

(3) All persons so summoned shall be bound to attend either in person or by authorised agents, as such officer may direct; and all persons so

summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements and produce such

documents as may be required:

Provided that the exemption u/s 132 of the Code of Civil Procedure, 1908 (5 of 1908) shall be applicable to any requisition for attendance under

this section

(4) Every such investigation or proceeding as aforesaid shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of

the Indian Penal Code (45 of 1860).

10. It is clear from the provisions of sub-section (3) of Section 40 that all persons so summoned shall be bound to attend and to state the truth

upon any subject respecting which they are examined. Failure to attend and give statement in pursuance of such summons clearly amounts to

disobeying the directions given by the concerned authority u/s 40. Section 56 of the Act relates to offences and prosecutions. Section 56 reads as

follows:

56. Offences and prosecutions - (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person

contravenes any of the provisions of this Act other than Section 13, clause (a) of sub-section (1) of Section 18, clause (a) of sub-section (1) of

Section 19, sub-section (2) of Section 44 and Sections 57 and 58, or of any rule, direction or order made thereunder, he shall, upon conviction by

a Court, be punishable -

(i) in the case of an offence the amount or value involved in which exceeds one lakh of rupees, with imprisonment for a term which shall not be less

than six months, but which may extend to seven years and with fine:

Provided that the Court may, for any adequate and special reasons to be mentioned in the judgement, impose a sentence of imprisonment for a

term of less than six months;

(ii) in any other case, with imprisonment for a term which may extend to three years or with fine or with both.""

Sub-section (1) of Section 5 of the Act applies not only to a case where a person contravenes any of the provisions of the Act, other than the

provisions excepted therein, but also to the contravention of any rule, direction or order made under the Act. In the present case, as already stated

above, the petitioner has contravened the directions given by the respondent in the summons issued u/s 40 of the Act to appear before him by

failing to make his appearance and give statements in person Therefore, Section 56 of the Act is clearly applicable for convicting and sentencing

the petitioner for contravention of the directions given u/s 40 of the Act.

11. The learned Counsel for the petitioner, however, tries to contend, as already stated above, by referring to the provisions of clause (i) of

Section 56 that it contemplates an offence with reference to amount or value involved in such offence, and that inasmuch as the contravention of the

direction given in the summons issued to the petitioner u/s 40 of the Act cannot be evaluated in terms of any amount or value, the petitioner cannot

be punished u/s 56 of the Act for contravention of such direction. It is no doubt true that clause (i) contemplates an offence in terms of amount and

value involved in such offence, but clause (ii) of Section 56 provides that ""in any other case"" i.e. cases other than those mentioned in clause (i), the

offender can be punished upon conviction by a Court with imprisonment for a term which may extend to three years or with fine or with both. The

learned Counsel for the petitioner, however, tries to contend by reviving upon the above cited decisions of the Kerala High Court and Madras

High Court that the words ""in any other case"" mentioned in clause (ii) of Section 56 of the Act refer only to cases where the amount or value

involved is one lakh of rupees or less than that as against the provision of clause (i) thereof, where such amount or value involved in the offence

exceeds one lakh of rupees, and that the said words ""in any other case"" cannot be taken so as to cover the offences which do not involve any

amount or value: Such contention put forward by the learned Counsel for the petitioner no doubt, found favour with the Kerala High Court and the

Madras High Court in the above two decisions, but such contention of the learned Counsel for the petitioner cannot be accepted, and with respect,

I do not propose to agree with the view expressed in the above two decisions of the Kerala High Court and Madras High Court.

12. It is specifically provided in clause (a) of Section 56 of the Act that the offender shall, upon conviction by a Court for contravention of any of

the provisions of the Act or the directions or orders made under the Act, be punished for such offence with imprisonment for a term which shall not

be less than six months, but which may extend to seven years or with fine if the amount or value involved in such offence exceeds one lakh of

rupees. Therefore, as far as the offences punishable under clause (i) of Section 56 are concerned, there must be amount or value involved in such

offence so as to sentence the offender. But clause (ii) of Section 56 of the Act provides that ""in any other case"" the offender shall be punished

with imprisonment for a term which may extend to three years or with fine or with both. If the intention of the Legislature was to provide that the

offence punishable under clause (ii) of Section 56 shall also involve any amount or value, it would have been specifically mentioned in clause (ii) to

that effect But, instead of doing so, clause (ii) is made applicable to all other cases of contravention of any of the provisions of the Act or the

directions or orders made under the Act. Contravention of the directions given in the summons issued u/s 40 of the Act is punishable u/s 56 of the

Act even though no amount or value is involved in such contravention.

13. This view is clearly fortified when we refer to the various provisions of the Act. Section 43 of the Act can be referred to by way of example in

this connection. Section 43 refers to inspection of the books and accounts and other documents of any authorised dealer by an officer of the

Enforcement. Section 43(2) of the Act provides that it shall be the duty of every authorised dealer to produce to any officer making an inspection

under sub-section (1) of the books and accounts and other documents in his custody or power and furnish him with any statement or information

relating to the affairs of the authorised dealer. Sub-section (4) of Section 43 of the Act provides"" that if any person fails to produce any books or

accounts as directed under sub-section (2), ""he shall be deemed to have contravened the provisions of the Act"". Therefore, it is clear from such

provision that failure to produce books and accounts before an officer of the Enforcement at the time of inspection is declared as contravention of

the provisions of the Act. Section 56(1) of the Act, which has already been referred above, specifically provides that if any person"" contravenes

any of the provisions of the Act"", he shall be punished for such contravention. Failure to produce books and accounts at the time of inspection,

which is deemed to be a contravention of the provisions of the Act as per Section 43(4) of the Act, is not an offence involving any amount or value

as contemplated under clause (i) of Section 56 of the Act; but it is still an offence, as it is declared as contravention of the provisions of the Act,

and as such punishable u/s 56 of the Act. It is to cover such offences which may not involve any amount or value as well as offences where the

amount or value involved is less than one lakh of rupees that clause (ii) appears to have been introduced in Section 56 of the Act. Therefore, the

words ""in any other case"" mentioned in clause (ii) of Section 56 of the Act refer to all other cases which are not covered by clause (i) of Section 56

whereunder the offence can be punished when the amount or value involved exceeds one lakh rupees. As seen from the various provisions of the

Act, there are some contraventions of the provisions of the Act or the directions or orders made under the Act, which have money value and also

contraventions which do not have any such amount or value involved therein. It cannot be said for a moment that all such contraventions of the

provisions of the Act and the orders or directions made under the Act should be left unpunished under the Act if they do not have any monetary

value. Therefore, the contravention of the directions contained in the summons issued u/s 40 of the Act is clearly punishable under clause (ii) of

Section 56 of the Act. Such view of mine was also expressed by the Madras High Court in an unreported decision rendered in

Crl.O.P.No.312792 (M.P. Jain v. Assistant Director), and which is referred to by the Madras High Court in its decision in Crl.O.P.Nos.5468 and

5629 of 1996, and also in another subsequent decision in Crl.O.P.No.5718/96 dated 30-8-97 (N. Sasikala v. Enforcement Officer, Enforcement

Directorate). In Crl.O.P. No.5718/96, J. Kanakaraj, J. of the Madras High Court did not agree with the opinion expressed by the Madras High

Court in its earlier decision in Crl.O.P.Nos.5468 and 5629 of 1996, regarding the applicability of Section 56(1)(ii) of the Act for contravention of

the provisions of Section 40 of the Act, and therefore, referred the matter to a Division Bench for decision.

14. The learned Counsel for the petitioner has tried to contend that the Delhi High Court has admitted a criminal petition filed u/s 482 Cr.P.C. for

quashing the complaint filed by the Enforcement Directorate for a similar offence u/s 56 read with Section 40 of the Act and granted stay of all

further proceedings before the trial Court. But it has to be seen that the said criminal petition was not heard and disposed of by the Delhi High

Court on merits after hearing both sides. An ex parte interim stay alone appears to have been granted after admitting the petition and posted it for

regular hearing. The learned Counsel for the petitioner further tries to submit that the Enforcement Directorate has filed SLP for questioning the

above cited judgment of the Madras High Court (Crl. O.P.Nos.5468 and 5629 of 1996) and the Supreme Court by order dated 13-10-97

merely issued notice to the respondent without suspending the operation of the judgment, and as such the opinion expressed by the Madras High

Court in the said decision has to be taken into consideration. In this connection, the learned Counsel for the respondent submitted that in the said



S.L.P., notice was ordered by the Supreme Court on 13-10-97 and leave was granted on 29-1-98. A copy of the said order dated 29-1-98 is

also produced by him before this Court. He therefore, submitted that the correctness of the view expressed by the Madras High Court in

Crl.O.P.Nos.5468 and 5629 of 1996 is in question before the Supreme Court, and therefore, the circumstances sought to be put forward by the

learned Counsel for the petitioner cannot be said to be of any assistance in support of his contention that the contravention of the directions

contained in the summons issued u/s 40 of the Act cannot be punished u/s 56 of the Act. For the above said reasons I hold that the contravention

of the directions contained in the summons issued u/s 40 of the Act is punishable u/s 56 of the Act.

15. It is further to be seen from the provisions of Section 56(1) of the Act that in cases where it was felt by the Legislature that certain

contraventions should be excluded from the provisions of the said Section 56, it is specifically mentioned so therein, and in that connection,

contravention of the provisions of Section 13. Section 18(1)(a), Section 19(1)(a), Section 44(2), Section 57 and Section 58 are specifically

excluded from the operation of Section 56 of the Act. A separate provision is made for punishing such contraventions under other relevant

provisions of the Act. For instances, Section 67 of the Act provides for contravention of the provisions of Section 13, Section 18(1)(a) and

Section 19(1)(a). Similarly, Section 44(2) of the Act relates to prohibition of disclosure of document or information by any officer or Enforcement

except in the discharge in good faith of his official duties and provides for punishment for such disclosure, and it is therefore, a self-contained

provision for punishment for such offences. So also Section 57 is a self-contained provision to deal with offences enumerated therein. Therefore,

for obvious reasons, the above said provisions of the Act have been kept out of the purview of Section 56 and the Legislature has clearly

enumerated such cases which are exempted from the purview of Section 56 wherever it was felt necessary, and as such those contraventions will

have to be dealt with under those other relevant provisions of the Act and not u/s 56 of the Act. Similarly, offences which involve any amount or

value are contemplated to be covered under clause (i) of Section 56 of the Act, and all other cases, whether having monetary value or not and

which are covered by various other provisions of the Act are to be dealt with under clause (ii) of Section 56 of the Act. The provisions for

prosecution of the offenders under the Act have been enacted for vindicating public justice and for punishment of the offender for delinquent

infraction of the law. When a person contravenes the provisions of Section 40 of the Act, it cannot be said for a moment that such contravention

shall be left unpunished under the provisions of the Act on the ground that it does not involve any monetary value even though a specific provision

under clause (ii) of Section 56 is enacted to cover all other cases which are offences and which are not having any monetary value. Therefore, in

view of such circumstances, and as there is prima facie material before the lower Court for taking cognizance of the case, it cannot be said that the

proceedings in C.C.No. 17/98 on the file of the lower Court can be quashed u/s 482 Cr.P.C. at this stage.

16. The learned Counsel for the petitioner has also tried to put forward various other contentions. It is sought to be contended that the petitioner is

not an accused in the "Urea Scam", and therefore, is not required to appear before the Enforcement Officer, that he had appeared on earlier

occasions in pursuance of such summons issued to him and he was also examined on those occasions, and summons are once again issued to him

on 3-2-98 and 17-2-98 only with a view to harass him, that the petitioner is suffering from a heart disease and is taking treatment and rest on the

advise of doctors, and under those circumstances, he could not appear before the respondent in pursuance of the latest summons issued to him,

and that he is being harassed by the respondent by issuing such summons periodically. All such contentions can be put forward only during the trial

of the case before the lower Court in his defence and the lower Court will consider such circumstances during the trial of the case. But as far as the

present petition, filed u/s 482 Cr.P.C. is concerned, it is now admitted that inspite of summons issued u/s 40 of the Act on 3-2-98 and on 17-2-98

requiring the petitioner to appear before the respondent, and inspite of the fact that such summons were brought to his notice well before the dates

on which he was required to appear in pursuance of such summons, he failed to make his appearance before the respondent, and there by

contravened the provisions of Section 40 of the Act. Under those circumstances, the lower Court felt that there is prima facie material to take the

case on file u/s 56 of the Act for the contravention of the provisions of Section 40 of the Act, and therefore, it took the case on file. Therefore, it is

not a fit case where the proceedings can be quashed u/s 482 Cr.P.C. on such grounds urged by the learned Counsel for the petitioner.

17. The learned Counsel for the petitioner further tries to contend that instead of issuing summons to the petitioner, who is an accused in C.C.No.

17/98, the lower Court directly issued non-bailable warrants, and such conduct on the part of the Presiding Officer is to be deprecated. Issuing of

non-bailable warrant for apprehending the accused is a subsequent act after the case is taken on file. Taking the case on file is one thing and taking

steps to apprehend the accused is another thing. Taking steps to apprehend the accused either by issuing summons or warrants is in the discretion

of the Presiding Officer after the case is taken on file, and the fact that non-bailable warrant was issued for the arrest of the accused cannot be a

ground for quashing the proceedings in the said case. As a matter of fact, the Presiding Officer has discussed in his orders, the reasons for which

he chose to issue non-bailable warrant for apprehending the accused. In view of his previous conduct, in disobeying the summons issued earlier by

the respondent, taking advantage of the protection rendered to him by the Special Protection Group and his status. in life, and as the case taken on

file is a warrant case where non-bailable warrant can be issued, the lower Court issued non-bailable warrant for apprehending the petitioner.

Hence, this contention of the learned Counsel for the petitioner cannot be taken as a ground for quashing the proceedings in C.C. 17/98.

18. It is also sought to be contended by the learned Counsel for the petitioner that failure to obey the summons issued to the petitioner by the

respondent will be an offence u/s 174 IPC, and that the respondent ought to have filed a complaint against (he petitioner only for such offence u/s

174 IPC and not u/s 56 of the FERA. Such contention cannot be accepted. It is no doubt true that Section 174 IPC deals with an offence for not

obeying the summons or notices issued by a public servant legally competent to issue such summons or notices; but on that count it cannot be said

that the complaint cannot be filed u/s 56 of the Act when such provision is also applicable to deal with offence u/s 40 of the Act. Inasmuch as the

Foreign Exchange Regulation Act is a special Act and Section 56 of the Act can be utilised for punishing a person who contravenes any provisions

of the Act, including Section 40 of the Act, the conduct of the respondent in taking such proceedings by filing complaint, cannot be faulted on the

ground that Section 174 IPC will apply to such a case.

19. It is further to be seen in this connection that subsequent to the issuing of summons u/s 40 of the Act by the respondent, the petitioner chose to

file W.P.No. 18965/97 in the High Court and obtained interim stay of operation of the summons. Subsequently, the WPMPs were disposed of by

a single Judge of this Court on 18-12-97 vacating the interim stay granted earlier and granting time to the petitioner to appear before the

Enforcement Officer within the specified time in pursuance of the summons. The petitioner, thereupon filed W.A.No. 147697 against the orders in

WPMP No.23011/97 and batch, and the said writ appeal was dismissed on 18-12-97 granting time to the petitioner to appear before the

concerned officer on 29-12-97. As the petitioner failed to appear before the respondent by the said specified date, the respondent appears to

have issued summons on 3-2-98 and 17-2-98 requiring the petitioner to appear before him, and such summons were disobeyed. Under those

circumstances, the respondent filed a complaint before the lower Court u/s 56 read with Section 40 of the Act, and the lower Court rightly took

cognizance of the case as there is prima facie material to do so. In view of these circumstances, it is not a fit case where proceedings in C.C.No.

17/98 can be quashed u/s 482 Cr.P.C. at this stage.

20. In the result, the criminal petition is dismissed.