HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 16837 OF 2025

BETWEEN:

SRI. GANAPATHY MANICKAM,
S/O MANICKAM,
AGED ABOUT 47 YEARS,
R/AT G.1302, PURVA HIGHLAND,
19, MAALLASANDRA OFF,
KANAKAPURA ROAD,
NEAR KUMARAN SCHOOL,
THALAGHATTAPURA,
BENGALURU – 560 062.

…PETITIONER

(BY SRI. YESHU MISHRA, ADVOCATE)

AND:

1. STATE OF KARNATAKA,
   BY CYBER CRIME POLICE STATION,
   REPRESENTED BY SPP,
   HIGH COURT BUILDING,
   BENGALURU – 560 082.

2. RAGHAVENDRA PANDIT,
   AGED ABOUT 38 YEARS,
   R/AT NO. U13, GANESHA BLOCK,
   1ST MAIN ROAD, SESHADRIPURA,
   BENGALURU.

3. SILICOMP INDIA PVT. LTD.,
(ALSO KNOWN AS FIME INDIA),
A SUBSIDIARY OF FIME SAS,
FRANCE, THROUGH ITS AUTHORIZED
REPRESENTATIVE RAGHAVENDRA PANDIT,
REGISTERED OFFICE AT SARODE BUILDING,
NO. 743, 15TH CROSS, 6TH PHASE,
100 FEET ROAD, J.P.NAGAR,
BENGALURU – 560 078.

…RESPONDENTS

(BY SMT. B.PUSHPALATHA, ADDL. SPP FOR R1;
SMT. SHIVANI P.MURTHY, ADVOCATE FOR
SRI. ARJUN RAO, ADVOCATE FOR R2 AND R3)

THIS CRL.P IS FILED U/S 528 BNSS PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN CC.NO.7576/2024 PENDING ON THE FILE OF THE XLV ADDL. CJM, BENGALURU FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 43, 65 AND 66 OF THE I.T. ACT, 2000 AND SECTION 447 OF THE COMPANIES ACT, 1956 AND SECTIONS 34, 120B, 379, 408, 420, 409, 403, 381, 418, 405 AND 415 OF THE IPC, 1860 ARISING OUT OF CRIME NO.1650/2018 REGISTERED BY RESPONDENT NO.1 - CYBER CRIME POLICE STATION, IN THE INTEREST OF JUSTICE.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

ORAL ORDER

Heard Sri.Yeshu Mishra, learned counsel appearing for the petitioner, Sri.B.Pushpalatha, learned Addl. SPP appearing for respondent No.1, Smt.Shivani P. Murthy, learned counsel appearing for respondent Nos.2 and 3 and have perused the material on record.

2. Learned counsel appearing for the petitioner submits that the petitioner is similarly placed to that of the accused in Crl.P.No.6306/2024 C/w Crl.P.No.6295/2024, disposed on 29.04.2025, wherein this Court has held as follows:

> "8. The afore-narrated facts of relationship between the complainants/Company and the petitioners is a matter of record. The petitioners getting relieved on resignation or otherwise is also a matter of record. It would suffice if the issue in the *lis* is considered from registration of the complaint. Prior to registration of the subject complaint, the Company in which the petitioners were employed institutes a suit in O.S.No.3604 of 2018. The relief sought in the suit is as follows:
>
> > "WHEREFORE, the Plaintiffs in the instant case humbly pray before this Hon'ble Court that it may be pleased to pass a judgment and decree against the Defendant by:
> >
> > a) **Directing the Defendants to pay damages to the tune of ₹7,34,43,754/- (Rupees Seven Crore**

Thirty Four Lakh Forty Three Thousand Seven Hundred and Fifty Four only) to the Plaintiffs on account of loss of business, revenue, profits, reputation, leak of IP among with interest @ 18% p.a. from the date of filing of the suit till realization;

b) Restraining the Defendants, their proprietors, partners or directors, as the case may be, its principal officers, servants, agents, representatives, contractors, assigns, sister concerns and any other person working for and on behalf of the Defendants, from divulging or disclosing confidential and proprietary information of the plaintiffs to any third party or to use such information for their own benefit and to the detriment of the plaintiffs or parting with the Computer Systems/equipments, emails, softwares, client database and dealings details, technological know-now, trade secrets and various other extremely confidential, crucial and vital electronic records, documents, data, information of the Plaintiff No.1 and from reproducing and/or substantially reproducing and/or copying the Plaintiff's said properties;

c) Restraining the defendants, its proprietors, partners or directors, as the case may be, its principal officers, servants, agents, representatives, contractors, assigns, sister concerns and any other person working for and on behalf of the Defendants, from infringing in any manner the copyright in the literary work subsisting in the documents, presentations, flow charts, algorithms, coding sheets, source code of the Plaintiff's softwares, etc. and from reproducing and/or substantially reproducing and/or copying and/or imitating and/or publishing and/or using the Plaintiff's said literary work or any part thereof in any manner whatsoever;

d) **Restraining the Defendants, its officers, servants, agents, representatives, contractors, and assigns, sister concerns and any other person working for and on behalf of the Defendants from soliciting the clients and employees of the Plaintiffs by inducing them to leave the employment of the Plaintiffs and join the Defendant No.1;**

e) A decree for delivery up of all the Computer Systems/equipments, emails, softwares, client database and dealings details, and various other electronic records, documents, data, information of the Plaintiff No.1 available in any form with the Defendants,

its officers, servants, agents, representatives, contractors and assigns, sister concerns and any other person working for and on behalf of the Defendants, to the authorized representative of the Plaintiffs;

f) An order for rendition of accounts of the Defendants to show the unjust profit which the Defendants have derived through illegal and wrongful means which have caused loss to the Plaintiff and subsequently an order for damages on the basis of the rendition of accounts.

g) An order as to costs in the proceedings including the legal costs; and

h) Any other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

(Emphasis added)

The relief sought was restraining the defendants, the present petitioners from reproducing or copying plaintiff's property. Property was the information. Damages was also sought on alleged loss of business on account of petitioners leaving the Company and starting other Company which was the 1st defendant - M/s. PAYHUDDLE Solutions Private Limited. The said suit comes to be filed on 28-04-2018. During the same time, the Company registers the complaint in P.C.R.No.3850 of 2018. If not the entire complaint, certain paragraphs are germane to be noticed. They read as follows:

"…. …. ….

3. That the Accused no. 1 is a private limited company engaged inter-alia in the business similar to that of the Complainant Company No:1 and is being represented through its Directors Mr.Ramiah Sambandam & Mr.Abishek Chandrasekar who are responsible and hence liable for the day to day affairs/ transactions of the Accused no.1 and they are also Accused no.7 & 8 in the present Complaint as they are personally liable for the wrongful acts and conducts done by the Accused no.1 Company as enumerated in the present complaint. Accused no.2 & 3 are the ex-directors of the Complainant Company No.1 and are currently employed with the Accused No.1 Company as Chief Executive Officer (CEO) and Technical Director respectively. Accused no.4 to 6 are the ex-employees of the Complainant Company No.1 and they are also currently employed with the Accused no.1 company

and holding senior management positions there. Accused no.9 is an ex-consultant of the Complainant Company no.1 and is one of the founders of the Accused no.1 and currently working with the Accused no.1 as its Marketing Head.

4. That it is the case of the Complainants that the Accused nos. 2 to 9 in furtherance of a conspiracy and with a common malafide intention have committed serious fraud, criminal breach of trust, theft, cheating, data theft, damage to the computer systems, copyright infringement of the Complainant Company No.1 by way of forming an association of persons in the form of a corporate entity 'PayHuddle Solutions Private Limited' i.e. Accused no.1 and stealing and misusing the emails, softwares, clients related information & dealings details, technological know-how, trade secrets and other confidential and non-confidential & sensitive and non-sensitive information/ documents of the Complainant Company No.1 like prices and exact requirements of the clients, source codes, presentations, flow charts, algorithms, coding sheets, etc. [hereinafter also referred to as the **'Compromised Data/Information'**] acquired by them or entrusted to them in their official capacity for diversion of business/ clients from the Complainant Company No.1 to the Accused no.1 over a period of time starting from January, 2017 if not early, thereby causing great wrongful loss to the Complainant Companies and wrongful gain to themselves. Further, the Accused no.1 Company very well knowing that the said Compromised Data/ Information is of the Complainant Company no.1 is dishonestly using the said Compromised Data/ Information for its wrongful commercial benefit in the course of its daily business transactions.

5. That the Accused no. 2 & 3 being the Directors of the Complainant Company No.1 had complete dominion over all the resources/properties including the Compromised Data/ Information of the Complainant Company No.1. Similarly, the Accused no. 4 to 6 being the senior level employees of the Complainant Company No.1 and Accused no.9 being a consultant were entrusted with the compromised Data Information of the Complainant Company and whatever other data/ information they acquired during the course of their employment with the Complainant Company No.1. However, the Accused No.2 to 6 and 9 while employed at the Complainant Company No.1 dishonestly and with malafide intention started stealing and misusing all the resources/data/ information of the Complainant Company entrusted to them in their

official capacity for the creation of a competitive and a rival entity i.e. Accused no.1 with the help of Accused no. 7 & 8. It is pertinent to mention here that the intention of the Accused persons was dishonest and malafide an inkling of which the complainant company got in January 2017 around which time the accused had started misusing the resources / data information/premises of the Complainant Company for their own personal benefit and their ill motive is further established as they finally incorporated the Accused no.1 which is just a sham. Accused no.1 is just a shield used by the other Accused persons to hide their offences and if the deep investigation is being done keeping in view the averments of the above complaint it would reveal that the Accused No.1 has been incorporated specifically for the purpose of diverting the business of the Complainants and for illegal acts being carried out by the Accused persons and the Accused no.7 and 8 have conspired with other Accused persons to commit all the offences for the profits and gains on the cost of the Complainants.

6. That although the Accused persons in collusion with each other had started the fraud and process of diverting the business of the Complainant Companies to the Accused no.1 over the period of time with every effort not to leave any evidence behind, yet, the loss of business projects, clients, tenders, resignations from the Accused persons and many other employees leaving the Complainant Company No.1 and joining the Accused no.1 Company and all this happening at the same time seemed out of place and the Complainant Companies were constrained to enquire and investigate, internally. During its investigation starting from 9th May, 2017 i.e. the date when the Accused no.2 also resigned, the Complainant Companies discovered few shocking facts with evidences which pointed directly towards the various offences committed by the Accused nos.1 to 9 in furtherance of a conspiracy. Following are the few incidents/discoveries which prima facie highlight the guilt of the Accused persons and make the Accused liable of offences for fraud Criminal breach of trust, cheating, theft, data theft, damage to computer systems and the data stored therein, wrongful withholding of company property and misappropriation of property, copyright infringement, tampering with the computers.

7. 'PayHuddle Solutions Private Limited' i.e. Accused no.1 is a company incorporated on 16th March, 2017 engaged in the same line of business as that of the Complainant Company No.1 with one of its Directors being Mr.Ramiah Sambandam (Accused no.7) who is the father of the

Accused no.2 and second Director being Mr.Abishek Chandrasekar (Accused no.8) who is the nephew (sister's son) of the Accused no.2 i.e. Mr.Prakash Sambandam. It is pertinent to mention here that Mr.Ramiah Sambandam (Accused no.7), father of the Accused no.2 is an 81 year old man and has no experience whatsoever in the field the Accused no.1 is engaged in, in fact he is an agriculturist and was doing some other small business but definitely not IT related. It is pertinent to mention herein that the accused No. 7 has colluded with other Accused persons without having any knowledge in IT sector and along with the Accused no. 8 tried to mislead the Complainant company. The accused No. 7 and 8 have conspired with the other Accused persons and in furtherance to their common intention and ill motive committed the offences as alleged in the subsequent paras of this complaint. This shows that the Accused no.1 was formed by the other Accused persons with malafide and dishonest intentions just to shield their offences when both of its Directors are directly related to the Accused no.2 and they were in fact made Directors just to deceive others. It is therefore necessary under such suspicious circumstances that a detail investigation be carried out.

…. …. ….

22. **Soon after the establishment of the Accused no.1 Company in March, 2017, all the Accused started instigating the employees of the Complainant Company to join the Accused no.1 and as a consequence as many as 10 more employees gave resignation from the Complainant Company and eventually joined the Accused no.1 Company which again is not normal. All the names and the dates and details can be provided if required.**

23. **That the Accused no.2 & 3 have not only breached the fiduciary duty they owe towards the Complainant Company No.1 being its Directors but have also breached many statutory duties they owe towards the Complainant Company under the Companies Act, 2013 thereby jeopardizing the interests of the Complainant Company No.1 to a great extent when they were in fact entrusted and obligated to protect those interests.**

24. **That the Complainant Company No.1 has a statutory protection for its software and its source code, computer programs and other electronic records, documents, etc under the Copyright Act 1957 being**

the owner of the same and by the aforesaid acts/ conducts of the Accused persons, they have infringed the IP Rights of the Complainant Company no.1 in the said properties and thus made themselves liable under Section 63 of the Copyright Act, 1957.

25. That under Section 64 of the Copyright Act 1957 the local police having the jurisdiction to investigate can seize all the copies of the infringed work or any supporting material. Further under the provisions of the Act the local police having the jurisdiction can also seize the laptops/computer systems or other devices were-in this data is stored illegally by the Accused persons.

26. That the Complainant Company's all data base stored in its computers, laptops, or in other electronic devices relating to any confidential information or other relevant information relating to its customers, etc are protected under the provisions of the Information Technology Act 2000 (as amended). The police officer investigating the above offence can confiscate the computer, computer system or computer network including floppies, compact disks, tape drives or any other accessories wherein the illegally downloaded data is stored.

27. That, after analyzing the abovementioned discoveries and documents produced by the Complainant Company along with this complaint it is clear beyond reasonable doubt that the Accused persons acted in collusion with each other with ulterior motive and having dishonest malafide intention from the very beginning to cheat the Complainant as the Complainant Company would not have done the acts it had done and would have done the acts it had not done if not so deceived by the Accused persons, thereby making wrongful gain to themselves and wrongful loss to the Complainant. The aforesaid actions/inactions on part of the Accused persons clearly amount to cheating under section 420, criminal breach of trust under Section 405 & dishonest misappropriation of property under Section 403 of the Indian Penal Code and Data Theft under Section 66 r/w Section 43 of the Information Technology Act. The Accused persons have also made themselves liable under Section 452 of the Companies Act, 2013 for wrongfully obtaining the aforesaid properties of the Complainant Company and wrongfully withholding and using it for unlawful purposes and also under Section 447 of the Companies Act for fraud. The Accused are also liable

under Section 63 of the Copyright Act for copyright infringement.

28. It is submitted that the Complainant filed a police complaint before the Cyber Crime Police Station, Bengaluru on 23rd November, 2017 vide Reg. No. 2115/17. However, the police have not taken any action whatsoever with the complaint for reasons unknown and having no other alternative, the Complainants are before this Hon'ble Court.

29. That the above stated conducts of the Accused persons are illegal and unlawful which has resulted in a loss of about 977,000 Euros (approx INR 7,83,29,000 ,000 Rupees Seven Crores Eighty Three Lakhs and Twenty Nine Thousand only) to the Complainant company thus, it is imperative that an enquiry/investigation be conducted against the Accused persons and appropriate action be taken forthwith against them for fraud, cheating, criminal breach of trust, data theft, misappropriation & wrongful withholding of the Complainant Company property, conspiracy with common intention and other offences that they are found guilty of during the investigation.

30. That the Accused persons have their office within the jurisdiction of this Hon'ble Court and the offences have also been committed by the Accused persons within the jurisdiction of this Hon'ble Court, hence this Complaint.

WHEREFORE, the Complainant most humbly prays that this Hon'ble Court be pleased to take cognizance for the offences punishable under sections 405, 408, 409, 415/ 420, 418, 379, 381, 403, 120B and 34 of Indian Penal Code, read with Sections 43, 65, 66 and 76 of The Information Technology Act, 1963, read with Sections 447, 452 of The Companies Act, 2013, and read with Section 64 of The Copyright Act, against the accused and secure their presence and punish them for having committed the above said offences in the interest of justice and equity.

For Silicomp India Pvt. Ltd.
Sd/-
COMPLAINANTS

Sd/-
ADVOCATE FOR COMPLAINANTS"

(Emphasis added)

On the said complaint, the learned Magistrate refers the matter for investigation. The order, referring the matter under Section 156(3) of the Cr.P.C. for investigation, reads as follows:

> "Complainant present. Counsel for the complainant present.
>
> Perused the records. Register this case as PCR. This case is referred to SHO, Cyber Crime P.S. the offence punishable u/s 405, 408, 409, 415, 420, 418, 379, 381, 403, 120B R/w 34 of IPC and U/s 43, 65, 66 and 76 of IT Act and U/s 447, 452 of Companies Act 2013 R/w 64 of the Copyright Act u/s 156(3) of Cr.P.C. for investigation and report. Await report by:
>
> 01-06-2018."

The contention now is that the private complaint so filed did not accompany with it an affidavit as is necessary in law.

The gist of the complaint:

9. The contention of the learned counsel for the petitioners is that, if the matter had to be referred for investigation, an affidavit which would depict that the complainants had initially knocked at the doors of the jurisdictional police under Section 154(1) of the Cr.P.C., and the same had not been entertained by the jurisdictional police as also on approach, the higher Authority under Section 154(3) is mandatory. It is only these contents in the affidavit which ought to have merited entertainment of the complaint. The submissions to the contrary is that, the complainants have never sought investigation under Section 156(3). Therefore, there was no mandatory duty cast upon them to file an affidavit along with the private complaint. The law, in this regard, as to whether an affidavit would be required or not is by now too well settled. The requirement of seeking investigation under Section 156(3) or taking of cognizance by the learned

Magistrate under Section 190(1)(b) of the Cr.P.C., will not take away the obligation of the complainants to support the complaint by way of an affidavit.

10. The Apex Court in the case of **PRIYANKA SRIVASTAVA v. STATE OF UTTAR PRADESH**[1] has held as follows:

> "…. …. ….
>
> **29.** At this stage it is seemly to state that power under Section 156(3) warrants application of judicial mind. A court of law is involved. It is not the police taking steps at the stage of Section 154 of the Code. A litigant at his own whim cannot invoke the authority of the Magistrate. A principled and really grieved citizen with clean hands must have free access to invoke the said power. It protects the citizens but when pervert litigations takes this route to harass their fellow citizens, efforts are to be made to scuttle and curb the same.
>
> **30. In our considered opinion, a stage has come in this country where Section 156(3) CrPC applications are to be supported by an affidavit duly sworn by the applicant who seeks the invocation of the jurisdiction of the Magistrate. That apart, in an appropriate case, the learned Magistrate would be well advised to verify the truth and also can verify the veracity of the allegations. This affidavit can make the applicant more responsible. We are compelled to say so as such kind of applications are being filed in a routine manner without taking any responsibility whatsoever only to harass certain persons. That apart, it becomes more disturbing and alarming when one tries to pick up people who are passing orders under a statutory provision which can be challenged under the framework of the said Act or under Article 226 of the Constitution of India. But it cannot be done to take undue advantage in a criminal court as if somebody is determined to settle the scores.**

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[1] (2015) 6 SCC 287

> **31. We have already indicated that there has to be prior applications under Sections 154(1) and 154(3) while filing a petition under Section 156(3). Both the aspects should be clearly spelt out in the application and necessary documents to that effect shall be filed. The warrant for giving a direction that an application under Section 156(3) be supported by an affidavit is so that the person making the application should be conscious and also endeavour to see that no false affidavit is made. It is because once an affidavit is found to be false, he will be liable for prosecution in accordance with law. This will deter him to casually invoke the authority of the Magistrate under Section 156(3). That apart, we have already stated that the veracity of the same can also be verified by the learned Magistrate, regard being had to the nature of allegations of the case. We are compelled to say so as a number of cases pertaining to fiscal sphere, matrimonial dispute/family disputes, commercial offences, medical negligence cases, corruption cases and the cases where there is abnormal delay/laches in initiating criminal prosecution, as are illustrated in *Lalita Kumari* [(2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] are being filed. That apart, the learned Magistrate would also be aware of the delay in lodging of the FIR.**"
>
> (Emphasis supplied)

The said elucidation has been reiterated by the Apex Court in the case of **BABU VENKATESH v. STATE OF KARNATAKA**[2] in the following paragraphs:

> "…. …. ….
>
> **11.** It was submitted that, the Magistrate was required to apply his mind before passing an order under Section 156(3)CrPC. It was further submitted that, unless an application under Section 156(3)CrPC was supported by an affidavit duly sworn by the complainant, the learned Magistrate could not have passed an order under the said provision.
>
> … … …

[2] 2022 SCC OnLine SC 200

20. It could thus be seen that, though this Court has cautioned that, power to quash criminal proceedings should be exercised very sparingly and with circumspection and that too in the rarest of rare cases, it has specified certain category of cases wherein such power can be exercised for quashing proceedings.

21. We find that in the present case, though civil suits have been filed with regard to the same transactions and though they are contested by Respondent 2 by filing written statement, he has chosen to file complaint under Section 156(3)CrPC after a period of one-and-a-half years from the date of filing of written statement with an ulterior motive of harassing the appellants. We find that, the present case fits in the category of No. 7, as mentioned in *State of Haryana* v. *Bhajan Lal* [*State of Haryana* v. *Bhajan Lal*, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] .

… … …

23. After analysing the law as to how the power under Section 156(3)CrPC has to be exercised, this Court in *Priyanka Srivastava* v. *State of U.P.* [*Priyanka Srivastava* v. *State of U.P.*, (2015) 6 SCC 287 : (2015) 3 SCC (Civ) 294 : (2015) 4 SCC (Cri) 153] has observed thus : (SCC p. 306, paras 30-31)

> "*30*. In our considered opinion, a stage has come in this country where Section 156(3)CrPC applications are to be supported by an affidavit duly sworn by the applicant who seeks the invocation of the jurisdiction of the Magistrate. That apart, in an appropriate case, the learned Magistrate would be well advised to verify the truth and also can verify the veracity of the allegations. This affidavit can make the applicant more responsible. We are compelled to say so as such kind of applications are being filed in a routine manner without taking any responsibility whatsoever only to harass certain persons. That apart, it becomes more disturbing and alarming when one tries to pick up people who are passing orders under a statutory provision which can be challenged under the framework of the said Act or under Article 226 of the Constitution of India. But it cannot be done to take undue advantage in a criminal court as if somebody is determined to settle the scores.

> *31*. We have already indicated that there has to be prior applications under Sections 154(1) and 154(3) while filing a petition under Section 156(3). Both the aspects should be clearly spelt out in the application and necessary documents to that effect shall be filed. The warrant for giving a direction that an application under Section 156(3) be supported by an affidavit is so that the person making the application should be conscious and also endeavour to see that no false affidavit is made. It is because once an affidavit is found to be false, he will be liable for prosecution in accordance with law. This will deter him to casually invoke the authority of the Magistrate under Section 156(3). That apart, we have already stated that the veracity of the same can also be verified by the learned Magistrate, regard being had to the nature of allegations of the case. We are compelled to say so as a number of cases pertaining to fiscal sphere, matrimonial dispute/family disputes, commercial offences, medical negligence cases, corruption cases and the cases where there is abnormal delay/laches in initiating criminal prosecution, as are illustrated in *Lalita Kumari* [*Lalita Kumari* v. *Govt. of U.P.*, (2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] are being filed. That apart, the learned Magistrate would also be aware of the delay in lodging of the FIR."

24. This Court has clearly held that, a stage has come where applications under Section 156(3)CrPC are to be supported by an affidavit duly sworn by the complainant who seeks the invocation of the jurisdiction of the Magistrate.

25. This Court further held that, in an appropriate case, the learned Magistrate would be well advised to verify the truth and also verify the veracity of the allegations. The Court has noted that, applications under Section 156(3)CrPC are filed in a routine manner without taking any responsibility only to harass certain persons.

26. This Court has further held that, prior to the filing of a petition under Section 156(3)CrPC, there have to be applications under Sections 154(1) and 154(3)CrPC. This Court emphasises the necessity to file an affidavit so that the persons making the application should be conscious and not make false affidavit. With such a requirement, the persons would be deterred from causally invoking authority of the Magistrate, under Section 156(3)CrPC. Inasmuch as if the affidavit is found to be false, the person would be liable for prosecution in accordance with law.

27. In the present case, we find that the learned Magistrate while passing the order under Section 156(3)CrPC, has totally failed to consider the law laid down by this Court.

28. From the perusal of the complaint it can be seen that, the complainant Respondent 2 himself has made averments with regard to the filing of the original suit. In any case, when the complaint was not supported by an affidavit, the Magistrate ought not to have entertained the application under Section 156(3)CrPC. The High Court has also failed to take into consideration the legal position as has been enunciated by this Court in *Priyanka Srivastava* v. *State of U.P.* [*Priyanka Srivastava* v. *State of U.P.*, (2015) 6 SCC 287 : (2015) 3 SCC (Civ) 294 : (2015) 4 SCC (Cri) 153] , and has dismissed the petitions by merely observing that serious allegations are made in the complaint."

(Emphasis supplied)

The Apex Court, in its later judgment, in the case of **RANJIT SINGH BATH v. UNION TERRITORY CHANDIGARH**[3] has held as follows:

"…. …. ….

5. We have carefully perused the decision of this Court in the case of Priyanka Srivastava reported in (2015) 6 SCC 287. This Court has noted that there was misuse of the provisions of sub Section (3) of Section 156. In paragraphs 30 and 31, this Court held thus:

"30. In our considered opinion, a stage has come in this country where Section 156(3) CrPC applications are to be supported by an affidavit duly sworn by the applicant who seeks the invocation of the jurisdiction of the Magistrate. That apart, in an appropriate case, the learned Magistrate would be well advised to verify the truth and also can verify the veracity of the allegations. **This affidavit can make the applicant more responsible. We are compelled to say so as such kind of applications are being filed in a routine manner without taking any responsibility whatsoever only to harass certain persons. That apart, it becomes more disturbing and alarming when one tries to pick up people who are passing orders under a statutory provision which can be challenged under the framework of the said Act or under Article 226 of the Constitution of India. But it cannot be done to take**

[3] **Criminal Appeal No.4313 of 2024 decided on 06-03-2025**

undue advantage in a criminal court as if somebody is determined to settle the scores.

31. <u>We have already indicated that there has to be prior applications under Sections 154(1) and 154(3) while filing a petition under Section 156(3). Both the aspects should be clearly spelt out in the application and necessary documents to that effect shall be filed. The warrant for giving a direction that an application under Section 156(3) be supported by an affidavit is so that the person making the application should be conscious and also endeavour to see that no false affidavit is made</u>. It is because once an affidavit is found to be false, he will be liable for prosecution in accordance with law. This will deter him to casually invoke the authority of the Magistrate under Section 156(3). That apart, we have already stated that the veracity of the same can also be verified by the learned Magistrate, regard being had to the nature of allegations of the case. We are compelled to say so as a number of cases pertaining to fiscal sphere, matrimonial dispute/family disputes, commercial offences, medical negligence cases, corruption cases and the cases where there is abnormal delay/laches in initiating criminal prosecution, as are illustrated in Lalita Kumari are being filed. That apart, the learned Magistrate would also be aware of the delay in lodging of the FIR."

(underlines supplied)

6. Section 154 of the CRPC reads thus:

"154. Information in cognizable cases.

(1) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf:

41[Provided that if the information is given by the woman against whom an offence under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code (45 of 1860) is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:

Provided further that-

(a) in the event that the person against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, 2[section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB], section 376E or section 509 of the Indian Penal Code (45 of 1860) is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be;

(b) the recording of such information shall be video graphed;

(c) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (a) of sub-section (5A) of section 164 as soon as possible.];

(2) A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant.

(3) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Code, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence."

(Emphasis supplied)

The Apex Court in **RANJIT SINGH BATH**'s case holds that there should be an averment in the private complaint regarding compliance of Section 154(1) and (2) of the Cr.P.C., and an affidavit to that effect should be filed.

11. A perusal at the private complaint so registered, as quoted hereinabove, would leave none in doubt that the rigour as enunciated by the Apex Court in

the afore-quoted judgments have been violated or there is no compliance with Section 154(1) and (3) of the Cr.P.C., and no affidavit to that effect is filed. A bald narration is made at paragraph 28 of the complaint quoted *supra* that they have sought to register a complaint before the Cyber Crime Police Station. No document to that effect is produced. It is, therefore, in such cases filing of an affidavit is imperative, is what the Apex Court observes in the afore-quoted judgments.

12. The next contention is, whether the issue in the *lis* with regard to breach of confidentiality is a civil dispute between the parties and the said dispute is dressed with a colour of crime. The excerpts of the complaint are noticed *supra*. The complaint is with regard to causing of loss by these petitioners. The complainants would take two steps in 2018 – one to institute a civil suit and the other to set the criminal law into motion. At best the civil suit was entertainable and not the criminal law that is being set into motion for the reasons more than one. It is a business rivalry between the petitioners and the complainants/Company and the rivalry emerging on the score that the petitioners have started their own Company which was the 1st defendant in the suit and thereby taken away all the customers of the complainants/Company which resulted in loss. Therefore, these factors at best could be the ingredients of a civil Suit seeking damages or orders of restraint against the petitioners. The Company has acted correctly, in the considered view of this Court, by filing a civil suit. But, the Company has also chosen to set the criminal law into motion. The two cannot be considered to go hand in hand in the peculiar facts of the case.

13. While, there may be plethora of cases where mere filing of a civil suit would not mean that setting of criminal law into motion should be obliterated; it would depend on the facts of each case and to be considered on a case to case basis. In a given case, if the reading of the complaint clearly indicates that a dispute which is purely civil in nature is given a cloak of crime, the Courts would not hesitate to step in and obliterate the same. The cognizance for the afore-quoted offences are taken. They range between Sections 406 to 120B of the IPC.

Therefore, the offence is one of criminal breach of trust and cheating. Both the offences cannot be allowed in the case at hand. The criminal justice system should not be put into use for the purpose of recovery of money, unless the facts are glaring and make out a *prima facie* offence under the criminal law. It therefore, becomes germane to notice the law laid down by the Apex Court in entertaining a criminal case for recovery of money or business rivalry. The offences alleged are the ones punishable under Sections 409 and 420 of the IPC. Section 420 of the IPC reads as follows:

> "**420. Cheating and dishonestly inducing delivery of property**.—Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

Section 420 of the IPC has its ingredients in Section 415 of the IPC to be met. Section 415 of the IPC reads as follows:

> "**415. Cheating**.—**Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat**".
>
> Explanation.—A dishonest concealment of facts is a deception within the meaning of this section."

(Emphasis supplied)

Section 415 of the IPC punishes a person who dishonestly, right from the inception, lures the victim into a transaction and misappropriates the money.

14. In the case at hand, there is no question of luring each other. In identical circumstances, the Apex Court in the case of **VIJAY KUMAR GHAI v. STATE OF WEST BENGAL**[4] has held as follows:

> **"27.** Section 405 IPC defines "criminal breach of trust" which reads as under:
>
> > "**405. Criminal breach of trust**.—Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "criminal breach of trust"."
>
> The essential ingredients of the offence of criminal breach of trust are:
>
> (1) The accused must be entrusted with the property or with dominion over it,
>
> (2) The person so entrusted must use that property, or;
>
> (3) The accused must dishonestly use or dispose of that property or wilfully suffer any other person to do so in violation,
>
> (a) of any direction of law prescribing the mode in which such trust is to be discharged, or;
>
> (b) of any legal contract made touching the discharge of such trust.
>
> **28. "Entrustment" of property under Section 405 of the Penal Code, 1860 is pivotal to constitute an offence under this. The words used are, "in any manner entrusted with property". So, it extends to entrustments of all kinds whether to clerks, servants, business partners or other persons, provided they are holding a position of "trust". A person who dishonestly misappropriates property entrusted to them contrary to the terms of an obligation imposed is liable for a criminal breach of trust and is punished under Section 406 of the Penal Code.**

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[4] (2022) 7 SCC 124

29. The definition in the section does not restrict the property to movables or immovables alone. This Court in R.K. Dalmia v. Delhi Admn. [R.K. Dalmia v. Delhi Admn., (1963) 1 SCR 253 : AIR 1962 SC 1821] held that the word "property" is used in the Code in a much wider sense than the expression "movable property". There is no good reason to restrict the meaning of the word "property" to movable property only when it is used without any qualification in Section 405.

30. In Sudhir Shantilal Mehta v. CBI [Sudhir Shantilal Mehta v. CBI, (2009) 8 SCC 1: (2009) 3 SCC (Cri) 646] it was observed that the act of criminal breach of trust would, inter alia mean using or disposing of the property by a person who is entrusted with or has otherwise dominion thereover. Such an act must not only be done dishonestly but also in violation of any direction of law or any contract express or implied relating to carrying out the trust.

31. Section 415 IPC defines "cheating" which reads as under:

> "**415. Cheating**.—Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat"."

The essential ingredients of the offence of cheating are:

1. Deception of any person

2. (a) Fraudulently or dishonestly inducing that person—

   (i) to deliver any property to any person; or

   (ii) to consent that any person shall retain any property; or

   (b) intentionally inducing that person to do or omit to do anything which he would not do or omit if he were no so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property.

32. A fraudulent or dishonest inducement is an essential ingredient of the offence. A person who dishonestly induces another person to deliver any property is liable for the offence of cheating.

33. Section 420 IPC defines "cheating and dishonestly inducing delivery of property" which reads as under:

> "**420. Cheating and dishonestly inducing delivery of property**.—Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

34. Section 420 IPC is a serious form of cheating that includes inducement (to lead or move someone to happen) in terms of delivery of property as well as valuable securities. This section is also applicable to matters where the destruction of the property is caused by the way of cheating or inducement. Punishment for cheating is provided under this section which may extend to 7 years and also makes the person liable to fine.

35. To establish the offence of cheating in inducing the delivery of property, the following ingredients need to be proved:

(i) The representation made by the person was false.

(ii) The accused had prior knowledge that the representation he made was false.

(iii) The accused made false representation with dishonest intention in order to deceive the person to whom it was made.

(iv) The act where the accused induced the person to deliver the property or to perform or to abstain from any act which the person would have not done or had otherwise committed.

36. As observed and held by this Court in R.K. Vijayasarathy v. SudhaSeetharam [R.K. Vijayasarathy v. Sudha Seetharam, (2019) 16 SCC 739 : (2020) 2

SCC (Cri) 454] , the ingredients to constitute an offence under Section 420 are as follows:

(i) a person must commit the offence of cheating under Section 415; and

(ii) the person cheated must be dishonestly induced to:

(a) deliver property to any person; or

b) make, alter or destroy valuable security or anything signed or sealed and capable of being converted into valuable security. Thus, cheating is an essential ingredient for an act to constitute an offence under Section 420 IPC.

37. The following observation made by this Court in Uma Shankar Gopalika v. State of Bihar [Uma Shankar Gopalika v. State of Bihar, (2005) 10 SCC 336 : (2006) 2 SCC (Cri) 49] with almost similar facts and circumstances may be relevant to note at this stage : (SCC pp. 338-39, paras 6-7)

> "6. Now the question to be examined by us is as to whether on the facts disclosed in the petition of the complaint any criminal offence whatsoever is made out much less offences under Sections 420/120-BIPC. The only allegation in the complaint petition against the accused persons is that they assured the complainant that when they receive the insurance claim amounting to Rs 4,20,000, they would pay a sum of Rs 2,60,000 to the complainant out of that but the same has never been paid. … It was pointed out on behalf of the complainant that the accused fraudulently persuaded the complainant to agree so that the accused persons may take steps for moving the consumer forum in relation to the claim of Rs 4,20,000. It is well settled that every breach of contract would not give rise to an offence of cheating and only in those cases breach of contract would amount to cheating where there was any deception played at the very inception. If the intention to cheat has developed later on, the same cannot amount to cheating. In the present case, it has nowhere been stated that at the very inception that there was intention on behalf of the accused persons to cheat which is a condition precedent for an offence under Section 420IPC.
>
> 7. In our view petition of complaint does not disclose any criminal offence at all much less any offence either under Section 420 or Section 120-BIPC and the present case is a case of purely civil dispute between the parties for which remedy lies before a civil court by filing a properly constituted suit. In our opinion, in view of these facts allowing the police

investigation to continue would amount to an abuse of the process of court and to prevent the same it was just and expedient for the High Court to quash the same by exercising the powers under Section 482CrPC which it has erroneously refused."

38. There can be no doubt that a mere breach of contract is not in itself a criminal offence and gives rise to the civil liability of damages. However, as held by this Court in Hridaya Ranjan Prasad Verma v. State of Bihar [Hridaya Ranjan Prasad Verma v. State of Bihar, (2000) 4 SCC 168 : 2000 SCC (Cri) 786] , the distinction between mere breach of contract and cheating, which is criminal offence, is a fine one. While breach of contract cannot give rise to criminal prosecution for cheating, fraudulent or dishonest intention is the basis of the offence of cheating. In the case at hand, complaint filed by Respondent 2 does not disclose dishonest or fraudulent intention of the appellants."

(Emphasis supplied)

The Apex Court, later, in the case of **LALIT CHATURVEDI v. STATE OF UTTAR PRADESH**[5] has held as follows:

"**5. This Court, in a number of judgments, has pointed out the clear distinction between a civil wrong in the form of breach of contract, non-payment of money or disregard to and violation of the contractual terms; and a criminal offence under Sections 420 and 406 of the IPC. Repeated judgments of this Court, however, are somehow overlooked, and are not being applied and enforced.** We will be referring to these judgments. The impugned judgment dismisses the application filed by the appellants under Section 482 of the Cr. P.C. on the ground of delay/laches and also the factum that the chargesheet had been filed on 12.12.2019. This ground and reason is also not valid."

(Emphasis supplied)

Again, the Apex Court in the case of **NARESH KUMAR v. STATE OF KARNATAKA**[6] has held as follows:

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[5] 2024 SCC OnLine SC 171

"…. …. ….

8. Essentially, the present dispute between the parties relates to a breach of contract. A mere breach of contract, by one of the parties, would not attract prosecution for criminal offence in every case, as held by this Court in Sarabjit Kaur v. State of Punjab, (2023) 5 SCC 360. Similarly, dealing with the distinction between the offence of cheating and a mere breach of contractual obligations, this Court, in Vesa Holdings (P) Ltd. v. State of Kerala, (2015) 8 SCC 293, **has held that every breach of contract would not give rise to the offence of cheating, and it is required to be shown that the accused had fraudulent or dishonest intention at the time of making the promise.**

9. In the case at hand, the dispute between the parties was not only essentially of a civil nature but in this case the dispute itself stood settled later as we have already discussed above. **We see no criminal element here and consequently the case here is nothing but an abuse of the process.** We therefore allow the appeal and set aside the order of the High Court dated 02.12.2020. The criminal proceedings arising out of FIR No. 113 of 2017 will hereby stand quashed."

(Emphasis supplied)

The Apex Court, in the afore-quoted judgments, clearly holds that prosecution should not be permitted on allegations of breach of contract for the purpose of recovery of money.

15. In the light of the afore-quoted judgments, the registration of crime is rendered unsustainable. While it is correct that in a given case, on a given set of facts, both civil and criminal laws could be set into motion as there would be common ingredients, which has a flavour of civil law and which has a rigour of criminal law. The issue now would be, whether this Court in exercise of its jurisdiction can entertain the petition under Section 482 of the Cr.P.C., and obliterate the crime. This again is no longer *res integra*. The Apex Court holds that in a petition under Section 482 of the Cr.P.C., this Court is permitted to exercise its jurisdiction by reading the complaint between the lines, as abuse of the process of

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[6] **2024 SCC OnLine SC 268**

law has become rampant. The Apex Court in the case of **MAHMOOD ALI v. STATE OF UTTAR PRADESH**[7] has held as follows:

"…. …. ….

> **13.** At this stage, we would like to observe something important. **Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.**
>
> **14.** In State of Andhra Pradesh v. Golconda Linga Swamy, (2004) 6 SCC 522, a two-Judge Bench of this Court elaborated on the types of materials the High Court can assess to quash an FIR. The Court drew a fine distinction

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[7] 2023 SCC OnLine SC 950

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 Court held:—

> "5. …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 the 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**.
>
> 6. In R.P. Kapur v. State of Punjab, AIR 1960 SC 866 : 1960 Cri LJ 1239, this Court summarised some categories of cases where inherent power can and should be exercised to quash the proceedings : (AIR p. 869, para 6)
>
> (i) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;
>
> (ii) where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged;
>
> (iii) **where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge**.
>
> 7. **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 accusations. 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….."

(Emphasis supplied)

> **15.** In the result, this appeal succeeds and is hereby allowed. The impugned order passed by the High Court of Judicature at Allahabad is hereby set aside. The criminal proceedings arising from FIR No. 127 of 2022 dated 04.06.2022 registered at Police Station Mirzapur, Saharanpur, State of U.P. are hereby quashed."

(Emphasis supplied)

This Court in the case of **PATEL ENGINEERING LIMITED VS. STATE**[8], following the judgments of the Apex Court, has held as follows:

> "14. ……
>
> The Apex Court holds that when petitions are filed under Section 482 of the Cr.P.C., or under Article 226 of the Constitution to get the FIR quashed, **essentially on the ground that it is either frivolous, vexatious or instituted with ulterior motives to wreak vengeance or civil disputes or commercial transactions are projected to be a crime, the Court while exercising its jurisdiction under Article 482 of the Cr.P.C., should not restrict itself only to such of the cases, but is empowered to take into account overall circumstances and answer whether the crime should be permitted to be investigated into or not.**
>
> 15. In the light of the afore-elucidated law by the Apex Court, **I deem it appropriate to exercise the jurisdiction under Section 482 of the Cr.P.C. and obliterate the Damocles sword that hangs on the head of these petitioners, in the light of the fact that a pure commercial transaction or breach of an agreement between the parties is sought to be given a colour of crime; added to the fact that the signatory to all the documents, the 2nd petitioner is no more."**

(Emphasis supplied)

In the light of the facts obtaining in the case at hand as narrated hereinabove and the judgments rendered by

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[8] **Criminal Petition No.6513 of 2024, disposed on 06th August, 2024**

the Apex Court quoted *supra*, if further proceedings are permitted to continue against the petitioners, it would undoubtedly become an abuse of the process of law and result in miscarriage of justice.

16. For the aforesaid reasons, the following:

O R D E R

(i) Criminal Petitions are allowed.

(ii) Impugned proceedings pending before the XLV Additional Chief Metropolitan Magistrate, Bengaluru in CC.No.7576/2024 *qua* the petitioners stand quashed.

(iii) It is made clear that the observations made in the course of the order are only for the purpose of consideration of the case of petitioners under Section 482 of Cr.P.C. and the same shall not bind or influence the proceedings pending before any other *fora* between the same parties."

3. However, learned counsel appearing for the respondents would dispute the position and contend that the proceedings must not be quashed following the said order. In the same breath, submits that the said order has become final.

4. In that light, I deem it appropriate to give the benefit of the order so passed to the co-accused in the said crime.

5. For the aforesaid reasons, the following:

O R D E R

(i) Criminal Petition is allowed.

(ii) Impugned proceedings in C.C.No.7576/2024 pending before the XLV Additional Chief Metropolitan Magistrate, Bengaluru *qua* the petitioner stand quashed.

(iii) It is made clear that the observations made in the course of the order are only for the purpose of consideration of the case of the petitioner under Section 528 of BNSS, 2023, and the same shall not bind or influence the proceedings pending before any other *fora* between the same parties.

SD/-
(M.NAGAPRASANNA)
JUDGE

CBC
List No.: 2 Sl No.: 68