



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25<sup>TH</sup> DAY OF APRIL, 2024

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

**CRIMINAL PETITION NO. 5135 OF 2021**

**C/W**

**CRIMINAL PETITION NO. 3355 OF 2021**

**CRIMINAL PETITION NO. 7089 OF 2021**

**CRIMINAL PETITION NO. 9044 OF 2021**

**IN CRIMINAL PETITION NO. 5135/2021**

**BETWEEN:**

- 1 . SMT. ANITHA R ALVA  
W/O SRI. D RAVINDRA ALVA  
AGED ABOUT 63 YEARS  
350, 13TH CROSS, 3RD BLOCK  
BEL LAYOUT, VIDYARANYAPURA  
BENGALURU-560 097
- 2 . ARVIND M A  
S/O ANNAJI GOWDA  
AGED ABOUT 39 YEARS  
MANAGER-ST NO.212161  
PUR-IG-STORE MMF  
R/AT BHARATH ELECTRONICS LTD  
JALAHALLI  
BENGALURU-560 063
- 3 . B BYREGOWDA  
AGED ABOUT 72 YEARS  
R/A BHAIKAV NILAYA  
NO.31, 3RD MAIN ROAD

CHAMUNDIYESWARI LAYOUT  
DODDABOMMA SANDRA  
BENGALURU-560 097

- 4 . KUMARA SELVAN P  
AGED ABOUT 53 YEARS  
ASSISTANT MANAGER-208163  
CS/T/ AND BS  
R/AT BHARATH ELECTRONICS LTD  
JALAHALLI  
BENGALURU-560 063
- 5 . GOPINATH B S  
AGED ABOUT 50 YEARS  
ST NO.209337  
R/AT BHARATH ELECTRONICS LTD  
JALAHALLI  
BENGALURU-560 063
- 6 . SMT. GEETHA Y R  
W/O LOKESH  
AGED ABOUT 42 YEARS  
ST NO.2124899  
R/AT BHARATH ELECTRONICS LTD  
JALAHALLI  
BENGALURU-560 063
- 7 . SANJEEV KUMAR  
S/O V RAIBHAGI  
AGED ABOUT 49 YEARS  
ST NO.209337/MASK CENTRE  
R/SC COMPONENTS  
R/AT BHARATH ELECTRONICS LTD  
JALAHALLI  
BENGALURU-560 063
- 8 . AMRUTHRAJ K M  
AGED ABOUT 55 YEARS

R/AT BHARATH ELECTRONICS LTD  
JALAHALLI  
BENGALURU-560 063

- 9 . YELLAPPA DYAMANNAVAR  
AGED ABOUT 39 YEARS  
ST NO.212499  
R/AT BHARATH ELECTRONICS LTD  
JALAHALLI  
BENGALURU-560 063
- 10 . RAGHU M N  
AGED ABOUT 40 YEARS  
ST NO.212355-TS/MCE  
R/AT BHARATH ELECTRONICS LTD  
JALAHALLI  
BENGALURU-560 063
- 11 . B RAMESH  
S/O BYRALINGAIAH  
AGED ABOUT 51 YEARS  
SRI BYRAVESHWARA ENTERPRISES  
R/AT KRUTHIKA NILAYA  
SITE NO.1 AND 2  
SRI HARSHA NAGARA  
NO.8, KASABA HOBLI  
NELAMANGALA  
BENGALURU RURAL DISTRICT-562 123
- 12 . NAGENDRA  
S/O CHANDRASHEKAR  
AGED ABOUT 41 YEARS  
R/AT BAIRAVESHWARA ENTERPRISES  
NO.12/1  
5TH C CROSS  
SHARADHAMBHA NAGARA

JALAHALLI  
BANGALORE-560 013

....PETITIONERS

(BY SRI. DIWAKAR .K, SENIOR ADVOCATE FOR  
SRI. ABHISHEK .K, ADVOCATE)

**AND:**

1 . STATE OF KARNATAKA  
TAVARAKARA POLICE STATION  
REPRESENTED BY STATE PUBLIC PROSECUTOR  
HIGH COURT  
BENGALURU-560 001

2 . MADEGOWDA  
S/O G.H. KRISHNAMURTHY  
AGED ABOUT 50 YEARS  
R/AT GANAPATHIHALLI  
TAVAREKERE HOBLI  
BANGALORE CITY-562 130

....RESPONDENTS

(BY SRI. M.R. PATIL, HCGP FOR R1;  
SRI. S.R. NAGARAJ, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED U/S 482 OF  
CR.P.C PRAYING TO QUASH THE FURTHER PROCEEDINGS  
AGAINST THE PETITIONERS REGISTERED BY THE  
TAVAREKERE POLICE FOR THE OFFENCE P/U/S.120-B,  
255, 420, 464, 465, 467, 468, 471 OF IPC IN  
C.C.NO.53/2021 PENDING BEFORE THE II ADDITIONAL  
CIVIL JUDGE AND JMFC MAGADI RAMANAGARA.

**IN CRIMINAL PETITION NO. 3355/2021**

**BETWEEN:**

- 1 . ARVIND M A  
S/O ANNAJI GOWDA,  
AGED ABOUT 39 YEARS  
MANAGER-ST-NO. 212161  
PUR-IG-STORE MMF  
R/AT BHARATH ELECTRONICS LTD  
JALAHALLI  
BENGALURU-560 063
- 2 . KUMARA SELVAN  
AGED ABOUT 53 YEARS  
ASSISTANT MANAGER-208 163  
CS/T/ AND B S  
R/AT BHARATH ELECTRONICS LTD  
JALAHALLI  
BENGALURU-560 063
- 3 . GOPINATH B S  
AGED ABOUT 50 YEARS  
ST. NO. 209337  
R/AT BHARATH ELECTRONICS LTD  
JALAHALLI  
BENGALURU-560 063
- 4 . SANJEEV KUMAR  
S/O. V RAIBHAGI  
AGED ABOUT 49 YEARS  
ST. NO. 209337 / MASK CENTER  
R/SC COMPONENTS  
R/AT BHARATH ELECTRONICS LTD  
JALAHALLI  
BENGALURU-560 063

- 5 . AMRITHRAJ K M  
AGED ABOUT 55 YEARS  
R/AT BHARATH ELECTRONICS LTD  
JALAHALLI  
BENGALURU-560 063
- 6 . SMT. GEETHA Y R  
W/O LOKESH  
AGED ABOUT 42 YEARS  
ST. NO. 2124899  
R/AT BHARATH ELECTRONICS LTD  
JALAHALLI  
BENGALURU-560 063
- 7 . RAGHU M N  
AGED ABOUT 40 YEARS  
ST.NO. 212355-TS/MCE  
R/AT BHARATH ELECTRONICS LTD  
JALAHALLI  
BENGALURU-560 063
- 8 . YELLAPPA DYAMANNAVAR  
AGED ABOUT 39 YEARS  
ST.NO. 212499  
R/AT BHARATH ELECTRONICS LTD  
JALAHALLI  
BENGALURU-560 063
- 9 . B. BYREGOWDA  
AGED ABOUT 72 YEARS  
R/AT BHAIKAV NILAYA  
NO. 31, 3RD MAIN ROAD  
CHAMUNDIYESWARI LAYOUT  
DODDABOMMA SANDRA  
BENGALURU-560 097
- 10 . SMT. ANITHA R ALVA  
W/O SRI. D. RAVINDRA ALVA

AGED ABOUT 63 YEARS  
NO. 350, 13TH CROSS  
3RD BLOCK, BEL LAYOUT  
VIDYARANYAPURA  
BENGALURU-560 097

11 . B. RAMESH  
S/O BYRALINGAIAH  
AGED ABOUT 51 YEARS  
SRI. BYRAVESHWARA ENTERPRISES  
R/AT KRUTHIKA NILAYA  
SITE NO. 1 AND 2  
SRI. HARSHA NAGARA  
KASABA HOBLI  
NELAMANGALA  
BENGALURU RURAL DISTRICT

....PETITIONERS

(BY SRI. DIWAKAR .K, SENIOR ADVOCATE FOR  
SRI. ABHISHEK .K, ADVOCATE)

**AND:**

M/S. SRIMAYA BUILDERS AND DEVELOPERS  
REPRESENTED BY ITS MANAGING PARTNER  
SRI. T P GANGADHAR  
NO. 3, OPPOSITE TO BBMP  
HESARAGHATTA MAIN ROAD  
BAGALGUNTE, BENGALURU-560 073

....RESPONDENT

(BY SRI. M.R. RAJGOPAL, SENIOR ADVOCATE FOR  
SRI. H.N. BASAVARAJU, ADVOCATE)

THIS CRIMINAL PETITION IS FILED U/S 482 OF  
CR.P.C PRAYING TO SET ASIDE THE ORDER IN THE  
CRIMINAL REVISION PETITION NO.33/2020 DATED  
29.03.2021 PASSED BY III ADDL. DISTRICT AND  
SESSIONS JUDGE AT RAMANAGARA AT ANNEXURE-E AND

CONFIRM THE DISMISSAL OF THE COMPLAINT IN PCR NO.128/2019 PASSED BY II ADDL. CIVIL JUDGE AND JMFC AT MAGADI DATE 21.09.2020 AT ANNEXURE-C.

**IN CRIMINAL PETITION NO. 7089/2021**

**BETWEEN:**

MR. A T KRISHNAPPA  
S/O MR. VENKATARAMAIAH  
AGED ABOUT 51 YEARS  
R/AT NO.42, SAPTHAGIRI NIVASA  
3RD A CROSS, 8TH MAIN  
BHUVANESHWARINAGAR  
BANGALORE-560 057

ALSO AT:  
SARADAMBA NAGAR  
JALAHALLI  
BENGALURU-560 013

....PETITIONER

(BY SRI. KESHAVA MURTHY .B, ADVOCATE)

**AND:**

- 1 . STATE OF KARNATAKA  
SHO, TAVAREKERE POLICE STATION  
MAGADI CIRCLE, RAMANAGARA DISTRICT  
REP. BY SPP  
HIGH COURT OF KARNATAKA  
BANGALORE-560 001
- 2 . MR. MADEGOWDA  
S/O MR. G H KRISHNA MURTHY  
AGED ABOUT 50 YEARS  
R/AT GANAPATHIHALLI  
TAVAREKERE HOBLI  
BANGALORE SOUTH TALUK



3 . MR. NARENDRA BABU M R  
POLICE SUB-INSPECTOR  
TAVAREKERE POLICE STATION  
RAMANAGARA DISTRICT-562 130

....RESPONDENTS

(BY SRI. M.R. PATIL, HCGP FOR R1;  
SRI. S.R. NAGARAJA, ADVOCATE FOR R2;  
SRI. SUDHA .D, ADVOCATE FOR R3)

THIS CRIMINAL PETITION IS FILED U/S 482 OF CR.P.C PRAYING TO QUASH THE CHARGE SHEET FILED AGAINST THE PETITIONER HEREIN FOR THE ALLEGED OFFENCE P/U/S.120(B), 255, 420, 464, 465, 467, 468 AND 471 OF IPC FILED BY THE TAVAREKERE P.S., PENDING ON THE FILE OF THE II ADDITIONAL CIVIL JUDGE AND JMFC COURT, MAGADI, RAMANAGARA DISTRICT IN C.C.NO.53/2021.

**IN CRIMINAL PETITION NO. 9044/2021**

**BETWEEN:**

M/S SRIMAYA BUILDERS AND DEVELOPERS  
A PARTNESERHIP FIRM  
REPRESENTED BY ITS MANGING PARTNER  
SRI. T P GANGADHAR  
HAVING ITS OFFICE AT NO. 3  
OPP: TO BBMP OFFICE  
HESARAGHATTA MAIN ROAD  
BAGALAGUNTE  
BENGALURU-560 073.

....PETITIONER

(BY SRI. M.R. RAJGOPAL, SENIOR ADVOCATE FOR  
SRI. H.N. BASAVARAJU, ADVOCATE)

**AND:**

- 1 . ARVIND M A  
S/O ANNAJI GOWDA  
AGED ABOUT 39 YEARS  
MANAGER-ST-NO.212161  
PUR-IG-STORE MMF  
BHARAT ELECTORNIS LTD  
JALAHALLI  
BENGLAURU-560 063
  
- 2 . KUMARA SELVAN P  
FATHER'S NAME NOT KNOWN TO PETITIONER  
AGED ABOUT 53 YEARS  
ASSISTANT MANAGER-208 163  
CS/T AND BS  
BHARAT ELECTORNICS LTD  
JALAHALLI  
BENGALURU-560 063
  
- 3 . GOPINATHAN B S  
FATHER'S NAME NOT KNOWN TO PETITIONER  
AGED ABOUT 50 YEARS  
ST-NO.209337  
BHARATH ELECTORNICS LTD  
JALAHALLI  
BENGALURU-560 063
  
- 4 . SANJEEVA KUMAR  
S/O V RAIBHAGI  
AGED ABOUT 49 YEARS  
ST-NO.209337/ MASK CENTER  
R/SC COMPONENTS  
BHARAT ELECTORNOICS LTD  
JALAHALLI  
BENGALURU-560 063
  
- 5 . AMRITHRAJ K M  
FATHER'S NAME NOT KNOWN TO PETITIONER

AGED ABOUT 55 YEARS  
BHARAT ELECTORNOICS LTD  
JALAHALLI  
BENGALURU-560 063

- 6 . GEETHA Y R  
W/O LOKESH  
AGED ABOUT 42 YEARS  
ST-NO.2124899  
BHARAT ELECTORNOICS LTD  
JALAHALLI  
BENGALURU-560 063
- 7 . RAGHU M N  
FATHER'S NAME NOT KNOWN TO PETITIONER  
AGED ABOUT 40 YEARS  
ST-NO. 212355-TS/MCE  
BHARAT ELECTRONICS LTD  
JALAHALLI  
BENGALURU-560 063
- 8 . YELLAPPA DYAMANNAVAR  
FATHER'S NAME NOT KNOWN TO PETITIONER  
AGED ABOUT 39 YEARS  
ST-NO. 212499  
BHARAT ELECTRONICS LTD  
JALAHALLI  
BENGALURU-560 063
- 9 . B BYREGOWDA  
FATHER'S NAME NOT KNOWN TO PETITIONER  
AGED ABOUT 72 YEARS  
R/A BHAIKAV NILAYA, NO. 31  
3RD MAIN ROAD  
CHAMUNDESHWARI LAYOUT  
DODDABOMMASANDRA  
BENGALURU-560 097

10 . ANITHA R ALVA  
W/O D RAVINDRA ALVA  
AGED ABOUT 63 YEARS  
R/A NO 350, 13TH CROSS  
3RD BLOCK, BEL LAYOUT  
VIDYARANYAPURA  
BENGALURU-560 097.

11 . B RAMEESH  
S/O BYRALINGAIAH  
AGED ABOUT 51 YEARS  
SRI BYRAVESHWARA ENTERPRISES  
R/AT KRUTHIKA NILAYA  
SITE NOS. 1 AND 2, SRI HARSHA NAGARA  
KASABA HOBLI, NELAMANGALA  
BENGALURU RURAL DIST-562 123

....RESPONDENTS

(BY SRI. DIWAKAR .K, SENIOR ADVOCATE FOR  
SRI. ABHISHEK .K, ADVOCATE FOR R1 TO R4)

THIS CRIMINAL PETITION IS FILED U/S 482 OF  
CR.P.C PRAYING TO QUASH THE ORDER DATED  
07.04.2021 PASSED BY THE LEARNED III ADDL.DISTRICT  
AND SESSIONS JUDGE, RAMANAGARA IN  
CRL.RP.NO.33/2020 IN SO FAR AS IT RELATES TO  
REMANDING THE MATTER TO THE TRIAL COURT FOR A  
FRESH CONSIDERATION ALONG WITH THE CERTAIN  
DIRECTIONS ARE CONCERNED AS PER ANNEXURE-C AND  
ETC.

THESE PETITIONS HAVING BEEN HEARD AND  
RESERVED FOR ORDERS ON 23.04.2024 , COMING ON  
FOR PRONOUNCEMENT OF ORDERS THIS DAY, THE COURT  
MADE THE FOLLOWING:

**ORDER**

These four criminal petitions pertain to the proceedings pending in PCR.128/2019 and C.C.No.53/2021 pending on the file of the III Additional District and Sessions Judge, Ramnagar, for the offence punishable under Sections 120(B), 255, 420, 464, 465, 467, 468, 471 of IPC.

2. Facts leading to the cases are as under:

The Bharat Electronics Employees Co-Operative House Building Society(for short referred to as "Housing Society") entered into a memorandum of understanding(M.O.U.) with M/s. Srimaya Builders & Developers, a partnership firm on 9.10.2009 (hereinafter referred to as "Complainant"). The complainant/developer claims that in terms of the memorandum of understanding, the complainant procured agricultural lands, converted the same for residential purpose and developed the lands to be

utilized for full-fledged residential houses to enable the Housing Society to distribute the sites in favour of its primary members.

3. Therefore, the genesis of these disputes lie in the MOU dated 9.10.2009 between the complainant and the Society. Allegations of delays, breaches and legal disputes have arisen leading to legal notices, arbitrations and criminal complaints. The complainant alleges that Housing Society having allowed the complainant to invest money have come up with an anti dated MOU dated 29.12.2018 entered with one Byraveshwara Enterprises. The complainant therefore alleges that the Directors of the Housing Society in connivance with Byraveshwara Enterprises with a malafide intention to cause wrongful loss have not only kept the complainant under dark, but have tried to scuttle the MOU dated 9.10.2009 by creating an E-stamp paper in which the time was tampered with and

the same was utilized to prepare the alleged MOU dated 29.12.2018.

4. The complainant filed a private complaint under Section 200 of Cr.P.C. in PCR.128/2019 on the file of Principal Civil Judge and JMFC at Magadi, for offences punishable under Sections 191, 192, 193, 196, 209, 406, 418, 420, 465, 466, 468, 471, 474 read with Section 120(B) and 34 of IPC. This complaint is filed on 7.8.2019.

5. The District Registrar under whose jurisdiction this E-stamp paper is generated lodged a police complaint which led to registration of crime in FIR No.91/2019 for the offences punishable under Sections 420, 468, 471 read with Section 34 of IPC at Jalahalli Police Station. This crime is registered on 13.9.2019. A second police complaint is lodged by one Madegowda and a crime is registered in Crime

No.428/2020 with Tavarekere Police Station for offence punishable under Section 120(B), 255, 420, 465, 464, 467, 468, 471 of IPC.

6. Before I proceed to deal with the matter on hand, the particulars of all the three cases are culled out:

SL No.	Case No.	Complainant	Accused	Progress in case
1.	PCR No. 128/2019	Srimaya Builders	A1- Aravinda M A A2-Kumara Selvan P A3- Gopinath B S A4- Sanjeev Kumar A5- Amritraj K M A6- Geeta Y R A7- Raghu M N A8- Yellappa Dymannavar A9- B Byregowda A10- Anitha R Alva A11- B Ramesh	<ul style="list-style-type: none"> <li>• <b>Filed on 07.08.2019</b> under Section 200 C.rPC</li> <li>• <b>21.09.2020</b>- PCR dismissed</li> <li>• <b>CrI.R.P.No.33/20</b> filed against dismissal</li> <li>• <b>07.04.2021- CrI.R.P.No.33/20</b> allowed and PCR remanded back.</li> <li>• <b>CrI.R.P No.9044/21</b> filed by complainant against remand portion of order</li> <li>• <b>CrI.P No.3355/21</b> filed by accused against order dt.07.04.2021.</li> <li>• <b>Pending on file of II Addl. Civil Judge and JMFC, Magadi</b></li> </ul>
2.	Cr. No. 91/2019	Bharathi, District Registrar	A1- Anitha A2- Ramesh	<ul style="list-style-type: none"> <li>• <b>Filed on 13.09.2019</b> under Section 420,468,471 r/w 34 IPC registered at <b>Jalahalli Police Station</b></li> <li>• B report filed</li> <li>• Protest petition filed against B report</li> <li>• <b>26.10.2021</b>- Protest Petition allowed and B report set aside.</li> <li>• <b>Pending on file of 39<sup>th</sup> ACMM, Bengaluru</b></li> </ul>
3.	Cr.No. 428/2020 (CC No.53/21)	Madegowda	A1- Anitha R Alva (A10 in PCR) A2- Aravinda M A (A1 in PCR) A3- B Byregowda (A9 in PCR) A4- Kumara Selvan P (A2 in PCR) A5- Gopinath B S (A3 in PCR) A6- Geeta Y R (A6 in PCR)	<ul style="list-style-type: none"> <li>• <b>Filed on 19.01.2020</b> under Section 120(B), 255,420,465,464,467, 468,471 IPC registered at <b>Tavarekare Police Station</b></li> <li>• <b>05.01.2021</b>- Charge-sheet filed.</li> <li>• Committed to District and Sessions Judge,Ramanagar vide order dt. <b>25.10.2021</b>.</li> </ul>



			A7- Sanjeev Kumar (A4 in PCR) A8- Amritraj K M (A5 in PCR) A9- Yellappa Dyamannavar (A8 in PCR) A10- Raghu M N (A7 in PCR) A11- B Ramesh (A11 in PCR) A12- Nagendra A13- Krishnappa A T A14- Janardhan	<ul style="list-style-type: none"> <li>• <b>CrI.P No.5135/21</b> filed by A1-A12 u/s 482 C.rPC</li> <li>• <b>CrI.P No.7089/21</b> filed by A13 u/s 482 CrPC</li> <li>• <b>Pending on file of Prl. Civil Judge and JMFC, Magadi.</b></li> </ul>
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7. On examining the chart culled out supra, it is clearly evident that the learned Magistrate dismissed the complaint filed in PCR.No.128/2019 for lack of evidence to proceed against the accused. It is borne out from records that the ongoing investigation pursuant to registration of Cr.No.428/2020 was not brought to the notice of the Magistrate where the private complaint was pending consideration. Learned District Judge however allowed the revision petition filed by complainant in CrI.R.P.33/2020 and the private complaint is now again restored on file. In the interregnum, the investigating Officer has filed the charge sheet in Cr.No.428/2020 on 5.1.2021. The learned Magistrate having taken cognizance of Section

420 indicated in the charge sheet material has passed a committal order on 25.10.2021 and C.C.No.53/2021(Cr.No.428/2020) is now pending consideration before the District and Sessions Judge, Ramnagar.

8. In view of the remand order passed by the District Judge in CrI.R.P.No.33/2020, the Magistrate in P.C.R.No.128/2019 has to reassess the prima-facie materials and also needs to take cognizance of detailed charge sheet submitted by police in Cr.No.428/2020.

9. Having regard to the peculiar facts on hand and bearing in mind the complexity involved in the case on hand, this Court has to examine the applicability of Section 210 of Cr.P.C. Before this Court proceeds further, I deem it fit to extract Section 210 of Cr.P.C., which reads as under:

**"210. Procedure to be followed when there is a complaint case and police investigation in respect of the same offence.-**(1) *When in a case instituted otherwise than on a police report (hereinafter referred to as a complaint case), it is made to appear to the Magistrate, during the course of the inquiry or trial held by him, that an investigation by the police is in progress in relation to the offence which is the subject-matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such inquiry or trial and call for a report on the matter from the police officer conducting the investigation.*

(2) *If a report is made by the investigating police officer under section 173 and on such report cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report.*

(3) *If the police report does not relate to any accused in the complaint case or if the Magistrate does not take cognizance of any offence on the police report, he shall proceed with the inquiry or trial, which was stayed by him, in accordance with the provisions of this Code."*

10. Section 210 of Cr.P.C. delineates the procedure to be followed when a complainant's case under Section 200 of Cr.P.C. and police investigation culminating in a charge sheet are pending concurrently. In the present matter, a private

complaint in PCR.No.128/2019 is under consideration before II Additional Civil Judge and JMFC, Magadi, while a police investigation has led to filing of a charge sheet in Cr.No.428/2020 for the offences punishable under Section 120(B), 255, 420, 465, 464, 467, 468, 471 of IPC. The Principle Civil Judge and JMFC, Magadi, having taken cognizance of the offences indicated in the charge sheet has passed a committal order.

11. Given the charge sheet's indication of an offence under section 420 of IPC and its relation to a police case, the Magistrate cannot proceed with the private complaint in solidarity. However, the private complaint does not encompass all the accused named in the charge sheet. The Court has to examine the prima facie materials in the charge sheet before taking cognizance of the remaining accused mentioned only in the charge sheet. The private

complaint however, will not lose its identity, as Section 210 Cr.P.C provides only for a joint trial of cases arising out of a private complaint and police investigation and not an amalgamation of proceedings. This court has undertaken a comprehensive examination of the complex legal scenario that has arisen for consideration from concurrent private complaint proceedings and police investigation, both relating to the same occurrence. Section 210 Cr.P.C provides a legal framework governing the situation where there is a complaint case and police investigation leading to a charge sheet for the same offence. This Court is therefore called upon to examine whether a joint trial will expedite the resolution of the dispute, reduce the burden on the judicial system and ensure timely justice to the aggrieved parties. Since the case on hand warrants consolidation of proceedings in private complaint (PCR

128/2019) and police case (C.C 53/2021), this Court is of the view that it is the District and Sessions Judge before whom the police case is seized pursuant to the committal order, has to undertake comprehensive examination of the private complaint as well as the police case.

12. This Court is of the view that the private complaint has to be transferred to the District Court, where the charge sheet filed in connection with Cr.No.428/2020 indicates an offence under Section 420 of IPC. which is central to the police case. The District Registrar, Bengaluru Urban and Deputy Inspector General Registrar are cited as witnesses (C.Ws.17 and 20 respectively) in the charge sheet submitted in C.C.No.53/2021. It is in this background, this Court is of the view that the Magistrate overseeing the private complaint is

precluded from independently proceeding with the private complaint.

13. Empowered by Section 407 read with Section 482 of Cr.P.C., this Court possesses the authority to transfer the proceedings pending in private complaint to ensure fair and impartial enquiry, particularly when faced with unusual legal complexities. Given the filing of charge sheet in Cr.No.428/2020 and the pending nature of the private complaint in PCR.No.128/2019, it becomes imperative to consolidate these proceedings for a joint trial. This consolidation will not only streamline the launching of criminal action against the accused but also facilitate a coherent and unified examination of the allegations and the evidence and thereby safeguarding the rights and interest of all the parties involved. This Court is compelled to invoke Section 407 read with Section 482 of Cr.P.C. having regard to overlapping nature of

private complaint and police investigation both rooted in the same incident, raises intricate questions regarding jurisdiction, procedure and protection of legal rights. Section 210 of Cr.P.C. therefore, provides a statutory frame work to address situations where there are parallel legal proceedings arising from the same set of facts. The above said provision recognizes the potential for multiple Courts to be seized of the same matter and therefore, Section 210 of Cr.P.C. seeks to harmonize these proceedings to prevent duplication and conflicting judgments.

14. The transfer of the private complaint is also inevitable in the present case on hand. The accused cannot be subjected to two independent criminal prosecutions at two different Courts. One of the paramount considerations in any criminal proceedings is the protection of the accused's rights and guarantee of fair trial. A joint trial in the present scenario will



ensure the compliance of principle of Autrefois Acquit and Autrefois convict which is embodied in Article 20(2) of the Constitution of India and Section 300 Cr.P.C. In order for Section 300 of Cr.P.C to be attracted, there are 3 essential criteria that must be present. Firstly, a person must have been tried by a competent court for the same offence or offence arising out of the same set of facts. Secondly the trial must have resulted in his acquittal or conviction, and lastly, the acquittal or conviction must still be in force. In the present case, the private complaint and the police case are based on the same set of facts and incidents. If the proceedings are allowed to moved forward independently, it will inevitably lead to the creation of a bar under Section 300 Cr.P.C, against one of the proceedings. By consolidating the proceedings and ensuring a joint trial, this court seeks to balance the interest of all parties involved,

safeguarding the rights of the accused while facilitating a comprehensive examination of the allegations.

15. It is for the foregoing reasons, I am not inclined to accede to the arguments advanced by the Senior Counsel appearing on behalf of accused 1 to 12 and the counsel appearing for accused No.13/developer. Learned Senior Counsel's contention that accused have to be subjected to criminal prosecution in Cr.No.91/2019 is not supported by any precedents. The learned Senior Counsel's stand taken in the petitions filed by the accused only gives an impression that accused intend to choose a particular proceedings. Admittedly in Cr.No.91/2019, a 'B' report is filed which led to filing of a protest petition. The protest petition is allowed vide Order dated 26.10.2021 and the 'B' report is set aside. The contention of the Senior Counsel that the private

complaint pending in PCR.No.128/2019 and the proceedings in CC.No.53/2021 are not maintainable and are liable to be quashed under Section 482 of Cr.P.C. cannot be acceded to. This Court reiterates the necessity of consolidating the private complaint proceedings pending in PCR.No.128/2019 with C.C.No.53/2021 pending before District and Sessions Judge, Ramnagar, to ensure judicial efficiency, avoid conflicting judgments and facilitate a coherent legal process. This Court emphasizes the paramount importance of upholding the principles of natural justice. As stated supra, in all 21 witnesses are cited. Among these cited witnesses C.Ws.17 and 20 are crucial and important witnesses.

16. The complainant's petition filed in Criminal Petition No.9044/2021 assailing the remand order passed by the III Additional District and Sessions

Judge, Ramanagar, in Crl.R.P.No.33/2020 does not survive for consideration in the light of the findings recorded supra. Similarly, Cr.P.No.3355/2021 filed by accused assailing the very same remand order passed by the District and Sessions Judge, Ramnagar in Crl.R.P.No.33/2020 also does not survive for consideration. Similarly, Crime No.91/2019 registered on a complaint filed by the District Registrar does not survive for consideration. Criminal Petition No.5135/2021 and Criminal Petition No.7089/2021 filed by the accused 1 to 12 and accused No.13 respectively also cannot be entertained in the light of the findings recorded supra. There is sufficient prima facie material which is indicated in the charge sheet. This Court is not inclined to grant any indulgence under Section 482 of Cr.P.C. and therefore, these petitions are also liable to be dismissed.

17. Given the complexities and the potential for conflicting judgments, this Court proceeds to pass the following:

**ORDER**

*(i) The criminal petitions are hereby dismissed.*

*(ii) The proceedings pending in PCR.No.128/2019 pending on the file of the II Additional Civil Judge and JMFC, at Magadi, pursuant to remand order passed by the III Additional District and Sessions Judge, Ramanagaram, in Crl.R.P.No.33/2020 stand transferred to the District and Sessions Judge, Ramanagar, where C.C.No.53/2021 is already pending to avoid conflicting decisions and ensure uniformity in adjudications.*

*(iii) There shall be joint trial of the accused in both the police charge sheet and private complaint.*

*(iv) The District and Sessions Judge, Ramnagar, is hereby directed to examine the material presented in the private complaint along side the police case, ensuring fair treatment to all parties involved.*

**Sd/-  
JUDGE**

\*alb/-