



NC: 2024:KHC:35865
CRL.P No. 8939 of 2018
C/W CRL.P No. 6007 of 2015
CRL.P No. 7789 of 2015
AND 3 OTHERS

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF SEPTEMBER, 2024

BEFORE

THE HON'BLE MRS JUSTICE M G UMA
CRIMINAL PETITION NO. 8939 OF 2018
C/W
CRIMINAL PETITION NO. 6007 OF 2015
CRIMINAL PETITION NO. 7789 OF 2015
CRIMINAL PETITION NO. 7790 OF 2015
CRIMINAL PETITION NO. 8938 OF 2018
CRIMINAL PETITION NO. 2440 OF 2020

IN CRL.P No. 8939/2018

BETWEEN:

MR. B. MANJUNATH
S/O. MR. BALAKRISHNA
AGED ABOUT 44 YEARS
OCC: ADVOCATE
NO.2095, 2ND CROSS, 8TH MAIN
JUDICIAL LAYOUT, GKVK POST
BANGALORE - 560 065.

... PETITIONER

(BY SRI: SIDDHARTH B MUCHANDI, ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY ANEKAL POLICE STATION
REPRESENTED BY THE
STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BANGALORE - 560 001.
2. SMT. PRIYANKA B.S.
W/O. DR. MADHUKAR G. ANGOOR
ALLIANCE UNIVERSITY,
CHANDAPURA ANEKAL





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MAIN ROAD, ANEKAL,
BANGALORE - 562 106.

... RESPONDENTS

(BY SMT: K.P. YASHODHA, HCGP FOR R1
SRI: H.S. SRIVASTHAVA, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C. PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.762/2015 FOR THE ALLEGED OFFENCES PUNISHABLE UNDER SECTIONS 403, 420, 467, 468, 474, 120B OF IPC PENDING BEFORE THE LEARNED PRINCIPAL CIVIL JUDGE AND JMFC, ANEKAL, BANGALORE RURAL DISTRICT.

IN CRL.P.6007/2015

BETWEEN:

1. DR. K. SRINIVAS REDDY
S/O K L REDDY (LATE)
AGED 63 YEARS
OCCUPATION: MEDICAL PRACTITIONER
C/O. K. RAVINDRA REDDY
R/O. PLOT NO.519/F
ROAD NO. 28, JUBILEE HILLS
HYDERABAD - 500 033
2. MAHESH
S/O LATE BADE SHIVARATHNAM
AGED 60 YEARS
OCCUPATION: PARTNER
M/S VEERANDAR & SRIRAM
CHARTERED ACCOUNTANTS
3RD FLOOR, APARNA CREST
ROAD NO.2, BANJARA HILLS
HYDERABAD - 500 034

... PETITIONERS

(BY SRI: CHETHAN B. ANGADI, ADVOCATE)



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AND:

1. STATE OF KARNATAKA
BY ANEKAL POLICE STATION
ANEKAL CIRCLE
BENGALURU DISTRICT
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
DR AMBEDKAR VEEDHI
BENGALURU - 560 001

2. DR MADHUKAR G ANGUR
S/O GUDAPPA B ANGUR
AGED 55 YEARS
DIRECTOR OF
M/S ALLIANCE BUSINESS SCHOOL
NO.29, 27TH MAIN ROAD
1ST CROSS, BTM LAYOUT
1ST PHASE, BENGALURU - 560 068

... RESPONDENTS

(BY SMT: K.P. YASHODHA, HCGP FOR R1
SRI: R. NAGENDRA NAIK, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482
CR.P.C PRAYING TO SET ASIDE THE ORDER DATED 07.08.2015
PASSED BY THE LEARNED PRINCIPAL CIVIL JUDGE AND J.M.F.C.,
ANEKAL IN C.C.NO.761/2015 THEREBY TAKING COGNIZANCE
AGAINST THE PETITIONERS AND ORDERING TO REGISTER CRIMINAL
CASE WITHOUT MENTIONING FOR WHAT OFFENCE THE
COGNIZANCE HAS BEEN TAKEN, AND CONSEQUENTLY THE ENTIRE
CRIMINAL PROCEEDINGS.

IN CRL.P.7789/2015

BETWEEN:

SRI. K. RAVINDER REDDY
AGED ABOUT 51 YEARS
S/O LATE K. YELLA REDDY
OCCUPATION: BUSINESS



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R/AT NO.8-2-293/82/A/519F
ROAD NO.28, JUBILEE HILLS
HYDERABAD - 500 034.
ALSO AT: NO.277/21
46TH CROSS, 5TH BLOCK
JAYANAGAR, BANGALORE - 560 011

... PETITIONER

(BY SRI: M.P. SRIKANTH, ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY ANEKAL POLICE STATION
ANEKAL CIRCLE
BENGALURU DISTRICT
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
DR. AMBEDKAR VEEDHI
BENGALURU - 560 001.
2. DR MADHUKAR GANGUR
S/O G.B. ANGUR
CHANCELLOR
ALLIANCE UNIVERSITY
CHANDAPURA, ANEKAL MAIN
ROAD, ANEKAL,
BENGALURU - 560 126

... RESPONDENTS

(BY SMT: K.P. YASHODHA, HCGP FOR R1
SRI: K.N. SUBBA REDDY, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482
CR.P.C PRAYING TO SET ASIDE THE ORDER DATED 07.08.2015
PASSED BY THE PRL. CIVIL JUDGE AND J.M.F.C., ANEKAL IN
C.C.NO.761/2015 THEREBY TAKING COGNIZANCE AGAINST THE
PETITIONER AND ORDERING TO REGISTER CRIMINAL CASE
WITHOUT MENTIONING FOR WHAT OFFENCE THE COGNIZANCE HAS
BEEN TAKEN, AND CONSEQUENTLY QUASH THE ENTIRE CRIMINAL
PROCEEDINGS IN C.C.NO. 761/2015 PENDING ON THE FILE OF THE
PRL. CIVIL JUDGE AND J.M.F.C., ANEKAL.



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C/W CRL.P No. 6007 of 2015
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IN CRL.P.7790/2015

BETWEEN:

SRI. K. RAVINDER REDDY
AGED ABOUT 51 YEARS
S/O LATE K. YELLA REDDY
OCCUPATION: BUSINESS
RESIDING AT NO.8-2-293/82/A/519F ROAD
NO.28, JUBILEE HILLS
HYDERABAD, ALSO AT:
NO.277/21, 46TH CROSS
5TH BLOCK, JAYANAGAR
BANGALORE - 560 011.

... PETITIONER

(BY SRI: M.P. SRIKANTH, ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY ANEKAL POLICE STATION
ANEKAL CIRCLE, BENGALURU
DISTRICT REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
DR. AMBEDKAR VEEDHI
BENGALURU - 560 001
2. SMT. B.S. PRIYANKA
W/O DR. MADHUKAR G. ANGUR
ALLIANCE UNIVERSITY
CHANDAPURA, ANEKAL MAIN ROAD
ANEKAL, BANGALORE - 560 126.

... RESPONDENTS

(BY SMT: K.P. YASHODHA, HCGP FOR R1
SRI: H.K. SRIVASTHAVA, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482
CR.P.C PRAYING TO SET ASIDE THE ORDER DATED 07.08.2015
PASSED BY THE PRL. CIVIL JUDGE AND J.M.F.C., ANEKAL IN



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C.C.NO.762/2015 THEREBY TAKING COGNIZANCE AGAINST THE PETITIONER AND ORDERING TO REGISTER CRIMINAL CASE WITHOUT MENTIONING FOR WHAT OFFENCE THE COGNIZANCE HAS BEEN TAKEN, AND CONSEQUENTLY QUASH THE ENTIRE CRIMINAL PROCEEDINGS IN C.C.NO.762/2015 PENDING ON THE FILE OF THE PRL. CIVIL JUDGE AND J.M.F.C., ANEKAL.

IN CRL.P.8938/2018

BETWEEN:

MR. B. MANJUNATH
S/O. MR. BALAKRISHNA
AGED ABOUT 44 YEARS
OCC: ADVOCATE
NO.2095, 2ND CROSS
8TH MAIN, JUDICIAL LAYOUT
GKVK POST, YELAHANKA
BANGALORE - 560 065.

... PETITIONER

(BY SRI: SIDDHARTH B. MUCHANDI, ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY ANEKAL POLICE STATION
REPRESENTED BY THE
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU - 560 001
2. DR. MADHUKAR G. ANGUR
S/O G.B. ANGUR
CHANCELLOR
ALLIANCE UNIVERSITY
CHANDAPURA
ANEKAL MAIN ROAD
ANEKAL, BANGALORE - 562 106.



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THIS CRIMINAL PETITION IS FILED UNDER SECTION 482
CR.P.C PRAYING TO QUASH THE ENTIRE PROCEEDING IN
C.C.NO.761/2015 FOR THE ALLEGED OFFENCE PUNISHABLE UNDER
SECTIONS 403, 420, 467, 468, 474, 120(B) IPC PENDING BEFORE
THE LEARNED PRINCIPAL CIVIL JUDGE AND JMFC, ANEKAL.

IN CRL.P.2440/2020

BETWEEN:

1. DR. K. SRINIVAS REDDY
S/O K.L. REDDY (LATE)
AGED 63 YEARS
OCCUPATION: MEDICAL
PRACTITIONER
C/O. K. RAVINDRA REDDY
R/O. PLOT NO.519/F
ROAD NO.28, JUBILEE HILLS,
HYDERABAD - 500
2. MAHESH
S/O
AGED YEARS
OCCUPATION: PARTNER
M/S VEERANDAR & SRIRAM
CHARTERED ACCOUNTANTS
3RD FLOOR, APARNA CREST
ROAD NO.2, BANJARA HILLS
HYDERABAD - 500 034.

... PETITIONERS

(BY SRI: CHETAN B ANGADI, ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY ANEKAL POLICE STATION
ANEKAL CIRCLE



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BENGALURU DISTRICT
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
DR. AMBEDKAR VEEDHI
BENGALURU - 560 001.

2. PRIYANKA B.S.
W/O MADHUKAR G. ANGUR
AGED 30 YEARS
DIRECTOR OF
M/S ALLIANCE BUSINESS SCHOOL
NO.29, 27TH MAIN ROAD
1ST CROSS, BTM LAYOUT
1ST PHASE, BENGALURU - 560 068.

... RESPONDENTS

(BY SMT: K.P. YASHODHA, HCGP FOR R1
SRI: H.K. SRIVASTHAVA, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 CR.P.C PRAYING TO SET ASIDE THE ORDER DATED 07.08.2015 PASSED BY THE LEARNED PRL. CIVIL JUDGE AND JMFC, ANEKAL IN C.C.NO.762/2015 THEREBY TAKING COGNIZANCE AGAINST THE PETITIONERS AND ORDERING TO REGISTER CRIMINAL CASE WITHOUT MENTIONING FOR WHAT OFFENCE THE COGNIZANCE HAS BEEN TAKEN, AND CONSEQUENTLY QUASH THE ENTIRE CRIMINAL PROCEEDINGS.

THESE CRIMINAL PETITIONS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 06.08.2024 COMING ON FOR PRONOUNCEMENT OF ORDERS THIS DAY, THE COURT PASSED THE FOLLOWING:



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CAV COMMON ORDER

The petitioner - accused No.1 in Criminal Petition Nos.7789 of 2015, the petitioner - accused No.2 in Criminal Petition No.8938 of 2018 and the petitioners - accused Nos.5 and 6 in Criminal Petition No.6007 of 2015 are seeking to set aside the order dated 07.08.2015 taking cognizance for the offences punishable under Sections 403, 420, 467, 468, 474 and 120-B of Indian Penal Code (for short 'the IPC') and to quash the entire criminal proceedings in CC No.761 of 2015 on the file of the learned Principal Civil Judge and JMFC, Anekal (for short 'the Trial Court'). They have also filed Criminal Petition Nos.7790 of 2015, 8939 of 2018 and 2440 of 2020 respectively seeking similar relief in CC No.762 of 2015 before the Trial Court.

2. Crime No.143 of 2015 of Anekal Police Station was registered on the basis of the first information lodged by the informant - Dr.Madhukar G Angur, whereas Crime No.144 of 2015 of Anekal Police Station was registered on the basis of the first information lodged by his wife B S Priyanka. In both the complaints, the informants have made similar allegations with



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respect to very same documents for having conspired together, forged the signatures of the complainants, concocted the documents in relation to shares, committed cheating by using the forged documents as genuine and committed misappropriation.

3. Brief facts of the case are that, respondent No.2 - the informant in CC No.761 of 2015 and the informant in CC No.762 of 2015 being the husband and wife have filed the first information with Anekal Police Station and the FIR in Crime Nos.143 and 144 of 2015 are registered alleging commission of offences as stated above against all the accused. It is alleged in the complaint that on 19.05.2015, the complainants received a registered post from accused No.1 containing the details that 90% of share capital of the Company belonging to the complainants were transferred in the name of accused No.1. To evidence the same, the Xerox copies of the share certificates and fake security transfer letter were also enclosed. The informants found that the signatures on the said documents were forged. It is stated that the informants have lost their share certificates and it was suspected that the accused have



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stolen it, misused the said share certificates and concocted fake documents by forging the signatures of the informants. Therefore, they requested the police to register the case and to take legal action against accused No.1.

4. On registration of FIRs, the investigation was undertaken. During investigation, the further statements of the informants were recorded, wherein, they have stated that in the original suit i.e., OS No.25382 of 2015 before City Civil Court, Mayohall, accused No.1 has filed an application seeking his impleadment along with certain documents. On going through the said application and the documents, the informants came to know about several documents alleged to have been executed by them. There was reference to (i) Share purchase agreement (ii) Memorandum of Understanding (MOU) and (iii) Special Power of Attorney. All these documents are dated 29.01.2015. It is stated by the informants that they have never executed any of these documents. Therefore, it is contended that all these documents were forged and fabricated by the accused.



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5. It is further stated by the informants that the documents produced along with the application disclose that accused Nos.2 to 6 have also conspired with accused No.1, played their role in forging and concocting the documents. Therefore, they requested the police to implicate them as accused. Accordingly, accused Nos.2 to 6 were also arrayed as co-accused.

6. After investigation, the charge sheet came to be filed. As per the charge sheet, accused Nos.1 and 2 have stolen the original share certificates standing in the names of informants and all the accused i.e., accused Nos.1 to 6 have conspired together and concocted share purchase agreement, MOU and Special Power of Attorney, projecting that the same were executed by the informants, by forging their signatures. It is stated that the share purchase agreement dated 29.01.2015 is concocted to be executed by the informant - Dr.Madhukar G Angur agreeing to sell his 1,20,000 shares for Rs.36,00,000/- in favour of accused No.1 and by the other informant - B S Priyanka, who is the wife of Dr.Madhukar G Angur agreeing to sell 1,05,000 shares for Rs.31,50,000/- to



accused No.1 by forging their signatures. Accused Nos.2 and 4 have signed the documents as attesting witnesses.

7. Similarly, the MOU dated 29.01.2015 was concocted by forging the signatures of the informants as the same was executed in favour of accused No.1. Accused Nos.2 and 5 have signed the documents as attesting witnesses. It is also stated in the documents that the consideration amount for having purchased the shares were paid by accused No.1 to the informants through cheques and the receipts have been issued in that regard. It is further stated that the Special Power of Attorney deed dated 29.01.2015 was also concocted by forging the signatures of the informants. They have projected that the informants have appointed accused No.1 as their attorney and the documents were signed by accused Nos.4 and 5 as attesting witnesses.

8. It is stated that accused No.6 has concocted financial and tax due diligence report dated 11.05.2015 to enable accused No.1 to cheat the informants. Accused No.1 making use of the security transfer forms, forged the signatures of the informants and concocted the documents, as



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if, he purchased the shares as referred to in the forged share purchase agreement. It is stated that nothing has been paid by accused No.1 to the informants towards the consideration amount as claimed by him for transfer of shares under various documents. It was found that accused No.1 has paid the stamp duty only on 14.05.2015 which clearly discloses commission of the offences by the accused.

9. It is stated that by making use of these concocted documents, accused No.1 filed the application seeking his impleadment in the civil suit. Therefore, it is contended that accused Nos.1 to 6 have criminally conspired to cheat the informants, stolen the valuable securities, forged their signatures for the purpose of cheating and thereby, misappropriated the valuable shares dishonestly. The Trial Court took cognizance of the offences against the petitioners and registered CC Nos.761 and 762 of 2015. The petitioners in the above petitions are seeking to quash the criminal proceedings initiated against them by setting aside the order taking cognizance passed by the Trial Court.



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10. Heard Sriyuths Siddharth B Muchandi, Chethan B Angadi and M P Srikanth, learned counsel for the petitioners, Smt K P Yashodha, learned High Court Government Pleader for respondent No.1 and Sriyuths H S Srivasthava and R Nagendra Naik, learned counsel for respondent No.2. Perused the materials on record.

11. Learned counsel for accused No.1 contended that it was the informants who have agreed to sell the shares and securities in favour of accused No.1 and accordingly, the share purchase agreement dated 29.01.2015 came to be executed. Similarly, the informants have also executed MOU and the Special Power of Attorney deed of even date. After executing all these documents, the informants have turn around and started contending that their signatures were forged and filed the complaints with an intention to make wrongful gain. Only on the basis of such bald allegations, the Trial Court could not have taken cognizance of the offences. The order taking cognizance passed by the Trial Court will have a far reaching consequences. Even though the charge sheet is filed by the Investigating Officer, it was on the basis of the photocopies of



the documents said to have been forged. The original documents were never considered by the Investigating Officer nor the same were sent for scientific examination.

12. Learned counsel further submitted that the photo copies of the documents were sent for scientific examination to a private laboratory for the purpose of getting favourable report. He further submitted that the co-ordinate Bench of this Court in ***Ramachandra and Others Vs The State of Karnataka and another¹***, deprecated the practice of referring the documents to the private laboratories for verification and to report regarding the allegations of forgery and concoction of documents. A specific direction was issued to refer such documents only to the State Forensic Laboratory to prevent possible manipulation. Ignoring the said direction, the copy of the disputed documents were sent to private laboratory. The report submitted by such laboratory will not have any effect.

13. Learned counsel further submitted that accused No.1 had approached the Company Law Board (CLB) for transfer of shares in his favour on the basis of the documents

¹ Crl.P.No.100822/2016 DD 23.11.2016



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referred to above. However, the CLB directed accused No.1 to approach the competent Civil Court, since the execution of the documents was disputed. The said order was challenged before this Court by filing Company Appeal No.8 of 2016. The same came to be disposed off by the Division Bench of this Court vide order dated 05.08.2016. It was observed that if the Civil Court declares the genuineness of the documents, the CLB will have the authority to direct the Company to transfer the shares in the name of accused No.1. Even though the Special Appeal No.4388 of 2017 was preferred before the Hon'ble Apex Court, the same came to be dismissed. Thereafter, accused No.1 filed the suit OS No.3243 of 2017 against the informants and others seeking declaration that MOU, share purchase agreement, payment receipts and Special Power of Attorney dated 29.01.2015 were in fact executed by the informants who are defendant Nos.2 and 3 in the suit and to direct them to transfer the shares held with defendant No.1 - Company in favour of accused No.1 by receiving the balance consideration amount and also for other consequential reliefs. The said suit is still pending for consideration.



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14. Learned counsel submitted that when the Civil Court of competent jurisdiction is ceased off the matter for considering similar facts and defence raised by the parties as to whether the documents in question are concocted or the same are genuine, initiation of the criminal proceedings cannot be permitted, as the same would amount to abuse of process of law. The dealings between the informants and accused No.1 are purely commercial, financial and civil in nature. It cannot be given the color of the criminal offence and under such circumstances, the criminal proceedings is to be quashed.

15. Learned counsel places reliance on the decision of the Hon'ble Apex Court in ***Jaswant Singh Vs State of Punjab and another***², in support of his contention and prays for allowing the petitions by quashing the criminal proceedings to prevent abuse of process of the Court and also to secure the ends of justice.

16. Learned counsel for accused No.2 supporting the contention of the learned counsel for accused No.1 sought for allowing the petitions and to quash the criminal proceedings.

² 2021 SCC Online SC 1007



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He further submitted that the only allegation against accused No.2 is that he had signed the MOU and the share purchase agreement as attesting witness.

17. Learned counsel drawn the attention of the Court to Section 3 of Transfer of Property Act, to refer to the definition of the word 'attested' in relation to an instrument, means and shall be deemed always to have meant attested by two or more witnesses each of whom has seen the executant sign or affix his mark to the instrument, or has seen some other person sign the instrument in the presence and by the direction of the executant, or has received from the executant a personal acknowledgement of his signature or mark, or of the signature of such other person, and each of whom have signed the instrument in the presence of the executant; but it shall not be necessary that more than one of such witnesses shall have been present at the same time, and no particular form of attestation shall be necessary.

18. Learned counsel placed reliance on the decision of the Hon'ble Apex Court in ***M Srikanth Vs State of Telangana***



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and another³, in support of his contention that no offence of cheating, forgery could be made out against accused No.2, who has only attested the document, that too, when civil suit is pending for consideration regarding the genuineness of the documents. No intention or ill-will could be imputed against accused No.2 in signing the documents as a witness.

19. He also placed reliance on the decision of the coordinate Bench of this Court in **Rajesh Vs State of Karnataka and another⁴**, to contend that the attesting witness was neither a beneficiary nor the executant of the document, the allegation of fraud and forgery was against the person who got the documents executed who was the beneficiary under the same. Under such circumstances, the criminal proceedings against accused No.2 cannot be proceeded with. Accordingly, he prays for allowing the petition and to quash the criminal proceedings against accused No.2.

20. Learned counsel for accused Nos.5 and 6 adopted the contention taken by the learned counsel for accused No.2 and prayed for allowing the petitions.

³ (2019) 10 SCC 373

⁴ CrI.P.No.100659/2023 DD 14.09.2023



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21. *Per contra*, learned High Court Government Pleader for respondent No.1 opposing the petitions submitted that specific allegations are made by the informants against accused No.1 that he had stolen the securities, forged the signatures of the informants, concocted the documents with an intention to make wrongful gain. It is alleged against accused No.2 that he was the legal advisor and even after knowing fully well about the consequences, attested the forged documents. Similarly, accused Nos.5 and 6 have also attested the documents knowing fully well about its origin, thereby, the accused have committed the offences.

22. Learned High Court Government Pleader further submitted that a notice was issued to accused No.1, who is the custodian of the original documents, by the Investigating Officer, summoning to produce the original documents. But accused No.1 avoided production of original documents and produced only the attested copies. Those copies were sent for scientific examination and the FSL report is received by the Investigating Officer, which clearly states that the signatures



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on the disputed documents are forged and a specific findings is recorded that, it is accused No.1 who has done the signatures. This report and the opinion of the expert *prima facie* discloses commission of the offences by accused No.1 in collusion with other accused.

23. Learned High Court Government Pleader further submitted that the decisions relied on by the learned counsel for accused No.2 are not applicable to the facts of the present case, as the same were rendered under different set of facts. In those cases, the accused have not attested the forged documents, but it was alleged that they were the attesting witnesses to the subsequent documents, which were executed based on the forged documents. Under such circumstances, the criminal proceedings against the attesting witnesses were came to be dropped. But in the present case, the materials on record disclose that, it was accused Nos.2 to 6 who have subscribed their signatures as attesting witnesses to the forged documents and hence they are also equally liable along with accused No.1.



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24. Learned High Court Government Pleader further submitted that even though the suit OS No.3243 of 2017 is pending consideration before the Civil Court in respect of the very same disputed documents, the same cannot be a ground to quash the criminal proceedings initiated against the accused. She placed reliance on the decision of the Hon'ble Apex Court in ***K G Premshanker Vs Inspector of Police and another***⁵, to contend that similar contention was raised before the Hon'ble Apex Court seeking to quash the criminal proceedings, as civil suit was pending before the competent court of civil jurisdiction. The Hon'ble Apex Court referring to its earlier decisions, categorically held that, if the criminal case and civil proceedings are for the same cause, the judgment of the Civil Court would be relevant if any of the conditions of Sections 40 to 43 of Evidence Act are satisfied. It also categorically held that it cannot be said that the same would be conclusive proof. It further held that there cannot be any hard and fast rule that could be laid down and that possibility of conflicting decision in civil and criminal courts is a relevant consideration for seeking quashing of criminal proceedings.

⁵ (2002) 8 SCC 87



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25. Learned High Court Government Pleader submitted that the Hon'ble Apex Court has also referred to its earlier decision in ***Karam Chand Ganga Prasad Vs Union of India***⁶ and held that general observations made in the said case are under the facts and circumstances of that case and that the Court was not required to consider the earlier decision of the Constitution Bench in ***M S Sheriff Vs State of Madras***⁷, as well as Sections 40 to 43 of the Evidence Act. Learned High Court Government Pleader submitted that the Hon'ble Apex Court categorically held that the civil and criminal proceedings are required to be decided on the evidence, which may be brought on record by the parties and refused to quash the criminal proceedings.

26. Learned High Court Government Pleader also placed reliance on the decision of the co-ordinate Bench of this Court in ***Smt Vanitha and another Vs State of Karnataka and another***⁸, in support of her contention that the facts of the case may give rise to setting of civil and the criminal law into motion. Merely because, the issue projected as civil in nature,

⁶ (1970) 3 SCC 694

⁷ AIR 1945 SC 397

⁸ Crl.p.5522/2024 d.d.on 05.07.2024.



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the criminal proceedings initiated is not liable to be quashed. Learned High Court Government Pleader submitted that the co-ordinate Bench of this Court referred to various decisions of the Hon'ble Apex Court to form an opinion that when *prima facie* materials are placed before the Court to substantiate forging of documents and taking benefit out of the same, the criminal proceedings cannot be quashed on the ground that the civil suit is pending consideration on similar set of facts.

27. Learned High Court Government Pleader also placed reliance on the decision of the co-ordinate Bench of this Court in ***Balaji Trading Company and Others Vs Saifulla Khan Gafarkhan Savukar and another***⁹, to support her contention that the Court after referring to the decision of the Constitution Bench in ***M S Sheriff (supra)***, recorded a categorical finding that the criminal proceedings cannot be stalled, merely because, the civil suit is pending with reference to same set of documents. However, it has observed that it is not a hard and fast rule that both the cases can continue together, but for special consideration and on any peculiar circumstances, if the civil case or the criminal proceedings which are so near for

⁹ ILR 2017 KAR 4397



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disposal and a ground is made out, the Civil Court can stay its proceedings till the criminal proceedings are concluded or *vice versa*, as the case may be. Therefore, learned High Court Government Pleader contended that simply because the civil suit seeking declaration in respect of the same documents is pending consideration, the criminal proceedings cannot be quashed. Accordingly, she prays for dismissal of the petitions.

28. Learned counsel for respondent No.2 adopting the contentions raised by learned High Court Government Pleader submitted that specific allegations are made regarding forgery and concoction of the documents by criminally conspiring together. After accused No.1 losing his battle before CLB, before this Court and also before Hon'ble Apex Court, has filed the suit deliberately to stall the criminal liability. The Investigating Officer has completed investigation and filed the charge sheet. Specific *overt act* is alleged against each of the accused on the basis of the statements of the witnesses. The report from the handwriting expert was received in the year 2015 i.e., before the decision of the co-ordinate Bench of this Court in ***Ramachandra*** (*supra*). The report of the scientific



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expert discloses that forgery of the documents was by accused No.1. Moreover, the Investigating Officer has sought for permission to conduct further investigation under Section 173(8) of Cr.P.C. When sufficient materials are placed before the Court to consider the offences as alleged, the petitions are liable to be dismissed. Accordingly, he prays for dismissal of the petitions.

29. In view of the rival contentions urged by learned counsel for both the parties, the point that would arise for my consideration is:

"Whether the petitioners have made out any grounds to set aside the order dated 07.08.2015 taking cognizance of the offences alleged and to quash the criminal proceedings initiated against them?"

My answer to the above point is in the 'Negative' for the following:

REASONS

30. Respondent No.2 in Criminal Petition Nos.7789 of 2015, 8938 of 2018 and 6007 of 2015 as the first informant



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filed the complaint alleging commission of the offences punishable under Sections 403, 420, 467, 468, 474 and 120-B of IPC. It is the allegation made by the informant that he had received a registered post from accused No.1, in which, he found certain documents. On going through the documents, the informant found that 90% of the capital shares held by the informant and his wife separately were transferred in favour of accused No.1 and on the basis of the same, he is seeking transfer of securities in his name. The informant found that the Xerox copies of the documents produced are fake and concocted documents and it was found that the signatures of the informant and his wife were forged. The informant stated that the share certificates belonging to him and his wife were misplaced and suspected that the accused had found it and misappropriated the same. Therefore, the informant requested the police to register the case and to initiate legal action.

31. Respondent No.2 in Criminal Petition Nos.7790 of 2015, 8939 of 2018 and 2440 of 2020 being the wife of the informant in the above referred Criminal Petitions has also filed similar complaint making similar allegations against accused



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No.1. The police registered the first information in Crime Nos.143 and 144 of 2015 of Anekal Police Station and undertook investigation. During investigation, it was found that accused Nos.2 to 6 have also conspired with accused No.1 and played major role in forging and concocting the documents. Therefore, they were also arrayed as accused Nos.2 to 6. After investigation, the charge sheet came to be filed.

32. As per the charge sheet, the valuable share certificates pertaining to the informants in both the cases were found missing. With regard to the same, separate police complaints came to be registered. Accused No.2 was working as an Advocate and accused No.3 was also knowing about the affairs of the Company. Taking advantage of dispute between the family members of the informants, accused No.2 by misusing his authority as an advocate, stolen the share certificates belonging to both the informants.

33. It is alleged that accused No.1 in collusion with accused Nos.2 to 6 concocted the share purchase agreement, MOU and Special Power of Attorney, which are dated 29.01.2015, projecting that the documents were executed by



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the informants. It is stated that after concocting share purchase agreement dated 29.01.2015, accused No.1 forged the signatures of CWs.1 and 2 as if they have executed the documents, for which, accused Nos.2 and 4 are the attesting witnesses. Similarly, accused No.1 concocted MOU dated 29.01.2015 in the names of the informants and forged their signatures, for which, accused Nos.2 and 5 are the attesting witnesses. Accused No.1 also concocted Special Power of Attorney deed dated 29.01.2015 purported to have been executed by the informants by forging their signatures, for which, accused Nos.4 and 5 are the attesting witnesses. Thus, it is the contention of the informants that even though they have never executed any of these documents dated 29.01.2015, the accused have concocted the documents and forged their signatures. Accused Nos.2, 4 and 5 have attested the forged and concocted documents to state that they have seen CWs.1 and 2 subscribing their signatures on the documents. It is stated that the accused by making use of these concocted and forged documents committed cheating by holding the original documents with them for the purpose of misappropriating the valuable securities. This act of the



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accused is a result of criminal conspiracy between one another and thereby, they have committed the offences as stated above.

34. It is also alleged that accused No.6 who was also colluding with other accused concocted financial and tax due diligence report dated 11.05.2015 to enable accused No.1 to cheat the informants. In turn, accused No.1 making use of these concocted and forged documents and the security transfer forms, sought for entering his name in the securities as the transferee of the share certificates. It is the specific contention of the complainant that the stamp duty required for transfer of shares was paid by accused No.1 only on 14.05.2015, even though, the documents styled as share transfer agreement is dated 29.01.2015. It is also stated by the informants that they have never received any amount towards consideration as referred to in the concocted documents.

35. It is an admitted fact that accused No.1 approached CLB seeking transfer of shares in his favour on the basis of documents referred to above. The CLB directed accused No.1 to



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approach the Civil Court having jurisdiction, since execution of the documents was in serious dispute. The said order passed by CLB has reached finality, as the Company Appeal preferred before this Court was disposed off by the Division Bench upholding the order of CLB. Even the Hon'ble Apex Court has not interfered with the said order in Special Appeal No.4388 of 2017.

36. It is also admitted that accused No.1 has filed the suit OS No.3243 of 2017 against the informants and others seeking declaration that those disputed documents dated 29.01.2015 were in fact executed by the informants after receiving the consideration amount. The said suit for declaration is still pending for consideration. Therefore, it is the contention of the learned counsel for the petitioners that since the comprehensive suit for declaration with regard to the disputed documents is pending consideration before the Civil Court, the criminal proceedings is liable to be quashed.

37. Learned counsel for the petitioners placed reliance on the decision of the Hon'ble Apex Court in ***M Srikanth*** (*supra*), in support of his contention. The facts and



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circumstances of the case considered by the Hon'ble Apex Court was entirely different as the parties to the litigation were relatives and it is alleged that the Will was concocted by accused No.1 in the said case, purported to have been executed by his paternal grandmother, in his favour. Accused No.1 said to have orally gifted the property and handed over the possession in favour of the donee. On the basis of these concocted documents, accused No.1 said to have created a registered release deed in favour of accused No.4 therein, sub leased the land in favour of accused No.5. To the said lease deed, the other co-accused were the attesting witnesses. Based on these facts and circumstances, the Hon'ble Apex Court placing reliance on its earlier decision in ***State of Haryana Vs Bhajanlal***¹⁰, found that the allegations made against the attesting witnesses cannot amount to an offence as the registered lease deed, to which, the co-accused are the attesting witnesses was infact executed by accused No.1, even though, the same was said to have been executed on the basis of other forged documents, to which the co-accused are not parties. Under such circumstances, it was held that the criminal

¹⁰ 1992 Supp (1) SCC 335



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proceedings initiated against the attesting witnesses to the lease deed is required to be quashed.

38. The facts and circumstances in the present case are entirely different. It is the specific contention of the complainant in the present case that accused No.1 concocted share purchase agreement, MOU and Special Power of Attorney by forging the signatures of the informants and for the said concocted and forged documents, accused Nos.2, 4 and 5 have subscribed their signatures as attesting witnesses.

39. Section 3 of Transfer of Property Act refers to the definition of the word 'attested' in relation to an instrument to mean two or more witnesses each of whom has seen the executant sign or affix his mark to the instrument, or has seen some other person sign the instrument in the presence and by the direction of the executant, or has received from the executant a personal acknowledgement of his signature or mark, or of the signature of such other person, and each of whom have signed the instrument in the presence of the executant.



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40. As per the definition, the witness who attest the signature is required to see the executant signing the instrument and the attesting witness has signed the document acknowledging the signature of the executant in his presence. When it is the specific contention of the informants that they have never signed any of these disputed documents and their signatures were forged by accused No.1, the question of accused Nos.2 to 6 seeing the informants signing the documents or subscribing their signatures to those documents does not arise. If it is to be accepted that the documents were forged by accused No.1, automatically the other accused who are the signatories as attesting witnesses are also liable for their acts of subscribing the signatures, acknowledging the signatures of the informants found on the disputed documents. Therefore, the contention of the learned counsel for the petitioners that accused Nos.2 to 6 are only the attesting witnesses and they have not committed any offences, cannot be accepted.

41. The other decision relied on by the learned counsel for the petitioners is **Rajesh** (*supra*). The co-ordinate Bench of



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this Court considered the facts of the said case, wherein, it is alleged that accused No.1 and the complainant were relatives and accused No.1 concocted the GPA deed said to have been executed by the informant and on the basis of the said concocted documents, he executed the sale deed to which the other witnesses have subscribed their signatures as attesting witnesses. On these facts and circumstances, the co-ordinate Bench of this Court referring to the decision of the Hon'ble Apex Court in **M Srikanth** (*supra*) held that no offence is made out against the attesting witnesses to the registered sale deed. But the same is not applicable to the facts of the present case, for the reasons discussed above.

42. The other contention raised by the learned counsel for the petitioners is that since the Trial Court has ceased off the matter, where comprehensive suit for declaration regarding the disputed document is pending, the criminal proceedings initiated is liable to be quashed. In this regard, learned High Court Government Pleader has placed reliance the decision of the Hon'bel Apex Court in **K G Premshanker** (*supra*), wherein, a similar contention was taken that when a civil suit is pending,



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the decision rendered by the Civil Court will prevail and therefore, criminal case pending against the accused are required to be quashed.

43. The Hon'ble Apex Court considered the facts and circumstances of the case and after referring to its earlier decision in ***Kharkan Vs State of UP***¹¹, categorically held that if the criminal case and the civil proceedings are for the same cause, the judgment of the Civil Court would be relevant if conditions of any of Sections 40 to 43 of the Evidence Act are satisfied. But it cannot be said that the same would be conclusive, except as provided in Section 41, which provides that the judgment would be the conclusive proof of what is stated therein. Therefore, the Hon'ble Apex Court held that in each and every case, the first question which would require consideration is - whether the judgment, order or decree is relevant, if relevant - its effect. It also held that it may be relevant for a limited purpose, such as motive, or as a fact in issue, which would depend upon facts of each case. The Hon'ble Apex Court also made it clear that there is no hard and fast rule that can be laid down that possibility of conflicting decisions in

¹¹ AIR 1965 SC 83



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the Civil and Criminal Court is a relevant consideration for quashing the criminal proceedings. Accordingly, it is held that both civil and criminal proceedings are required to be decided on merits on the basis of the evidence that are placed on record.

44. Learned High Court Government Pleader also places reliance on the decision in **Smt Vanitha** (*supra*), where the co-ordinate Bench of this Court referring to various decisions of the Hon'ble Apex Court on the subject formed an opinion that when *prima facie* materials are placed before the Court to constitute the offence of forgery of the documents, simply because a civil suit is also pending consideration in respect of the same document, it will not be a ground to quash the criminal proceedings.

45. Learned High Court Government Pleader also places reliance on the decision of the co-ordinate Bench of this Court in **Balaji Trading Company** (*supra*), where the Court has discussed at length about the effect of initiating both civil and criminal proceedings in respect of the documents which are



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alleged to be forged or concocted and held in paragraph 13 as under:

"13. The second ground urged before this Court by the Learned Counsel for the petitioners is that, when the Appellate (Civil) Court is ceased of the matter and the Trial (Civil) Court has given its opinion that Exs.D1 to D10 are forged documents, but it failed to refer the complaint to the competent Court and further an appeal is already pending before the First Appellate Court, until the disposal of the civil matter, criminal case cannot be launched or proceeded with. This argument is also in my opinion, not tenable as the proceedings before the Civil Court and Criminal Court are altogether different. It is evident from the legal principles that the documents which are produced before the Civil Court can be proved to be forged by means of preponderance of probabilities, wherein such offences have to be proved with reference to the documents before the Criminal Court beyond reasonable doubt. Therefore, more responsibility is casted upon the complainant to prove that those documents are forged, in a Criminal case and in such an eventuality, the accused will get sufficient opportunity to question the said disputed documents. Further, added to that, this particular point raised by the Learned Counsel is



also considered by the Hon'ble Apex Court in the above said decision at Paras-32 of the judgment of the Hon'ble Apex Court referred to supra after considering its previous judgment in M.S. Sheriff Vs. State Of Madras, wherein it has laid down the principles, which reads as under:-

"32.Coming to the last contention that an effort should be made to avoid conflict of findings between the civil and criminal Courts, it is necessary to point out that the standard of proof required in the two proceedings are entirely different. Civil cases are decided on the basis of preponderance of evidence while in a criminal case the entire burden lies on the prosecution and proof beyond reasonable doubt has to be given. There is neither any statutory provision nor any legal principle that the findings recorded in one proceeding may be treated as final or binding in the other, as both the cases have to be decided on the basis of the evidence adduced therein. While examining a similar contention in an appeal against an order directing filing of a complaint under Section 476 of old Code, the following observations made by a Constitution Bench in M.S. Sheriff vs. State of Madras AIR 1954 SC 397 give a complete answer to the problem posed :



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"(15) As between the civil and the criminal proceedings we are of the opinion that the criminal matters should be given precedence. There is some difference of opinion in the High Courts of India on this point. No hard and fast rule can be laid down but we do not consider that the possibility of conflicting decisions in the civil and criminal Courts is a relevant consideration. The law envisages such an eventuality when it expressly refrains from making the decision of one Court binding on the other, or even relevant, except for certain limited purposes, such as sentence or damages. The only relevant consideration here is the likelihood of embarrassment.

(16) Another factor which weighs with us is that a civil suit often drags on for years and it is undesirable that a criminal prosecution should wait till everybody concerned has forgotten all about the crime. The public interests demand that criminal justice should be swift and sure; that the guilty should be punished while the events are still fresh in the public mind and that the innocent should be absolved as early as is consistent with a fair and impartial trial. Another reason is that it is undesirable to let things slide till memories have grown too dim to trust.



This, however, is not a hard and fast rule. Special considerations obtaining in any particular case might make some other course more expedient and just. For example, the civil case or the other criminal proceeding may be so near its end as to make it inexpedient to stay it in order to give precedence to a prosecution ordered under S. 476. But in this case we are of the view that the civil suits should be stayed till the criminal proceedings have finished."

From the above, it is very clear that the criminal proceedings cannot be stalled merely because the civil suit is also pending with reference to those documents. However, it is made clear that there is no hard-and-fast rule that both the cases can continue together, but for special consideration and on any special circumstances, if the civil case and the criminal proceedings which are so near for disposal, and a ground is made out to stay, either of the proceedings in such an eventuality, the concerned civil court can stay its proceedings, till the criminal proceedings are finished or vice versa as the case may be under the special and peculiar circumstances of the case."

In view of the above, it is held that the bar under Section 195(1)(b)(ii) of Cr.P.C. is not at all attracted to the facts of the



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said case and accordingly, the petition seeking quashing of the criminal proceedings came to be dismissed.

46. It is the specific contention of the learned High Court Government Pleader that the disputed documents were referred for scientific examination and the report of the expert was obtained by the Investigating Officer before filing the chargesheet. A copy of the FSL report is produced for perusal of the Court. The handwriting expert after verifying the admitted and disputed signatures found on the documents, formed an opinion, which reads as under:

"All the admitted and disputed signatures are found similar and are executed by one and the same person and are found sufficient for the purpose of scientific examination and comparison for advanced electronic analysis."

47. Thus, it is the case of the prosecution that, *prima facie*, the disputed documents does not bear the signatures of the informants. But on the other hand, the disputed signatures found on the documents were made by accused No.1. When such clinching *prima facie* materials are placed before the



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Court, I do not find any justification for seeking quashing of the criminal proceedings by the accused.

48. Learned counsel for the petitioners placed reliance on the decision of this Court in **Ramachandra** (*supra*), to contend that since the disputed documents were referred for scientific examination to a private lab, which was deprecated by this Court and hence, the petition is liable to be allowed. The co-ordinate Bench of this Court has referred the petition seeking quashing of the order taking cognizance for the offence considering that initially, 'B' report was filed by the Investigating Officer and later, the 'B' report was rejected and cognizance was taken by the learned Magistrate. It was noticed that there was a procedural lapse on the part of the learned Magistrate, while taking cognizance of the offence. It is observed that the police appears to be partisan in supporting the accused and the investigation was not conducted dispassionately. Under such circumstances, the Court observed that there is serious error in referring the disputed documents for verification to private laboratory instead of sending it to forensic laboratory run by the Government.



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49. In the present case, no such contentions were raised till date. Even if the accused takes a stand regarding authenticity of the FSL report issued by the private laboratory, they are free to take the same before the Trial Court for any justifiable cause. But it cannot be held that the report submitted by any private laboratory is to be binned without considering the same. There must be strong reasons either to reject or to disbelieve such FSL report. We are all aware of the number of Forensic Laboratory set up by the Government and its conditions in the State in particular, and in the Country in general. Under such circumstances, the contention taken by the learned counsel for the petitioners that the FSL report submitted by the private laboratory is to be ignored do not sound reasons to this Court. I do not find any justification to reject the FSL report at this stage.

50. In view of the discussions held above, I do not find any merits in the contention raised by the petitioners and hence the petitions are liable to be dismissed. Accordingly, I



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answer the above point in the Negative and proceed to pass the following:

ORDER

The Criminal petitions are ***dismissed.***

Sd/-
(M.G. UMA)
JUDGE

*bgn/-
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