



CNR: KAHC010685522024

NC: 2026:KHC:56459
CRL.P No. 13348 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF OCTOBER, 2026

BEFORE

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

CRIMINAL PETITION NO.13348 OF 2024 (482(Cr.PC)/528(BNSS))

BETWEEN:

SRI AROKIA DASS
S/O JEMES DASS,
AGED ABOUT 63 YEARS,
R/AT M. CHIAMBE VILLAGE,
NIDARAMANGALA, MALUR TALUK,
KOLAR – 563 137

...PETITIONER

(BY SRI. MURALIDARA R., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY THE POLICE OF THILAK NAGAR POLICE STATION,
BENGALURU
REPRESENTED BY SPP,
HIGH COURT OF KARNATAKA
BENGALURU – 560 001.

2. MISS KAYLA KATHLEEN KUMAR
D/O LATE DR S. KRISHNA KUMAR,
AGED ABOUT 35 YEARS,
R/AT NO. 73, 3RD FLOOR, CISRS BUILDING,
MILLERS ROAD, BENSON TOWN,
BENGALORE – 560 046.

...RESPONDENTS

(BY SRI. DEEPTHI ALVA, HCGP)

THIS CRL.P IS FILED U/S 482 CR.PC (FILED U/S 528 BNNS)
PRAYING TO QUASH THE FIR FILED BY THE 1ST RESPONDENT
AGAINST THE PETITIONER UNDER THE OFFENCE P/U/S 34, 420,
467, 468, 470, 471 OF IPC IN CRIME NO.13/2024 ON THE FILE OF
XXXVII ADLL. CMM COURT, BENGALURU.

Digitally
signed by
VANDANA S
Location:
High Court
of Karnataka



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

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

ORAL ORDER

In this petition, the petitioner seeks the following reliefs:

“(1) Quash the FIR filed by the 1st Respondent against the petitioner under the offence punishable under section 34, 420, 467, 468, 470, 471 of IPC in Crime No.13/2024 on the file of XXXVII Addl. CMM Court, Bengaluru.

(2) Allow the petition, in the interest of justice and equity.”

2. Heard learned counsel for the petitioner and learned HCGP for the respondents and perused the material on record.

3. A perusal of the material on record will indicate that the petitioner is arraigned as accused No.4 in the impugned proceedings in Crime No.13 of 2024 filed by respondent No.2-complainant against the petitioner-accused No.4 and three other persons viz., Deepak A., Vinay Gowda A. and Annappa, who were arraigned as accused Nos.1 to 3 in the impugned proceedings. A perusal of the complaint and FIR affair will indicate that common/identical/similar allegations have been made against all



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four accused persons. The aforesaid accused Nos.1 to 3 approached this Court in Crl.P.No.1343/2024 which was dismissed by this Court vide final order dated 22.09.2025 as hereunder:

“In this petition, petitioners - accused Nos. 1 to 3 seek quashing of the impugned complaint and FIR registered as Crime No.13/2024 dated 30.01.2024 before the 1st respondent – police authorities and for other reliefs.

2. A perusal of the material on record will indicate that on 18.01.2024, the 2nd respondent - de facto complainant filed the impugned complaint against the petitioners – accused 1 to 3, Arokiadas – accused No.4, Dhiraj Jain – accused No.5 and Ashok – accused No.6 interalia alleging that she was the daughter and beneficiary under a Will dated 21.08.2014 executed by her father Dr.S.Krishna Kumar in her favour in relation to various properties including House No.1251, 32nd 'G' cross, 4th 'T' block, Jayanagar, Bangalore – 41, comprising of 1 unit in the ground floor and 3 units in the first floor. It was alleged that all the accused persons colluded with each other and fraudulently, forged and created an alleged power of attorney dated 31.05.2022 alleged to have been executed by the aforesaid Dr.S.Krishna Kumar in favour of accused No.4 – Arokiadas, which was a forged and fabricated document and that on the basis of the said illegal and invalid GPA, the accused persons fraudulently colluded with each other and concocted / created an alleged lease deed dated 25.11.2022 in favour of



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petitioners – accused Nos. 1 to 3 which was also a got up, illegal and invalid document. It was therefore requested by the 2nd respondent – complainant to the 1st respondent – police authorities to take necessary action against the petitioners and other accused persons.

3. In pursuance of the aforesaid complaint, the 1st respondent – police authorities registered the impugned FIR in Crime No.13/2024 against the petitioners – accused 1 to 3 as well as accused Nos.4 to 6 for alleged offences punishable under Sections 420, 467, 468, 470 and 471 of IPC, aggrieved by which, petitioners – accused Nos.1 to 3 are before this Court by way of the present petition.

4. Heard learned Senior counsel for the petitioners and learned HCGP for 1st respondent - State as well as learned counsel for 2nd respondent and perused the material on record.

5. In addition to reiterating the various contentions urged in the petition and referring to the material on record, learned Senior counsel for the petitioners invited my attention to the impugned complaint and FIR in order to point out that necessary ingredients constituting the alleged offences have not been made out by the petitioner. It was submitted that during the lifetime of late Dr.S.Krishna Kumar, father of 2nd respondent - complainant, he had executed a special power of attorney dated 31.05.2002 in favour of accused No.4 - Arokiadas, pursuant to which, the said accused No.4 executed a lease agreement dated 25.11.2022



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in favour of petitioner No.1 - accused No.1 in respect of the ground floor and 2 units in first floor, since the petitioners were already occupying the ground floor as tenants under the said Dr.S.Krishna Kumar. It was submitted that the said Dr.S.Krishna Kumar not only had full knowledge of these transactions but had voluntarily executed the said power of attorney and received a sum of Rs.10 lakhs from the petitioners towards the lease of the property in their favour and as such, the impugned complaint being false and nullitious filed after the life time of Dr.S.Krishna Kumar, deserves to be quashed. It was further submitted that the 2nd respondent is attempting to give a criminal colour to a civil dispute and the complaint and the FIR deserves to be quashed.

6. Per contra, learned counsel for 2nd respondent and learned HCGP for 1st respondent submit that the complaint clearly makes out and discloses not only the commission of the offences by the petitioners - accused Nos.1 to 3 but also contains the necessary ingredients constituting the offences and the various contentions urged by the petitioners and the 2nd respondent would necessarily have to be examined by the 1st respondent - police authorities during investigation and as such, there is no merit in the petition and that the same is liable to be dismissed.

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



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8. A perusal of the material on record will indicate that it is an undisputed fact that late Dr.S.Krishna Kumar, father of 2nd respondent was the owner of the aforesaid residential house comprising of 1 unit in the ground floor and 3 units in the 1st floor; it is also not in dispute that vide lease deed dated 01.09.2019, the said Dr.S.Krishna Kumar leased out the ground floor portion / unit in favour of petitioner No.1, while 2 units in the first floor were leased out in favour of other tenants and the 3rd unit was retained by late Dr.S.Krishna Kumar; subsequently, during the Covid-19 pandemic period, the tenants of the 1st floor vacated and all the 3 units on the first floor remained vacant during that time. According to the petitioners, late Dr.S.Krishna Kumar who expired on 24.10.2023 had not executed any document or alleged power of attorney in favour of accused No.4 - Arokiadas and the alleged lease deed dated 25.11.2022 alleged to have been executed by Arokiadas in favour of petitioner No.1 and the power of attorney dated 31.05.2022 alleged to have been executed by Dr.S.Krishna Kumar in favour of accused No.4 - Arokiadas were fabricated, bogus, fake, fraudulent, concocted, got up and illegal documents, the petitioners have relied upon these documents in support of their claim. In this context, it would be necessary to extract the complaint averments, which are as under:-

From:-

Date:-18/01/2024

Miss. Kayla Kathleen Kumar,
D/o. late Dr. S Krishna Kumar,
Aged about 35 years,
Permanent resident of
No. 1107, Laurent Street,



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Santa Cruz, California, USA-95060

*Presently residing at No. 73, 3rd Floor,
CISRS Building, Millers Road,
Benson Town, Bangalore-560046*

*To,
The Commissioner of Police
Bangalore City,
No. 1, Infantry Road
Bangalore-560001.*

Respected sir,

Sub:- Complaint against (1) Sri. Vinay Gowda, (2) Sri. Annappa, (3) Sri. Deepak Gowda, (4) Mr.Arokia Dass & others for creating and forging General Power of Attorney referred to in the registered lease deed dated 25.11.2022 and on the basis of the forged/created Power of Attorney getting lease deed dated 25/11/2022 executed showing fictitious consideration in respect of property bearing house No. 1251, having PID No. 58-183-31, situated at 32nd 'G' Cross, 4th 'T' Block, Jayanagar, Bangalore-560004 which was owned and possessed by Dr. S. Krishna Kumar, S/o. Sri G Sarangan.

I would bring to the kind notice of the Hon'ble Commissioner the following facts for immediate and appropriate action under the Indian Laws;

I am the third child of Dr. S Krishna Kumar, S/o. Sri. G Sarangan, and I am the beneficiary under the Will dated 21/08/2014 registered as Document No. HLS-3-00087/2014-15, Book-3, Stored in CD No. HSD 104, in the office of the Sub-Registrar, Shivajinagar (Ulsoor), Bangalore, executed by my father.

My father Dr.S. Krishna Kumar, S/o. Sri. G. Sarangan was the absolute owner in possession and enjoyment of the immovable property bearing house No. 1251, having PID No. 58-183-31, situated at 32nd 'G' Cross, 4th 'T' Block, Jayanagar, Bangalore-560041, and my father had



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constructed a house consisting of 4 units one in the ground floor and three in the first floor.

That my father by retaining one small unit for himself had let out the ground floor to Sri. Vinay Gowda, S/o. Sri Annappa whose cell number is 73497 77779 and his father Sri Annappas' cell number is 9342883209vide Lease deed dated 01/09/2016 for a period of 11 months and the term of the said lease was being extended from time to time as per the request of Sri. Vinay Gowda, who was residing in the said ground floor premises along with his wife, children, his parents and younger brother Sri. Deepak. A.

That the remaining two portions in the first floor were let out favouring other two tenants, who later vacated the premises just before the onset of Covid-19 pandemic and thereafter the two portions were lying vacant.

That Sri. Vinay Gowda was paying rentals regularly up to the pandemic and thereafter, started delaying the payments for about 10 months and did not make any attempt to pay the rentals or to renew the lease deed. Hence, my father Dr. S. Krishna Kumar, got issued a legal notice dated 16/10/2021 to Sri VinayGowda demanding payment of arrears of rentals and to vacate the schedule premises immediately. However, due the ill health of my father and his immobility, he could not file a case before the jurisdictional court.

Please be informed that my father Dr.S Krishna Kumar, had moved out of the house during 2021 and was living at an organization providing assisted living facilities. Neither Sri. Vinay Gowda nor any of his family members knew about my father's stay at an Assisted Living.

My father Dr. S Krishna Kumarexpired on 24/10/2023 at Manipal Hospitals on account of ill health, leaving behind the aforesaid registered will bequeathing the aforesaid property in my favour and as such I have



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succeeded to the estate of my father in terms of the aforesaid will.

Please note that in terms of the registered will executed by my father, I came to Bangalore to get the khatha transferred and complete the other legal formalities. I had applied for the encumbrance certificate in respect of said property and verification of the same to my shock and surprise, I noticed that one Mr. Arokia Dass, S/o. JemesDass, claiming to be the Power of Attorney holder of my father has executed and registered the Lease Deed dated 25/11/2022 favouring Sri. Deepak. A, S/o. Sri. Annappa, in respect of above said property bearing house No.1251, which is registered as Document No.BMH-1-08268/2022-23 stored in CD No. BMHD 1794 of Volume 1 at the office of the Sub-Registrar, Bommanahalli, Bangalore.

Please be informed that my father had appointed Smt. Vani.H as his Attorney holder as per Power of Attorney dated 02.11.2017 for the purposes specified therein and there were no other Power of Attorneys executed by my father in favour of anyone else.

Please be informed that on further verification, I learnt that the said Mr. ArokiaDasswas neither known to my father Dr. S Krishna Kumar or to his power of attorney holder Smt. Vani. H. The power of attorney referred to in the Lease Deed is forged and created by and for the benefit of Sri. Vinay Gowda, Sri. Annappa and Sri. Deepak. A jointly by playing fraud for the purpose of getting registration of lease deed dated 25/11/2022 executed favouring Sri. Deepak A, S/o. Sri. Annappa, in respect of above said property bearing house No. 1251, showing fictitious consideration only with a view to knock off the aforesaid property and for making illegal gains. I strongly believe that the alleged General Power of Attorney favouring Mr.ArokiaDass, S/o. JemesDass is also created by the aforesaid tenant and his family members with an ulterior motive.



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Please be informed that, I have verified the documents and the bank account statements left by my father and found that neither the rentals nor the security deposit specified in the alleged lease deed have been deposited to my father's account. Please also note that the rentals agreed to be paid by Sri. Vinay Gowda in respect of ground floor premises were itself much more than the rentals specified in the forged lease deed dated 25/11/2022 for the entire residential premises consisting of 3 units and when I visited the residential premises on 11.01.2023 in the forenoon, I was not permitted to inspect the house.

The aforesaid persons have forged my father's signature and created a fake Power of Attorney and on the basis of said created Power of Attorney have got the Lease deed dated 25/11/2022 executed showing fictitious consideration only with a view to knock off the aforesaid property and make illegal gains. Rentals have not been paid since three years either by Sri Vinay Gowda or Sri Deepak A which shows their conspiracy to knock off the valuable immovable property. I have been informed that these acts of the said persons are punishable under Section 120B, 465, 467, 468 and 471 India Penal Code.

The aforesaid persons are guilty of creating documents pertaining to immovable property with a view of make illegal gains. The act of creating the said Power of Attorney amounts to fraud as my father has not executed any kind of document much less the alleged Power of Attorney in favour of said Mr. ArokiaDass.

The witnesses to the said forged General Power of Attorney have also joined hands with Mr. ArokiaDass and others and further the witnesses to the alleged Lease deed dated 25/11/2022 are also not known to my father or my family. These witnesses are also hand in glove with Mr. ArokiaDass and Sri Deepak A, all of them with common intention to deceive my father and myself and to knock off the property by creating forged documents.



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The alleged Lease deed dated 25/11/2022 is created and executed on the basis of forged General Power of Attorney and consideration stated therein is fictitious, fraudulently executed to deprive my father of his valuable rights. The aforesaid persons have acted with common intention and have joined together hatched conspiracy to make wrongful gain at the cost of my father and myself and deprive us of our valuable property to cheat us.

I am returning to USA on 24.01.2024 on account of official commitments. Therefore I am executing a power of attorney favouring Sri. Srinivasa B.C, a resident of Bangalore and a known person to my family. Sri Srinivasa B.C is aware of all the facts and he would appear before the jurisdictional authorities and the court as the case may be, in this regard and participate in further adjudication including giving statements, filing papers, site inspection etc. as required in law. Copy of the power of attorney would be furnished by him.

Hence I request your goodself to take necessary action against said persons and punish them under Section 120B, 424, 465, 467, 468 and 471 IPC.

*Thanking you
Sd/-
Yours truly
Miss. Kayla Kathleen Kumar*

Please note I have annexed photocopies of documents and also the address of sons for your convenience.

- 1. Sri Vinay Gowda,
S/o. Sri. Annappa,
Aged about 37 years,
(Cell No. 73497 77779)*
- 2. Sri. Annappa,
S/o. not known
Aged about 63years,
(Cell No. 9342883209)*
- 3. Sri. Deepak A,
S/o. Sri. Annappa,*



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Aged about 34 years,

*1 to 3 are Residing at No.1251,
32nd 'G' Cross, 4th 'T' Block,
Jayanagar, Bangalore-560 041.*

4. *Mr.ArokiaDass
S/o. JemesDass
Aged about 56years,
R/at No. M Chiambe Village,
Nidaramangala, Malur Taluk,
Kolar District-563137
-alleged GPA Holder*
5. *Sri. Dhiraj Jain,
Residing at No. 20, 11th Main,
Hanumanthangar, Bangalore-560019
-witness to Lease Deed*
6. *Sri. Ashok,
Residing at No. 25, 25th Main,
II Block, Banashankari, Bangalore-560050
-witness to Lease Deed*

7. *Photocopy of the Lease Deed dated 25.11.2022*

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9. *A perusal of the allegations made in the complaint will prima facie indicate that the same disclose the commission of the offences by the petitioners in collusion with accused Nos. 4 to 6 and all necessary ingredients constituting the alleged offences including allegations relating to the power of attorney, lease deed etc., referred to supra are present and forthcoming in the complaint; it follows therefrom that in the light of specific*



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and detailed allegations contained in the impugned complaint, the same would warrant investigation by the 1st respondent - police authorities and at this stage, the question of interfering with the impugned complaint and FIR would not arise in the facts and circumstances of the instant case.

10. A perusal of the rival contentions will indicate that there are complicated and disputed questions of fact involving allegations and counter allegations made by both parties against one another, which are incapable of being considered, examined or adjudicated upon by this Court without investigation being conducted by the 1st respondent - Police and on this score also, I am of the considered opinion that the instant case does not warrant invocation of the jurisdiction of this Court under Section 482 Cr.P.C. or Article 226 of the Constitution of India and consequently, the present petition is liable to be dismissed.

11. Insofar as the contention urged by the petitioners that they had already instituted a civil suit in O.S.No.1240/2023 against the said Dr.S.Krishna Kumar and accused No.4 - Arokiadas, a perusal of the judgment and decree 08.04.2025 passed in the said suit will indicate that while the suit as against Dr.S.Krishna Kumar was dismissed on the ground that he had expired, the suit was decreed ex-parte against the said Arokiadas; the said judgment which does not contain or render any finding on the legality, validity, authenticity, genuineness or correctness of the GPA or the lease deed, also cannot be relied upon by



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the petitioners, especially when the suit was dismissed against Dr.S.Krishna Kumar and the 2nd respondent was not a party to the said suit. Under these circumstances, the said suit in O.S.No.1240/2023 and the judgment and decree passed therein cannot be relied upon by the petitioners to seek quashment of the impugned complaint and FIR and their contention in this regard is liable to be rejected.

12. Insofar as the contention urged by the petitioners that since the 2nd respondent is entitled to pursue civil remedies and that the civil court is a proper forum to adjudicate upon the dispute between the petitioners and 2nd respondent, which is essentially of a civil nature, it is well settled that mere availability of civil remedies or pendency of criminal proceedings would not operate as a bar / embargo for the aggrieved person to initiate criminal proceedings by making necessary and suitable allegations in this regard.

*13. In the case of **P.Swaroop Rani vs. M.Hari Narayana - (2008) 5 SCC 765**, the Apex court held as under:-*

"11. It is, however, well settled that in a given case, civil proceedings and criminal proceedings can proceed simultaneously. Whether civil proceedings or criminal proceedings shall be stayed depends upon the fact and circumstances of each case. (See M.S. Sheriff v. State of Madras [AIR 1954 SC 397], Iqbal Singh Marwah v. Meenakshi Marwah [(2005) 4 SCC 370 : 2005 SCC (Cri) 1101] and Institute of Chartered Accountants of



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India v. Assn. of Chartered Certified Accountants [(2005) 12 SCC 226 : (2006) 1 SCC (Cri) 544] .)

12. *It is furthermore trite that Section 195(1)(b)(ii) of the Code of Criminal Procedure would not be attracted where a forged document has been filed. It was so held by a Constitution Bench of this Court in Iqbal Singh Marwah [(2005) 4 SCC 370 : 2005 SCC (Cri) 1101] stating : (SCC pp. 387-88, paras 25-26)*

"25. An enlarged interpretation to Section 195(1)(b)(ii), whereby the bar created by the said provision would also operate where after commission of an act of forgery the document is subsequently produced in court, is capable of great misuse. As pointed out in Sachida Nand Singh [Sachida Nand Singh v. State of Bihar, (1998) 2 SCC 493 : 1998 SCC (Cri) 660] after preparing a forged document or committing an act of forgery, a person may manage to get a proceeding instituted in any civil, criminal or revenue court, either by himself or through someone set up by him and simply file the document in the said proceeding. He would thus be protected from prosecution, either at the instance of a private party or the police until the court, where the document has been filed, itself chooses to file a complaint. The litigation may be a prolonged one due to which the actual trial of such a person may be delayed indefinitely. Such an interpretation would be highly detrimental to the interest of the society at large.

26. Judicial notice can be taken of the fact that the courts are normally reluctant to direct filing of a criminal complaint and such a course is rarely adopted. It will not be fair and proper to give an interpretation which leads to a situation where a person alleged to have committed an offence of the type enumerated in Clause (b)(ii) is either not placed for trial on account of non-filing of a complaint or if a complaint is filed, the same does not come to its logical end. Judging from such an angle will be in consonance with the principle that an unworkable or impracticable result should be avoided. In Statutory Interpretation by Francis Bennion (3rd Edn.), Para 313, the principle has been stated in the following manner:



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'The court seeks to avoid a construction of an enactment that produces an unworkable or impracticable result, since this is unlikely to have been intended by Parliament. Sometimes, however, there are overriding reasons for applying such a construction, for example, where it appears that Parliament really intended it or the literal meaning is too strong.'"

In regard to the possible conflict of findings between civil and criminal court, however, it was opined : (SCC pp. 389-90, para 32)

"32. Coming to the last contention that an effort should be made to avoid conflict of findings between the civil and criminal courts, it is necessary to point out that the standard of proof required in the two proceedings are entirely different. Civil cases are decided on the basis of preponderance of evidence while in a criminal case the entire burden lies on the prosecution and proof beyond reasonable doubt has to be given. There is neither any statutory provision nor any legal principle that the findings recorded in one proceeding may be treated as final or binding in the other, as both the cases have to be decided on the basis of the evidence adduced therein."

It was concluded : (SCC p. 390, para 33)

"33. In view of the discussion made above, we are of the opinion that Sachida Nand Singh [Sachida Nand Singh v. State of Bihar, (1998) 2 SCC 493 : 1998 SCC (Cri) 660] has been correctly decided and the view taken therein is the correct view. Section 195(1)(b)(ii) CrPC would be attracted only when the offences enumerated in the said provision have been committed with respect to a document after it has been produced or given in evidence in a proceeding in any court i.e. during the time when the document was in custodia legis."

13. *Filing of an independent criminal proceeding, although initiated in terms of some observations made by the civil court, is not barred under any statute."*

14. *In the case of **Kathyayini v. Sidharth P.S. Reddy - 2025 SCC OnLine SC 1428**, the Apex Court held as under:-*



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7. It is clear from the facts that a prima facie case for criminal conspiracy and cheating exists against respondent Nos. 1 and 2. It appears that they, along with their uncles Guruva Reddy and Umedha Reddy, have attempted to defraud their aunts by creating a forged family tree and partition deed with a motive to gain all the monetary award for land in question bypassing the appellant and her sisters. They succeeded in their plan until Sudhanva Reddy revealed it to the authorities by a letter. The High Court has erroneously relied upon the statement of Sub-Registrar who stated that partition deed dated 24.03.2005 was presented for registration on 26.03.2005 and due to health reasons concerning K.G. Yellappa Reddy, his thumb impressions were secured at his house in presence of the Sub-Registrar. However, we must note this statement of the Sub-Registrar has not been put to cross examination. It would be unwise to rely on unverified testimony of a Sub-Registrar to ascertain the genuineness of Partition deed. The High Court erred in heavily relying on his statement to conclude that the Partition deed was genuine and thus no offence is made out against the respondents under Sections 463 and 464 IPC.

18. Further, the High Court could not find any justification to deny that respondents misrepresented the family tree. The Court itself has acknowledged that respondents were bound to disclose the names of daughters of K.G. Yellappa Reddy and Jayalakshmi in the family tree. Considering the fact that both the partition deed and the family tree were used in gaining



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the monetary compensation awarded for the land, it is necessary that genuineness of both the documents is put to trial.

19. *We now come to the issue of bar against prosecution during the pendency of a civil suit. We hereby hold that no such bar exists against prosecution if the offences punishable under criminal law are made out against the parties to the civil suit. Learned senior counsel Dr.Menaka Guruswamy has rightly placed the relevant judicial precedents to support the above submission. In the case of K. Jagadish v. Udaya Kumar G.S. - (2020) 14 SCC 552, this Court has reviewed its precedents which clarify the position. The relevant paragraph from the above judgment is extracted below:*

“8. It is thus well settled that in certain cases the very same set of facts may give rise to remedies in civil as well as in criminal proceedings and even if a civil remedy is availed by a party, he is not precluded from setting in motion the proceedings in criminal law.”

20. *In Pratibha Rani v. Suraj Kumar - (1985) 2 SCC 370, this Court summed up the distinction between the two remedies as under:*

“21. ... There are a large number of cases where criminal law and civil law can run side by side. The two remedies are not mutually exclusive but clearly coextensive and essentially differ in their content and consequence. The object of the criminal law is to punish an offender who commits an offence against a person, property or the State for which the accused, on proof of the offence, is deprived of his liberty and in some cases even his life. This does not, however, affect the civil remedies at all for suing the wrongdoer in cases like arson, accidents, etc. It is an anathema to suppose that when a civil remedy is available, a criminal prosecution is completely barred. The two types of actions are quite different in



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content, scope and import. It is not at all intelligible to us to take the stand that if the husband dishonestly misappropriates the stridhan property of his wife, though kept in his custody, that would bar prosecution under Section 406 IPC or render the ingredients of Section 405 IPC nugatory or abortive. To say that because the stridhan of a married woman is kept in the custody of her husband, no action against him can be taken as no offence is committed is to override and distort the real intent of the law."

21. The aforesaid view was reiterated in *Kamaladevi Agarwal v. State of W.B.* - (2002) 1 SCC 555,

"17. In view of the preponderance of authorities to the contrary, we are satisfied that the High Court was not justified in quashing the proceedings initiated by the appellant against the respondents. We are also not impressed by the argument that as the civil suit was pending in the High Court, the Magistrate was not justified to proceed with the criminal case either in law or on the basis of propriety. Criminal cases have to be proceeded with in accordance with the procedure as prescribed under the Code of Criminal Procedure and the pendency of a civil action in a different court even though higher in status and authority, cannot be made a basis for quashing of the proceedings."

22. After surveying the abovementioned cases, this Court in *K. Jagadish (supra)* set aside the holding of High Court to quash the criminal proceedings and held that criminal proceedings shall continue to its logical end.

23. The above precedents set by this Court make it crystal clear that pendency of civil proceedings on the same subject matter, involving the same parties is no justification to quash the criminal proceedings if a *prima facie* case exists against the accused persons. In



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present case certainly such prima facie case exists against the respondents. Considering the long chain of events from creation of family tree excluding the daughters of K.G. Yellappa Reddy, partition deed among only the sons and grandsons of K.G. Yellappa Reddy, distribution of compensation award among the respondents is sufficient to conclude that there was active effort by respondents to reap off the benefits from the land in question. Further, the alleged threat to appellant and her sisters on revelation of the above chain of events further affirms the motive of respondents. All the above factors suggest that a criminal trial is necessary to ensure justice to the appellant.

24. Therefore, we set aside the Impugned order of High Court dated 23.11.2023 in Writ Petition No. 23106 of 2021. Accordingly, we direct the Trial Court to continue its proceedings against respondent Nos. 1 and 2 in accordance to law.

*15. In the case of **Priti Saraf v. State (NCT of Delhi)***

- (2021) 16 SCC 142, the Apex Court held as under:-

31. In the instant case, on a careful reading of the complaint/FIR/charge-sheet, in our view, it cannot be said that the complaint does not disclose the commission of an offence. The ingredients of the offences under Sections 406 and 420 IPC cannot be said to be absent on the basis of the allegations in the complaint/FIR/charge-sheet. We would like to add that whether the allegations in the complaint are otherwise



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correct or not, has to be decided on the basis of the evidence to be led during the course of trial. Simply because there is a remedy provided for breach of contract or arbitral proceedings initiated at the instance of the appellants, that does not by itself clothe the court to come to a conclusion that civil remedy is the only remedy, and the initiation of criminal proceedings, in any manner, will be an abuse of the process of the court for exercising inherent powers of the High Court under Section 482CrPC for quashing such proceedings.

32. We have perused the pleadings of the parties, the complaint/FIR/charge-sheet and orders of the courts below and have taken into consideration the material on record. After hearing the learned counsel for the parties, we are satisfied that the issue involved in the matter under consideration is not a case in which the criminal trial should have been short-circuited. The High Court was not justified in quashing the criminal proceedings in exercise of its inherent jurisdiction. The High Court has primarily adverted on two circumstances,

(i) that it was a case of termination of agreement to sell on account of an alleged breach of the contract and;

(ii) the fact that the arbitral proceedings have been initiated at the instance of the appellants.

Both the alleged circumstances noticed by the High Court, in our view, are unsustainable in law. The facts narrated in the present complaint/FIR/charge-sheet indeed reveal the commercial transaction but that is hardly a reason for holding that the offence of



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cheating would elude from such transaction. In fact, many a times, offence of cheating is committed in the course of commercial transactions and the illustrations have been set out under Sections 415, 418 and 420IPC.

33. Similar observations have been made by this Court in Trisuns Chemical Industry v. Rajesh Agarwal [Trisuns Chemical Industry v. Rajesh Agarwal, (1999) 8 SCC 686 : 2000 SCC (Cri) 47] : (SCC p. 690, para 9)

“9. We are unable to appreciate the reasoning that the provision incorporated in the agreement for referring the disputes to arbitration is an effective substitute for a criminal prosecution when the disputed act is an offence. Arbitration is a remedy for affording reliefs to the party affected by breach of the agreement but the arbitrator cannot conduct a trial of any act which amounted to an offence albeit the same act may be connected with the discharge of any function under the agreement. Hence, those are not good reasons for the High Court to axe down the complaint at the threshold itself. The investigating agency should have had the freedom to go into the whole gamut of the allegations and to reach a conclusion of its own. Pre-emption of such investigation would be justified only in very extreme cases as indicated in State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426].”

16. In the case of *K. Jagadish v. Udaya Kumar G.S.*, - (2020) 14 SCC 552, the Apex Court held as under:

7. One of the striking features of the matter is that on the day when the Sale Deed was executed, not a single paisa was actually received by way of consideration. Three post-dated cheques were handed over to the appellant and one of those three cheques was deposited in the bank for encashment on the next date. It is a matter of record that subsequent cheques



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were not even sought to be encashed and the appellant showed his willingness to deposit even the sum of Rs.15 lakhs received by encashment of first cheque. Further, neither the conveyance deed was preceded by any agreement of sale nor any advertisement was issued by the appellant showing his inclination to dispose of the property in question.

8. It is true that civil proceedings have been subsequently initiated to get the registered Sale Deed set-aside but that has nothing to do with the present criminal proceedings.

9. It is thus well settled that in certain cases the very same set of facts may give rise to remedies in civil as well as in criminal proceedings and even if a civil remedy is availed by a party, he is not precluded from setting in motion the proceedings in criminal law. 10. In Pratibha Rani v. Suraj Kumar and another¹ this Court summed up the distinction between the two remedies as under:

“21. There are a large number of cases where criminal law and civil law can run side by side. The two remedies are not mutually exclusive but clearly coextensive and essentially differ in their content and consequence. The object of the criminal law is to punish an offender who commits an offence against a person, property or the State for which the accused, on proof of the offence, is deprived of his liberty and in some cases even his life. This does not, however, affect the civil remedies at all for suing the wrongdoer in cases like arson, accidents etc. It is an anathema to suppose that when a civil remedy is available, a criminal prosecution is completely barred. The two types of actions are quite different in content, scope and import. It is not at all intelligible to us to take the stand that if the husband dishonestly misappropriates the stridhan property of his wife, though kept in his custody, that would bar



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prosecution under Section 406 IPC or render the ingredients of Section 405 IPC nugatory or abortive. To say that because the stridhan of a married woman is kept in the custody of her husband, no action against him can be taken as no offence is committed is to override and distort the real intent of the law."

11. In *Rajesh Bajaj v. State NCT of Delhi and others* - this Court observed:

"10. It may be that the facts narrated in the present complaint would as well reveal a commercial transaction or money transaction. But that is hardly a reason for holding that the offence of cheating would elude from such a transaction. In fact, many a cheatings were committed in the course of commercial and also money transactions. One of the illustrations set out under Section 415 of the Indian Penal Code [Illustration f] is worthy of notice now: "(f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats."

11. The crux of the postulate is the intention of the person who induces the victim of his representation and not the nature of the transaction which would become decisive in discerning whether there was commission of offence or not. The complainant has stated in the body of the complaint that he was induced to believe that the respondent would honour payment on receipt of invoices, and that the complainant realised later that the intentions of the respondent were not clear. He also mentioned that the respondent after receiving the goods had sold them to others and still he did not pay the money. Such averments would prima facie make out a case for investigation by the authorities.

12. The High Court seems to have adopted a strictly hypertechnical approach and sieved the complaint through a colander of finest gauzes for testing the ingredients under Section 415 IPC. Such an endeavour may be justified during trial, but certainly not during the stage of investigation. At any rate, it is too premature a stage for the High Court to step in and stall the investigation by declaring that it is a commercial transaction



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simpliciter wherein no semblance of criminal offence is involved."

12. The aforesaid view was reiterated in *Kamladevi Agarwal v. State of West Bengal and others* as under:

"9. Criminal prosecution cannot be thwarted at the initial stage merely because civil proceedings are also pending. After referring to judgments in State of Haryana v. Bhajan Lal and Rajesh Bajaj v. State NCT of Delhi, this Court in Trisuns Chemical Industry v. Rajesh Agarwal held: (SCC p. 690, paras 7-8)

"7. Time and again this Court has been pointing out that quashing of FIR or a complaint in exercise of the inherent powers of the High Court should be limited to very extreme exceptions (vide State of Haryana v. Bhajan Lal⁴ and Rajesh Bajaj v. State NCT of Delhi⁵).

8. In the last referred case this Court also pointed out that merely because an act has a civil profile is not sufficient to denude it of its criminal outfit. We quote the following observations: (SCC p. 263, para 10) '10. It may be that the facts narrated in the present complaint would as well reveal a commercial transaction or money transaction. But that is hardly a reason for holding that the offence of cheating would elude from such a transaction. In fact, many a cheatings were committed in the course of commercial and also money transactions."

After referring to various decisions it was finally concluded as under:

"17. In view of the preponderance of authorities to the contrary, we are satisfied that the High Court was not justified in quashing the proceedings initiated by the appellant against the respondents. We are also not impressed by the argument that as the civil suit was pending in the High Court, the Magistrate was not justified to proceed with the criminal case either in law or on the basis of propriety. Criminal cases have to be proceeded with in accordance with the procedure as prescribed under the Code of Criminal



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Procedure and the pendency of a civil action in a different court even though higher in status and authority, cannot be made a basis for quashing of the proceedings.”

13. *In R. Kalyani v. Janak C. Mehta and others*, this Court culled out propositions concerning interference under Section 482 of the Code as under:

“15. Propositions of law which emerge from the said decisions are: (1) The High Court ordinarily would not exercise its inherent jurisdiction to quash a criminal proceeding and, in particular, a first information report unless the allegations contained therein, even if given face value and taken to be correct in their entirety, disclosed no cognizable offence.

(2) For the said purpose the Court, save and except in very exceptional circumstances, would not look to any document relied upon by the defence.

(3) Such a power should be exercised very sparingly. If the allegations made in the FIR disclose commission of an offence, the Court shall not go beyond the same and pass an order in favour of the accused to hold absence of any mens rea or actus reus.

(4) If the allegation discloses a civil dispute, the same by itself may not be a ground to hold that the criminal proceedings should not be allowed to continue.

14. *In the light of the principles as mentioned hereinabove, we have no hesitation in concluding that the High Court erred in quashing the criminal proceedings. We, therefore, allow this appeal, set aside the decision rendered by the High Court and direct that criminal proceedings shall be taken to logical conclusion in accordance with law.*

17. *In the case of **Pratibha Rani v. Suraj Kumar - (1985) 2 SCC 370**, the Apex Court held as under:-*



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21. After all how could any reasonable person expect a newly married woman living in the same house and under the same roof to keep her personal property or belongings like jewellery, clothing etc., under her own lock and key, thus showing a spirit of distrust to the husband at the very behest. We are surprised how could the High Court permit the husband to cast his covetous eyes on the absolute and personal property of his wife merely because it is kept in his custody, thereby reducing the custody to a legal farce. On the other hand, it seems to us that even if the personal property of the wife is jointly kept, it would be deemed to be expressly or impliedly kept in the custody of the husband and if he dishonestly misappropriates or refuses to return the same, he is certainly guilty of criminal breach of trust, and there can be no escape from this legal consequence. The observations of the High Court at other places regarding the inapplicability of Section 406 do not appeal to us and are in fact not in consonance with the spirit and trend of the criminal law. There are a large number of cases where criminal law and civil law can run side by side. The two remedies are not mutually exclusive but clearly coextensive and essentially differ in their content and consequence. The object of the criminal law is to punish an offender who commits an offence against a person, property or the State for which the accused, on proof of the offence, is deprived of his liberty and in some cases even his life. This does not, however, affect the civil remedies at all for suing the wrongdoer in cases like arson, accidents etc. It is an anathema to suppose that when a civil remedy is



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available, a criminal prosecution is completely barred. The two types of actions are quite different in content, scope and import. It is not at all intelligible to us to take the stand that if the husband dishonestly misappropriates the stridhan property of his wife, though kept in his custody, that would bar prosecution under Section 406 IPC or render the ingredients of Section 405 IPC nugatory or abortive. To say that because the stridhan of a married woman is kept in the custody of her husband, no action against him can be taken as no offence is committed is to override and distort the real intent of the law.

18. *In the case of **Kamaladevi Agarwal v. State of West Bengal - (2002) 1 SCC 555**, the Apex Court held as under:-*

9. Criminal prosecution cannot be thwarted at the initial stage merely because civil proceedings are also pending. After referring to judgments in State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426 : AIR 1992 SC 604] and Rajesh Bajaj v. State NCT of Delhi [(1999) 3 SCC 259 : 1999 SCC (Cri) 401] this Court in Trisuns Chemical Industry v. Rajesh Agarwal [(1999) 8 SCC 686 : 2000 SCC (Cri) 47] held: (SCC p. 690, paras 7-8)

“7. Time and again this Court has been pointing out that quashing of FIR or a complaint in exercise of the inherent powers of the High Court should be limited to very extreme exceptions (vide State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426 : AIR 1992 SC 604] and Rajesh Bajaj v. State NCT of Delhi [(1999) 3 SCC 259 : 1999 SCC (Cri) 401]).



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8. In the last referred case this Court also pointed out that merely because an act has a civil profile is not sufficient to denude it of its criminal outfit. We quote the following observations: (SCC p. 263, para 10)

'10. It may be that the facts narrated in the present complaint would as well reveal a commercial transaction or money transaction. But that is hardly a reason for holding that the offence of cheating would elude from such a transaction. In fact, many a cheatings were committed in the course of commercial and also money transactions.' "

10. In Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. [(2000) 3 SCC 269 : 2000 SCC (Cri) 615] this Court again reiterated the position and held: (SCC pp. 272 & 278, paras 2 & 14)

"2. Exercise of jurisdiction under the inherent power as envisaged in Section 482 of the Code to have the complaint or the charge-sheet quashed is an exception rather than a rule and the case for quashing at the initial stage must have to be treated as rarest of rare so as not to scuttle the prosecution. With the lodgement of first information report the ball is set to roll and thenceforth the law takes its own course and the investigation ensues in accordance with the provisions of law. The jurisdiction as such is rather limited and restricted and its undue expansion is neither practicable nor warranted. In the event, however, the court on a perusal of the complaint comes to a conclusion that the allegations levelled in the complaint or charge-sheet on the face of it does not constitute or disclose any offence as alleged, there ought not to be any hesitation to rise up to the expectation of the people and deal with the situation as is required under the law.

14. Needless to record however and it being a settled principle of law that to exercise powers under Section 482 of the Code, the complaint in its entirety shall have to be examined on the basis of the allegation made in the complaint and the High Court at that stage has no authority or jurisdiction to go into the matter or examine its correctness.



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Whatever appears on the face of the complaint shall be taken into consideration without any critical examination of the same. But the offence ought to appear ex facie on the complaint. The observations

in Nagawwa v. Veeranna Shivalingappa Konjalgi [(1976) 3 SCC 736 : 1976 SCC (Cri) 507] lend support to the above statement of law: (SCC p. 741, para 5)

'(1) where the allegations made in the complaint or the statements of the witnesses recorded in support of the same taken at their face value make out absolutely no case against the accused or the complaint does not disclose the essential ingredients of an offence which is alleged against the accused;

(2) where the allegations made in the complaint are patently absurd and inherently improbable so that no prudent person can ever reach a conclusion that there is sufficient ground for proceeding against the accused;

(3) where the discretion exercised by the Magistrate in issuing process is capricious and arbitrary having been based either on no evidence or on materials which are wholly irrelevant or inadmissible; and

(4) where the complaint suffers from fundamental legal defects, such as, want of sanction, or absence of a complaint by legally competent authority and the like.'

The cases mentioned by us are purely illustrative and provide sufficient guidelines to indicate contingencies where the High Court can quash proceedings."

11. In Lalmuni Devi v. State of Bihar [(2001) 2 SCC 17: 2001 SCC (Cri) 275] this Court held: (SCC p. 19, para 8)

"8. There could be no dispute to the proposition that if the complaint does not make out an offence it can be quashed. However, it is also settled law that facts may give rise to a civil claim and also amount to an offence. Merely because a civil claim is maintainable does not mean that the criminal complaint cannot be maintained. In this case, on the facts, it cannot be stated, at this prima facie stage, that this is a frivolous complaint.



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The High Court does not state that on facts no offence is made out. If that be so, then merely on the ground that it was a civil wrong the criminal prosecution could not have been quashed."

12. Again in *M. Krishnan v. Vijay Singh* [(2001) 8 SCC 645 : 2002 SCC (Cri) 19] this Court held that while exercising powers under Section 482 of the Code, the High Court should be slow in interfering with the proceedings at the initial stage and that merely because the nature of the dispute is primarily of a civil nature, the criminal prosecution cannot be quashed because in cases of forgery and fraud there is always some element of civil nature. In a case where the accused alleged that the transaction between the parties is of a civil nature and the criminal court cannot proceed with the complaint because the factum of document being forged was pending in the civil court, the Court observed: (SCC pp. 647-48, para 5)

"5. Accepting such a general proposition would be against the provisions of law inasmuch as in all cases of cheating and fraud, in the whole transaction, there is generally some element of civil nature. However, in this case, the allegations were regarding the forging of the documents and acquiring gains on the basis of such forged documents. The proceedings could not be quashed only because the respondents had filed a civil suit with respect to the aforesaid documents. In a criminal court the allegations made in the complaint have to be established independently, notwithstanding the adjudication by a civil court. Had the complainant failed to prove the allegations made by him in the complaint, the respondents were entitled to discharge or acquittal but not otherwise. If mere pendency of a suit is made a ground for quashing the criminal proceedings, the unscrupulous litigants, apprehending criminal action against them, would be encouraged to frustrate the course of justice and law by filing suits with respect to the documents intended to be used against them after the initiation of criminal proceedings or in anticipation of such proceedings. Such a course cannot be the mandate of law. Civil proceedings, as distinguished from the criminal action, have to be adjudicated and concluded by adopting separate yardsticks. The onus of proving the allegations beyond reasonable doubt, in a criminal case, is not applicable in the civil proceedings which can be decided merely on the basis of the probabilities with respect to the acts complained of."



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13. Referring to the judgments of this Court in Manju Gupta v. Lt. Col. M.S. Paintal [(1982) 2 SCC 412 : 1982 SCC (Cri) 459] , Sardool Singh v. Nasib Kaur [1987 Supp SCC 146 : 1987 SCC (Cri) 672] and Karamchand Ganga Pershad v. Union of India [(1970) 3 SCC 694 : AIR 1971 SC 1244] the learned counsel appearing for the respondents submitted that the High Court was justified in quashing the complaint which does not require any interference by this Court in this appeal.

14. In Manju Gupta case [(1982) 2 SCC 412 : 1982 SCC (Cri) 459] the criminal proceedings were quashed under the peculiar circumstances of the case. After referring to para 20 of the complaint and holding (at SCC p. 414, para 4) “such an averment in our view, is clearly inadequate and insufficient to bring home criminality of the appellant in the matter of the alleged offences”, the Court found that simply because the accused was the Secretary of the Society, the Magistrate was not justified in presuming her connection or complicity with the offence merely on that ground. The allegations in the complaint pertinent to forgery of rent receipts were held to be vague and indefinite. Sardool Singh case [1987 Supp SCC 146 : 1987 SCC (Cri) 672] was also decided on its facts on the basis of law earlier settled by this Court. In Karamchand Ganga Pershad case [(1970) 3 SCC 694 : AIR 1971 SC 1244] an observation was made that “it is a well-established principle of law that the decisions of the civil courts are binding on



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the criminal courts. The converse is not true” (SCC p. 695, para 4). In that case the appellants had filed a writ petition in the High Court for the issuance of appropriate directions requiring the Union of India to release and deliver to them some consignments of maize transported from the State of Haryana to Howrah. Alleging that the movement of maize had been controlled by the provisions of the Essential Commodities Act read with the Northern Inter-Zonal Maize (Movement Control) Order, 1967 promulgated by the State Government, the restrictions on export imposed by the Order were removed by the State of Haryana in October 1967 which was duly published and advertised. The contention of the Union was that the State of Haryana had not lifted the ban on export and further that it had no power to lift the ban. The High Court dismissed the writ petition on the sole ground that in view of the pendency of the criminal proceedings before some court in the State of West Bengal it was inappropriate for the High Court to pronounce on the question arising for decision in the writ petition. In that context the Court held: (SCC p. 695, para 4)

“In our opinion the High Court seriously erred in coming to this conclusion. If the appellants are able to establish their case that the ban on export of maize from the State of Haryana had been validly lifted all the proceedings taken against those who exported the maize automatically fall to the ground. Their maintainability depends on the assumption that the exports were made without the authority of law. It is a well-established principle of law that the decisions of the civil courts are binding on the



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criminal courts. The converse is not true. The High Court after entertaining the writ petitions and hearing arguments on the merits of the case should not have dismissed the petitions merely because certain consequential proceedings had been taken on the basis that the exports in question were illegal."

15. *We have already noticed that the nature and scope of civil and criminal proceedings and the standard of proof required in both matters is different and distinct. Whereas in civil proceedings the matter can be decided on the basis of probabilities, the criminal case has to be decided by adopting the standard of proof of "beyond reasonable doubt". A Constitution Bench of this Court, dealing with similar circumstances, in M.S. Sheriff v. State of Madras [AIR 1954 SC 397 : 1954 Cri LJ 1019] held that where civil and criminal cases are pending, precedence shall be given to criminal proceedings. Detailing the reasons for the conclusions, the Court held: (AIR p. 399, paras 15-16)*

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

16. Another factor which weighs with us is that a civil suit often drags on for years and it is undesirable that a criminal prosecution should wait



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till everybody concerned has forgotten all about the crime. The public interests demand that criminal justice should be swift and sure; that the guilty should be punished while the events are still fresh in the public mind and that the innocent should be absolved as early as is consistent with a fair and impartial trial. Another reason is that it is undesirable to let things slide till memories have grown too dim to trust.

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

16. In the present case we have noticed that before issuance of the process, the trial Magistrate had recorded the statement of the witnesses for the complainant, perused the record including the opinion of the expert and his deposition and prima facie found that the respondents were guilty for the offences for which the process was issued against them. The High Court rightly did not refer to any of those circumstances but quashed the proceedings only on the ground:

“Consideration is and should be whether any criminal proceeding instituted before a court subordinate to this Court should be allowed to continue when the very foundation of the criminal



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case, namely, forgery of document is under scrutiny by this Court in a civil proceeding instituted by same person i.e. the complainant in the criminal case. In my considered view it would not be proper to allow the criminal proceeding to continue when the validity of the document (deed of dissolution) is being tested in a civil proceeding before this Court. Judicial propriety demands that the course adopted by the Hon'ble Supreme Court in the case of Manju Gupta [(1982) 2 SCC 412 : 1982 SCC (Cri) 459] and Sardool Singh [1987 Supp SCC 146 : 1987 SCC (Cri) 672] should be followed. If such course of action is adopted by this Court, that would be in consonance with the expression used in Section 482 of the Code of Criminal Procedure — 'or otherwise to secure the ends of justice'. In both the cases referred to above civil suits were pending, where the validity and genuineness of a document were challenged. It was held by the Hon'ble Supreme Court that when the question regarding validity of a document is sub judice in the civil courts, criminal prosecution, on the allegation of the document being forged, cannot be instituted."

17. In view of the preponderance of authorities to the contrary, we are satisfied that the High Court was not justified in quashing the proceedings initiated by the appellant against the respondents. We are also not impressed by the argument that as the civil suit was pending in the High Court, the Magistrate was not justified to proceed with the criminal case either in law or on the basis of propriety. Criminal cases have to be proceeded with in accordance with the procedure as prescribed under the Code of Criminal Procedure and the pendency of a civil action in a different court even though higher in status and authority, cannot be made a basis for quashing of the proceedings.



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19. In the case of **Punit Beriwal v. State (NCT of Delhi)**, 2025 SCC OnLine SC 983, the Apex Court held as under:

MERE INSTITUTION OF CIVIL
PROCEEDINGS CANNOT ACT AS A BAR TO
INVESTIGATION OF COGNIZABLE OFFENCES

28. It is trite law that mere institution of civil proceedings is not a ground for quashing the FIR or to hold that the dispute is merely a civil dispute. This Court in various judgments, has held that simply because there is a remedy provided for breach of contract, that does not by itself clothe the Court to conclude that civil remedy is the only remedy, and the initiation of criminal proceedings, in any manner, will be an abuse of the process of the court. This Court is of the view that because the offence was committed during a commercial transaction, it would not be sufficient to hold that the complaint did not warrant a further investigation and if necessary, a trial. [See : Syed AksariHadi Ali Augustine Imam v. State (Delhi Admin.), (2009) 5 SCC 528, Lee KunHee v. State of UP, (2012) 3 SCC 132 and Trisuns Chemicals v. Rajesh Aggarwal, (1999) 8 SCC 686]

20. In the instant case, as stated supra, a perusal of the impugned complaint is sufficient to show that all necessary ingredients constituting the alleged offences contained in the impugned complaint and FIR which clearly make out and disclose a cognizable offence, which is sufficient to warrant investigation to be conducted by the 1st



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respondent - Police authorities. In fact, the complaint contains several serious allegations of forgery, fraud, etc., which would necessarily have to be investigated and it is impermissible in law to interdict or interfere with the investigation pursuant to the impugned complaint and FIR and consequently, even this contention urged by the petitioners cannot be accepted.

21. In view of the aforesaid facts and circumstances and the principles enunciated in the aforesaid judgments, I am of the considered opinion that the present petition is not a fit case for this Court to exercise its jurisdiction / power under Section 482 of Cr.P.C. or Article 226 of the Constitution of India and consequently, there is no merit in the petition and that the same is liable to be dismissed.

22. Accordingly, the petition is devoid of merits and the same is hereby dismissed.”

4. As can be seen from the aforesaid order passed by this Court in relation to accused Nos.1 to 3, this Court has come to the conclusion that no case is made out for interference by this court under Section 482 Cr.P.C. or Articles 226 and 227 of the Constitution of India.

5. Under these circumstances in the light of dismissal of the petition filed by accused Nos.1 to 3 and the allegations made in the impugned complaint against accused no. 1 to 3 and the



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allegations made in the impugned complaint against accused Nos.1 to 3 and accused No.4 being identical/similar in nature, I am of the considered opinion that the present petition is not a fit case for this Court to exercise its jurisdiction / power under Section 482 of Cr.P.C. or Article 226 of the Constitution of India and consequently, there is no merit in the petition and that the same is liable to be dismissed.

6. Accordingly, the petition is devoid of merits and the same is hereby dismissed.

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

BMC: List No.: 1 SI No.: 1