

**Reserved on : 11.09.2024**  
**Pronounced on : 27.09.2024**

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27<sup>TH</sup> DAY OF SEPTEMBER, 2024

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.3666 OF 2024

**BETWEEN:**

- 1 . SRI VISHAL RAGHU  
S/O H.N.LINGEGOWDA  
AGED ABOUT 47 YEARS  
CHAIRMAN  
KARNATAKA STATE BAR COUNCIL  
(KARNATAKA VAKILARA PARISATH)  
HIGH COURT OF KARNATAKA  
BENGALURU – 560 001.
- 2 . SRI VINAY MANGALEKAR  
S/O V.B.MANGLEKAR  
AGED ABOUT 55 YEARS  
VICE-CHAIRMAN  
KARNATAKA STATE BAR COUNCIL  
KARNATAKA STATE BAR COUNCIL  
HIGH COURT OF KARNATAKA  
BEGNALURU – 560 001.
- 3 . SRI PUTTEGOWDA  
S/O LATE MARIGOWDA  
AGED ABOUT 61 YEARS  
MANAGER  
KARNATAKA VAKILARA PARISATH

HIGH COURT OF KARNATAKA  
BENGALURU – 560 001.

... PETITIONERS

(BY SRI UDAYA HOLLA, SR.ADVOCATE A/W  
SRI P.PRASANNA KUMAR, ADVOCATE FOR  
SRI T.G.RAVI, ADVOCATE FOR P-1 AND P-3;  
SRI AMRUTHESH N.P., ADVOCATE FOR P-2)

**AND:**

1 . THE STATE OF KARNATAKA  
CUBBON PARK SUB DIVISION PS  
REPRESENTED BY  
STATE PUBLIC PROSECUTOR  
HIGH COURT BUILDING  
BENGALURU – 560 001.

2 . S.BASAVARAJ  
S/O LATE SIDDARAMAIAH  
AGED ABOUT 59 YEARS  
NO 11, 2<sup>ND</sup> FLOOR  
JEEVAN BUILDING  
KUMAR PARK EAST  
BENGALURU – 560 001.

... RESPONDENTS

(BY SRI B.N.JAGADEESHA, ADDL.SPP FOR R-1;  
SRI S.BASAVARAJ, PARTY-IN-PERSON R-2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF  
CR.P.C., PRAYING TO QUASH THE FIR IN CR.NO.37/2024 FOR THE  
OFFENCES P/U/S 37, 34, 120-B, 403, 406, 409, 420, 465, 468,  
471, 477A OF IPC (ANNEXURE-A) REGISTERED BY THE  
RESPONDENT NO.1 POLICE ON THE BASIS OF COMPLAINT DATED  
17.04.2024 FILED BY THE RESPONDENT NO.2 (ANNEXURE-B),  
PENDING ON THE FILE OF 3<sup>RD</sup> ADDL. CMM COURT, BENGALURU.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 11.09.2024, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: THE HON'BLE MR JUSTICE M.NAGAPRASANNA

**CAV ORDER**

The petitioners/accused Nos. 1, 2 and 3 are knocking at the doors of this Court calling in question registration of crime in Crime No.37 of 2024 at Vidhana Soudha Police Station registered for offences punishable under Sections 34, 37, 120B, 403, 406, 409, 420, 465, 468, 471 and 477A of the IPC and pending before the III Additional Chief Metropolitan Magistrate, Bengaluru.

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

The 1<sup>st</sup> petitioner is the Chairman and the 2<sup>nd</sup> petitioner is the Vice-Chairman of the Karnataka State Bar Council ('Bar Council' for short) and the 3<sup>rd</sup> petitioner is the Manager and former Member of the Bar Council. The 2<sup>nd</sup> respondent, another member of the Bar Council is the complainant. The issue in the *lis* would commence from 12<sup>th</sup> of August, 2023 and a few days prior to the said date. The Bar Council contemplated organizing a State Level Advocates'

Conference in collaboration with the Advocates Association, Mysuru to be held at Mysuru on 12<sup>th</sup> and 13<sup>th</sup> of August 2023. For the said event, it appears, several arrangements had to be made and certain resolutions to that effect were passed by the Bar Council wherein certain expenditure was permitted for the 10<sup>th</sup> State level conference. After the event was over comes the present allegation that there has been misappropriation of funds by the petitioners in the display of expenditure incurred for the purpose of conduct of the said programme. Alleging that there has been misappropriation of funds of the Council, which belonged to the Advocates', a complaint comes to be registered by the 2<sup>nd</sup> respondent/complainant, also a member of the Bar Council. Therefore, it is a conflict regarding misappropriation of funds or corruption in the Bar Council. This leads to registration of the complaint by the 2<sup>nd</sup> respondent before the jurisdictional police which becomes a crime in Crime No.37 of 2024 for the afore-quoted offences. The registration of crime has led the petitioners to this Court in the subject petition. A coordinate Bench of this court stayed further proceedings into the crime in terms of its order dated 19-04-2024. The said order is in subsistence even today.

3. Heard Sri Udaya Holla, learned senior counsel appearing for the petitioners, Sri B.N. Jagadeesha, learned Additional State Public Prosecutor appearing for respondent No.1 and Sri S. Basavaraj, respondent No.2/party-in-person.

4. The learned senior counsel Sri Udaya Holla appearing for the petitioners would contend that there is no misappropriation in the case at hand. All the funds are properly spent pursuant to resolutions passed by the Bar Council in which the complainant himself has participated. Therefore, the complainant having an axe to grind against the petitioners has set the criminal law into motion. He would take this Court through the amended petition so filed and the documents filed separately by way of memo to contend that after registration of crime, the persons whom money is allegedly not handed over have given certain certificates or receipts as having handed over or received money. The learned senior counsel would take this Court to the resolution dated 25-05-2024 to demonstrate that the complainant is also the signatory to the said resolution, which resolution resolved to close the matter and place

the same in the subject petition before this Court. Therefore, he would seek quashment of the entire proceedings.

5. Per contra, the 2<sup>nd</sup> respondent/complainant in person would seek to refute all the submissions. It is his case that it is a detailed complaint of corruption and misappropriation of funds. There is no resolution that would close the entire proceedings. There is abundant evidence against the petitioners and the same have all been appended to the complaint and also placed before this Court along with the statement of objections. It is at the stage of crime. In a case of misappropriation, it is his contention, this Court should not nip it in the bud and investigation in the least must ensue. He would submit that the money that is misappropriated is the money belonging to the Advocates, as it has come out of the funds of the Bar Council collected from the hands of the Advocates *inter alia*. He would contend that the petition be dismissed, as there is no resolution in which he has participated which would absolve the petitioners of the charges of misappropriation. He would seek dismissal of the petition.

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

7. The story in the case at hand would commence from the decision of the Bar Council to hold its 10<sup>th</sup> State level conference at Mysuru. The decision to hold it was taken in the Bar Council meeting held on 15-07-2023 and the dates of conference were on 12<sup>th</sup> and 13<sup>th</sup> August 2023. It is here certain allegations of misappropriation of funds have emerged. Since the entire issue now springs from the complaint, I deem it appropriate to notice the complaint. It reads as follows:-

*"Before the Inspector of Police, Vidhana Soudha Police Station.*

*Between:*

*Sri Basavaraj, S.  
Senior Advocate & Member,  
Karnataka State Bar Council,  
Address: Office of the Karnataka  
State Bar Council, Dr.Ambedkar Road,  
Bangalore-560 001. .. Complainant.*

*And*

- 1. Mr. Vishal Raghu, Chairman,*
- 2. Mr.Vinay Manglekar, Vice-Chairman*
- 3. Mr. Puttegowda, Former Secretary &*

*Present Manager,  
Karnataka State Bar Council.*

*Address: Office of the Karnataka State Bar Council,  
Dr. Ambedkar Road, Bangalore-560 001.*

4. *Others who are involved in the offences alleged.*

*Complaint for the offences punishable under Sections 420, 406, 409, 468, 471, 477 read with 34 and 120B of the Indian Penal Code.*

*I the abovenamed complainant submit as follows:-*

*1. The complainant is an elected Member of the Karnataka State Bar Council. He is also a designated Senior Advocate practicing in the High Court of Karnataka and other Courts.*

*2. Accused 1 and 2 are also the elected members of the Karnataka State Bar Council (KSBC for brevity) and presently Chairman and Vice-Chairman of the KSBC. Accused 3 has been the Secretary of the KSBC and presently he is working as the Manager.*

*3. I state that on 12<sup>th</sup> and 13<sup>th</sup> August 2023, the KSBC organized State Level Advocates' Conference at Mysore. The brief statement of accounts shows that staggering sum of Rs.3,20,33,000/- (Rupees three crores twenty lakhs thirty three thousand) was spent for the Mysore Conference.*

*4. Out of this amount, a sum of Rs.1,08,00,000 is Government grant, public money. Rs.75,00,000 is KSBC fund which money belongs to the advocates. Rupees Twenty lakhs was contributed by BCI. A sum of Rs.1,16,33,000/- was collected from the Advocates as delegation fee. All the cash collected under the various heads was with the custody of the accused 1, 2 and 3. Bank accounts of the KSBC are operated jointly by the Chairman/Vice-Chairman and the Secretary. All the decisions of selecting the vendors and making the payments were made by the Chairman and Vice-Chairman. The Secretary, acting as per the dictates of the Chairman and Vice-Chairman*



helped them in clandestinely siphoning off huge funds of KSBC by creating fake bills.

5. I state that accused 1 and 2 in active conspiracy with accused 3 and other accused persons committed the following acts of fraud, misappropriation and criminal breach of trust by creating and approving fake/inflated bills/invoices etc. The details are given below:

(a) Shamiyana & furniture: One Shariff Furniture, Mysore is shown to have been paid a sum of Rs.70,00,000/- (Rupees seventy lakhs) vide undated receipt. Out of this, huge sum of Rs.50,00,000/- (Rupees Fifty lakhs) is shown to have been paid by cash. As a matter of fact, except the amount to the tune Rs.20 lakhs, no cash payment was never made to Shariff Furniture. Accused 1 to 3 have misused this amount for their personal gains. Myself and Mr. Gouthamchand, Member, KSBC had a conference call with Mr. Shariff, Proprietor of Shariff Furniture on 23<sup>rd</sup> March 2024 at 8 p.m. on his cell phone bearing No.9448087047 and enquired about receipt of Rs.50/- lakhs by way of cash payment. He categorically denied receipt of any cash payment except the amounts paid by cheques to the tune of Rs.20,00,000/-. I requested Mr. Shariff to send voice message confirming his statement. He requested me to send voice message to another number since he could not record voice in the cell phone bearing No.9448087047 and gave another number 9844069092. Hence, I sent a voice message to 9844069092 at 8:27 p.m. asking him to confirm receipt of cash payment to the tune of Rs.50 lakhs. There are three voice messages from Mr. Shariff at 8.40 p.m., 8.43 p.m. and 8.43 p.m. In the last message, this is what he categorically says; ಐವತ್ ಲಕ್ಷ ಯಾವ್ ಕಾರಣಕ್ಕೂ ನಮ್ಮೆ ದುಡ್ ಬಂದಿಲ್ಲ. ಇವು ಮೂರ್ನಾಲ್ಕು ಸತಿ ಕೊಟೀಶನ್ ಕೊಡ್ತೇಕು, ನಾವೇನು ಬಾರ್ ಕೌನ್ಸಿಲ್‌ನಲ್ಲಿ ಪರ್ಮಿಷನ್ ತಗೋಬೇಕು ಅಂತ ಅಂದ್ ಬಿಟ್ಟ ನಮ್ಮತ್ರ ಸೈನ್ ಹಾಕ್ ಲೆಟರ್ ಹೆಡ್ ತಗೊಂಡ್ ಹೋದ್ರು. ಆ ಲೆಟರ್ ಹೆಡ್ ಯಾವ್ ತರ ಯೂಸ್ ಮಾಡ್ತೊಂಡ್ತೋ ನಮ್ಮೆ ಗೊತ್ತಿಲ್ಲ. Downloaded voice messages are enclosed herewith in a pen-drive.

(b) Musical Night: We the members of KSBC were given to a clear understanding that the entire event would cost Rs.5 lakhs. However, to our shock and surprise, a sum of Rs.7,50,000 is shown as paid against the invoice raised by one "Piyush Ads and Events". Accused are the beneficiaries of this inflated bill. When I enquired with accused 3 initially, he

*informed me that no bills or receipts are submitted to KSBC for Musical night. Later they created bogus documents to justify misappropriation of huge funds of Rs.7.5 lakhs.*

*(c) Catering: Accused 1 and 2 had made a clear representation to all the Members of KSBC that they would hire a reputed caterer from Shimoga who rendered his services at the Kannada Sahitya Sammelana. However, a sum of Rs.77,79,000/- (rupees Seventy Lakhs Seventy Nine Thousand) (sic) was paid to one "Anvi Enterprises, 5<sup>th</sup> Cross, Subhash Nagara, Mandya". This appears to be non-existing entity. The address is near the office of Vishalaraghu, Chairman, KSBC which indicates that the Vishalaraghu used Anvi Enterprises as a façade to swindle lakhs of rupees which actually belongs to the learned Advocates. Even the GST number shown in the letter head is non-existent. When I contacted the so called proprietor of Anvi Enterprises Anil H.K. over his cell phone 9844702224, he categorically informed me that Anvi Enterprises is not a caterer and some other entity named Apurva of Urvashi is the caterer. He also said that several cheques were issued by KSBC to different persons towards payment of Rs.77,79,00,000/-. This is a clear fraud committed by accused 1 to 3 in misappropriating the KSBC funds by creating bogus bills in the name of friend of accused No.1.*

*6. Though accused 3 has now retired upon attaining the superannuation, but he is still continued illegally as the Manager of the KSBC by accused 1 and 2 as he has readily helped them to transfer crores of rupees of KSBC funds in the names of their associates/friends by putting forward fake bills. Accused 1 to 3 along with other including some staff of KSBC and also some Members of the Executive Committee of KSBC hatched a criminal conspiracy to misappropriate crores of rupees of public funds of the KSBC and to make unlawful gain. Towards this end, accused 1 to 3 created fake bills showing fictitious amounts in the name of non-existing entities and their associates. Accused 1 to 3 withdrew lakhs of rupees in cash and also transferred funds from the bank accounts of KSBC falsifying the accounts depicting as expenses for Mysore Conference in the name of non-existent entities and also in the names of friends/associates of Accused No.1 Vishal Raghu.*

7. After entertaining doubts, I sent series of emails to the present Secretary, KSBC to furnish the bills and receipts of the conference. Though initially they delayed ignored the emails, I had to warn them of the legal consequences, I obtained relevant documents in the month of March 2024. Even as on to-day the accused 1 to 3 have refused to furnish documents asked by me. Accused 1 to 3 are in the process of creating further fake bills and bogus receipts to hush up their illegal acts.

8. Knowing fully well about misappropriation of crores of rupees of public money by accused 1 to 3, some members of the Executive Committee of the KSBC approved the fake bills/receipts/account statements submitted by accused 1 to 3 and their accomplices and misled the entire Bar Council and the Advocates fraternity. A detailed investigation is required regarding the role of these members of the Executive Committee of KSBC approving the fake bills. There are also other staff members of the KSBC and other close associates of Vishalaraghu and Vinay Manglekar who are involved in creating fake bills and duping the KSBC and the Government of crores of rupees.

9. All the documents and financial statements are in the custody of accused No.1, 2 and 3. Already they have destroyed prime evidence and created many bogus documents. Accused No.1 and 2 are very influential – very close to several Ministers and powerful politicians and they have started threatening those advocates who demand enquiry into the misappropriation of public funds. Accused no.1 has already approached Mr. Shariff, Proprietor of Shariff Furniture to give false statement and to support his fake bill. KSBC staff and other persons who know about the offences committed by the accused are afraid of disclosing the true details because of the fear from Accused No.1 and 2. Therefore, investigation is required to be entrusted to independent and specialized agency like the Central Bureau of Investigation.

10. Since the office of the KSBC is situated within the limits of this police station and major part of the offence has taken place in the office of the KSBC, this complaint is filed before this police station.

11. Therefore, you are requested to register the criminal case and take steps to see that the accused are punished in accordance with law.

Bangalore.  
17-04-2024

Yours faithfully,  
Sd/-

Copy to:

Commissioner of Police, Bangalore City.

**List of documents:**

1. Statement of receipts and payments for the State Level Advocates 10<sup>th</sup> Conference 2023.
2. Bill submitted by Shariff Furniture, Mysore for payment of Rs.70,00,000/- towards furniture, Shamiyana etc.
3. Undated receipt issued by Shariff Furniture for Rs.70,00,000/- showing Rs.50,00,000 as cash payment.
4. Bill dated 10-08-2023 for Rs.77,79,000 towards catering services issued by Anvi Enterprises, Mandya.
5. Undated receipt for Rs.77,79,000 issued by Anvi Enterprises, Mandya
6. Receipt dated 17-08-2023 issued by Piyush Ads and Events Bangalore for Rs.7,50,000
7. Invoices towards various purchases made by KSBC (totally 60 pages).
8. Letter dated 19-03-2024 from the KSBC to the complainant furnishing the details.
9. Letter dated 27-03-2024 from the KSBC to the complainant furnishing the details.
10. Complaint dated 01-04-2024 filed by the complainant before the KSBC.
11. Pen-Drive containing the voice messages from Shariff denying receipt of Rs.50,00,000/- cash.
12. Email dated 5-04-2024 by the complainant to the KSBC seeking information.
13. Email dated 6-04-2024 by the complainant to the KSBC seeking information."

This complaint becomes a crime in Crime No.37 of 2024. The registration of crime leads the petitioners to this Court in the subject petition. A coordinate Bench of this Court passed an order on 19-04-2024. The order reads as follows:

**"SVSJ**

19-04-2024

(Video Conferencing/Physical hearing)

**ORDER**

*Learned counsel for the petitioners submits that office objections have been complied.*

*Registry to verify.*

**ORDER ON I.A.NO.2/2024**

*Learned Senior Counsel Sri Udaya Holla submits that difference of opinion between two factions of the State Bar Council has resulted in registration of criminal case against the Chairman and Vice-Chairman of the Karnataka State Bar Council. He submits that even if the allegations are prima facie presumed to be true, the alleged offences do not get attracted. He submits that the income and expenditure made for the purpose of holding State Level Advocates Conference at Mysuru on 12th & 13th of August 2023, was submitted in the Council Meeting of the Karnataka State Bar Council and the same was approved and also ratified in the meeting of the elected members of the Bar Council and respondent no.2 was also present in the said meeting. Respondent no.2, thereafter, has approached the police making false and baseless allegations. He submits that on the very same allegations, another member of the Karnataka State Bar Council had earlier made a complaint to the Chairman of the Bar Council of India and on the basis of the said complaint, the Bar Council of India has appointed a three member committee to investigate into the allegations of misconduct, misappropriation, etc., alleged against the*

*petitioners herein. He submits that inspite of such an action being taken by the Bar Council of India, immediately thereafter respondent no.2 rushed to the police station and has lodged the first information against the Chairman, Vice-Chairman and staff of the Karnataka State Bar Council.*

*Per contra, De-facto complainant respondent No.2 who has appeared in person submits that complete papers were not furnished while submitting the income and expenditure accounts in the Karnataka Bar Council. He submits that the decision taken by the Bar Council of India has been questioned separately in a writ petition before this Court, which is pending consideration. He also submits that the material on record would go to show that payment of Rs.50,00,000/- has been made by the accused person to fictitious persons. There are serious charges of corruption against them. Matter needs investigation. He submits that he will file a detailed statement of objections and prays to adjourn the case.*

*Considering the submissions made on behalf of both the parties and taking into consider the material available on record, the nature of allegation made in the first information and in the background of the decision taken by the Bar Council of India, I am of the opinion that the matter needs consideration. Accordingly, I pass the following order:*

*Learned HCGP is directed to take notice for respondent No.1.*

*There shall be an interim order as prayed for till the next date of hearing as against the petitioners herein.*

*Liberty is granted to respondent No.2 to file his statement of objection and seek modification or vacating of the interim order."*

The coordinate Bench stalls further investigation against these petitioners on the score that another member of the Bar Council had complained to the Bar Council of India and on the basis of the

said complaint a three member committee is constituted to investigate into the allegations, but notwithstanding that, the complainant has rushed to the jurisdictional police to register the complaint. In the light of the afore-quoted complaint, it becomes germane to notice certain payments and receipts for the conference. It reads as follows:

*"KARNATAKA STATE BAR COUNCIL, BENGALURU  
KARNATAKA STATE ADVOCATES 10<sup>TH</sup> CONFERENCE 2023  
STATEMENT OF RECEIPTS & PAYMENTS*

<i>I</i>	<i>RECEIPTS</i>	<i>AMOUNT</i>	<i>TOTAL AMOUNT</i>
1	1. Previous Govt. Grant + Interest	58,00,000	1,33,00,000
	2. Amount transferred from KSBC	75,00,000	
2	Government Grant		50,00,000
3	Contribution from BCI- 7.8.2023		20,00,000
4	Delegation Fee		1,16,33,000
5	<b>Rent received for book stalls at Mysore</b>		
	1. All India Reporting Pvt Ltd., (RTGS)	25,000	1,00,000
	2. Premier Book House (RTGS)	25,000	
	3. Lawyers Law Book (Cheque)	25,000	
	4. Kiran Gowda Patil (Cash SSM)	20,000	
	5. Stephen Sunderraj (1 day)	5,000	
	<b>Total</b>		<b>3,20,33,000</b>
<i>II</i>	<b>EXPENDITURE</b>		<b>Amount</b>

1	<i>Trolley Bags &amp; Laptop bags given to delegates</i>		<i>1,29,61,000</i>
2	<i>Shamiana-Conference Exhibition Ground infrastructure and event management charges</i>		<i>70,00,000</i>
3	<i>Food &amp; Refreshment Expenses for 2 days (five times)</i>		<i>77,79,000</i>
4	<i>Musical Night Expenses:</i>		<i>7,50,000</i>
5	<i>Book &amp; Gift Hamper</i>		<i>1,07,390</i>
6	<i>Ex-gratia amount to Staff</i>		<i>95,000</i>
7	<i>Water Bottle Charges</i>		<i>4,21,000</i>
8	<i>Accommodation for BCI Members, KSBC Members, Staff, Lady Advocates and some delegates, VIPs, in various Hotels, Lodges, Choultry &amp; other charges</i>		<i>6,23,962</i>
9	<i>Exhibition Ground Rent &amp; Miscellaneous</i>		<i>4,90,286</i>
10	<i>Flight Charges for VIP</i>		<i>77,866</i>
11	<i>Secretary, Staff &amp; other Expenses</i>		<i>73,010</i>
12	<i>TDS Deduction at Bank</i>		<i>98,932</i>
13	<i>Transportation for Bar Association advocates from all Associations in the State, BCI members, VIP Transportation</i>		<i>2,18,389</i>
14	<i>Printing charges</i>		<i>3,05,650</i>
15	<i>Photos, Video Coverage, Hard Disk etc</i>		<i>1,85,000</i>
16	<i>Anchor-2 persons</i>		<i>55,000</i>
17	<i>Luggage charges to deliver bags to Bar Associations</i>		<i>56,865</i>
	<b>Total</b>		<b><i>3,12,98,350"</i></b>



A receipt from one Shariff Furniture becomes a part of the documents. It is undated and ₹ 50/- lakhs is said to have been paid to Shariff Furniture by way of cash; another Piyush Ads & Events have also issued a receipt that they have received ₹ 7,50,000/- by way of cash and another Anvi Enterprises of Mandya is said to have received ₹77,79,000/- through various cheques. Even this receipt does not carry date. The complainant then complains to the Chairman of the Bar Council. The Chairman of the Bar Council would constitute a committee to go into the allegations in which these petitioners are members. It is, therefore, the complainant has knocked at the doors of the jurisdictional Police registering the aforesaid complaint.

8. During the pendency of the petition, it is the contention that all the issues have been settled. The settlement of issues has happened pursuant to a resolution of the Bar Council on 02-03-2024, 11-03-2024 and 28-04-2024, the last of the resolution during the pendency of the subject petition. The subjects with regard to items 6, 7, 8 and 19 are taken up together and resolved in resolution No.42 of 2024. They read as follows:

**"Item No.6:** Consideration of the order dated 8-04-2024 passed by Hon'ble Chairman, Bar Council of India with regard to the State Level Advocates Conference organized by the Karnataka State Bar Council in August, 2023.

**Item No.7:** Discussion with regard to filing of complaint against Chairman and Vice-Chairman in Vidhana Soudha Police Station by Sri S. Basavaraju, Member, KSBC.

**Item No.8:** Consideration of the Memorandum dated 1-04-2024 received from Sri S. Basavaraj, Member, KSBC.

**Item No.19:** Consideration of the Income & Expenditure account in respect of State Level Conference 10<sup>th</sup> held on 12<sup>th</sup> and 13<sup>th</sup> August, 2023 duly audited by Auditor.

**Res.No.42/2024:** Item Nos. 6, 7, 8 and 19 were taken together and discussed in detail and IT IS FURHTER RESOLVED to close the matters. Report of the **audit as submitted in Item No.19 is also discussed in length and taken on record.** Further it is directed that the same be placed before the Hon'ble High Court of Karnataka in the pending petitions."

It is upon this resolution, it is said that, the complainant has participated in the meeting and signed the resolution. It is the contention of the complainant that there is no resolution of the Bar Council accepting illegality or corruption that has pervaded in these actions. Therefore, the *lis* revolves round seriously disputed questions of fact.

9. What is projected is misappropriation of funds. There are certain communications made by those persons to whom expenditure is shown that they have received the amount. These are to be tested in evidence. By mere marking of a statement before this Court particularly in cases of misappropriation, this Court would not go into the veracity of the statements made, unless it is investigated into in the least. In the light of seriously disputed questions of fact, if this Court would interfere at this stage, it would run foul of the judgment of the Apex Court in the case of **KAPTAN SINGH v. STATE OF UTTAR PRADESH**<sup>1</sup>, wherein it has held as follows:

"..... .."

**"9.1. At the outset, it is required to be noted that in the present case the High Court in exercise of powers under Section 482 CrPC has quashed the criminal proceedings for the offences under Sections 147, 148, 149, 406, 329 and 386 IPC. It is required to be noted that when the High Court in exercise of powers under Section 482 CrPC quashed the criminal proceedings, by the time the investigating officer after recording the statement of the witnesses, statement of the complainant and collecting the evidence from the incident place and after taking statement of the independent witnesses and even statement of the accused persons, has filed the charge-sheet before the learned Magistrate for the offences under Sections 147,**

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<sup>1</sup> (2021) 9 SCC 35

**148, 149, 406, 329 and 386 IPC and even the learned Magistrate also took the cognizance.** From the impugned judgment and order [Radhey Shyam Gupta v. State of U.P., 2020 SCC OnLine All 914] passed by the High Court, it does not appear that the High Court took into consideration the material collected during the investigation/inquiry and even the statements recorded. **If the petition under Section 482 CrPC was at the stage of FIR in that case the allegations in the FIR/complaint only are required to be considered and whether a cognizable offence is disclosed or not is required to be considered. However, thereafter when the statements are recorded, evidence is collected and the charge-sheet is filed after conclusion of the investigation/inquiry the matter stands on different footing and the Court is required to consider the material/evidence collected during the investigation.** Even at this stage also, as observed and held by this Court in a catena of decisions, the High Court is not required to go into the merits of the allegations and/or enter into the merits of the case as if the High Court is exercising the appellate jurisdiction and/or conducting the trial. As held by this Court in Dineshbhai Chandubhai Patel [Dineshbhai Chandubhai Patel v. State of Gujarat, (2018) 3 SCC 104 : (2018) 1 SCC (Cri) 683] in order to examine as to whether factual contents of FIR disclose any cognizable offence or not, the High Court cannot act like the investigating agency nor can exercise the powers like an appellate court. It is further observed and held that that question is required to be examined keeping in view, the contents of FIR and prima facie material, if any, requiring no proof. **At such stage, the High Court cannot appreciate evidence nor can it draw its own inferences from contents of FIR and material relied on. It is further observed it is more so, when the material relied on is disputed. It is further observed that in such a situation, it becomes the job of the investigating authority at such stage to probe and then of the court to examine questions once the charge-sheet is filed along with such material as to how far and to what extent reliance can be placed on such material.**

9.2. In Dhruvaram Murlidhar Sonar [Dhruvaram Murlidhar Sonar v. State of Maharashtra, (2019) 18 SCC 191 :

(2020) 3 SCC (Cri) 672] after considering the decisions of this Court in Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , it is held by this Court that exercise of powers under Section 482 CrPC to quash the proceedings is an exception and not a rule. **It is further observed that inherent jurisdiction under Section 482 CrPC though wide is to be exercised sparingly, carefully and with caution, only when such exercise is justified by tests specifically laid down in the section itself. It is further observed that appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 CrPC.** Similar view has been expressed by this Court in Arvind Khanna [CBI v. Arvind Khanna, (2019) 10 SCC 686 : (2020) 1 SCC (Cri) 94] , Managipet [State of Telangana v. Managipet, (2019) 19 SCC 87 : (2020) 3 SCC (Cri) 702] and in XYZ [XYZ v. State of Gujarat, (2019) 10 SCC 337 : (2020) 1 SCC (Cri) 173] , referred to hereinabove.

9.3. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand, we are of the opinion that the High Court has exceeded its jurisdiction in quashing the criminal proceedings in exercise of powers under Section 482 CrPC.

10. The High Court has failed to appreciate and consider the fact that there are very serious triable issues/allegations which are required to be gone into and considered at the time of trial. The High Court has lost sight of crucial aspects which have emerged during the course of the investigation. The High Court has failed to appreciate and consider the fact that the document i.e. a joint notarised affidavit of Mamta Gupta Accused 2 and Munni Devi under which according to Accused 2 Ms Mamta Gupta, Rs 25 lakhs was paid and the possession was transferred to her itself is seriously disputed. It is required to be noted that in the registered agreement to sell dated 27-10-2010, the sale consideration is stated to be Rs 25 lakhs and with no reference to payment of Rs 25 lakhs to Ms Munni Devi and no reference to handing over the possession. However, in the joint notarised affidavit of the same date i.e. 27-10-2010 sale consideration is stated to be Rs 35 lakhs out of which Rs 25 lakhs is alleged to have been paid and there is

*a reference to transfer of possession to Accused 2. Whether Rs 25 lakhs has been paid or not the accused have to establish during the trial, because the accused are relying upon the said document and payment of Rs 25 lakhs as mentioned in the joint notarised affidavit dated 27-10-2010. It is also required to be considered that the first agreement to sell in which Rs 25 lakhs is stated to be sale consideration and there is reference to the payment of Rs 10 lakhs by cheques. It is a registered document. The aforesaid are all triable issues/allegations which are required to be considered at the time of trial. The High Court has failed to notice and/or consider the material collected during the investigation.*

*11. Now so far as the finding recorded by the High Court that no case is made out for the offence under Section 406 IPC is concerned, it is to be noted that the High Court itself has noted that the joint notarised affidavit dated 27-10-2010 is seriously disputed, however as per the High Court the same is required to be considered in the civil proceedings. There the High Court has committed an error. Even the High Court has failed to notice that another FIR has been lodged against the accused for the offences under Sections 467, 468, 471 IPC with respect to the said alleged joint notarised affidavit. Even according to the accused the possession was handed over to them. However, when the payment of Rs 25 lakhs as mentioned in the joint notarised affidavit is seriously disputed and even one of the cheques out of 5 cheques each of Rs 2 lakhs was dishonoured and according to the accused they were handed over the possession (which is seriously disputed) it can be said to be entrustment of property. Therefore, at this stage to opine that no case is made out for the offence under Section 406 IPC is premature and the aforesaid aspect is to be considered during trial. It is also required to be noted that the first suit was filed by Munni Devi and thereafter subsequent suit came to be filed by the accused and that too for permanent injunction only. Nothing is on record that any suit for specific performance has been filed. Be that as it may, all the aforesaid aspects are required to be considered at the time of trial only.*

**12. Therefore, the High Court has grossly erred in quashing the criminal proceedings by entering into the**

***merits of the allegations as if the High Court was exercising the appellate jurisdiction and/or conducting the trial. The High Court has exceeded its jurisdiction in quashing the criminal proceedings in exercise of powers under Section 482 CrPC.***

13. Even the High Court has erred in observing that original complaint has no locus. The aforesaid observation is made on the premise that the complainant has not placed on record the power of attorney along with the counter filed before the High Court. However, when it is specifically stated in the FIR that Munni Devi has executed the power of attorney and thereafter the investigating officer has conducted the investigation and has recorded the statement of the complainant, accused and the independent witnesses, thereafter whether the complainant is having the power of attorney or not is to be considered during trial.

14. In view of the above and for the reasons stated above, the impugned judgment and order [Radhey Shyam Gupta v. State of U.P., 2020 SCC OnLine All 914] passed by the High Court quashing the criminal proceedings in exercise of powers under Section 482 CrPC is unsustainable and the same deserves to be quashed and set aside and is accordingly quashed and set aside. Now, the trial is to be conducted and proceeded further in accordance with law and on its own merits. It is made clear that the observations made by this Court in the present proceedings are to be treated to be confined to the proceedings under Section 482 CrPC only and the trial court to decide the case in accordance with law and on its own merits and on the basis of the evidence to be laid and without being influenced by any of the observations made by us hereinabove. The present appeal is accordingly allowed.”

*(Emphasis supplied)*

The Apex Court has clearly held that if the issue in any *lis* revolves round disputed questions of fact, the Court exercising jurisdiction

under Section 482 of the Cr.P.C., should not quash those proceedings, unless there are documents in support of the accused, which are all of unimpeachable character and sterling quality. There are none in the case at hand as every document is disputed.

10. Finding no merit in the petition, the petition stands **rejected**. 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 investigation/proceedings initiated against them.

Interim order of any kind subsisting shall stand dissolved.

Pending applications, if any, also stand disposed.

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

bkp  
CT:MJ