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C.A.No. 730-731 OF 2001  
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IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.730-731 OF 2001@@  
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(Arising out of SLP(Criminal)Nos.4188-4189 of 2000)

Gangappa .....Appellant

versus

Thimmanna & Anr. ....Respondents

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.SP2

Heard learned counsel for the parties.  
Delay condoned.  
Leave granted.

The High Court on an application filed under Section 482 of Cr.P.C. by the accused has set aside the cognizance order passed by the learned Magistrate observing:

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"I feel that there is no prima-facie case to go on with the proceedings. Since the proceedings are going on for a long time, I think the ends of justice would be adequately met with if the impugned order is set aside. Hence the following order.

In the result, the petition is allowed. The impugned order is set aside."

.SP2  
The High Court has neither discussed any material nor given any reason in support of the finding that there is no case to go on with the proceedings. The learned Magistrate after recording the initial

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statements of the complainant and the other witnesses produced by him had taken cognizance of the offences under Section 365, 506, 323 read with Section 34 of I.P.C. We are of view that the order of the High Court is unsustainable and has to be set aside. Accordingly, the appeals are allowed and the order under challenge is set aside.

.SP1  
.....J.  
(D.P. MOHAPATRA)

New Delhi,  
July 13, 2001

.....J.  
(SHIVARAJ V. PATIL)