

Reserved on : 11.07.2025
Pronounced on : 21.07.2025



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF JULY, 2025

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.4470 OF 2025

C/W

CRIMINAL PETITION No.8628 OF 2024

IN CRIMINAL PETITION No.4470 OF 2025

BETWEEN:

SHRI JAGADISH DEVADAS ANCHAN
S/O LATE DEVADAS CHANDRASHEKAR ANCHAN
AGED ABOUT 48 YEARS
OCC: HOTEL BUSINESS
RESIDING AT NO. 475-17/1
SRI SIDDI VINAYAKA SCHOOL
BHADARWDI KARLE
KINIYE VILLAGE AND POST
HUKKERI BELAGAVI, PIN – 590 014.

... PETITIONER

(BY SMT. ANANYA PRANEETH, ADVOCATE)

AND:

1 . THE STATE OF KARNATAKA
THROUGH MULKY POLICE STATION
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA

PRINCIPAL BENCH
BENGALURU – 560 001.

- 2 . SHRI HARISH SHETTY B.,
S/O B.KRISHNAPPA SHETTY
AGED ABOUT 45 YEARS
RESIDING AT DOOR NO 25-21-1339/8
VIJAYALAKSHMI NILAYA, JEPU BAPPAL
1ST CROSS, KANKANADY
MANGALORE – 575 001.

... RESPONDENTS

(BY SRI B.N.JAGADEESHA, ADDL. SPP FOR R1;
SRI K.S.PONNAPPA, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 528 OF
BNSS PRAYING TO QUASH THE COMPLAINT DATED 07.06.2024 AS
AGAINST PETITIONER / ACCUSED NO.1 CERTIFIED COPY OF
WHICH IS PRODUCED AS ANNEXURE-A; QUASH THE FIR IN MULKI
P.S. IN CR.NO.62/2024 REGISTERED FOR ALLEGED OFFENCE P/U/S
419, 420, 465, 467, 468, 471 R/W 34 OF IPC DATED 07.06.2024
AS AGAINST PETITIONER / ACCUSED NO.1 ON THE FILE OF THE
HONBLE SENIOR CIVIL JUDGE AND J.M.F.C AT MOODABIDRI D.K
CERTIFIED COPY OF WHICH IS PRODUCED AS ANNEXURE-B.

IN CRIMINAL PETITION No.8628 OF 2024

BETWEEN:

SHRI NITYANAND KUNDAR
S/O SHRINIVAS
AGED ABOUT 37 YEARS
OCC: HOTEL (BUSINESS)
RESIDING AT NO.133/2,NEW SHIVAJI COLONY

NEAR GAJANAN ROAD, TILAKWADI BELAGAVI
PIN – 590 006.

... PETITIONER

(BY SMT. ANANYA PRANEETH, ADVOCATE)

AND:

- 1 . THE STATE OF KARNATAKA
THROUGH MULKY POLICE STATION
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
PRINCIPAL BENCH
BENGALURU PIN – 560 001.

- 2 . SHRI HARISH SHETTY B.,
S/O B.KRISHNAPPA SHETTY
AGED ABOUT 45 YEARS
RESIDING AT DOOR NO.25-21-1339/8
VIJAYLAXMI NILAYA, JEPU BAPPAL
1ST CROSS, KANKANADY
MANGALORE PIN – 575 001.

... RESPONDENTS

(BY SRI B.N.JAGADEESHA, ADDL. SPP FOR R1;
SRI K.S.PONNAPPA, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO QUASH THE COMPLAINT DATED 07.06.2024 AS AGAINST PETITIONER / ACCUSED NO.2 CERTIFIED COPY OF WHICH IS PRODUCED AS ANNEXURE-A; QUASH THE FIR IN MULKY P.S. CR.NO.62/2024 REGISTERED FOR ALLEGED OFFENCE P/U/S 419, 420, 465, 467, 468, 471 R/W 34 OF IPC DATED 07.06.2024 AS AGAINST PETITIONER / ACCUSED NO.2 ON THE FILE OF

HON'BLE SENIOR CIVIL JUDGE AND J.M.F.C AT MOODBIDRI D.K
CERTIFIED COPY OF WHICH IS PRODUCED AS ANNEXURE-B.

THESE CRIMINAL PETITIONS HAVING BEEN HEARD AND
RESERVED FOR ORDERS ON 11.07.2025, COMING ON FOR
PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

These petitions are filed by accused Nos.1 and 2 in Crime No.62 of 2024 registered for offence punishable under Sections 419, 420, 465, 467, 468, 471 and 34 of the IPC calling in question the FIR registered against them. Therefore, they are taken up together and considered by this common order. For the sake of convenience, facts obtaining in Criminal Petition No.4470 of 2025, which are also common in the other petition, are narrated.

2. Facts, in brief, germane are as follows: -

The 2nd respondent is the complainant. A complaint comes to be registered by the 2nd respondent stating that he is the power of attorney holder of five persons viz., (i) Mr. Vijaya Adappa; (ii) Mrs.

Yamini Sridevi Mali; (iii) Smt. Manjula Adappa; (iv) Mr. Roshan Adappa and (v) Dipti Adappa. Mr. Vijaya Adappa is said to be the son of one Bhavani Adappa, Mrs. Yamini Sridevi Mali is the daughter of Bhavani Adappa and Manjula Adappa is said to be the daughter-in-law of Bhavani Adappa and Roshan Adappa and Dipti Adappa are the children of Manjula Adappa. Bhavani Adappa is said to have died on 08-11-1990 and the children as mentioned hereinabove are the sole surviving heirs of late Bhavani Adappa. During her lifetime, late Bhavani Adappa had purchased land measuring one acre in Sy.No.186/2 situated at Surathkal Village through a registered sale deed dated 26-02-1964. As observed hereinabove, the legal heir of late Bhavani Adappa who was residing in Mangalore was her daughter-in-law Manjula Adappa, wife of late Dilip Adappa who was, at the relevant point in time, 66 years. One acre of land that was purchased in 1964 ostensibly grew up in Mangalore. The complaint is that it got the eye of land mafia in Mangalore.

2.1. The petitioners in these cases, accused Nos. 1 and 2, are said to have conspired to usurp the property which belonged to late

Bhavani Adappa. In furtherance of the said conspiracy, several acts are done by accused Nos. 1 and 2 in connivance with public servants i.e., the Sub-Registrar and officers of the Corporation. This is noticed by Smt. Manjula Adappa when the land was put to auction by YES Bank. Then the respondents come to know that the accused have raised a loan mortgaging the aforementioned property and have defaulted in payment and, therefore, the Bank put up the property for auction. It is then they dig into the matter and got to know the modus operandi of the accused in connivance with public servants.

2.2. Two steps are taken by the complainant; one, immediately registering suits in O.S.Nos.41 and 42 of 2024 seeking injunction against the purchasers of the property and the Bank and further direction from encumbering the property, the said suits are pending consideration. The other step taken is, the registration of a complaint before the jurisdictional police at Mulky against these petitioners, Sub-Registrar and a Second Division Assistant working in the office of the Sub-Registrar. This becomes a crime in Crime No.62 of 2024 and the crime would draw four accused. Two of the

accused/public servants were at the doors of this Court in Criminal Petition No.7435 of 2024 and 6522 of 2024 and after arguing the matter at length, they withdrew the petitions to avail of appropriate remedy. The other two i.e., accused Nos. 1 and 2 have now approached this Court in these petitions.

3. Heard Smt. Ananya Praneeth, learned counsel appearing for the petitioners; Sri B.N. Jagadeesh, learned Additional State Public Prosecutor appearing for respondent No.1 and Sri K.S. Ponnappa, learned counsel appearing for respondent No.2.

4. The learned counsel for the petitioners/accused Nos. 1 and 2 would vehemently contend that the issue in the *lis* is purely civil in nature. The power of attorney holder of the owner of the property has instituted civil suits in O.S.Nos. 41 and 42 of 2024, which are pending adjudication before the competent civil Court. Public servants might have involved in the present case. The petitioners are private parties and have nothing to do with the sale that has taken place of the suit property. They got the property through registered documents. She would contend that if further

investigation is permitted to be continued in such cases, it would be permitting a case which is predominantly civil in nature to be tried as a crime. She would seek to place reliance upon few judgments of the Apex Court on the issue which would bear consideration in case of need.

5. Per contra, the learned counsel representing the 2nd respondent/complainant Sri K.S.Ponnappa would vehemently refute the submissions contending that if the modus operandi of accused Nos. 1 and 2 is seen, no vacant land is safe. They are the land mafia in Mangalore; identify abandoned vacant lands, create documents, generate sale deeds, sell them to naïve purchasers and wash off their hands. The daughter-in-law of Bhavani Adappa comes to know of this only when YES Bank notifies the land for auction. Being shocked, they dub into the issue and got to know the manner in which crime is sought to be committed. He would submit that these cases though have a flavour of civil law, but have complete ingredients of the offences that are alleged. He would submit that since the matter is at the stage of investigation, this Court should not interfere at this stage.

6. The learned Additional State Public prosecutor Sri B.N. Jagadeesh would also submit that the material available on record is itself enough to show that the petitioners have indulged in forgery and cheating in connivance with public servants. Therefore, the investigation must be permitted in the case on hand.

7. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

8. The afore-narrated facts are not in dispute. The complainant is the power of attorney holder of five people as aforementioned. A complaint comes to be registered by the power of attorney holder of the aforesaid family members. Since the complaint triggers the entire issue in great detail, I deem it appropriate to notice the complaint. The complaint reads as follows:

"Between:

Harish Shetty B,, aged 45 years,
S/o. B. Krishnappa Shetty B.,
Residing at Door NO.25-21-1339/8,

Vijayalaxmi Nilaya,
Jeppu Bappal 1st Cross,
Kankanady, Mangalore.

..... Complainant

and

1. Jagadish Devadas Anchan, aged 48 years,
S/o. late Devadas Chandrashekar Anchan,
residing at No.475-17/1,
Sri Siddi Vinayana School,
Bhadarwadi, Karle, Kiniye Village and Post,
Hukkeri, Belagavi - 590 014.

2. Nithyananda Kunder, aged 37 years,
S/o. Srinivas,
residing at No.133/2, New Shivaji Colony,
near Gajanan Road, Thilakwadi,
Belgavai - 590 006.

3. Rajeshwari Hegade,
Sub Registrar, Mulky, Mangalore.

4. Bindu Mani, Second Division Assistant,
Sub Registrar, Mulky, Mangalore.

..... Accused.

The complainant named above begs to submit as follows:

1. That the complainant is the power of attorney holder of 1) Mr. Vijaya Adappa, 2) Yamini Sridevi Malli, 3) Manjula Adappa, 4) Roshan Adappa and 5) Deepthi Adappa, Mr. Vijaya Adappa is the son of Bhavani Adappa, Yamini Sridevi Malli is the daughter of Bhavani Adappa, Manjula Adappa is the daughter in law of Bhavani Adappa, she being the wife of late Dr. Dilip Adappa who was the son of Bhavani Adappa. Roshan Adappa and Deepthi Adappa are the son and daughter of Manjula Adappa and late Dilip Adappa and they are the grand children of Bhavani Adappa. That the above 5 are the only surviving legal heirs of Smt. Bhavani Adappa who expired on 08/11/1990.

2. That Smt. Bhavani Adappa on 26/2/1964 had purchased one (1) acre of land comprised in S.No.186/2 situated at Surathkal Village vide registered sale deed as per Document

No.117 of 1964 in the Office of the Sub Registrar, Mulky. That ever since the said Bhavani Adappa was in actual and exclusive possession of the property during her life time and the R.T.C. of the said property also stood in the name of Smt. Bhavani Adappa from 1964 onwards. The present market value of the land is in crores.

3. That the legal heirs of Bhavani Adappa appointed the complainant as their power of attorney in the month of December 2022 to look after and manage the said property and also to negotiate the sale of said property with interested buyers. That after being so appointed in order to ensure proper documentation of the said property the complainant applied to the various revenue officials for the documents pertaining to the property and he was shocked to find that the R.T.C. of the said property stood in the name of one Bhavani Anchan instead of Bhavani Adappa.

4. That enquiries made revealed that one Bhavani Anchan by using forged and fraudulent document had managed to get her name included in the R.T.C. of the above property in place of Bhavani Adappa and by using forged and fabricated documents she was successful in including her name in the Revenue records of the above property and on the basis of the same she got the land converted from the Mangalore City Corporation.

5. That after getting the land converted as aforesaid Smt. Bhavani Anchan executed two sale deeds in favour of one Sampath A. Shetty to the extent of 90 cents and one Niranjana to the extent of 10 cents. The said sale deeds were dated 21/11/2017. The address of Bhavani Anchan furnished in the said sale deed is Bhavani Anchan, W/o.late Devadas Anchan, aged about 80 years, residing at Durga Nivas, 5th Cross, Attavara Cross, Attavara Village, Mangalore where as in the application to the A.C. the address furnished is Surathkal Village, Surathkal, Mangalore. It is also pertinent to note that the husband' name of Smt. Bhavani Anchan is Devadas Anchan and the husband name of Bhavani Adappa is Devadas Adappa.

6. That Sampath Shetty who allegedly entered into the fraudulent sale deed executed in his favour by Bhavani

Anchan had mortgaged the said property with the YES Bank, Mangalore and the encumbrance certificate has also reveals the same.

7. That the complainant on coming to know of the above fraudulent acts had lodged complaint before the Station House Officer of the CEN Police Station, Mangalore against Bhavani Anchan, Sampath A. Shetty and Mr. Niranjan and the same was registered as Cr.No.206/2023 of CEN Police Station, under sections 419, 420, 465, 467, 468, 471 and 34 I.P.C.

8. That the original owners of the property namely Vijaya Adappa and his family members filed a suit for injunction in the Court of the I Addl. Senior Civil Judge & CJM, Mangalore against Bhavani Anchan, Sampath Shetty, Mr. Niranjan and others in O.S.No.41/2024 and 42/2024 and as per orders dated 11/3/2024 the Hon'ble Court was pleased to grant temporary injunction in favour of the owners of the property and also restrained the defendants from alienating or encumbering the above property to any third parties pending disposal of the suit.

9. That the order of injunction granted in favour of Vijaya Adappa and his family members was communicated to all the revenue officials including Tashildar, Mangalore, Deputy Tashildar, Surathkal, Revenue Inspector, Surathkal, the District Registrar, Mangalore and the Sub Registrar, Mulky and the officials of the Sub Registrar, Mulky and other revenue officials were aware of the injunction order issued by the Hon'ble Court prohibiting the alienation of the above property.

10. That recently the complainant has learnt that one Jagadish Devadas Anchan the 1st accused claiming to be the son of the late Bhavani Anchan and late Devadas Chandrashekar Anchan has entered into a sale deed and sold the property compromised in S.No.186/2c to the extent of one acre in favour of one Mr. Nithyananda Kunder the 2nd accused as per sale deed executed before the Sub Registrar, Mulky on 08/04/2024. The said property was sold as agricultural immovable property.

11. That on coming to know of the execution of above sale deed in violation of the order of injunction granted by the Hon'ble Court further enquires made by the complainant reveal that the 1st accused was issued with an Aadhar card on 2/9/2021 and on the basis of the said Aadhar card he had applied for the death certificate of one Bhavani Devadas Anchan where her death has been shown as 25/10/1998 at Belagavi. He also obtained the death certificate of one Devadas Chandrashekar Anchan whose date of death is mentioned as 16/2/1992. The place of death is mentioned as Belagavi. The said death certificates was issued by the Registrar of births and deaths, Belagavi. The said death certificates were issued on 28/2/2022.

12. That on the basis of the above death certificates the Deputy Tashildar, Uchagaon Hobli, Belagavi Taluk had issued a surviving member ship certificate in favour of the 1st accused on 14/03/2022. That after receipt of above surviving family member certificate the 1st accused filed an application for change of R.T.C. of the above mentioned property comprised in S.No.186/2C of Surathkal Village in his favour and on the basis of the said application the R.T.C. was mutated in the name of the 1st accused.

13. That after getting the R.T.C. in his name the 1st accused entered into the sale deed as mentioned above wherein he sought to convey the right, title and interest in favour of the 2nd accused. It is submitted that the above sale deed is a sham document without consideration and the same has been executed in collusion with accused No. 3 and 4 who are the officials of the sub registrar office at Mulky and who were aware of the injunction order passed by the Hon'ble Court. The 1st accused has absolutely no right or title to the said property.

14. That at the time of registering the sale deed an encumbrance certificate has to be produced at the time of execution of the sale deed and the said encumbrance certificate would have reveal the said property is a converted property 90 cents of which

stand in the name of Sampath Shetty and 10 cents stands in the name of Mr. Niranjana. Further the encumbrance certificate would have revealed that the said property has been mortgaged to the YES bank and as such the sale deed could not have been executed by the 1st accused in favour of the 2nd accused. Though the accused NO. 3 and 4 were aware of the true state of affair they have also colluded and assisted the accused No.1 and 2 in executing the above fraudulent sale deed.

15. That it is submitted that the accused No.1 has used fraudulent document such as Aadhar card, death certificate of Bhavani and Devadas Anchan false surviving family member certificate and by using the fraudulent documents he has managed to change the R.T.C. to his name and after doing so by entering into a criminal conspiracy with the other accused NO. 2 to 4 he has bought up a fraudulent sale deed in order to make an illegal and unlawful gain for himself and other accused at the expense of Vijaya Adappa and his family members who are the actual owners of the above mentioned property.

16. That the accused has committed an offence punishable under section 420, 465, 467, 468, 471 I.P.C. and Section 120 B I.P.C. All the accused have conspired with each other to create false and forged documents in order to defraud and cheat the original owners of the said property and to cause wrongful loss to them.

It is therefore prayed, that the benign S.H.O may be pleased to register a case against the accused, investigate the matter and deal with the accused in accordance with law, in the interest of justice.

MANGALORE
DT. 07/06/2024.

sd/-
COMPLAINANT."

(Emphasis added)

The narration in the complaint is in great detail. The genesis of the issue is traced and observes that one Jagadish Devadas Anchan, accused No.1, claiming to be the son of late Bhavani Anchan, the owner of the property, enters into a sale deed and sold the property to the extent of one acre in favour of accused No.2, pursuant to a sale deed dated 08-04-2024. The history to the execution was traced. Accused No.1 holds an Aadhar card having generated the change of his name from Jagadish Kulal to Jagadish Devadas Anchan and on the basis of the Aadhar card, applies for a death certificate of the owner of the property Bhavani Devadas Anchan, where the death of the owner of the property is shown as 25-10-1998 at Belagavi. He also obtains a death certificate of Devadas Chandershekar Anchan, whose date of death is shown as 16-02-1992. Both these death certificates were issued by the Registrar of Birth and Deaths, Belagavi.

9. On the basis of the death certificates and Aadhar card, accused No.1 secures a surviving membership certificate from the hands of the Tahsildar in Belgavi Taluk on 14-03-2022. On the said surviving certificate, he files an application for change of RTC of the

subject property in Sy.No.186/2C of Surathkal Village in his favour and the RTC now comes to be mutated in favour of accused No.1. Accused No.1 then enters into a sale deed with accused No.2. The sale deed is registered before the office of the Sub-Registrar at Mulki. All the aforesaid is based upon a document of entry of his name as the son of Devadas Chandershekar Anchan and Bhavani Devadas Anchan filed before the concerned Court under Section 13(3) of the Registration of Births and Deaths Act. The death certificates are issued pursuant the order of the concerned Court, which was on the basis of an alleged fake Aadhar card. The order of the concerned Court reads as follows:

ORDER

The petition filed by the petitioners U/Section 13(3) of the Registration of Birth and Deaths Act, is hereby allowed.

The respondent is hereby directed to enter the date of death of deceased **Shri Devdasha S/o Chandershekar Anchan**, died on **16-02-1992** at # **475-17/1, Shree Siddi Vinayak School, Bhadarwadi Karle, Kiniye, Tal and Dist: Belagavi** in the concerned death register maintained by the respondent.

The respondent is hereby directed to issue death certificate to the said **Shri Devdasha S/o Chandershekar Anchan**, after collecting necessary fees from the petitioners.

The said entry shall not be a conclusive proof of death and if in case of any dispute there exists on the death, the entries shall be subject to proof."

...
...
...
Sd/-
09.02.2022
(Smt. Lathashree B.V.)
JMFC-II, Belagavi."

Thus, comes in the names of Devasha and Bhavani Anchan attached to the name of accused No.1. He thus becomes Jagadish Devadasha Anchan from Jagadish Kulal.

10. Later the allegation is, in connivance with the office of the Sub-Registrar, the name in the sale deed dated 26-02-1964 is changed to Devdasha and Bhavani Anchan in the records of the Sub-Registrar's office to show that the father and mother of accused No.1 were the purchasers of the land in Sy.No.186/2C in terms of the sale deed dated 26-02-1964. Immediately thereafter accused No.1 enters into a sale with accused No.2 which is appended as Annexure-C to the petition. Accused No.1 is the vendor and accused No.2 is the purchaser and the consideration is ₹46,98,000/-. Who are accused Nos. 1 and 2 shocks the Court, as it is an admitted fact that accused No.2 runs a hotel and accused No.1 is a kitchen steward in the hotel. It is on discovery of all these facts, the crime comes to be registered against the accused.

11. No doubt, civil suit is also filed on the same cause of action. It would not mean that the aforesaid *modus operandi* of accused Nos.1 and 2 in wanting to knock off the property can be brushed aside, so as to contend that there is no criminal acts performed by the accused at all. The family of the GPA holder of the complainant, are all naïve people who have been hoodwinked by the perpetrators of forgery, like accused Nos.1 and 2.

12. The learned counsel for the petitioners has vehemently contended that civil suits are instituted on the same cause of action and, therefore, the facts would depict that they are entirely civil in nature. **The submission that these are civil proceedings in disguise, hence undeserving of criminal investigation is rejected and the law is too well settled, that the same set of facts, may give rise to both civil liability and criminal culpability.** It becomes apposite to refer to the judgments of the Apex Court, which hold that a given set of fact may have a color of civil proceedings, that would not mean that it would not attract

ingredients of crime at all. The Apex Court in the case of **PRITI**

SARAF v. STATE (NCT OF DELHI)¹ has held as follows:

“... ..”

30. Be it noted that in the matter of exercise of inherent power by the High Court, the only requirement is to see whether continuance of the proceedings would be a total abuse of the process of the Court. The Criminal Procedure Code contains a detailed procedure for investigation, framing of charge and trial, and in the event when the High Court is desirous of putting a halt to the known procedure of law, it must use proper circumspection with great care and caution to interfere in the complaint/FIR/charge-sheet in exercise of its inherent jurisdiction.

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 420IPC 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 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

¹ (2021) 16 SCC 142

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 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 420 IPC."**

(Emphasis supplied)

The Apex Court, subsequently, in the case of **PUNIT BERIWALA v. STATE OF NCT OF DELHI**² has held as follows:

"....

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

² 2025 SCC Online SC 983

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 Aksari Hadi Ali Augustine Imam v. State (Delhi Admin.)*, (2009) 5 SCC 528, *Lee Kun Hee v. State of UP*, (2012) 3 SCC 132 and *Trisuns Chemicals v. Rajesh Aggarwal*, (1999) 8 SCC 686]”

(Emphasis supplied)

The Apex Court in the case of **KATHYAYINI v. SIDHARTH P.S.**

REDDY³, has held as follows:

“... ..

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.*³, 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

³ 2025 SCC OnLine SC 1428

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*⁴, 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 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.*⁵,

"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 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.”

(Emphasis supplied)

The Apex Court, in the afore-quoted judgments, reiterates that a given fact may stem two proceedings, both crime and a remedy that is civil in nature, which would by no means, mean the criminal proceedings must be quashed, they are to be considered *qua* facts of each case.

13. Diving back to the facts of this case, this Court is aghast at the audacity of the attempt. The connivance of public servants in facilitating the crime, if proven, renders the matter one not of private grievance, but of public concern. The civil suit, pending though it may be, cannot eclipse the penal consequences, of what appears to be a serious offence, as the narrative in the case at hand unfolds not merely a tale of civil discord, but a systematic and deliberate fraud having all hues of a crime. Therefore, I deem it appropriate to observe that there cannot be foreclosure of investigation, in a case where a criminal enterprise is disguised as land transaction. The machinery of law must not be paralyzed in the face of carefully orchestrated deception. It, in fact, has all the hues and shades of a thrilling potboiler. These are matters which would require an investigation, in the least.

14. For the aforesaid reasons, finding no merit in these petitions, the petitions stand ***dismissed***. Interim order, if any operating, shall stand dissolved.

It is made clear that the observations made in the course of the order are only for the purpose of consideration of the case of petitioners under Section 482 of Cr.P.C. and the same shall not bind or influence the proceedings that are pending against these accused or other accused on the same subject matter.

**Sd/-
(M.NAGAPRASANNA)
JUDGE**

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CT:SS