NC: 2026:KHC:35159
WP No. 35835 of 2024

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO. 35835 OF 2024 (GM-RES)

BETWEEN:

1. AISHWARYA GOWDA
W/O K N HARISH
AGED ABOUT 32 YEARS,

2. HAIRSH K N
S/O K M NANJEGOWDA
AGED ABOUT 45 YEARS

BOTH ARE R/AT NO.111/1, SAMBRAMA,
6TH MAIN, 3RD STAGE, BEM LAYOUT,
OPP. TO VIVEKANANDA PARK,
R.R.NAGAR, BENGALURU – 560 098.

...PETITIONERS

(BY SRI. SANDESH J. CHOUTA, SENIOR COUNSEL APPEARING FOR
SRI. SUNIL KUMAR S, ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY CHANDRA LAYOUT P.S.
REP. BY THE LD. SPP,
HIGH COURT BUILDING,
BENGALURU – 560 001.

2. VANITHA AITHAL
W/O PRAMJYOTHI AITHAL,
AGED ABOUT 44 YEARS,
R/AT NO. 1443/44, PH LAND MARK,
80 FEET ROAD, GANAPATHI CIRCLE,
CHANDRA LAYOUT,
BENGALURU – 560 040.

...RESPONDENTS

(BY SRI. B.N. JAGADEESHA, ADDL.SPP FOR R-1
SRI. S.S. SRINIVASA RAO, ADVOCATE FOR R-2)

THIS W.P. IS FILED UNDER ARTICLE 226 & 227 OF THE CONSTITUTION OF INDIA R/W SECTION 482 OF CPC, PRAYING TO QUASH THE FIR AND COMPLAINT DTD. 23.12.2024 IN CRIME NO. 617/2024 REGISTERED BY CHANDRA LAYOUT P.S. FOR OFFENCES P/U/S 406, 419, 420, 120B, 504, 506, 34 OF IPC WHICH IS NOW PENDING BEFORE THE IV ADDITIONAL CHIEF METROPOLITAN MAGISTRATE AT BENGALURU AND DECLARE THE ARREST OF THE PETITIONERS DTD. 28.12.2024 IN CRIME NO. 617/2024 REGISTERED BY CHANDRA LAYOUT P.S. FOR OFFENCES P/U/S 406, 419, 420, 120B, 504, 506, 34 OF IPC AS ILLEGAL.

THIS PETITION IS BEING HEARD AND RESERVED ON 08.04.2026 COMING ON FOR PRONOUNCEMENT OF ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

CAV ORDER

This petition by petitioner Nos.1 and 2 – accused Nos. 1 and 2 seeks quashing of the criminal proceedings registered as an FIR in Crime No.617/2024 dated 23.12.2024 pursuant to a complaint dated 23.12.2024 filed by the 2nd respondent – *de facto* complainant for alleged offences punishable under Sections 406, 419, 420, 120-B, 504, 506 r/w 34 IPC, pending on the file of the IV ACMM, Bangalore, currently being investigated by the Criminal Investigation Department (CID), Bangalore.

2. Briefly stated the facts giving rise to the present petition are as under:-

The 2nd respondent – *de facto* complainant – Smt.Vanitha Aithal filed the instant complaint dated 23.12.2024 alleging that the petitioner No.1 had allegedly induced the 2nd respondent by misrepresenting herself as sister of Ex-M.P. – Sri.D.K.Suresh and a business woman with high level connections to invest gold and gold ornaments, in all, 14 Kgs and 659.94 gms in a sum of Rs.8,41,25,430/- with petitioner No.1 during 2023-24 from the 2nd respondent and when she demanded repayment during December, 2024, the petitioners 1 and 2 along with accused No.3 did not repay and instead threatened and intimidated the 2nd respondent, who filed the instant complaint against the petitioners – accused Nos. 1 and 2 and accused No.3 for the aforesaid alleged offences leading to the 2nd respondent filing the instant complaint which was registered as the instant FIR against the petitioners. Aggrieved by the impugned complaint and FIR, petitioners are before this Court by way of the present petition.

3. Heard learned Senior counsel for the petitioners and learned Addl.SPP for 1st respondent and learned counsel for 2nd respondent – *de facto* complainant and perused the material on record.

4. In addition to reiterating the various contentions urged in the memorandum of petition and referring to the material on record, learned Senior counsel for the petitioners submitted that the impugned FIR is a gross abuse of process of law and the 2nd respondent is illegally and highhandedly attempting to raise a dispute which is fundamentally civil in nature and evident as per the material on record, which indicates that essential ingredients of the alleged offences are not made out and criminal machinery was being misused for debt recovery which was impermissible in law and as such, the impugned complaint, FIR and all further proceedings pursuant thereto deserve to be quashed. In support of his submissions, learned Senior counsel for the petitioners placed reliance upon the following judgments:-

(i) Indian Oil Corpn V.NEPC India & Ors. - (2006) 6 SCC 736;

(ii) Lalit Chaturvedi & Ors v. State of U.P - (2024) SCC ONLINE SC 171;

(iii) Naresh & Anr v. State of Karnataka & Anr. - (2024) SCC ONLINE SC 268;

(iv) Harilal v. State of Madhya Pradesh - 2023 SCC ONLINE SC 1124;

(v) Usha Chakraborty v. State of West Bengal & Anr. - (2023) 15 SCC 135;

(vi) Delhi Race Club V. state of Uttar Pradesh & Anr. - (2024) 10 SCC 690;

(vii) Arshad Neyaz Khan v. State of Jharkhand (2025) SCC On Line SC 2058;

(viii) Mr.C.Gopalan V. State of Karnataka – W.P. No.13519/2024 dated 13.10.2025;

(ix) Sri. BK Sanjay Krishnamurthy.V State of Karnataka - Criminal Petition No.6311/2024 dated 13.10.2025;

(x) Ankul Singh V. State of UP & Anr. - (2025) SCC On Line SC 2060;

(xi) Vedhasingh v. R.M.Govindan & Ors. -(2022) SCC On Line SC 1010;

(xii) State of Haryana & ors. V. Bhajan Lal - (1992) SUPP (1) SCC 335;

(xiii) Sanjal Bose V. State of West Bengal & Ors. - (2026) SCC OnLine SC 525;

(xiv) Rikhab Birani vs. State of U.P -2025 SCC OnLine 823;

(xv) Chanchalpathi Das. Vs. State of West Bengal and Another -2023 SCC OnLine SC 650;

(xvi) Vishal Noble Singh vs. State of Uttar Pradesh – 2024 SCC OnLine SC 1680.

5. Per contra, learned Addl.SPP for the 1st respondent – State and learned counsel for the 2nd respondent submitted that

apart from the fact that the allegations in the FIR disclosed the commission of cognizable offences, petitioners had a dishonest intention from the outset and induced the 2nd respondent to part with a substantial amount of money and subsequently, intimidated and extorted him and the FIR was lodged after exercising due diligence and since the veracity of the allegations can be determined only after thorough investigation and trial, there is no merit in the present petition and the same is liable to be dismissed.

6. Both sides have filed their written synopsis along with documents in support of their contentions and the same are taken on record. The learned Addl.SPP has also placed the investigation material collected, which is taken on record.

7. I have given my anxious consideration to the rival submissions and perused the material on record.

8. Before adverting to the rival contentions, it would be necessary to extract the impugned complaint dated 23.12.2024, which reads as under:-

ಇವರಿಗೆ, *ದಿನಾಂಕ: 23.12.2024*

ಪೋಲಿಸ್ ಇನ್ಸ್ ಪೆಕ್ಟರ್,
ಚಂದ್ರ ಲೇ ಔಟ್ ಪೋಲಿಸ್ ಠಾಣೆ
ಬೆಂಗಳೂರು ನಗರ – 560 040.

ಇಂದ,

ಶ್ರೀಮತಿ ವನಿತಾ ಐತಾಳ ಕೋಂ. ಪರಂ ಜ್ಯೋತಿ ಐತಾಳ್
44 ವರ್ಷ, ನಂ. 1443/44, ಪಿ.ಹೆಚ್. ಲ್ಯಾಂಡ್ ಮಾರ್ಕ್
80 ಅಡಿ ರಸ್ತೆ, ಗಣಪತಿ ಸರ್ಕಲ್, ಚಂದ್ರ ಲೇ ಔಟ್
ಬೆಂಗಳೂರು – 560 040.
ಮೊ. 9900063075.

ವಿಷಯ: ನನಗೆ ಮೋಸ ಮಾಡುವ ದುರುದ್ದೇಶದಿಂದಲೇ ಪ್ರಾರಂಭದಲ್ಲಿ ನನ್ನನ್ನು ನಂಬಿಸಿ ನನ್ನ ಚಿನ್ನದ ಅಂಗಡಿಯಲ್ಲಿ ಒಡವೆಗಳನ್ನು ತೆಗೆದುಕೊಂಡು ಹೋಗಿ ಒಡವೆಗಳ ಹಣವನ್ನು ಕೊಡದೆ, ನಂಬಿಕೆ ದ್ರೋಹವೆಸಗಿ ವಂಚಿಸಿರುವ ಹಾಗೂ ಹಣ ಕೇಳಿದರೆ ನನಗೆ ಬೈದು, ಪ್ರಾಣ ಬೆದರಿಕೆ ಹಾಕಿ ಬ್ಲಾಕ್ ಮೇಲೆ ಮಾಡುತ್ತಿರುವ ಹಾಗೂ ರಾಜಕಾರಣಿಗಳ ಹೆಸರಿನಲ್ಲಿ ಕರೆಮಾಡಿಸಿ. ಜೀವ ಬೆದರಿಕೆ ಹಾಕಿ, ವಂಚಿಸಿರುವ ಶ್ರೀಮತಿ ಐಶ್ವರ್ಯ ಗೌಡ @ ನವ್ಯಶ್ರೀ ಕೆ.ಎಂ... (9113980634, 8217738519, 8296999755) ಅವರ ಪತಿ ಹರೀಶ್ ಕೆ.ಎನ್ (9980676955,) ಮತ್ತು ಚಲನಚಿತ್ರ ನಟ ಧರ್ಮೇಂದ್ರ ಬಿ (9742023309/9110856772) ಹಾಗೂ ಇತರರ ಮೇಲೆ ಕಾನೂನು ಕ್ರಮಕ್ಕೆ ದೂರು.

ನಾನು ಮೇಲ್ಕಂಡ ವಿಳಾಸದಲ್ಲಿ ವಾರಹೀ ವರ್ಲ್ಡ್ ಆಫ್ ಗೋಲ್ಡ್ ಎಂಬ ಚಿನ್ನದ ಅಂಗಡಿ ಮಾಲೀಕಳಾಗಿದ್ದು ನನಗೆ ಪರಿಚಯವಿರುವ ಶ್ರೀಮತಿ ಐಶ್ವರ್ಯ ಗೌಡ @ ನವ್ಯಶ್ರೀ ಕೆ.ಎಂ. ಮತ್ತು ಹರೀಶ್ ಕೆ.ಎನ್. ರವರು ವಾಸ ನಂ.11/, ಸಂಭ್ರಮ, 6ನೇ ಅಡ್ಡರಸ್ತೆ, ವಿವೇಕಾನಂದ ಪಾರ್ಕ್ ಎದುರು, ಬಿ.ಇ.ಎಂ.ಎಲ್ ಲೇಔಟ್ ಆರ್.ಆರ್. ನಗರ, ಬೆಂಗಳೂರು-560098 ವಿಳಾಸದಲ್ಲಿ ವಾಸವಾಗಿದ್ದು ಸದರಿ ಐಶ್ವರ್ಯ ಗೌಡ ರವರು ನಾನು ಸಂಸದರಾದ ಶ್ರೀ ಡಿ.ಕೆ.ಸುರೇಶ್ ರವರ ತಂಗಿ ಎಂದು ಹೇಳಿ ನಂಬಿಸಿ, ನನಗೆ ಅನೇಕ ರಾಜಕೀಯ ವ್ಯಕ್ತಿಗಳ ಸಂಪರ್ಕವಿದೆ, ತಾನು ದೊಡ್ಡ ವ್ಯಾಪಾರಸ್ಥೆ, ಮುಂದಕ್ಕೆ ನಿಮಗೆ ಒಳ್ಳೆಯ ವ್ಯಾಪಾರ ವಹಿವಾಟು ನೀಡುತ್ತೇನೆ ಎಂದು ನಂಬಿಸಿ ನಾನು ಅವರನ್ನು ನಂಬುವಂತೆ ಮಾಡಿ ನನ್ನ ಸ್ನೇಹ ಸಂಪಾದಿಸಿ ನಮ್ಮ ಚಿನ್ನದ ಅಂಗಡಿಯಲ್ಲಿ ಸುಮಾರು ಹಲವಾರು ಬಾರಿ ಚಿನ್ನದ ಒಡವೆಗಳನ್ನು ಸಾಲವಾಗಿ ತೆಗೆದುಕೊಂಡು ಸ್ವಲ್ಪ ದಿನಗಳ ನಂತರ ಹಣವನ್ನು ಕೊಟ್ಟಿರುತ್ತಾರೆ. ಇದನ್ನು ನಂಬಿ ನಾವು ಅವರು ಕೇಳಿದಾಗಲೆಲ್ಲಾ ಒಡವೆಗಳನ್ನು ಕೊಡುತ್ತಾ ಬಂದಿರುತ್ತೇವೆ;

ಶ್ರೀಮತಿ ಐಶ್ವರ್ಯ ಗೌಡ @ ನವ್ಯಶ್ರೀ ಕೆ.ಎಂ. ಹಾಗೂ ಅವರ ಗಂಡ ಹರೀಶ್ ಕೆ. ಎನ್. ರವರು ನಮ್ಮ ಚಿನ್ನದ ಅಂಗಡಿಯಲ್ಲಿ ದಿನಾಂಕ: 12.10.2023 ರಿಂದ ದಿನಾಂಕ: 01.01.2024 ರವರೆಗೆ ಹಂತ ಹಂತವಾಗಿ ಸುಮಾರು 14 ಕೆ.ಜಿ 660 ಗ್ರಾಂ ಚಿನ್ನದ ಒಡವೆಗಳನ್ನು ಸಾಲವಾಗಿ ತೆಗೆದುಕೊಂಡಿರುತ್ತಾರೆ. ಕೆಲವೊಮ್ಮೆ ಶ್ರೀಮತಿ ಐಶ್ವರ್ಯ ಹಾಗೂ ಅವರ ಗಂಡ ಹರೀಶ್ ರವರು ಹಾಗೂ ಅವರ ಕಡೆಯವರಾದ ಮ್ಯಾನೇಜರ್ ಹರ್ಷವರ್ಧನ್ ನವೀನ್, ಬೌನ್ಸರ್ ಗಜ ಹಾಗೂ ಡ್ರೈವರ್ ಮಹೇಶ್ ರವರು ಬಂದು ತೆಗೆದುಕೊಂಡು ಹೋಗುತ್ತಿದ್ದರು. ಕೆಲವೊಮ್ಮೆ ಆರ್ಡರ್ ಮಾಡುತ್ತಿದ್ದರು. ನಮ್ಮ ಕಡೆಯವರಾದ ಸುಹಾಸ್, ಅಭಿಜಿತ್ ಗೌಡ, ಪ್ರಮೋದ್ ಹಾಗೂ ಅಭಿನವ್ ಮಂಜುನಾಥ್ ರವರ ಮೂಲಕ ಒಡವೆಗಳನ್ನು ಕಳುಹಿಸಿಕೊಟ್ಟಿರುತ್ತೇನೆ. ಅವರು ಒಡವೆ ಖರೀದಿಸಿದ ದಿನಕ್ಕೆ ಕೊಡಬೇಕಾಗಿರುವ ರೂ. 8,41,25,430/- ಹಣವನ್ನು ಕೊಡುತ್ತೇವೆಂದು ಹೇಳಿ ಹಣವನ್ನು

ಇದುವರೆವಿಗೂ ಕೊಟ್ಟಿರುವುದಿಲ್ಲ. ನಾವು ಅವರಿಗೆ ಕೊಟ್ಟಿರುವ ಒಡವೆಗಳ ವಿವರಗಳು ಈ ಕೆಳಕಂಡಂತಿವೆ.

ಕ್ರ.ಸಂ	ಡೆಲಿವರಿ ನೋಟ್ ಸಂಖ್ಯೆ	ದಿನಾಂಕ	ಒಡವೆಗಳ ತೂಕ (ಗ್ರಾಂಗಳಲ್ಲಿ)	ಮೊತ್ತ
1	1	12/10/2023	1056.830 ಗ್ರಾಂ	ರೂ.62,03,590/-
2	3	13/10/2023	164.450 ಗ್ರಾಂ	ರೂ. 9,65,320/-
3	4	18/10/2023	1735.000 ಗ್ರಾಂ	ರೂ. 95,42,500/-
4	5	27/10/2023	2411.000 ಗ್ರಾಂ	ರೂ .1,37,42,70-
5	9	29/11/2023	1525.500 ಗ್ರಾಂ	ರೂ. 7,71,630/-
6	10	01/12/2023	1004.500 ಗ್ರಾಂ	ರೂ. 57,25,650/-
7	11	01/01/2024	2481.000 ಗ್ರಾಂ	ರೂ. 1,45,51,070/-
8	2	13/10/2023	1279.420 ಗ್ರಾಂ	ರೂ. 75,10,200/-
9	6	10/11/2023	1003.360 ಗ್ರಾಂ	ರೂ. 57,22,120/-
10.	7	12/11/2023	1000.360 ಗ್ರಾಂ	ರೂ. 57,02,050/-
11.	8	12/11/2023	998.000 ಗ್ರಾಂ	ರೂ. 56,88,600/-
ಒಟ್ಟು			14,659.940 ಗ್ರಾಂ	ರೂ. 8,41,25,430/-

ನಮಗೆ ಕೊಡಬೇಕಾಗಿರುವ ಹಣ ಕೇಳಿದಾಗ ಏಪ್ರಿಲ್ 2024 ರ ಅಂತ್ಯದವರೆಗೆ ಸಮಯಾವಕಾಶ ನೀಡಲು ಕೇಳಿದರು. ಅದರಂತೆ ದಿನಾಂಕ: 29.04.2024 ರಂದು ಕೊಡಬೇಕಾಗಿರುವ ಹಣವನ್ನು ಕೇಳಿದಾಗ ಐಶ್ವರ್ಯಗೌಡ ರವರು ತನ್ನ ಬಳಿ ಈಗ ಹಣವಿಲ್ಲ ಎಂದು ಹೇಳಿದರು. ಅದಕ್ಕೆ ನಾನು ನೀವುಗಳು ಪಡೆದಿರುವ 14 ಕೆ.ಜಿ 660 ಗ್ರಾಂ. ಚಿನ್ನಕ್ಕೆ ಈ ದಿನಕ್ಕೆ ಅಂದರೆ 29.04.2024 ಕ್ಕೆ ಚಿನ್ನದ ಬೆಲೆ ರೂ. 9,82,21,598 ಆಗುತ್ತದೆ ಹಾಗೂ ನಿಮ್ಮಿಂದ ನಮಗೆ ಆಗಿರುವ ನಷ್ಟಕ್ಕೆ ಪರಿಹಾರವಾಗಿ ರೂ. 10,00,00,000 ನೀಡಲು ಮತ್ತು ಎಂಒಯು ಮಾಡಿಕೊಡಲು ಕೇಳಿದೆವು ಅದಕ್ಕೆ ಶ್ರೀಮತಿ ಐಶ್ವರ್ಯ ಗೌಡ ನವಶಿ ಹಾಗು ಅವರ ಅವರ ಗಂಡ ಹರೀಶ್ ಕೆ.ಎನ್.ರವರುಗಳು ನಮಗೆ ದಿನಾಂಕ: 30-07-2024 ರವರೆಗೆ ಕಾಲಾವಕಾಶ ಕೊಡಿ ಎಂದು ಕೇಳಿಕೊಂಡು ಅವರುಗಳು ಕೊಡಬೇಕಾಗಿರುವ ಹಣಕ್ಕೆ ಎಂಓಯು ಗಳನ್ನು ಮಾಡಿಕೊಟ್ಟಿರುತ್ತಾರೆ.

ನಾನು ಐಶ್ವರ್ಯ ಗೌಡ ರವರಿಗೆ ಹಣ ನೀಡಲು ಕೋರಲಾಗಿ ಶ್ರೀಮತಿ ಐಶ್ವರ್ಯಗೌಡ ಕೂಂ ಹರೀಶ್ ಕೆ.ಎನ್ ರವರು ಮಾಜಿ ಸಂಸದರಾದ ಒ ಡಿ.ಕೆ.ಸುರೇಶ್ ರವರಿಂದ ಕರೆ ಮಾಡಿಸಿ ಕಾಲಾವಕಾಶ ಕೋರಿದರು. ನಾವು ಸಹ ಅದನ್ನು ನಂಬಿದೆವು. ತದನಂತರ ದಿನದಲ್ಲಿ ವಿಚಾರಿಸಲಾಗಿ ಶ್ರೀಮತಿ ಐಶ್ವರ್ಯಗೌಡ ರವರು ಶ್ರೀ ಡಿ.ಕೆ.ಸುರೇಶ್ ರವರ ಹೆಸರಿನಲ್ಲಿ ಸಿನಮಾ ನಟರಾದ ಶ್ರೀ ಧರ್ಮೇಂದ್ರ ಬಿ ರವರಿಂದ ನಮಗೆ ಕರೆ ಮಾಡಿಸಿರುವುದು ತಿಳಿದು ಬಂದಿರುತ್ತದೆ. ಈ ವಿಚಾರ ತಿಳಿದ

ಮೇಲೆ ಶ್ರೀಮತಿ ಐಶ್ವರ್ಯ ಗೌಡ ರವರು ನೀನು ನನಗೆ ಪದೇ ಪದೇ ಕರೆ ಮಾಡಿದರೆ ಸರಿ ಇರುವುದಿಲ್ಲ, ನಿನ್ನನ್ನು ಏನು ಬೇಕಾದರೂ ಮಾಡುತ್ತೇವೆ ಹಣದ ವಿಚಾರವಾಗಿ ನನಗೆ ಕರೆ ಮಾಡಿದರೆ ನಿನ್ನ ಅಂಗಡಿಗೆ ಧರ್ಮೇಂದ್ರ ನನ್ನು ಕಳುಹಿಸಿ ನಿನ್ನನ್ನು ಕೊಲೆ ಮಾಡಿಸುತ್ತೇನೆ ಎಂದು ಅವಾಚ್ಯ ಶಬ್ದಗಳಿಂದ ಬೈದು ಜೀವ ಬೆದರಿಕೆ ಹಾಕಿರುತ್ತಾರೆ. ಮತ್ತು ಧರ್ಮೇಂದ್ರ ಎಂಬುವವರನ್ನು ನನ್ನ ಅಂಗಡಿಗೆ ಕಳುಹಿಸಿ ಪ್ರಾಣ ಬೆದರಿಕೆ ಹಾಕಿಸಿರುತ್ತಾರೆ.

ಹಾಗೂ ನಾವು ಇವರಿಗೆ ನೀಡಿರುವ 14.ಕೆಜಿ. 660 ಗ್ರಾಂ ಒಡವೆಗಳನ್ನು ನಾವು ಮುಂಬಯಿ ಹಾಗು ಬೆಂಗಳೂರು ವ್ಯಾಪಾರಿಗಳಿಂದ ಸಾಲವಾಗಿ ಪಡೆದು ನೀಡಿರುತ್ತೇವೆ. ವ್ಯಾಪಾರಿಗಳಿಗೆ ನಾವು ಇನ್ನೂ ಹಣ ಹಿಂತಿರುಗಿಸದೆ ಇರುವುದರಿಂದ, ನಾವು ಅವರಿಗೆ ನೀಡಿರುವ ಚೆಕ್ಕುಗಳನ್ನು ಬ್ಯಾಂಕಿಗೆ ಹಾಕಿ ಬೌನ್ಸ್ ಮಾಡಿ ನಮ್ಮ ವಿರುದ್ಧ ಕಾನೂನು ಕ್ರಮ ಜರುಗಿಸುತ್ತೇನೆಂದು ಹೇಳಿ ಬಹಳ ತೊಂದರೆ ಕೊಡುತ್ತಿದ್ದಾರೆ. ನಮಗೆ ದೈನಂದಿನ ವ್ಯಾಪಾರ ವಹಿವಾಟು ನಡೆಸಲು ಬಹಳ ತೊಂದರೆಯಾಗಿದೆ.

ಆದುದರಿಂದ ಶ್ರೀಮತಿ ಐಶ್ವರ್ಯ ಗೌಡ, ಅವರ ಪತಿ ಶ್ರೀ ಹರೀಶ್ ಕೆ.ಎನ್. ಹಾಗು ಈ ವ್ಯವಹಾರದಲ್ಲಿ ಭಾಗಿಯಾಗಿರುವ ಸಿನೆಮಾ ನಟರಾದ ಶ್ರೀ ಧರ್ಮೇಂದ್ರ ರವರುಗಳು, ನಮ್ಮ ಬಳಿ ಚಿನ್ನದ ಒಡವೆಗಳನ್ನು ಸಾಲವಾಗಿ ಪಡೆದು ಇದುವರೆಗೂ ಹಣವನ್ನಾಗಲಿ ಅಥವಾ ನಮ್ಮಿಂದ ಪಡೆದಿರುವ ಚಿನ್ನಾಭರಣಗಳನ್ನಾಗಲಿ ವಾಪಾಸ್ ಹಿಂದಿರುಗಿಸಿಲ್ಲ. ಇವರುಗಳು ನಮ್ಮನ್ನು ನಂಬಿಸಿ ವಂಚಿಸಿ ನಂಬಿಕೆ ದ್ರೋಹ ಮಾಡಿ ಅಕ್ರಮ ನಷ್ಟ ಉಂಟು ಮಾಡಿರುತ್ತಾರೆ.*

ಶ್ರೀಮತಿ ಐಶ್ವರ್ಯ ಗೌಡ @ ನವ್ಯಶ್ರೀ ಕೆ.ಎಂ. ಅವರ ಗಂಡ ಹರೀಶ್ ಕೆ.ಎನ್. ಹಾಗೂ ಧರ್ಮೇಂದ್ರ ಹಾಗೂ ಇತರರು ಸೇರಿಕೊಂಡು ನಮಗೆ ನಂಬಿಕೆ ದ್ರೋಹವೆಸಗಿ ವಂಚಿಸುವ ಉದ್ದೇಶದಿಂದಲೇ ಮೊದಲೇ ತಮ್ಮೊಳಗೆ ಒಳಸಂಚು ಮಾಡಿಕೊಂಡು ನಮ್ಮನ್ನು ನಂಬಿಸಲು ಪ್ರಾರಂಭದ ದಿನಗಳಲ್ಲಿ ಒಡವೆಗಳನ್ನು ಪಡೆದು ಹಣ ನೀಡಿ ನಮ್ಮನ್ನು ನಂಬಿಸಿ ಮೋಸ ಮಾಡಿದ್ದು ನಂತರದ ದಿನಗಳಲ್ಲಿ ಒಡವೆಗಳ ಹಣ ನೀಡುವುದನ್ನು ನಿಲ್ಲಿಸಿ ವಂಚಿಸಿರುತ್ತಾರೆ.

ಸದರಿಯವರುಗಳಿಗೆ ನಾವು ನೀಡಿರುವ ಚಿನ್ನಾಭರಣ ಒಟ್ಟು 14 ಕೆ.ಜಿ 660 ಗ್ರಾಂ. ಒಡವೆಗಳನ್ನಾಗಲು ಅಥವಾ ಈ ದಿನಕ್ಕೆ ಆ ಒಡವೆಗಳಿಗೆ ತಗಲುವ ಹಣವನ್ನಾಗಲಿ ಅವರುಗಳಿಂದ ಹಿಂತಿರುಗಿಸಿಕೊಡಿಸಬೇಕೆಂದು ಹಾಗೂ ಒಳಸಂಚು ನಡೆಸಿ, ನಮ್ಮನ್ನು ನಂಬಿಸಿ, ವಂಚಿಸಿ, ನಂಬಿಕೆ ದ್ರೋಹ ಎಸಗಿ ಪ್ರಾಣ ಬೆದರಿಕೆ ಹಾಗಿ ಬ್ಲಾಕ್ ಮೇಲ್ ಮಾಡುತ್ತಿರುವ 1. ಶ್ರೀಮತಿ ಐಶ್ವರ್ಯ ಗೌಡ, ಅವರ ಪತಿ, 2. ಶ್ರೀ ಹರೀಶ್. ಕೆ.ಎನ್. ಹಾಗೂ ಈ ವ್ಯವಹಾರದಲ್ಲಿ ಭಾಗಿಯಾಗಿರುವ ಸಿನೆಮಾ ನಟರಾದ 3. ಧರ್ಮೇಂದ್ರ ಬಿ ಹಾಗೂ ಇವರೊಂದಿಗೆ ವಂಚನೆಯಲ್ಲಿ ಭಾಗಿಯಾಗಿರುವ ಇತರರ ವಿರುದ್ಧ ಕಾನೂನು ರೀತಿಯ ಕ್ರಮ ಕೈಗೊಂಡು ನನಗರ ನ್ಯಾಯ ಕೊಡಿಸಬೇಕಾಗಿ ತಮ್ಮಲ್ಲಿ ವಿನಂತಿಸಿಕೊಳ್ಳುತ್ತೇನೆ.

ವಂದನೆಗಳೊಂದಿಗೆ,

ಇಂತಿ ತಮ್ಮ ವಿಶ್ವಾಸಿ,
(ವನಿತಾ ಎಸ್. ಐತಾಳ್)

9. A perusal of the material on record will indicate that the primary question that arises for consideration is, whether continuation of the impugned criminal proceedings against the petitioners would amount to an abuse of process of the court; in this context, a plain reading of the complaint makes it evident that the entire dispute stems from a series of a financial transactions between the parties over a period of two years and the petitioners have not denied the transactions and the gravamen of the complaint is merely non-payment of money towards gold and gold ornaments simpliciter, without there being any criminality in this regard; it is well settled that criminal justice system cannot be used as a tool for recovery of gold and gold ornaments, the remedy available to the 2nd respondent is before the civil court and the attempt on the part of the respondents to cloak a purely a civil dispute with a criminal colour is manifest in the facts and circumstances of the instant case which is another circumstance which would vitiate the impugned complaint and FIR, which deserve to be quashed on this ground also.

10. There is no gainsaying the fact that the Apex Court has repeatedly deprecated the practice of converting disputes which

are predominantly, overwhelmingly and essentially of a civil nature into a criminal proceedings by giving the same a cloak of criminality and a criminal texture / flavour which is impermissible in law. In ***Indian Oil Corporation's case supra*****,** the Apex Court held as under:-

> *" **10.** The respondents herein filed Crl. OP No. 1563 of 2000 and Crl. OP No. 2418 of 1999 respectively under Section 482 CrPC for quashing the said two complaints on the following two grounds:*
>
> *(i) The complaints related to purely contractual disputes of a civil nature in respect of which IOC had already sought injunctive reliefs and money decrees.*
>
> *(ii) Even if all the allegations in the complaints were taken as true, they did not constitute any criminal offence as defined under Sections 378, 403, 405, 415 or 425 IPC.*
>
> ***19.** Section 378 defines theft. It states:*
>
> *"378. Whoever, intending to take dishonestly any movable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft."*
>
> *The averments in the complaint clearly show that neither the aircrafts nor their engines were ever in the possession of IOC. It is admitted that they were in the possession of NEPC India at all relevant times. The question of NEPC committing theft of something in its own possession does not arise. The appellant*

has therefore rightly not pressed the matter with reference to Section 378.

11. In ***Lalit Chaturvedi's case supra***, the Apex Court held as under:-

*" **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 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 482CrPC on the ground of delay/laches and also the factum that the charge-sheet had been filed on 12-12-2019. This ground and reason is also not valid.*

***9.** We will assume that the assertions made in the complaint are correct, but even then, a criminal offence under Section 420 read with Section 415IPC is not established in the absence of deception by making false and misleading representation, dishonest concealment or any other act or omission, or inducement of the complainant to deliver any property at the time of the contract(s) being entered. The ingredients to allege the offence are neither stated nor can be inferred from the averments. A prayer is made to the police for recovery of money from the appellants. The police is to investigate* *the allegations which discloses a criminal act. Police does not have the power and authority to recover money or act as a civil court for recovery of money.*

11. *In this case entrustment is missing, in fact it is not even alleged. It is a case of sale of goods. The charge-sheet does refer to Section 506IPC relying upon the averments in the complaint. However, no details and particulars are given, when and on which date and place the threats were given. Without the said details and particulars, it is apparent to us, that these allegations of threats, etc. have been made only with an intent to activate police machinery for recovery of money."*

12. In ***Naresh's case supra,*** the Apex Court held as under:-

6. *In the case of Paramjeet Batra v. State of Uttarakhand, (2013) 11 SCC 673, this Court recognized that although the inherent powers of a High Court under Section 482 of the Code of Criminal Procedure should be exercised sparingly, yet the High Court must not hesitate in quashing such criminal proceedings which are essentially of a civil nature. This is what was held:*

> *"12. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein.*

> *Whether essential ingredients of criminal offence are present or not has to be judged by the High Court.* ***A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court.****"*

13. A perusal of the impugned complaint and FIR will indicate that the essential ingredients of the alleged offences are *prima facie* not made out or forthcoming and the same are conspicuously absent from the impugned complaint and FIR; in this context, it is significant to note that it is well settled that for an offence of cheating, it is absolutely essential to demonstrate that there was a fraudulent or dishonest intention on the part of the petitioners at the very inception of the transaction; in the instant case, the complaint itself speaks of a two year long relationship between the petitioners and 2nd respondent with multiple transactions between them and mere subsequent failure to repay a loan cannot retrospectively impart a criminal intent to the initial transaction and the impugned complaint which is bereft of any

specific averment to show deception at the outset is vitiated and the same deserves to be quashed on this ground also.

14. A perusal of the material on record will indicate that in addition to the present proceedings, the 2nd respondent – complainant has also instituted another proceeding against the petitioners under Section 138 of N.I.Act which is pending adjudication; though the questions / issue as to whether parallel / simultaneous / dual proceedings arising out of IPC offences and offences under the N.I.Act have been referred to a larger Bench by the Apex Court in the case of ***J.Vedhasingh vs. R.M.Govindan & others – 2022 SCC OnLine SC 1010,*** after noticing the divergent views of the Apex Court in the case of ***G.Sagarsuri vs. State of Uttar Pradesh – (2000) 2 SCC 636*** and ***Kolla Veera Raghav Rao vs. Gorantla Venkateshwara Rao – (2011) 2 SCC 703*** on one hand and the case of ***Sangeetaben Mahendra Bhai Patel vs. State of Gujarath – (2012) 7 SCC 621*** and ***V.S.Reddy & Sons vs. Muthyala Ramalinga Reddy – Crl.A.No.1285/2015 dated 28.09.2015*** on the other hand, having regard to the fact that even according to the 2nd respondent – complainant herself, the petitioners alleged to have issued cheques in her favour in respect

of the subject transactions, it cannot be said that there was any criminal intention on the part of the petitioners at the inception so as to attract the offence of cheating as alleged by the 2nd respondent and consequently, I am of the view that the impugned complaint and FIR deserve to be quashed on this ground also.

15. In ***Anukul Singh's case supra,*** the Apex Court held as under:-

> ***11.*** *Before adverting to the facts of the present case, it is necessary to recapitulate the settled legal principles governing the exercise of inherent powers under Section 482 Cr.P.C. It is well established that though the High Court possesses wide and plenary inherent jurisdiction, such power is not unbridled or unlimited, but circumscribed by self-imposed restraints evolved through judicial pronouncements.*
>
> ***11.1.*** *This Court in State of Haryana v. Bhajan Lal, at paragraph 102, laid down illustrative categories where quashing of proceedings is justified. These are:*
>
> > *"(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
> >
> > *(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable*

offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or, where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

The categories in Bhajan Lal are illustrative and not exhaustive, but they provide guiding principles to balance two competing considerations - (a) preventing abuse of process of law, and (b) ensuring that criminal proceedings are not stifled at the threshold on disputed questions of fact.

11.2. *Equally, this Court has consistently cautioned that the High Court, while exercising jurisdiction under Section 482 Cr.P.C., cannot embark upon a "mini-trial" or weigh the sufficiency of evidence, which falls within the domain of the trial Court. The scope of enquiry is confined to whether, on a plain reading of the FIR/complaint and accompanying material, the ingredients of the alleged offence are disclosed. [See: Rajiv Thapar v. Madal Lal Kapoor, HMT Watches v. Abida and Rathish Babu Unnikrishnan v. the State (Govt. of NCT of Delhi)*

11.3. *In Md. Allauddin Khan v. State of Bihar, it was reiterated that appreciation of contradictions or inconsistencies in witness statements lies within the exclusive domain of the trial Court and not in proceedings under Section 482 Cr.P.C. Similarly, in CBI v. Aryan Singh, it was emphasized that the High Court had exceeded its jurisdiction by examining the merits of the prosecution's case and holding that charges were not proved, which is a matter strictly for trial.*

11.4. *Nevertheless, an exception has been recognized where the defence relies upon unimpeachable, incontrovertible evidence of sterling quality - such as documents of undisputed authenticity -*

which ex facie demonstrate that continuation of criminal proceedings would be unjust and oppressive. This principle was recognized in Suryalakshmi Cotton Mills Ltd. v. Rajvir Industries Ltd., and followed in subsequent decisions.

11.5. *Thus, the cumulative principles that emerge are: while the jurisdiction under Section 482 Cr.P.C. is extraordinary and must be exercised sparingly, it is the duty of the High Court to intervene where continuation of criminal proceedings would amount to an abuse of process of law, or where the dispute is purely of a civil nature and criminal colour has been artificially given to it. Conversely, where disputed questions of fact arise requiring adjudication, the matter must ordinarily proceed to trial.*

12. *The specific case of the appellant is that his father purchased land comprised in Khasra Nos. 18, 19, 20, 21 and 22 situated at Village Sherpur Mafi, District Moradabad, from one Akil Hussain. This land was used for the purposes of Qurbani. According to the appellant, in order to usurp the said property, the Shaher Imam of Bilari, in collusion with the district administration and under pressure exerted upon the local police, ensured that a series of false criminal cases were foisted against him. As many as eight FIRs were lodged against the appellant, including the present one, all of which, in substance, arise out of a civil dispute relating to ownership and possession of the property. Initiation of the present criminal proceedings, therefore, amounts to a* *clear abuse of the process of law, squarely falling within the illustrative categories delineated in Bhajan Lal, particularly where the dispute is manifestly civil in nature and the prosecution is maliciously instituted with an ulterior motive.*

13. *The record reveals that within a short span, as many as eight FIRs were registered against the appellant. The gravamen of the allegations in the present FIR is that Respondent No. 2/complainant approached the appellant for a loan of Rs. 2,00,000/-, but was allegedly advanced only Rs. 1,40,000/-. It is further alleged that, in connection with the said transaction, an agreement to sell dated 09.11.1998 was executed in respect of a plot owned by the complainant, and that the appellant procured three cheques from Respondent No. 2, which, upon presentation, were dishonoured for insufficiency of funds. Even if accepted in entirety, these allegations disclose, at best, a civil dispute and do not prima facie constitute the essential ingredients of the criminal offences alleged.*

14. *It is significant to note that prior to registration of the present FIR, the appellant had already initiated proceedings against Respondent No. 2, namely a complaint under Section 138 of the N.I. Act (Complaint No. 2402840/2005) before the N.I. Court, Moradabad, as well as FIR No. 120/2002, in which, the complainant himself was arrested. The present FIR was lodged nearly three months after the filing of the Section 138 complaint and seven months after FIR No. 120/2002. The plea that the FIR is a retaliatory counterblast to the proceedings* *legitimately initiated by the appellant, therefore, carries substantial weight.*

15. *The mala fide nature of the complaint is further fortified by the fact that, by judgment dated 15.01.2025, the trial Court convicted Respondent No. 2 under Section 138 of the N.I. Act, sentencing him to one month's imprisonment and imposing a fine of Rs. 90,000/-. This conviction lends strong support to the appellant's case that the initiation of the present FIR was a retaliatory measure, maliciously instituted with an ulterior motive to neutralise the lawful action taken by him.*

16. *Despite this background, the police proceeded to file a charge sheet dated 16.04.2003 against the appellant for offences under sections 420, 467, and 468 IPC. Even if the allegations are assumed to be true, they unmistakably arise out of a commercial/contractual transaction relating to loan and repayment, which has been given a criminal colour. The case thus falls squarely within categories (1) and (7) of Bhajan Lal, namely, where the allegations do not disclose the commission of an offence, and where the proceedings are maliciously instituted with an ulterior motive. Continuation of such prosecution would amount to an abuse of process of law and consequently, warrant quashing under Section 482 Cr.P.C.*

17. *This Court has, in a long line of decisions, deprecated the tendency to convert civil disputes into criminal proceedings. In Indian Oil Corporation v. NEPC India Ltd., it was held that criminal law cannot be used as* *a tool to settle scores in commercial or contractual matters, and that such misuse amounts to abuse of process. The following paragraphs from the decision are apposite:*

> *"9. The principles, relevant to our purpose are:*
>
> *(i) A complaint can be quashed where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out the case alleged against the accused. For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.*
>
> *(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with malafides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.*
>
> *(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.*
>
> *(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the*

proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceedings are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.

10. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable break down of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by *applying pressure though criminal prosecution should be deprecated and discouraged."*

18. *Similarly, in Inder Mohan Goswami v. State of Uttaranchal it was emphasized that criminal prosecution must not be permitted as an instrument of harassment or private vendetta. In Ganga Dhar Kalita v. State of Assam, this Court again reiterated that criminal complaints in respect of property disputes of civil nature, filed solely to harass the accused or to exert pressure in civil litigation, constitute an abuse of process.*

19. *Most recently, in Shailesh Kumar Singh @ Shailesh R. Singh v. State of Uttar Pradesh, this Court disapproved the practice of using criminal proceedings as a substitute for civil remedies, observing that money recovery cannot be enforced through criminal prosecution where the dispute is essentially civil. The Court cautioned High Courts not to direct settlements in such matters but to apply the settled principles in Bhajan Lal. The following paragraphs are relevant in this context:*

"9. What we have been able to understand is that there is an oral agreement between the parties. The Respondent No. 4 might have parted with some money in accordance with the oral agreement and it may be that the appellant - herein owes a particular amount to be paid to the Respondent No. 4. However, the question is whether prima facie any offence of cheating could be said to have been committed by the appellant.

10. How many times the High Courts are to be reminded that to constitute an offence of cheating, there has to be something more than prima facie on record to indicate that the *intention of the accused was to cheat the complainant right from the inception. The plain reading of the FIR does not disclose any element of criminality.*

11. The entire case is squarely covered by a recent pronouncement of this Court in the case of "Delhi Race Club (1940) Limited v. State of Uttar Pradesh", (2024) 10 SCC 690. In the said decision, the entire law as to what constitutes cheating and criminal breach of trust respectively has been exhaustively explained. It appears that this very decision was relied upon by the learned counsel appearing for the petitioner before the High Court. However, instead of looking into the matter on its own merits, the High Court thought fit to direct the petitioner to go for mediation and that too by making payment of Rs. 25,00,000/- to the 4th respondent as a condition precedent. We fail to understand why the High Court should undertake such exercise. The High Court may either allow the petition saying that no offence is disclosed or may reject the petition saying that no case for quashing is made out. Why should the High Court make an attempt to help the complainant to recover the amount due and payable by the accused. It is for the Civil Court or Commercial Court as the case may be to look into in a suit that may be filed for recovery of money or in any other proceedings, be it under the Arbitration Act, 1996 or under the provisions of the IB Code, 2016.

12. Why the High Court was not able to understand that the entire dispute between the parties is of a civil nature.

13. We also enquired with the learned counsel appearing for the Respondent No. 4 whether his client has filed any civil suit or has initiated any other proceedings for recovery of the money. It appears that no civil suit has been filed for recovery of money till this date. Money cannot be recovered, more *particularly, in a civil dispute between the parties by filing a First Information Report and seeking the help of the Police. This amounts to abuse of the process of law.*

14. We could have said many things but we refrain from observing anything further. If the Respondent No. 4 has to recover a particular amount, he may file a civil suit or seek any other appropriate remedy available to him in law. He cannot be permitted to take recourse of criminal proceedings.

15. We are quite disturbed by the manner in which the High Court has passed the impugned order. The High Court first directed the appellant to pay Rs. 25,00,000/- to the Respondent No. 4 and thereafter directed him to appear before the Mediation and Conciliation Centre for the purpose of settlement. That's not what is expected of a High Court to do in a Writ Petition filed under Article 226 of the Constitution or a miscellaneous application filed under Section 482 of the Criminal Procedure Code, 1973 for quashing of FIR or any other criminal proceedings. What is expected of the High Court is to look into the averments and the allegations levelled in the FIR along with the other material on record, if any. The High Court seems to have forgotten the well-settled principles as enunciated in the decision of this Court in the "State of Haryana v. Bhajan Lal", 1992 Supp (1) SCC 335"

***20.** Applying the above principles to the facts of the present case, it is manifest that the dispute - concerning repayment of loan money and the alleged coercion in execution of documents - is purely civil in character. The essential ingredients of cheating or forgery are not prima facie made out. The institution of multiple FIRs in quick succession, particularly after the appellant had already initiated lawful proceedings, reinforces the inference of mala fides.*

21. *The High Court, in refusing to quash the proceedings, misdirected itself in law by failing to apply the ratio laid down in* ***Bhajan Lal****, and the subsequent authorities referred to above, which uniformly hold that the machinery of criminal law cannot be permitted to be misused for settling civil disputes or to wreak vengeance.*

22. *Accordingly, the impugned judgment dated 22.10.2019 of the High Court is set aside. FIR No. 47 of 2003 dated 05.02.2003 and the consequential charge sheet dated 16.04.2003, pending before the trial Court, are hereby quashed. This judgment, however, shall not preclude the parties from pursuing civil remedies as may be available to them in accordance with law.*

23. *In the result, the Criminal Appeal stands allowed in the above terms.*

24. *Pending Application(s), if any, stand disposed of."*

16. In ***Arshad Neyaz Khan's case supra*****,** the Apex Court held as under:-

*"****17.*** *In Inder Mohan Goswami v. State of Uttaranchal, (2007) 12 SCC 1 ("Inder Mohan Goswami"), while dealing with Section 420 IPC, this Court observed thus:*

"42. On a reading of the aforesaid section, it is manifest that in the definition there are two separate classes of acts which the person deceived may be induced to do. In the first class of acts he may be induced fraudulently or dishonestly to deliver property to any person. The second class of acts is the doing or omitting to do anything which the person deceived

> *would not do or omit to do if he were not so deceived. In the first class of cases, the inducement must be fraudulent or dishonest. In the second class of acts, the inducing must be intentional but need not be fraudulent or dishonest. Therefore, it is the intention which is the gist of the offence. To hold a person guilty of cheating it is necessary to show that he had a fraudulent or dishonest intention at the time of making the promise. From his mere failure to subsequently keep a promise, one cannot presume that he all along had a culpable intention to break the promise from the beginning."*

19. *It is settled law that for establishing the offence of cheating, the complainant/respondent No. 2 was required to show that the appellant had a fraudulent or dishonest intention at the time of making a promise or representation of not fulfilling the agreement for sale of the said property. Such a culpable intention right at the beginning when the promise was made cannot be presumed but has to be made out with cogent facts. In the facts of the present case, there is a clear absence of dishonest and fraudulent intention on the part of the appellant during the agreement for sale. We must hasten to add that there is no allegation in the FIR or the complaint indicating either expressly or impliedly any intentional deception or fraudulent/dishonest intention on the part of the appellant right from the time of making the promise or misrepresentation. Nothing has been said on what the misrepresentations were and how the appellant intentionally deceived the complainant/respondent No. 2.*

Mere allegations by the complainant/respondent No. 2 that the appellant failed to execute the agreement for sale and failed to refund the money paid by the complainant/respondent No. 2 does not satisfy the test of dishonest inducement to deliver a property or part with a valuable security as enshrined under Section 420 IPC.

21. *Furthermore, it is pertinent to mention that if it is the case of the complainant/respondent No. 2 that the offence of criminal breach of trust as defined under Section 405 IPC, punishable under Section 406 IPC, is committed by the accused, then in the same breath it cannot be said that the accused has also committed the offence of cheating as defined in Section 415, punishable under Section 420 IPC. This Court in Delhi Race Club (1940) Limited v. State of Uttar Pradesh, (2024) 10 SCC 690 observed that there is a distinction between criminal breach of trust and cheating. For cheating, criminal intention is necessary at the time of making false or misleading representation i.e. since inception. In criminal breach of trust, mere proof of entrustment is sufficient. Thus, in case of criminal breach of trust, the offender is lawfully entrusted with the property, and he dishonestly misappropriates the same. Whereas, in case of cheating, the offender fraudulently or dishonestly induces a person by deceiving him to deliver a property. In such a situation, both offences cannot co-exist simultaneously. Consequently, the complaint cannot contain both the offences that are independent and distinct. The said* *offences cannot co-exist simultaneously in the same set of facts as they are antithetical to each other."*

17. In the aforesaid judgment, the Apex Court reiterated the principle laid down by it in ***Delhi Race Club's case supra*** to the effect that offences punishable under Sections 420 and 406 of IPC cannot co-exist on the same set of facts and held as hereunder:-

> ***"38.*** *In our view, the plain reading of the complaint fails to spell out any of the aforesaid ingredients noted above. We may only say, with a view to clear a serious misconception of law in the mind of the police as well as the courts below, that if it is a case of the complainant that offence of criminal breach of trust as defined under Section 405IPC, punishable under Section 406IPC, is committed by the accused, then in the same breath it cannot be said that the accused has also committed the offence of cheating as defined and explained in Section 415IPC, punishable under Section 420IPC.*
>
> ***43.*** *There is a distinction between criminal breach of trust and cheating. For cheating, criminal intention is necessary at the time of making a false or misleading representation i.e. since inception. In criminal breach of trust, mere proof of entrustment is sufficient. Thus, in case of criminal breach of trust, the offender is lawfully entrusted with the property, and he dishonestly misappropriated the same. Whereas, in case of cheating, the offender fraudulently or dishonestly induces a person by deceiving him to deliver any*

property. In such a situation, both the offences cannot co-exist simultaneously.

46. *It has been held in State of Gujarat v. Jaswantlal Nathalal [State of Gujarat v. Jaswantlal Nathalal, 1967 SCC OnLine SC 58 : AIR 1968 SC 700 : (1968) 2 SCR 408] : (SCC OnLine SC para 8)*

"8. The term "entrusted" found in Section 405IPC governs not only the words "with the property" immediately following it but also the words "or with any dominion over the property" occurring thereafter—see Velji Raghavji Patel v. State of Maharashtra [Velji Raghavji Patel v. State of Maharashtra, 1964 SCC OnLine SC 185 : AIR 1965 SC 1433 : (1965) 2 SCR 429] . Before there can be any entrustment there must be a trust meaning thereby an obligation annexed to the ownership of property and a confidence reposed in and accepted by the owner or declared and accepted by him for the benefit of another or of another and the owner. But that does not mean that such an entrustment need conform to all the technicalities of the law of trust — see Jaswantrai Manilal Akhaney v. State of Bombay [Jaswantrai Manilal Akhaney v. State of Bombay, 1956 SCC OnLine SC 46 : AIR 1956 SC 575 : 1956 SCR 483] . The expression "entrustment" carries with it the implication that the person handing over any property or on whose behalf that property is handed over to another, continues to be its owner. Further the person handing over the property must have confidence in the person taking the property so as to create a fiduciary relationship between them. A mere transaction of sale cannot amount to an "entrustment"."

49. *From the aforesaid, there is no manner of any doubt whatsoever that in case of sale of goods, the property passes to the purchaser from the seller when the goods are delivered. Once the property in the goods passes to the purchaser, it cannot be said that the purchaser was entrusted with the property of the seller. Without entrustment* *of property, there cannot be any criminal breach of trust. Thus, prosecution of cases on charge of criminal breach of trust, for failure to pay the consideration amount in case of sale of goods is flawed to the core. There can be civil remedy for the non-payment of the consideration amount, but no criminal case will be maintainable for it. [See : Lalit Chaturvedi v. State of U.P. [Lalit Chaturvedi v. State of U.P., (2024) 12 SCC 483 : 2024 SCC OnLine SC 171] and Mideast Integrated Steels Ltd. v. State of Jharkhand [Mideast Integrated Steels Ltd. v. State of Jharkhand, 2023 SCC OnLine Jhar 301] .]*

18. A perusal of the impugned complaint will indicate that the necessary ingredients constituting offences punishable under IPC were not made out, since the transaction as alleged by the complainant herself was an investment and a loan which do not constitute entrustment as contemplated in law for criminal breach of trust which essentially requires that the property must be entrusted to the accused with the ownership remaining with the entruster while in an investment or a loan, the property passes to the recipient; in the instant case, apart from the fact that the necessary ingredients constituting offence of criminal breach of trust are missing and conspicuously absent in the impugned complaint, coupled with the principles laid down in ***Delhi Race***

Club's case and Aarshad Neyaz Khan's case supra, the impugned complaint and FIR are unsustainable and viewed from this angle also, the impugned complaint and FIR deserve to be quashed.

19. Insofar as the allegation of intentional insult and criminal intimidation are concerned, a perusal of the impugned complaint will indicate that the allegations in this regard are general omnibus and vague without providing any particulars or details as to the date, time, place or specific words used which are made with malafide intentions only to activate the police machinery which is not sustainable in law and the same deserves to be quashed on this score also.

20. In ***Lalit Chaturvedi's case supra,*** the Apex Court held as under:-

> *" **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 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 482CrPC on the ground of delay/laches and also the factum that the charge-sheet had been filed on 12-12-2019. This ground and reason is also not valid.

9. *We will assume that the assertions made in the complaint are correct, but even then, a criminal offence under Section 420 read with Section 415IPC is not established in the absence of deception by making false and misleading representation, dishonest concealment or any other act or omission, or inducement of the complainant to deliver any property at the time of the contract(s) being entered. The ingredients to allege the offence are neither stated nor can be inferred from the averments. A prayer is made to the police for recovery of money from the appellants. The police is to investigate the allegations which discloses a criminal act. Police does not have the power and authority to recover money or act as a civil court for recovery of money.*

10. *The charge-sheet also refers to Section 406IPC, but without pointing out how the ingredients of the said section are satisfied. No details and particulars are mentioned. There are decisions which hold that the same act or transaction cannot result in an offence of cheating and criminal breach of trust simultaneously. For the offence of cheating, dishonest intention must exist at the inception of the transaction, whereas, in case of criminal breach of trust there must exist a relationship between the parties whereby one party entrusts another with the property as per law, albeit dishonest intention comes later.*

> ***11.*** *In this case entrustment is missing, in fact it is not even alleged. It is a case of sale of goods. The charge-sheet does refer to Section 506IPC relying upon the averments in the complaint. However, no details and particulars are given, when and on which date and place the threats were given. Without the said details and particulars, it is apparent to us, that these allegations of threats, etc. have been made only with an intent to activate police machinery for recovery of money.*

21. The present case is a classic illustration falling within the parameters and categories 1, 5 and 7 of paragraph-102 of the land mark judgment of the Apex Court in ***Bhajanlal's case supra***, wherein it is held as under:-

> ***"102.*** *In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of*

myriad kinds of cases wherein such power should be exercised.

> *(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
>
> *(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*
>
> *(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."*

22. As stated supra, petitioners have placed reliance upon various documents including correspondence between the parties prior to lodging the impugned complaint, proceedings under Section 138 N.I. Act etc., which have been suppressed by the 2nd respondent, who is guilty of deliberate suppression of crucial / material facts with the malafide intention of inflating alleged dues and creating false impression of large scale fraud with the ulterior motive of misleading the 1st respondent and this Court, which is yet another circumstance that would vitiate the impugned proceedings; these documents are of sterling and impeccable quality which

irrefutably established that the impugned complaint and FIR are nothing but a counter blast and are of retaliatory nature which clearly negates the allegations made in the complaint, leading to quashment of the complaint and FIR as held by the Apex Court in ***Sanjal Bose's case supra***, wherein it is held as under:-

> *"**20.** The learned counsel appearing on behalf of the State of West Bengal submitted that the investigation was conducted strictly in accordance with law and that specific and clear roles have been attributed to the appellants in the commission of the alleged offences. It was contended that the complainant had consistently named the accused persons including the appellants in the FIR and in his statements recorded under Sections 161 and 164 of CrPC. The CCTV footage seized during investigation, along with medical records and other documentary material, prima facie establishes their presence and participation in the occurrence in question. It was further urged that the chargesheet was filed only upon due consideration of the evidence collected, disclosing cognizable offences, and that the questions sought to be raised by the appellants revolve around disputed factual aspects which can be adjudicated only upon trial. The State, therefore, supported the impugned judgment of the High Court to the extent it declined to quash the proceedings against the appellants and submitted that no case for interference under Article 136 of the Constitution of India is made out.*

32. *Recently, this Court in Pradeep Kumar Kesarwani v. State of Uttar Pradesh, revisited and further elucidated the parameters governing the exercise of inherent jurisdiction under Section 482 of CrPC. While drawing guidance from earlier precedents, this Court delineated a structured four-step test to assess the sustainability of a prayer for quashing criminal proceedings. The said decision underscores that where the material relied upon by the accused is of sterling and impeccable quality; is sufficient to negate the allegations in the complaint; remains unrefuted or incapable of justifiable refutation by the prosecution; and where continuation of the proceedings would amount to an abuse of the process of Court and not serve the ends of justice, the High Court would be justified in exercising its inherent powers to quash the proceedings. For ready reference, the relevant observations from the said judgment are reproduced hereinbelow:—*

> ***"20. The following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr. P.C.: —***
>
> *(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?*
>
> *(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is*

such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal proceedings, in exercise of power vested in it under Section 482 of the Cr. P.C. *Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused."*

23. In ***Vishal Nobel Singh's case supra,*** the Apex Court held as under:-

*"**18.** On a reading of the FIR as well as the charge-sheet, we do not find that the offences aforestated are made out at all. We do not find any criminal breach of trust nor any cheating by impersonation. There is also no cheating and dishonestly inducing delivery of property, nor have any documents referred to any forgery or security or any forgery*

for the purpose of cheating. There is no reference to any document which has been forged so as to be used as a genuine document and much less is there any criminal conspiracy which can be imputed to the appellants herein in the absence of any offence being made out vis-à-vis the aforesaid sections.

19. *In this regard, our attention was drawn to paras 42-44 and 46 of Inder Mohan Goswami v. State of Uttaranchal [Inder Mohan Goswami v. State of Uttaranchal, (2007) 12 SCC 1 : (2008) 1 SCC (Cri) 259] , dealing with Sections 420 and 467IPC, which are extracted hereunder with regard to Section 420IPC, it was observed thus: (SCC pp. 15-16)*

"42. On a reading of the aforesaid section, it is manifest that in the definition there are two separate classes of acts which the person deceived may be induced to do. In the first class of acts he may be induced fraudulently or dishonestly to deliver property to any person. The second class of acts is the doing or omitting to do anything which the person deceived would not do or omit to do if he were not so deceived. In the first class of cases, the inducing must be fraudulent or dishonest. In the second class of acts, the inducing must be intentional but need not be fraudulent or dishonest. Therefore, it is the intention which is the gist of the offence. To hold a person guilty of cheating it is necessary to show that he had a fraudulent or dishonest intention at the time of making the promise. From his mere failure to subsequently keep a promise, one cannot presume that he all along had a culpable intention to break the promise from the beginning.

43. We shall now deal with the ingredients of Section 467IPC. …

44. The following ingredients are essential for commission of the offence under Section 467IPC:

1. the document in question so forged;

2. the accused who forged it;
3. the document is one of the kinds enumerated in the aforementioned section.

*****

46. The court must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private vendetta or with an ulterior motive to pressurise the accused. On analysis of the aforementioned cases, we are of the opinion that it is neither possible nor desirable to lay down an inflexible rule that would govern the exercise of inherent jurisdiction. Inherent jurisdiction of the High Courts under Section 482CrPC though wide has to be exercised sparingly, carefully and with caution and only when it is justified by the tests specifically laid down in the statute itself and in the aforementioned cases. In view of the settled legal position, the impugned judgment cannot be sustained."

(emphasis supplied)

20. *On a careful consideration of the aforementioned judicial dicta, we find that none of the offences alleged against the appellant-accused herein are made out. In fact, we find that the allegations of criminal intent and other allegations against the appellant-accused herein have been made with a mala fide intent and therefore, the judgment of this Court in Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] and particularly sub-paras (1), (3), (5) and (7) of para 102, extracted above, squarely apply to the facts of these cases. It is neither expedient nor in the interest of justice to permit the present prosecution to continue.*

21. *This Court, in Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre [Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre, (1988) 1 SCC 692 : 1988 SCC (Cri) 234] , reasoned that the criminal process cannot be utilised for any oblique purpose and held* *that while entertaining an application for quashing an FIR at the initial stage, the test to be applied is whether the uncontroverted allegations prima facie establish the offence. This Court also concluded that the court should quash those criminal cases where the chances of an ultimate conviction are bleak and no useful purpose is likely to be served by continuation of a criminal prosecution. The aforesaid observations squarely apply to this case.*

***22.** We find that in recent years the machinery of criminal justice is being misused by certain persons for their vested interests and for achieving their oblique motives and agenda. Courts have therefore to be vigilant against such tendencies and ensure that acts of omission and commission having an adverse impact on the fabric of our society must be nipped in the bud.*

***23.** We say so for the reason that while the second respondent complainant has made grave allegations against the appellants herein and on whose behalf a charge-sheet has also been filed against such allegations, has failed to appear before this Court to justify the same. Such acts would not only cause deep fissures and mistrust between people and also unnecessarily burden the law courts and the criminal justice system.*"

24. The aforesaid facts and circumstances clearly established that the impugned criminal proceedings are manifestly attended with malafides and are instituted with an ulterior motive to wreak vengeance upon the petitioners and the impugned

proceedings being an attempt to give a cloak of criminality and convert an essentially, predominantly and overwhelmingly civil dispute by giving the same a criminal colour / texture which is impermissible in law, allowing such proceedings to continue would be a gross abuse of process of court and would result in travesty of justice warranting interference by this Court in the present petition.

25. A perusal of the material will indicate that there is a long unexplained and inordinate delay on the part of the 2nd respondent in lodging the impugned complaint on 23.12.2024 in relation to alleged offences said to have been committed over a period of two years and the impugned complaint and FIR are unsustainable in law on this ground also as held by the Apex Court in ***Chanchalapathi Das's case supra,*** wherein it is held as under:-

> *"**18.** It cannot be gainsaid that the High Courts have power to quash the proceedings in exercise of powers under Section 482CrPC to prevent the abuse of process of any court or otherwise to secure the ends of justice. Though the powers under Section 482 should be sparingly exercised and with great caution, the said powers ought to be exercised if a clear case of abuse of process of law is made out by the accused. In State of Karnataka v. L. Muniswamy the Supreme Court had held that the criminal proceedings could be quashed by the*

High Court under Section 482 if the court is of the opinion that allowing the proceedings to continue would be an abuse of the process of the court or that the ends of justice require that the proceedings are to be quashed.

19. *This Court, way back in 1992 in the landmark decision State of Haryana v. Bhajan Lal, after considering relevant provisions more particularly Section 482CrPC and the principles of law enunciated by this Court relating to the exercise of extraordinary powers under Article 226, had laid down certain guidelines for the exercise of powers of quashing, which have been followed in umpteen number of cases. The relevant part thereof reads as under*

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

20. *In State of A.P. v. Golconda Linga Swamy this Court had observed that the court would be justified to quash the proceedings if it finds that initiation or continuance of such proceedings would amount to abuse of the process of court.*

21. *As regards inordinate delay in filing the complaint it has been recently observed by this Court in Hasmukhlal D. Vora v. State of T.N. that though inordinate delay in itself may not be a ground for quashing of a criminal complaint, however unexplained inordinate delay must be taken into consideration as a very crucial factor and ground for quashing a criminal complaint.*

22. *In the light of the aforestated legal position, if the facts of the case are appreciated, there remains no shadow of doubt that the complaint filed by the respondent complainant after an inordinate unexplained delay of eight years was nothing but sheer misuse and abuse of the process of law to settle personal scores with the appellants, and that continuation of such malicious prosecution would also be further abuse and misuse of process of law, more particularly when neither the allegations made in the complaint nor in the charge-*

sheet, disclose any prima facie case against the appellants. The allegations made against the appellants are so absurd and improbable that no prudent person can ever reach to a conclusion that there is a sufficient ground for proceeding against the appellants-accused.

23. *Before parting, a few observations made by this Court with regard to the misuse and abuse of the process of law by filing false and frivolous proceedings in the courts need to be reproduced. In the Court in Dalip Singh v. State of U.P.*

"1. For many centuries Indian society cherished two basic values of life i.e. "satya" (truth) and "ahimsa" (non-violence). Mahavir, Gautam Buddha and Mahatma Gandhi guided the people to ingrain these values in their daily life. Truth constituted an integral part of the justice-delivery system which was in vogue in the pre-Independence era and the people used to feel proud to tell truth in the courts irrespective of the consequences. However, post-Independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings."

24. *In Subrata Roy Sahara v. Union of India it was observed as under :*

"191. The Indian judicial system is grossly afflicted with frivolous litigation. Ways and means need to be evolved to deter litigants from their compulsive obsession towards senseless and ill-considered claims."

__25.__ We would like to add that just as bad coins drive out good coins from circulation, bad cases drive out good cases from being heard on time. Because of the proliferation of frivolous cases in the courts, the real and genuine cases have to take a backseat and are not being heard for years together. The party who initiates and continues a frivolous, irresponsible and senseless litigation or who abuses the process of the court must be saddled with exemplary cost, so that others may deter to follow such course. The matter should be viewed more seriously when people who claim themselves and project themselves to be the global spiritual leaders, engage themselves into such kind of frivolous litigations and use the court proceedings as a platform to settle their personal scores or to nurture their personal ego.

__26.__ Having regard to the facts and circumstances of the present case and for the reasons stated hereinabove, we deem it appropriate to quash the criminal proceedings pending against the appellants in the Court of Chief Judicial Magistrate, Alipore, arising out of FIR No. 33 of 2009 registered at Ballygunge Police Station, and quash the same."

26. So also, in ***Harilal's case supra,*** the Apex Court held as under:-

"*__20.__ Although there might not have been a specific question put to PW-9 as regards the delay in lodging the FIR but the fact that it was a delayed FIR cannot be ignored.*

When an FIR is delayed, in absence of proper explanation, the courts must be on guard and test the evidence meticulously to rule out possibility of embellishments in the prosecution story, inasmuch as delay gives opportunity for deliberation and guess work. More so, in a case where probability of no one witnessing the incident is high, such as in a case of night occurrence in an open place or a public street"

27. In ***Rikhab's case supra***, the Apex Court held as under;

"***18.*** *In Kunti v. State of Uttar Pradesh, this Court referred to Sarabjit Kaur v. State of Punjab wherein it was observed that a breach of contract does not give rise to criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction. Merely on the allegation of failure to keep a promise will not be enough to initiate criminal proceedings. Thus, the dishonest intention on the part of the party who is alleged to have committed the offence of cheating should be established at the time of entering into the transaction with the complainant, otherwise the offence of cheating is not established or made out."*

28. In view of the aforesaid facts and circumstances, I am of the considered opinion that continuation of the impugned complaint and FIR and all further proceedings pursuant thereto would amount to abuse of process of law / court warranting interference by this

Court in the present petition and consequently, the impugned complaint and FIR and all further proceedings deserve to be quashed.

29. In the result, I pass the following:-

ORDER

(i) Petition is hereby allowed.

(ii) The impugned complaint dated 23.12.2024 lodged by the 2nd respondent – *de facto* complainant and impugned FIR in Crime No.617/2024 dated 23.12.2024 registered by the 1st respondent – Police and all further proceedings pursuant thereto insofar as the petitioners – accused Nos. 1 and 2 are concerned, are hereby quashed.

(iii) It is made clear that the present order is passed without prejudice to the rights and contentions of the parties in any other pending / future civil litigation between the parties before any court or forum and all rival contentions in this regard are kept / left open and no opinion is expressed on the merits / demerits of the rival contentions.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

Srl.