2025 INSC 1441

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2025
(@ Special Leave Petition (Crl.) No. 9070 of 2018)

R. ASHOKA ... APPELLANT (S)

Versus

STATE OF KARNATAKA & ORS. ... RESPONDENT(S)

With

CRIMINAL APPEAL NO. OF 2025
(@ Special Leave Petition (Crl.) No. 9614 of 2018)

J U D G M E N T

SANJAY KAROL, J.

"The service of India means the service of the millions who suffer. It means the ending of poverty and ignorance and disease and inequality of opportunity."

-Pt. Jawaharlal Nehru in 'Tryst with Destiny'

Leave Granted.

2. In these appeals under Article 136 of the Constitution of India, the appellants namely R. Ashoka in SLP (Crl.)9070 of 2018 and C. Sandeep Sahu in SLP (Crl.) 9614 of 2018, pray that this Court quash and set aside judgment dated 25th September 2018 which are analogously titled, passed in W.P. No. 1775 of 2018 and Crl.P.No.912 of 2018 arising out of FIR in Crime No. 5/2018 dated 8th January 2018 registered by the Anti-Corruption Bureau[1], State of Karnataka.

CRIMINAL APPEAL @ SLP (CRL.) 9070 of 2018

BRIEF FACTS

3. The appellant was an elected member of the legislative assembly in the State of Karnataka. Between 1998 and 2007, he was Chairman of the Committee for regularisation of unauthorised occupation. The members thereof were the Tahsildar as the Secretary and three other persons. It was alleged in terms of the complaint dated 05th September 2012[2] submitted to the Lokayukta that under the Chairmanship of the appellant, the land that was originally meant to be allotted to economically downtrodden persons and those below the poverty line as also the Scheduled Caste, was allotted to the members of his

[1] ACB for short
[2] First Complaint

family/followers/members of the City Corporation etc. In terms of communication dated November 2012, the Additional Director General of Police, Karanataka Lokayukta, concluded that the appellant, who was at the relevant time a high-ranking Minister in the Cabinet, was in no way connected to the allegations. The conclusion is as under:

> "In so far as the allegations relating to alienation of the lands granted in favour of Scheduled Castes/Tribes etc., are concerned, they do not concerned with the Committee for Regularization of Unauthorized Occupation. It would be between the grantee and the purchase of the land. Those issues cannot be answered by the Committee for Regularization of Unauthorized Occupation and they are all of separate entity under the separate set of Acts and Rules.
>
> It is submitted that, the entire issues raised and allegations made by the Complainant against Shri R. Ashok in the instant cases are from truth and arbitrary and has no base.
>
> Under the above facts and circumstances, the allegations made by the Complainant against Shri R.Ashok do not stand to reason, they are misconceived and it is without proper verification of the matter."

The Deputy Inspector General of Police, by way of memo no.: LOK/ADGP/MEMO/2013 dated 27th May 2013, directed conduction of a revised inquiry on the allegations made in the first complaint. In compliance thereof, the Superintendent of Police, Karnataka Lokayukta, submitted a Report dated 04th August 2014, by which again it was concluded that no charges

against the appellant would be substantiated and, as such, the complaint had to be closed. Relevant extract thereof is reproduced below:

> "In his petition, the petitioner had alleged that during the tenure of Sri R Ashok as Chairman of the committee, 570 acres of government land in Sy No 46, Kaggalipura Village was sanctioned to Schedule Caste and Tribe in 1993 and irrespective of the rule that land should not be encumbered for 15 years, MLA, Sri M Srinivas had registered 25 aces in the name of his son. In his petition, the petitioner had mentioned that in 1993 these lands were sanctioned to sanctioned to Schedule Caste and Tribe; Sri R Ashok was chairman of said committee from 18.08.1998 to 17.09.2006 and in 1993 Sri M Srinivas had purchased and registered lands in the name of his son from those who were sanctioned those lands. As this did not come under the period of Sri R Ashok as chairman of said committee, charge of the petitioner against R Ashok is not substantiated.
>
> In his petition, the petitioner had mentioned that while sanctioning cultivable lands under Bagar Hukum limits, out of the available land 50% to be allotted to Scheduled Caste; 10% to Ex-Servicemen; 10% to freedom fighters and the remaining land to the eligible. Report of Tahasildar had confirmed that this rule did not apply in the context of unauthorized cultivable land regularization.
>
> In his letter No. 32/DYSP/BMTF/14, dated 3/7/2014 Deputy Superintendent of Police, BMTF, Bengaluru had mentioned about the petition of Sri G Honnanjappa, r/o Hesarughatta, Bengaluru about illegal sanction of land in Sy No. 112,91 and 35 respectively of Uttari, Agara and B.M. Kaval of Bengaluru South Taluk by Sri R Ashok as Chairman of unauthorized cultivable lands regularization committee and registration of Cr No 189/2012; Cr No 191/2012; Cr No 192/2012 under Section 120 B,

> 468, 471, 420 Indian Penal Code r/w 13(1), 13(2) of Prevention of Corruption Act, 1988 against Sri R Ashok and other others on the same day. Hon'ble High Court had quashed the above-cited three cases Vide order dated: 13/11/2013 in W.P No. 49022/2012; 45502-03/2012; 45794/2012; 45500/2012; 46842/2012; 45845-47/2012 & 49264-65/2012.
>
> Under the grounds that the charges made by the petitioner, Sri T.R. Srinivas, Chairman, Bengaluru City Corporation, District Congress Committee against Sri R Ashok in his petition to Lokayukta office having not proved due to lack of evidences I request to close the petition. Herewith this, I have enclosed the reports secured from Tahasildar, Bengaluru South Taluk and records enclosed with it; documents provided by Superintendent of Police, BMTF, Bengaluru and report of former Superintendent of Police-2, Bengaluru City relating to said petition and with enclosures of records for your perusal…."

On 9th November 2017, one M.A. Saleem filed a written complaint before the Superintendent of Police, ACB alleging illegalities having been committed in the grant of government lands since 1994, wherein certain persons who did not fall into the specified criteria who were, on the contrary, financially well placed, were granted the said lands. It was submitted that earlier representations on this same cause of action had not yielded any results, as no action was taken. The record does not reveal any action having been taken on this complaint. Still further, another complaint was filed before the same authority on 03rd January 2018.

Pursuant to such a complaint, the ACB conducted a preliminary inquiry, the Report whereof, dated 06th January 2018 is placed on record, opining investigation with the registration of the complaint.

Based thereupon is the First Information Report[3], subject matter before us, registered on 08th January 2018.

PROCEEDINGS IN THE WRIT PETITION

4. Just three days after the registration of the FIR, the appellant invoked the High Court's power under Article 226 of the Constitution of India, seeking quashing of the FIR and proceedings initiated against him thereunder. A perusal of the writ petition reveals the following grounds to have been agitated:-

(a) The complaint, because of which the FIR came to be registered, was nearly identical to the earlier complaints registered before the Lokayukta;

(b) The complaint arises out of political vendetta having been registered on the complaint made by a member of the other major political party in the State;

(c) The appellant had no personal knowledge about the lands being granted and only functioned on the information

[3] 'FIR'

furnished by the officials as such, if there is any incorrect information, he cannot be held responsible, nor can there be any criminal liability therefor;

(d) The appellant had been singled out, and action was initiated only against him and none of the other members of the Committee.

5. The ACB objected to the said writ petition and while also strenuously opposing the interim relief granted, made the following points *inter-alia* on the substance of the petition preferred by the appellant:

(a) The FIR has been registered after the conducting of a preliminary inquiry, which has disclosed a cognizable offence;

(b) The grant of benefit to certain recipients was arbitrary and with an intent to cause wrongful gains to people, as many were granted lands in contravention of the rules, such as distance from the city, age requirements, separate allotments to members of the same family etc.;

(c) It is not that the appellant and the members of the Committee were not aware of the rules, since they have on such and similar grounds rejected a number of applications.

6. The High Court, having considered the submissions made at length, arrived at a conclusion that it was not a fit case for exercise of powers under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973. A perusal of the impugned judgment reveals the following reasons for such conclusion:

(a) The appellant's argument of delay was rejected, stating that in view of the allegations that the allotment had been made entirely dehors the procedure laid down, leading to great loss to the government exchequer. In such situations, delay cannot vitiate the necessary legal action required to be taken;

(b) It is apparent from the record that, despite knowing otherwise, the Committee accepted income affidavits from applicants showing the income to be Rs.8000/-. This *prima facie* establishes co-operation of the Committee members as also officials in commission of these offences.

(c) The contention that the appellant, as the Chairman of the Committee, had no personal knowledge about the applications were rejected, holding that it was the responsibility of the Committee to verify the applications inasmuch as actual entitlement was concerned. The officials, having furnished wrong information, had to be

investigated, and the appellant cannot be let off the hook on that count;

(d) For the argument of political vendetta and that none of the other members of the Committee had been made accused, it was observed by the Court that the investigating officer at any time before filing the chargesheet has the power to arraign persons in the matter so also does the Court after the filing of the chargesheet, in terms of Section 319 CrPC. Therefore, at this stage, this is not a ground that can aid the case of the appellant;

(e) The question of sanction under Section 197 CrPC was addressed to say that the same is required for subsequent initiation of prosecution after completion of investigation, and therefore, at the investigation stage, the question of having not obtained sanction does not arise.

SUMMARY OF SUBMISSIONS MADE AT THE BAR

7. We have heard Mr. Mukul Rohatgi, Mr. Sajan Poovayya, Mr Gaurav Agraval, learned senior counsel for the appellant, and Mr. P.B. Suresh, Mr. Harin P. Rawal, learned senior counsel and Mr. Aman Pawar for the respondents, and perused the documents on record.

8. The case of the appellant is, in effect, quite similar to what was urged before the High Court. It is submitted that the complaints are politically motivated and all of the complaints have been filed by members of a rival party, and the latest one had been strategically filed in an election year as such, the exercise of Section 482 CrPC powers would be justified, as it is settled law that criminal machinery cannot be allowed to use as a weapon of harassment. The next aspect is that two different officers of the Lokayukta have, on earlier occasions, investigated the complaints and found no substance therein. The complaint, which led to the subject FIR, has also been filed without any new material or facts being brought on record and is also filed with inordinate, unexplained delay. Such a delay is hit by Section 8 of Karnataka Lokayukta Act, 1984[4] which provides that no investigation shall be conducted into a complaint after expiry of five years from the alleged occurrence of the offence. It is further submitted that the Committee of which the appellant was the Chairman is the recommendatory body, and the determination of eligibility is in fact is to be undertaken by the Deputy Commissioner. The function of the Committee is, upon the determination of the Deputy Commissioner, to determine the extent of land which is to be granted to the applicant. A further ground of attack by the appellant is the absence of sanction. This

[4] 'KLA'

is in contravention of Government Order dated 14th March 2016, which under Clause 5 thereof mandates that no investigation by ACB can be carried out without sanction. Lastly, regarding the allotment of land to beneficiaries, it is submitted that in as many as four instances the allotment in question has been upheld. As such, on a holistic consideration of the above submissions, the FIR and subsequent action deserved to be quashed and set aside.

9. The *Lokayukta*, State of Karnataka, has essentially, adopted a position supporting the case of the Appellant, except in as much as limitation is concerned. It is submitted that consequent to the stay granted by this Court as per order dated 26th October 2018, not new material has been placed before the authority. Its stand is the same as averred in the affidavit before this Court dated 4th April 2024.

10. The respondent, State of Karnataka, has submitted that delay as urged by the appellant cannot be a ground to quash proceedings on account of *nullum tempus aut locus occurit regi* which translates to lapse of time is no bar to the Crown in proceedings against the offenders. Secondly, it is submitted that in appreciation of the scheme of the Karnataka Land Revenue Act 1964 the recommendations of the Committee may be recommendatory, but they are final in nature as evidenced by the use of the word '*shall*' in Rule 108D. Regarding the bar of Section 8 of KLA, it is submitted that the offence in question is

under the Prevention of Corruption Act 1988[5] and the bar enumerated in that Section only applies to what stands specified in sub-sections (1) and (2) thereof. On the submission that an FIR should not have been registered on the same cause of action, given that the earlier two complaints stood closed, it is submitted that, being cognizant of the said situation, at first instance, a preliminary inquiry was conducted and only then was an FIR registered, which is also an obligation upon the Police. In no way, it is submitted that these situations as alleged by the appellant meet the stipulations of ***State of Haryana v. Bhajanlal***[6]**.**

According to the State, the Lokayukta does not have the power to investigate offences under the PC Act, and the abolishing of the ACB (which is a legislative act, subsequent to the dismissal of quashing petition of the Appellant) would not help the case of the appellant.

CONSIDERATION OF THE MERITS

11. When the State undertakes the allotment of land in favour of persons who are economically disadvantaged, such action is not an exercise in charity, but a discharge of the constitutional obligation cast upon a Welfare State. The scheme of the Constitution, particularly the Directive Principles of State Policy,

[5] PC Act
[6] 1992 Suppl.(1) SCC 335

envisages that the State shall strive to promote social and economic justice and secure a social order in which the material resources of the community are so distributed as to best subserve the common good. Articles 38 and 39(b) are of particular relevance in this regard. These provisions, serve as guiding beacons for all State action and inform the content of reasonableness under Part III.

In a nation characterised by a large population and a continuing reliance on agrarian livelihoods, land assumes an elevated significance. It constitutes a vital and scarce resource, often the sole means of subsistence for vulnerable sections of society. The State, therefore, holds land not as a private proprietor but in its capacity as a trustee of the people, a conception that finds support in the jurisprudence surrounding the public trust doctrine. This doctrine imposes a fiduciary duty upon the State to manage and distribute resources in a manner consistent with the public interest and with due regard to intergenerational equity.

Accordingly, any decision relating to the allotment of land must withstand the scrutiny of Article 14. The prohibition against arbitrariness, as articulated by this Court in ***E.P. Royappa v. State of T.N***[7] and reaffirmed in ***Maneka Gandhi v. Union of India***[8], operates as a constitutional check on the exercise of discretionary

[7] (1974) 4 SCC 3
[8] (1978) 1 SCC 248

power. The State cannot indulge in unfettered or capricious allocation of public land; its decisions must be informed by rational criteria, transparent procedures, and an identifiable nexus with the constitutional mandate of advancing the welfare of weaker sections.

Moreover, this Court has consistently held that when the State deals with public property, whether by allotment, lease, or otherwise, it must act fairly, reasonably, and in a manner that does not give rise to any semblance of favouritism or extraneous considerations. In ***Ramana Dayaram Shetty v. International Airport Authority of India***[9], and subsequent decisions, the Court has emphasised that State largesse must be distributed through processes that ensure equality of opportunity and avoid arbitrary preferences.

Thus, when the Government allots land to those who are economically unfortunate, it acts within the domain of its welfare responsibilities. However, such power is circumscribed by constitutional limitations. The State must function as the guardian of the lands vested in it, ensuring that allotments serve the common good, comply with equality norms, and reflect a judicious exercise of public power. Any deviation from these principles would not only undermine the constitutional vision of

[9] (1979) 3 SCC 489

distributive justice but also expose the impugned action to invalidation on the ground of arbitrariness.

12. Before proceeding to the merits, there are two aspects that this Court must remind itself of. *One*, that even though the parameters of the powers of quashing cases and proceedings under Section 482 CrPC are well-settled, the same must 2be re-appreciated, with reference to certain cases. *Two*, that the concept and Origins of the Lokayukta, its powers and scope of operation.

Principles of Quashing

I. ***Bhajanlal (supra)***

> "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.

(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 concerned Act (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 concerned Act, 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."

II. In ***State of Karnataka v. M. Devendrappa***[10]**,** a bench of three judges held:

"**6.** Exercise of power under Section 482 of the Code in a case of this nature is the exception and not the rule.

[10] (2002) 3 SCC 89

The section does not confer any new powers on the High Court. It only saves the inherent power which the Court possessed before the enactment of the Code. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely, (*i*) to give effect to an order under the Code, (*ii*) to prevent abuse of the process of court, and (*iii*) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognizes and preserves inherent powers of the High Courts. All courts, whether civil or criminal possess, in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice on the principle *quando lex aliquid alicui concedit, concedere videtur et id sine quo res ipsae esse non potest* (when the law gives a person anything it gives him that without which it cannot exist). While exercising powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised *ex debito justitiae* to do real and substantial justice for the administration of which alone courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of

these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto."

III. Recently, this Court in ***Pradeep Kumar Kesarwani v. The State Of Uttar Pradesh & Anr.***[11]**,** reiterated the steps laid down by this Court in ***Rajiv Thapar v. Madan Lal Kapoor***[12] to be taken by the High Court in exercising its quashing powers:

> **"**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 13 prosecution/complainant? (iv) Step four, whether

[11] Criminal Appeal No.3831 Of 2025
[12] (2013) 3 SCC 330

> 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. [(See: Rajiv Thapar & Ors. v. Madan Lal Kapoor (Criminal Appeal No. 174 of 2013)]"
>
> (emphasis supplied)

Origins, Powers and Scope of Operation of Lokayukta

The concept of Lokayukta has been adapted from the Scandinavian concept of Ombudsman, the origins of which can be traced back to the early 1800s. In India, it was recommended by the First Administrative Reforms Commission in 1966. The State of Maharashtra became the first State to establish the body in 1971. The State of Karnataka, with which, we are concerned, enacted this law in 1984. The scope is given in Sections 7 & 8 of KLA. Section 7 provides for the jurisdictional framework of the Lokayukta and Upalokayukta. It details who the Lokayukta or Upalokayukta can investigate, transfer complaints, bars legal challenges and provides for continuity in cases of vacancies. Section 8 is the counterpart to Section 7 and, as such details the

restriction on the jurisdiction of the Lokayukta and Upalokayuktas.

This Court in ***Chandrashekaraiah v. Janekere C. Krishna,***[13] had occasion to consider the act in extensive detail. We may quote some of the relevant paras:

> "***Functions of the Lokayukta/Upa-Lokayukta — Investigative in nature***
>
> **32.** The provisions discussed above clearly indicate that the functions to be discharged by the Lokayukta or Upa-Lokayukta are investigative in nature and the report of Lokayukta or Upa-Lokayukta under sub-sections (1) and (3) of Section 12 and the special report submitted under sub-section (5) of Section 12 are only recommendatory. No civil consequence as such follows from the action of the Lokayukta and Upa-Lokayukta, though they can initiate prosecution before a competent court. I have extensively referred to the object and purpose of the Act and explained the various provisions of the Act only to indicate the nature and functions to be discharged by Lokayukta or Upa-Lokayukta under the Act.
>
> **33.** The Act has, therefore, clearly delineated which are the matters to be investigated by the Lokayukta and Upa-Lokayukta. They have no authority to investigate on a complaint involving a grievance in respect of any action specified in the Second Schedule of the Act, which are as follows:
>
> "(*a*) Action taken for the purpose of investigating crimes relating to the security of the State.
> (*b*) Action taken in the exercise of powers in relation to determining whether a matter shall go to a court or not.
> (*c*) Action taken in matters which arise out of the terms of a contract governing purely commercial

[13] (2013) 3 SCC 117

relations of the administration with customers or suppliers, except where the complaint alleges harassment or gross delay in meeting contractual obligations.
(*d*) Action taken in respect of appointments, removals, pay, discipline, superannuation or other matters relating to conditions of service of public servants but not including action relating to claims for pension, gratuity, provident fund or to any claims which arise on retirement, removal or termination of service.
(*e*) Grant of honours and awards."

…

37. The Lokayukta and Upa-Lokayukta while exercising powers under the Act, of course, is acting as a quasi-judicial authority but his functions are investigative in nature. The Constitution Bench of this Court in *Nagendra Nath Bora* v. *Commr. of Hills Division and Appeals* [AIR 1958 SC 398] held: (AIR p. 408, para 14)

"*14.* … Whether or not an administrative body or authority functions as a purely administrative one or in a quasi-judicial capacity, must be determined in each case, on an examination of the relevant statute and the rules framed thereunder."

…

40. The provisions of Sections 9, 10 and 11 clearly indicate that the Lokayukta and Upa-Lokayukta are discharging quasi-judicial functions while conducting the investigation under the Act. Sub-section (2) of Section 11 of the Act also states that for the purpose of any such investigation, including the preliminary inquiry the Lokayukta and Upa-Lokayukta shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in the matter of summoning and enforcing the attendance of any person and examining him on oath. Further they have also the power for requiring the discovery and production of any document, receiving evidence on affidavits,

requisitioning any public record or copy thereof from any court or office, issuing commissions for examination of witnesses or documents, etc. Further, sub-section (3) of Section 11 stipulates that any proceedings before the Lokayukta and Upa-Lokayukta shall be deemed to be a judicial proceeding within the meaning of Section 193 of the Penal Code. Therefore, the Lokayukta and Upa-Lokayukta, while investigating the matters are discharging quasi-judicial functions, though the nature of functions is investigative."

13. Keeping in mind the above, we now consider the submissions made across the Bar. The first aspect to be dealt with is, the multiple complaints on the same cause of action i.e. the allotment of land by the Regularisation Committee during the Chairmanship of the appellant. The three complaints subject matter of discussion are dated 5th September 2012, 9th November 2017 and 3rd January 2018. Below is a tabular summarisation of the three complaints-

Details	**Alleged Offender(s)**	**Prime Accused**	**Period of Alleged Acts**	**Alleged Violations of Rules/ Laws**
05.09.2012	1. R. Ashok; 2. M. Srinivas; 3. Venkatesh Babu	R. Ashok	1997 Onwards	• Grant of SC/ST land to non SC/ST members • Allocation of land violating 18km restriction • Grant to non-agriculturists

				• Excess grants beyond 4 acres & 38 guantas
09.11.2017	1. R. Ashok 2. A.P. Ranganath 3. Karthik 4. Sandeep Babu L. Srinivas	R. Ashok	1994 Onwards	• Late applications entertained • Grant of SC/ST land to financially well- placed persons • False income declarations • Excess grants beyond 4 acres & 38 guantas within one family • Violation of 18 km restriction from BBMP Jurisdiction • No aerial survey conducted
03.01.2018	1. R. Ashok; 2. Tahsildar Ramachandraiah; 3. Revenue Inspector Gavigowda 4. Revenue Inspector Chowdareddy; 5. Village Accountant Shashidhar 6. Village Accountant Madashetty	R. Ashok	18.08.1998 -2007	• Grants to non-agriculturists • Failure to verify documents • Excess grant beyond 4.8 acres • Deletion of grantee names • Collusion by revenue officials in erasing evidence

	7. D.Venkatesh Murthy 8. K. Prabha 9. Karthik 10. Sandeep Babu			

14. It is but obvious that the allegations made in the complaint arise out of the same set of facts with only minor variations as to the timeline in which these alleged illegal acts took place, but broadly covering the time in which the appellant was the Chairperson of the Committee. Connected herewith is the other issue of the Lokayukta, having already investigated and arrived at a conclusion regarding the first two complaints. The appellant's grievance is that, despite this, the third complaint based on the same facts has been entertained by the ACB. It may be noted that the ACB was conceived as an investigative body, independent of the Lokayukta, to investigate offences under the PC Act. This was done under the powers conferred by Article 162 of the Constitution of India. This action was challenged in ***Chidananda Urs B.G v. State of Karnataka***[14]**,** before the High Court and was quashed and set aside by judgment dated 11th August 2022. This Court refused to entertain an SLP thereagainst in terms of order. The effect of the ACB being set aside was that all the investigations opened by it were re-transferred to the Lokayukta.

[14] 2022 SCC OnLine Kar 1488

The effect of re-transfer is that the Lokayukta is once again the relevant authority. The relevant extract of the judgment is as follows:

> "**239 …**
>
> **(6)** Since this Court quashed the impugned Government Order dated 14.3.2016 and the impugned Government Notifications dated 19.3.2016, the Anti Corruption Bureau is abolished. But all inquiries, investigations and other disciplinary proceedings pending before the ACB will get transferred to the Lokayukta. However, all inquiries, investigations, disciplinary proceedings, orders of convictions/acquittals and all other proceedings held by ACB till today, are hereby saved and the Police Wing of Karnataka Lokayukta shall proceed from the stage at which they are pending as on today, in accordance with law."

15. The stand of the Lokayukta is and has remained right from the time of the first complaint that the complaint made against the appellant has no legs to stand on. In other words, they lack merit. Ordinarily, with the case having been retransferred to the Lokayukta, the stand as enumerated above would have been the end of the matter but in the present case, while the matter still was in the jurisdiction of the ACB, an FIR stood registered and hence the application for quashing before the High Court.

16. The submission of the appellant that the absence of a sanction vitiates proceedings against him, in our view, is liable to be accepted. In criminal law, the requirement of obtaining sanction prior to the prosecution of a public official has been

envisaged as a procedural safeguard that operates in the interest of discharging functions in furtherance of responsibility entrusted to them. It is a requirement of law, therefore, that when the allegedly improper act has been done with a reasonable nexus to such official duties, action can be initiated against such person only after a sanction has been obtained. It does not however, cover within its ambit acts which are manifestly illegal or wholly outside the public duty that is to be carried out by such person. The most prominent illustrations of such requirement are under Section 19 of PC Act and Section 197 of CrPC.

17. The Government Order by which the ACB before whom the complaint subject matter of the instant proceedings came to be filed, stipulates that "*No investigation shall be carried out by the Anti Corruption Bureau in respect of any actions or recommendations made by a public servant in discharge of his official functions without prior approval from the recruitment authority."* Quite apparently, the State, in bringing this notification, has taken a stand different from the other statutory examples of the requirement of sanction where the requirement of sanction is a precursor to cognizance but here, sanction is to be taken even prior to the commencement of an investigation. Not to overextend the issue, it is seen that the record is conspicuously silent on any sanction having been obtained against the appellant. Since no investigation could have begun

without such sanction, the preliminary Report of the ACB, subsequent FIR and any and all proceedings thereafter have operated in the face of an express bar. ***Bhajan lal (supra)*** **Para 102.6** clearly states that when such a case arises, a Court would be justified in exercising its power of quashing.

18. In supporting his claim for quashing, the appellant has made a case that he has been singled out for the reason that he belonged to a rival political establishment, and the first complaint came six years after the end of the period in controversy. In effect, the appellant is alleging *malafides*. In opposition to such a claim, the State has put forth a position that if there are enough materials to sustain prosecution, the factum that the genesis is from a complaint filed by a political rival ought not to be of any consequence. We now examine the question of malice.

17.1 In ***State of Punjab v. Gurdial Singh***[15]**,** Krishna Iyer J., in his inimitable style, wrote:-

> **"9.** The question, then, is what is mala fides in the jurisprudence of power? Legal malice is gibberish unless juristic clarity keeps it separate from the popular concept of personal vice. Pithily put, bad faith which invalidates the exercise of power — sometimes called colourable exercise or fraud on power and oftentimes overlaps motives, passions and satisfactions — is the attainment of ends beyond the sanctioned purposes of power by simulation or pretension of gaining a legitimate goal. If the use of the power is for the fulfilment of a legitimate object

[15] (1980) 2 SCC 471

> the actuation or catalysation by malice is not legicidal. The action is bad where the true object is to reach an end different from the one for which the power is entrusted, goaded by extraneous considerations, good or bad, but irrelevant to the entrustment. When the custodian of power is influenced in its exercise by considerations outside those for promotion of which the power is vested the court calls it a colourable exercise and is undeceived by illusion. In a broad, blurred sense, Benjamin Disraeli was not off the mark even in law when he stated: "I repeat . . . that all power is a trust — that we are accountable for its exercise — that, from the people, and for the people, all springs, and all must exist". Fraud on power voids the order if it is not exercised bona fide for the end designed. Fraud in this context is not equal to moral turpitude and embraces all cases in which the action impugned is to effect some object which is beyond the purpose and intent of the power, whether this be malice-laden or even benign. If the purpose is corrupt the resultant act is bad. If considerations, foreign to the scope of the power or extraneous to the statute, enter the verdict or impel the action, mala fides or fraud on power vitiates the acquisition or other official act."

(emphasis supplied)

17.2 ***In W.B. SEB v. Dilip Kumar Ray***[16], this Court studied in detail, the meaning of malice. Relevant extracts are as follows:

> "**15.** …Malice in fact is malue animus indicating that action against a party was actuated by spite or ill will against him or by indirect or improper motives.
>
> *Malice in fact*.—'Malice in fact' means express malice.

[16] (2007) 14 SCC 568

> Malice in fact or actual malice, relates to the actual state or condition of the mind of the person who did the act.
>
> Malice in fact is where the malice is not established by legal presumption or proof of certain facts, but is to be found from the evidence in the case.
>
> Malice in fact implies a desire or intention to injure, while malice in law is not necessarily inconsistent with an honest purpose…."

17.3 In ***State of Punjab v. V.K. Khanna***[17], a co-ordinate bench held **:**

> **"5.** Whereas fairness is synonymous with reasonableness — bias stands included within the attributes and broader purview of the word "malice" which in common acceptation means and implies "spite" or "ill will". One redeeming feature in the matter of attributing bias or malice and is now well settled that mere general statements will not be sufficient for the purposes of indication of ill will. There must be cogent evidence available on record to come to the conclusion as to whether in fact, there was existing a bias or a mala fide move which results in the miscarriage of justice (see in this context *Kumaon Mandal Vikas Nigam Ltd.* v. *Girja Shankar Pant* [(2001) 1 SCC 182 : JT 2000 Supp (2) SC 206]). In almost all legal inquiries, "intention as distinguished from motive is the all-important factor" and in common parlance a malicious act stands equated with an intentional act without just cause or excuse. In the case of *Jones Bros. (Hunstanton) Ltd.* v. *Stevens* [(1955) 1 QB 275 : (1954) 3 All ER 677 (CA)] the Court of Appeal has stated upon reliance on the decision of *Lumley* v. *Gye* [(1853) 2 E&B 216 : 22 LJQB 463] as below:

[17] (2001) 2 SCC 330

> "For this purpose maliciously means no more than knowingly. This was distinctly laid down in *Lumley* v. *Gye* [(1853) 2 E&B 216 : 22 LJQB 463] where Crompton, J. said that it was clear law that a person who wrongfully and maliciously, or, which is the same thing, with notice, interrupts the relation of master and servant by harbouring and keeping the servant after he has quitted his master during his period of service, commits a wrongful act for which he is responsible in law. Malice in law means the doing of a wrongful act intentionally without just cause or excuse: *Bromage* v. *Prosser* [(1825) 1 C&P 673 : 4 B&C 247] . 'Intentionally' refers to the doing of the act; it does not mean that the defendant meant to be spiteful, though sometimes, as for instance to rebut a plea of privilege in defamation, malice in fact has to be proved."
>
> (emphasis supplied)

17.4 In ***Prabodh Sagar v. Punjab SEB***[18]**,** it was held**:**

> **13.** … Incidentally, be it noted that the expression "mala fide" is not meaningless jargon and it has its proper connotation. Malice or mala fides can only be appreciated from the records of the case in the facts of each case. There cannot possibly be any set guidelines in regard to the proof of mala fides. Mala fides, where it is alleged, depends upon its own facts and circumstances…. Mere user of the word "mala fide" by the petitioner would not by itself make the petition entertainable. The Court must scan the factual aspect and come to its own conclusion i.e. exactly what the High Court has done and that is the reason why the narration has been noted in this judgment in extenso. …"

(emphasis supplied)

[18] (2000) 5 SCC 630

17.5 **In *Ratnagiri Gas & Power (P) Ltd. v. RDS Projects Ltd.*[19]**,

> **"25.** Even otherwise the findings recorded by the High Court on the question of mala fides do not appear to us to be factually or legally sustainable. While we do not consider it necessary to delve deep into this aspect of the controversy, we may point out that allegations of mala fides are more easily made than proved. The law casts a heavy burden on the person alleging mala fides to prove the same on the basis of facts that are either admitted or satisfactorily established and/or logical inferences deducible from the same. This is particularly so when the petitioner alleges malice in fact in which event it is obligatory for the person making any such allegation to furnish particulars that would prove mala fides on the part of the decision-maker. Vague and general allegations unsupported by the requisite particulars do not provide a sound basis for the court to conduct an inquiry into their veracity.
>
> **…**
>
> **27.** There is yet another aspect which cannot be ignored. As and when allegations of mala fides are made, the persons against whom the same are levelled need to be impleaded as parties to the proceedings to enable them to answer the charge. In the absence of the person concerned as a party in his/her individual capacity it will neither be fair nor proper to record a finding that malice in fact had vitiated the action taken by the authority concerned. It is important to remember that a judicial pronouncement declaring an action to be mala fide is a serious indictment of the person concerned that can lead to adverse civil consequences against him. Courts have, therefore, to be slow in drawing conclusions when it comes to holding allegations of mala fides to be proved and only in cases where

[19] (2013) 1 SCC 524

> based on the material placed before the Court or facts that are admitted leading to inevitable inferences supporting the charge of mala fides that the Court should record a finding in the process ensuring that while it does so, it also hears the person who was likely to be affected by such a finding."

19. Law considers the impact of a set of facts, demonstrable conduct in terms of noticeable variance from procedure, timing and other surrounding circumstances, taken together to lead to credible inferences in a given factual context. In the present facts, it has to be noted that three complaints making the same and similar allegations primarily against the appellant but also against certain other persons have been made and on two occasions the Lokayukta has, in its recommendatory capacity observed the lack of any material to proceed against the appellant. The third complaint made before a different body now found certain material, and an FIR was registered, but with the action of law, the investigation now stands once again with the Lokayukta. At the cost of repetition, it be observed that the first complaint was made five years after the end of the period in 2007 on 5th September which was closed in November of that year. Reopening was ordered, investigated and the complaint was again closed in the year 2014. At the end of 2017, a fresh complaint was filed on which no action has been taken. And in 2018, the subject complaint came to be filed i.e. , almost 11 years after the end of the period in question. It is also not lost on us

that, as demonstrated by the record, all three complainants were by the members of the rival political party even though the complainant in the third complaint has averred otherwise in his written submissions. Mr Anand, who is the complainant in the third complaint, is also a signatory in the second complaint that had been set out on the letterhead of the Youth faction of a rival political party. This shows concerted effort on the part of the complainants to cast aspersions on the credibility of the appellant as a public leader, as also impute ill-intention upon him despite having, on earlier occasions failed to do so. These facts can be said to be pointing towards malice when taken together with the fact of time gap. Why was the first complaint filed after five years, and why did the complainant maintain silence from 2014 to 2017 when the second complaint was filed, is unexplained. In an attempt to explain the time gap, the State has submitted that lapse of time does not eclipse the factum of the crime having taken place as such delay would not affect the same. We are conscious of this position. However, in view of the above, the actions against the appellant *ex facie* appear to be politically motivated and thereby afflicted by malice, even if delay was kept aside, the prosecution of the appellant could not proceed in the eyes of the law.

20. A further point to be noted is that some of the alleged illegal grants of land have been confirmed by judicial or

administrative action, clarifying that, correctness thereof is not subject matter of adjudication here. So, in total, three aspects point to the subject complaint and FIR being bad in law - absence of sanction, malice and administrative/judicial recognition, approval of the allotment of land.

21. Consequent to the above discussion, the FIR subject matter of the present case deserves to be quashed and set aside in view of ***Bhajanlal*** *(supra).* The appeal is allowed.

CRIMINAL APPEAL @SLP (CRL.) 9614 OF 2018

22. This appeal has been filed by one of the beneficiaries of the land allotment subject matter of controversy, who has, along with the appellant in the above appeal, namely R. Ashoka, been made an accused in FIR in Crime No. 5/2018 dated 08th January 2018 registered by the Anti-Corruption Bureau, State of Karnataka.

23. It is submitted that his allotment was earlier cancelled on 28th July 2016, by the Assistant Commissioner, Bengaluru, but in subsequent proceedings before the very same Authority, the proceedings were found fit to be dropped *vide* order dated 14th June 2017. The record does not disclose the said determination to have been challenged. FIR has been filed post that. Now that we have given reasons for quashing the FIR against the main

accused, along with the fact that allotment has been upheld by the Authority in favour of the appellant, we are of the view that the FIR and consequent proceedings arising from it deserve to be quashed.

Appeal is allowed.

Pending application(s) if any shall stand disposed of.

…….……..……..J.
(SANJAY KAROL)

……..……..……..J.
(VIPUL M. PANCHOLI)

New Delhi
16th December 2025