

Reserved on :16.07.2025
Pronounced on :05.08.2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 05TH DAY OF AUGUST, 2025

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.5763 OF 2024

BETWEEN:

- 1 . DR.SUDHA (K.A.S)
W/O. STROINY JOSEPH PIAS,
AGED ABOUT 44 YEARS,
FORMER ASSISTANT COMMISSIONER AND
LAND ACQUISITION OFFICER,BDA.
NO. 7, T. CHOWDAIAH ROAD,
KUMARA PARK WEST,
BENGALURU – 560 020.
- 2 . SRI STROINY JOSEPH PIAS
S/O. STROINEY PIAS,
AGED ABOUT 46 YEARS.

BOTH RESIDING AT NO.46,
JEEVANADHI SAMSKAR VILLA
VIRUPAKSHA NAGAR,
THINDLU MAIN ROAD,
KODIGEHALI,
BENGALURU – 560 092.

... PETITIONERS

(BY SRI PARAMESHWAR N.HEGDE, ADVOCATE)

AND:

- 1 . STATE OF KARNATAKA
THROUGH LOKAYUKTA POLICE
REPRESENTED THROUGH ITS
SPECIAL PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU – 01.

- 2 . ABRAHAM T.J.,
S/O LATE JOSEPH T.A.,
AGED ABOUT 63 YEARS
PRESIDENT, KARNATAKA ANTI-GRAFT AND
ENVIRONMENT FORUM, NO.2336
ASHIRWAD, 2ND A CROSS
16TH B MAIN, HAL 2ND STAGE
INDIRANAGARA
BENGALURU – 560 008.

... RESPONDENTS

(BY SRI LETHIF B., ADVOCATE FOR R-1;
SRI ABRAHAM T.J., PARTY-IN-PERSON R-2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO i. SET ASIDE THE ORDER DATED 20.08.2020 PASSED BY THE COURT OF XXIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE AND SPECIAL JUDGE FOR PREVENTION OF CORRUPTION ACT (CCH-24), BENGALURU CITY IN PCR.NO.35/2020; ii. CONSEQUENTLY QUASH THE FIR IN CR.NO.33/2020 REGISTERED FOR THE OFFENCES P/U/S 7, 8, 9, 10, 11, 12, 13, 15 OF THE PREVENTION OF CORRUPTION ACT, 1988, SECTIONS 28 AND 29 OF KARNATAKA STAMPS ACT, 1957, SECTIONS 177, 417, 418, 420 AND 120B OF IPC, REGISTERED BY THE KARNATAKA LOKAYUKTA POLICE AND PENDING ON THE FILE OF THE COURT OF XXIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE AND SPECIAL JUDGE FOR PREVENTION OF CORRUPTION ACT (CCH-24), BENGALURU CITY.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 16.07.2025, 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 and 2 are before this Court calling in question registration of a crime in Crime No.33 of 2020 registered for offences punishable under Sections 7, 8, 9, 10, 11, 12, 13 and 15 of the Prevention of Corruption Act 1988 ('the Act' for short) arising out of a private complaint in P.C.R.No.35 of 2020 preferred by the 2nd respondent.

2. Heard Sri Parameshwar N. Hegde, learned counsel appearing for the petitioners, Sri B. Lethif, learned Special Public Prosecutor appearing for respondent No.1 and Sri T.J. Abraham, respondent No.2, party in person.

3. Facts in brief, germane, are as follows; -

3.1. Petitioners are accused Nos.1 and 2 and 2nd respondent is the complainant. A private complaint comes up invoking Section

200 of the Cr.P.C. against these accused alleging that accused No.1 is an officer of the Karnataka Administrative Service and at the relevant point in time was posted and working as an Assistant Commissioner and Land Acquisition Officer of the Bangalore Development Authority ('BDA' for short). On 14-06-2019 it is the averment in the complaint that one Praveen Gadiyar and Sri Mallik Mandesh @ Mani inform the complainant that they have adequate material that accused No.1, the Land Acquisition Officer in the BDA and in-charge of Nadaprabhu Kempegowda Layout, Sir M. Vishweshwaraiah Layout, HRBR Layout and Jnanabharathi Layout has been allegedly receiving illegal gratification from owners of the property relating to files that come before her for consideration in exchange of passing awards for the lands acquired or for approval of the files. The complainant alleges that accused No.1 was collecting ₹5/- lakhs per acre of land to grant awards or pass necessary orders. Based upon this and several other vivid details of corruption, the 2nd respondent invokes the jurisdiction of the learned Magistrate and registers a private complaint seeking investigation at the hands of the Karnataka Lokayukta.

3.2. The learned Magistrate refers the matter for investigation under Section 156(3) of the Cr.P.C. to the Karnataka Lokayukta for investigation, pursuant to which, a crime in Crime No.33 of 2020 comes to be registered for several offences as quoted hereinabove. The investigation started and during the conduct of investigation, the petitioner knocks at the doors of this Court in the subject petition, calling in question the order on the score that it is in violation of Section 17 or 17A of the Act. This Court, owing to the averments, grants an interim order of stay on 08-08-2024, which is in subsistence even to this date.

4. The learned counsel appearing for the petitioners' Sri Parameshwar N. Hegde would vehemently contend that the private complaint registered is contrary to law. It is his submission that there is no approval granted under Section 17A of the Act by the appropriate authority for conduct of investigation. The second ground urged is that the learned Magistrate has referred the matter for investigation under Section 156(3) of the Cr.P.C., without jurisdiction, inasmuch as there is no offence of money laundering indicated in the complaint. Therefore, he could not have referred

the matter for investigation, as it had to come before the Special Court dealing with money laundering cases. The third ground urged is that, there is no compliance with the judgment of the Apex Court in the case of **PRIYANKA SRIVASTAVA V. STATE OF UTTAR PRADESH AND OTHERS** reported in **(2015) 6 SCC 287**, as the complaint does not accompany with an affidavit depicting that the complainant had complied with Section 154(1) and 154(3) of the Cr.P.C., prior to invoking the jurisdiction of the learned Magistrate. On these grounds he would seek quashment of order of reference and consequent registration of crime.

5. Per contra, the complainant in person would refute the submissions of the learned counsel for the petitioner in contending that approval under Section 17A of the Act is already in place. It is only after the said approval being in place, the investigation is carried forward. Non-compliance with Section 154(1) or 154(3) of the Cr.P.C. would not vitiate the crime is the submission of the complainant in person. He would submit that there are grave offences of corruption and violation of innumerable statutes in the conduct of affairs of the BDA concerning three layouts, details of

offences are vividly narrated in the complaint. Therefore, this Court should not on mere technicality interfere at this stage of investigation. He would seek dismissal of the petition.

6. The learned Special Public Prosecutor Sri B. Lethif representing the Karnataka Lokayukta would contend that the FIR so registered against the petitioners/accused Nos. 1 and 2 does not contain the offence under the Money Laundering Act. It is plain and simple FIR registered for offences punishable under the Act and the IPC. He would contend that the Police after investigation have prepared a charge sheet, spanning 7 to 13 volumes and have placed summary of the volumes before this Court for perusal. He would further contend that the offences alleged are for disproportionate assets *inter alia*, as obtaining under Section 13(1) and 13(2) of the Act. If it is an offence under Section 13 of the Act, there is no requirement of prior approval for conduct of investigation under Section 17A of the Act. Even otherwise, he would contend that the investigation has commenced only after approval under Section 17A. He would also seek dismissal of the petition.

7. I have given my anxious consideration to the submissions made by the respective learned counsel, as also respondent No.2 in person and have perused the material on record.

8. The service of the 1st petitioner in the BDA as Assistant Commissioner and Land Acquisition Officer is a matter of record. All the allegations spring during the period in which the 1st petitioner was functioning as such in the BDA. The 2nd respondent/complainant invokes the jurisdiction of the learned Magistrate under Section 200 of the Cr.P.C., by registering a private complaint in P.C.R.No.35 of 2020. Since the entire issue has now triggered from the complaint, certain paragraphs of the complaint, which are germane to be noticed, are quoted hereunder for the purpose of ready reference:

" "

BRIEF FACTS OF THE CASE:

7. That, on 14-06-2019 one Sri.Praveen Gadiyar and Sri. Mallik Mandesh @ Mani had contacted the Complainant and brought to his notice, that physical assaults and harassment was being perpetuated upon them by the Accused No.1 and Accused No.2 named herein. That the Accused No.1 is a Public Servant and was working as an Assistant Commissioner and Land Acquisition officer in the Bengaluru Development Authority-BDA. Copies of the Police Complaints given by

Sri.Praveen Gadiyar and Sri. Mallik Mandesh @ Mani to the Commissioner of Police and the State Human Rights Commission are annexed herewith and marked as **DOCUMENT NO.3, 4 and 5** respectively.

8. That, the said persons have also brought to the knowledge of the Complainant that, the Accused No.1 who was a land Acquisition Officer in BDA being in-charge of Nadaprabhu Kempegowda Layout, Sir M.Vishweshwaraiah Layout, HRBR Layout and Jnanabharathi Layout etc., had been allegedly collecting illegal gratification/bribes from the owners/persons relating to the files that come before her for consideration, to pass the Awards for the lands acquired or for the approval of those files. It was further brought to the knowledge of the Complainant that the Accused No.1 was charging around Rs.5 Lakhs per Acre of lands, to grant Awards or pass necessary Orders for the files that are before her for consideration.

9. That, for the purpose of contacting the owners of the lands/files and negotiating the bribe amounts with them, to pass awards or approve their file, the Accused No.1 has allegedly engaged around 8 to 10 agents such as the mentioned Sri. Praveen Gadiyar and Sri.Mallik Mandesh @ Mani, who execute the bribe negotiation, collection and re-circulation of the bribe amounts as loans at high rate of interest to different people, which is a part of the private illegal money lending/launders racket of the Accused No.1 jointly with her husband Accused No.2. It is reliably learnt that it is not just the Accused No.1 who has engaged/deployed agents in the BDA but, other officers including the Commissioner himself have allegedly deployed/engaged agents to operate on their behalf for the collection of bribes.

10. That, the modus operandi of the illegal private financing/money lending/launders racket is that, these agents like Sri. Praveen Gadiyar and Sri.Mallik Mandesh @ Mani would contact the respective land owners, whose basic details are provided to the agents by the 1st Accused when files reach her for consideration and they negotiate for the bribe, collect the bribe and reach it to the Accused No.1 or at times to her husband i.e., the Accused No.2 herein OR deliver it to other people as directed by either them.

11. That, the bribe amounts would be handed over to particular persons as directed by the Accused No.1 and sometimes by the 2nd Accused, as a part of their private illegal money lending/laundersing business at an interest rate of around 10% to 15% per month and in some cases if the need of the person seeking the private loan is serious, the interest would even go up to 20% per month. The said hand loans are given on the strength of collateral documents such as signed blank bond papers, signed blank cheques and original property documents belonging to the persons availing the private hand loan and it was the responsibility of the agents of Accused No. 1 to ensure that the documents are physically obtained from the clients, while delivering the money.

....

DISPROPORTIONATE ASSETS IN COMPARISON TO THE KNOWN SOURCE OF INCOME OF THE ACCUSED NO.1

20. That the total of the Official Income of the 1st Accused, from her known source of Income, that could have been earned officially, is a maximum of Rs. 1,55,37,600/-(Rupees One Crore Fifty-five Lakhs Thirty-seven Thousand and Six Hundred only) till date itself, from the date of her appointment into government service. This is the maximum cumulative salary that could have been accumulated earned for around 13 years. Rs. 1,55,37,600/-is the maximum amount that should be available with the 1st Accused, if she has not spent a Single Naya Paisa from her salaries till date.

21. The salaries earned has been computed on the basis of the probability and eligibility of the 1st Accused as a government servant, in different known capacities, and the maximum limit has been taken for the purpose of computing. The chart here-in-below will clearly explain the maximum amount that 1st Accused could have earned as a Government servant:

**AS AN ASST. COMMISSIONER LAND ACQUISITION
OFFICER THE SALARY WOULD BE BETWEEN RS.30,400/-
TO RS.51,300/-**

ASST. COMMISSIONER LAND.ACQN. OFFICER BDA	NO. OF YEARS	MAXIMUM PER MONTH	YEARS X MONTHS	TOTAL SALARY INCOME.
06/06/2007	13 Yrs	51,300/-	X13 yrs x 12 Mths	Rs.80,02,800/-
01/07/2016 KAS Officers	4 Yrs	51,300/-	X 4 yrs x 12 Mths	Rs.24,62,400/-

**AS A K.A.S. GROUP – A JUNIOR SCALE OFFICER THE
SALARY WOULD BE BETWEEN RS.56,800/-TO RS.99,600/-**

Date of Appointment to govt. and confirmation to KAS (JS) Junior Scale.	NO. OF YEARS	MAXIMUM PER MONTH	YEARS X MONTHS	TOTAL SALARY INCOME.
06/06/2007	13 Yrs	99,600/-	X13 yrs x 12 Mths	Rs.1,55,37,600/-
01/07/2016 KAS Officers	4 Yrs	99,600/-	X 4 yrs x 12 Mths	Rs.47,80,800/-

22. That the approximate known sources of income of the 1st Accused calculated at the maximum rate of salary eligibility of a KAS (JS) Scale officer from the date of appointment to government service itself, is Rs.1,55,37,600/-(Rupees Fifty-five Lakhs Thirty-seven Thousand Six Hundred only) calculated at the rate of Rs.99,600/-(Rupees Ninety-nine Thousand Six Hundred only) per month, from 06-06-2007 till date, without a single rupee having been spent out of it till date. A copy of both the Pay scales of an officer of the rank of the 1st Accused could earn is produced herewith and marked as **DOCUMENT NO.12.** (Sic)

23. That, the Accused No.1 is staying in #46, Jeevanadhi Samskar Villa, Virupaksha Nagara, Thindlu Main Road, Kodigehalli, Bengaluru – 560 092, is registered jointly in the names of Accused No.1 and 2. The Sale Deed of the said property was registered at the office of the sub-Registrar. Ganganagara vide Document No.GNR-1-02933-2016-17, Book I and stored in VD

No.GNRD124 dated 16-11-2016. The said document indicates that the purchase/sale value of the above mentioned property is Rs. 1,08,66,000/- (Rupees One Crore Eight Lakhs Sixty-six Thousand only). Copy of the registered Sale Deed dated 16-11-2016 with respect to property mentioned above bearing #46, Jeevanadhi Samskar Villa, Virupaksha Nagara, Thindlu Main Road, Kodigehalli, Bengaluru - 560 092 is annexed herewith and marked as DOCUMENT NO.13.

24. That, the actual value settled for the said property was around Rs.4 Crores. Out of which Rs. 1,08,66,000/- (Rupees One Crore Eight Lakhs Sixty-six Thousand only) was paid in white (accounted money) and the remaining Rs.2,91,34,000/-(Rupees Two Crore Ninety-one Lakh Thirty-four Thousand only) was allegedly paid in cash. That, Sri. Mallik Mandesh @ Mani (who was working as an agent with the Accused No.1) was allegedly present during the said transaction and he has allegedly carried Rs.3 Crores in cash to be paid during the registration of the said property.

25. On account of playing a fraud upon the Government of Karnataka, by intentionally NOT declaring the actual value of the property and NOT paying the appropriate duty for the same is a violation of Section 28, to be penalized under Section 59 of the Karnataka Stamp Act, attracting Sections 177, 417, 418 and 420 of the Indian Penal Code, 1860 and also attracting prosecution under Section 5 of the Money Laundering Act.

26. The sale value of #46, Jeevanadhi Samskar Villa Virupaksha Nagara, Thindlu Main Road, Kodigehalli, Bengaluru-560 092 starts at Rs.4.52 Crores and upwards, according to the company's advertisement which is available on their website even till date. The copies of the registered deeds of other purchasers of Villas in the same compound if verified, will testify the fact that the cost of the Villas were in the range of Rs.4 Crores and upwards. Copy of the Villa's advertisement downloaded from https://www.commonfloor.com/sreenidhi-jeevanadi-sanskar-bangalore/povp-ty4h_5 website is enclosed herewith and marked as DCOUMENT NO.14.

27. That the investment for the interiors of the mentioned Villa has been around Rs.2 Crores, which are allegedly billed and purchased in the names of agents of Accused No. 1, out of which some of the items were purchased/bills raised in the name of Sri. Mallik Mandesh @ Mani using his PAN card bearing No.CTSPM0649M. Those bills itself would come up to a tune of around Rs.20 Lakhs. The actual amounts spent on the interiors will be established on verification of the purchase details of all the costly items in the Villa. A chart of the items purchased by the Accused No.1 using the identity of Sri. Mallik Mandesh @ Mani and other agents are made out here under for the reference of this Hon'ble Court and the documents mentioned in the said chart are marked as **DOCUMENT NO.15** and **16** collectively. On account of using the proceeds of the crime (unaccounted money) the 1st and 2nd Accused deserve to be tried and punished under the Money Laundering Act also.

28. That, the Accused No.1 has obtained a loan from Sundaram Housing Finance Pvt., Ltd., for the purchase of the above mentioned Villa and the EMI's were being paid with the illegally collected bribe money 'Proceeds of Crime' or the interest amounts from the various persons to whom the corruption amounts/'Proceeds of Crime' were lent out on interest, is established from the fact that some of the installments/EMI's for the loan of the Accused No.1 taken from Sundaram Housing Finance Pvt., Ltd., were paid by Sri.Mallik Mandesh @ Mani through his bank account (IMPS transaction) with the money he had collected as bribe or interest from the clients of Accused No.1. In the same manner payments of the instalments/EMIs' have been paid by other agents of the Accused No.1. Which will be revealed if all the installment payment, for the villa is verified during investigation and co-related with the account holders, from whose accounts the money was transferred to the loan account of the villa. Once again these illegal transaction involving the 'Proceeds of Crime' would attract the provisions of Money Laundering Act too.

29. That, the Accused No.1 has got a property bearing Sy.No.12-13 and 12-28 measuring 2 Acres 32

Cents and 45 Cents respectively situated in Kadavara Grama, Kundapura Taluk, Udupi District, registered Sale Deed dated 02-07-2016 bearing Document No.KUN-1-01353-2016-17, Book I, Stored in CD No.KUND196 registered at the office of the Sub-Registrar, Kundapura. The registration of the same was done indicating the value as Rs.10,50,000/- (Rupees Ten Lakhs Fifty Thousand only) and the balance of Rs. 1,41,85,000/- (Rupees One Crore Forty-one Lakhs Eighty-five Thousands only) was paid in cash. The rate of the said property was actually finalized at Rs.55,000/- per cent. The total for 2 Acres and 77 Cents would be Rs.1,52,35,000/- (Rupees One Crore Fifty-two lakhs Thirty -five Thousands only). The cash amount handed over for the transaction was Rs.1,41,85,000/- (Rupees Forty-one Crore Lakh Eighty-five Thousands only) was allegedly executed in the physical presence of the Sri Praveen Gadiyar who is also a witness in the said property registration document. Copies of the Sale Agreement dated 18-10-2015 and Sale Deed dated 02.07.2016 is produced herewith as DOCUMENT NOs. 17 and 18 respectively. On account of playing a fraud upon the Government of Karnataka, to intentionally NOT declaring the actual value of the property and NOT paying the appropriate duty for the same is in violation of Section 28, to be penalized under Section 59 of the Karnataka Stamp Act, attracting Sections 177, 417, 418 and 420 of the Indian Penal Code, 1860 and also attracting prosecution under Section 5 of the Money Laundering Act.

30. In a similar fashion a Farm House with the farm lands measuring around 2.5 Acres has been allegedly purchased in Doddaballapur, by the Accused No.1 in the name of her husband i.e. the Accused No.2 herein. But has officially registered just a part of the lands i.e., lands measuring 22.08 Guntas and 4.08 Guntas respectively, both situated at Sy.No131 and 132 respectively of Gunjur Grama, TubagereHobli, Doddaballapura Taluk, Bengaluru Rural, District. The actual value settled for the said lands was allegedly around Rs.3,00,00,000/- (Rupees Three Crores only) but the registration of the same was

executed indicating the value as Rs. 16,87,500/- and Rs.3,37,500/- respectively totaling to Rs.20,25,000/- (Rupees Twenty Lakhs Twenty-five Thousand only). The balance amount of Rs.2,79,75,000/-(Rupees Two Crore Seventy-nine Lakhs Seventy-five Thousand only) was allegedly paid in cash. The said properties were registered at the office of the Sub-Registrar, Doddaballapura on 03-04-2012 vide Document No. DBP-1-00056-2012-13, Book I, Stored in CD No.DBPD269 and Document No.DBP-1-00057-2012-13, Book I, Stored in CD No.DBPD269.The entire 2.5 Acres is currently in the physical possession of the Accused No.1 and 2. Copies of the registered Sale Deeds of the above mentioned properties are annexed herewith and marked as DOCUMENT NO.19 and 20 respectively.

31. That, the Accused No.1 has a property/flat bearing No.601, Wind D, Block Fern, 6th Floor, VDB Seldon Apartment, Shivanahalli, YelahankaHobli, Bengaluru measuring 1733 Sq. Fts. This Flat was purchased in the joint names of the Accused No.1 and her mother-in-law Smt.Dorothy Pias vide Document No.YAN-1-08405-2012-13, Book 1, stored in CD NO.YANB453 at the office of the Sub-Registrar, Yelahanka on 15-01-2013. The actual value of the said flat was allegedly around Rs.1,80,00,000/- (Rupees One Crore Eighty Lakhs only)but the registration of the same was executed indicating the value as Rs. 17,96,456/- (Rupees Seventeen Lakhs Ninety-six Thousand Four Hundred and Fifty-six only). The balance amount of Rs.1,62,03,544/- (Rupees One Crore Sixty-two Lakhs Three Thousand Five Hundred and Forty-four only) was allegedly paid in cash. Copies of the registered Sale Deed dated 15-01-2013 and Rectification Deed dated 21-07-2014 are produced herewith as DOCUMENT Nos. 21 and 22.

32. It is reliably learnt that the Accused No.1 with the knowledge and connivance of one Deputy Secretary of BDA has illegally sold large tracts of government lands in Sy.No.104, 105 & 73 measuring 150 Acres in Bhimanakuppe of Kengeri Hobli by allegedly creating bogus documents in favour of various persons and the Accused No.1 has illegally collected over 150 Crores of

rupees, which will come out of an investigation, if undertaken by any reliable investigating agency.

33. Interestingly it has also come to the notice of the Complainant that the Accused No.1 has the habit of purchasing different costly items through online shopping from Flipkart and Amazon etc., for around Rs.6 to 7 Lakhs every month. The items purchased by her are gifted to various public servants/officers or their family members and influential person when she meets them to get some work done.

34.The already known/available details of the amounts, based on available documents, unaccounted/corruption money which the Accused has allegedly invested, is Rs. 9,31,10,544/- (Rupees Nine Crores Thirty-one Lakhs Ten Thousands Five Hundred and Forty-four only).

Sl. No.	PROPERTY DETAILS	ACTUAL PRIZE OF THE PROPERTY	TRANSACTION AMOUNT METNIONED IN THE SALE DEEDS	BALANCE AMOUNT ALLEGEDLY PAID IN CASH
1.	Villa property bearing No.46, JeevanadhiSamskar Villa, VirupakshaNagara, Thindlu Main Road, Kodigehalli, Bengaluru - 560 092	Rs.4,52,00,000/-	Rs.1,08,66,000/-	Rs.2,91,34,000/-
2.	Survey No.12-13 and 12-28 measuring 2 Acres 32 Cents and 45 Cents respectively situated in KandavaraGrama, Kundapura Taluk, Udupi District	Rs.1,52,35,000/-	Rs.10,50,000/-	Rs.1,41,85,000/-
3.	Farm land and farm house measuring 22.08 Guntas and 4.08 Guntas situated in Sy.No.131 and 132	Rs.3,00,00,000/-	Rs.16,87,500/- (+)Rs.3,37,500/- (+)totalling to Rs.20,25,000/-	Rs.2,79,75,000/-

	respectively GunjurGrama, Tubagere Hobli, Doddaballapura Taluk, Bangalore Rural District			
4.	Converted property measuring 2718.23 Sq.Mts Cents situated in Sy.No. 101/1, Vaddarse Village, Bramhavara Taluk, Udupi District	Rs.82,00,000/-	Rs.25,87,000/-	Rs.56,13,000/-
5.	Property/Flat bearing No.601, Wind D, Block Fern, 6 th Floor, VDB Seldon Apartment, Shivanahalli, Yelahanka Hobli, Bengaluru measuring 1733 Sq.Fts	Rs.1,80,00,000/-	Rs.17,96,456/-	Rs.1,62,03,544/-
	TOTAL:	Rs.11,66,35,000/- (Market Value)	Rs.1,83,24,456/- (Registered For)	Rs.9,31,10,544/- (Unaccounted Amount paid.)

35. These are excluding the EMI amounts paid through Sri. Mallik Mandesh @ Mani's account and the amounts spent on interiors using Sri. Mallik Mandesh @ Mani's Aadhar Card/PAN card details.

36. Over and above these, the Accused No.1 has evolved a methodology to convert her ill gotten 'Proceeds of Crime' money (unaccounted) into white(accounted) through her husband Accused No.2 in the name of producing movies investing very little amounts. But, fabricating records to make it appear that these unsuccessful/unseen movies have generated huge profits. This is allegedly done by the fabrication of records to falsely show huge income from the movies can be established when the investigation goes into the source of money invested and the actual revenues earned through these unpopular movies which have never seen any days of sunlight.

37. Public administration, no doubt involves a vast amount of administrative discretion which shields the fraudulent actions of the administrative authority in good faith. But where it is found that exercise of discretion was malafide and any person who does anything with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person including the State, shall attract the provisions of the Prevention of Corruption Act, as well as the other applicable penal provisions for punishment.

38. Under these circumstances, the Complainant has presented this complaint for prosecuting the Accused persons as they have evidently committed the offences under Section-7, 8, 9, 10, 11, 12 13(1)(a)(b)(d)(e) (2) and 15 of the Prevention of Corruption Act, 1988 R/w. Sections 28 and Section 59 of The Karnataka Stamp Act, Sections 120A, 177, 417, 418 and 420 of the Indian Penal Code, 1860, along with Section 5 of the Money Laundering Act, 2002, and all other applicable provisions of Laws in force.

PRAYER

WHEREFORE, IT IS PRAYED THAT THIS HON'BLE COURT MAY BE PLEASED TO:

- (i) **Proceed to inquire into the case under Section 202 of the Code of Criminal Procedure, 1973 and take cognizance against the Accused persons for the offences punishable under Sections 7, 8, 9, 10, 11, 12,13(1)(a), 13(1)(b), 13(1)(d), 13(1)(e), 13(2) and 15 of the Prevention of Corruption Act, 1988 read with Sections 28 and Section 59 of the Karnataka Stamp Act, Sections 120A, 177, 417, 418 and 420 of the Indian Penal Code, 1860, along with Section 5 of the Money Laundering Act, 2002 and all other applicable provisions of Law, OR**
- (ii) **IN THE ALTERNATIVE, refer the complaint to be investigated by any agency other than the Anti**

Corruption Bureau, as their investigation will be marred by 'confirmation syndrome', under Section 156(3) of the Code of Criminal Procedure, 1973 to safeguard and uphold the Rule of Law in this Country, to meet the ends of justice."

(Emphasis added)

9. The learned Magistrate refers the matter for investigation under Section 156(3) of the Cr.P.C. The order of reference dated 20.08.2020 reads as follows:

"ORDER

Complaint in P.C.R.No.35/2020 is ordered to be referred under section 156(3) of the Cr.P.C. for investigation to the Superintendent of Police, Anti-Corruption Bureau. Bengaluru City Division, Bengaluru.

Office is directed to send this order along with complaint and other documents to the Superintendent of Police, Anti-Corruption Bureau, City Division, Bengaluru.

Report to be submitted to this Court on or before 17.10.2020."

(Emphasis added)

The aforesaid order of reference results in registration of a crime in Crime No. in Crime No. 33 of 2020 for the offences punishable under Sections 7, 8, 9, 10, 11, 12, 13, 15 of the Prevention of Corruption Act, 1988, Sections 28 and 29 of Karnataka Stamps Act,

1957, Sections 177, 417, 418, 420, and 120B of the Indian Penal code.

10. The Karnataka Lokayukta Police began investigation, at which point in time the petitioners approach this Court in the subject petition. This Court directed the petitioner to cooperate with the investigation, but restrained the Karnataka Lokayukta from filing the final report without the leave of the Court. Therefore, the investigation is conducted. Since this Court had entertained the petition and directed investigation, the Karnataka Lokayukta Police have placed charge sheet material before this Court and submitted that the charge sheet is kept ready to be filed before the concerned Court. The charge sheet spans into 13 volumes, of material against the petitioners, and a summary is placed before this Court for perusal of investigation, which demonstrates how every allegation against the petitioners are *prima facie* met. Quoting contents of the charge sheet in this order would undoubtedly prejudice defence of the petitioners before the concerned Court. Therefore, this Court desist from quoting contents/observations in the charge sheet. But, would undoubtedly observe that the offences are grave, *prima facie*

all of them are met and the acts of petitioner No.1 in particular, are deep seeped in corruption.

11. The learned counsel for the petitioners has projected three pillars of attack, all procedural, in the reference, made by the learned Magistrate for offences, as afore-quoted. Now let me consider the submissions pillar-wise.

The first one is, the jurisdictional issue. The learned counsel for the petitioners has strenuously contended that the complaint narrates even offences under the provisions of Prevention Money Laundering Act, 2002 and, therefore, the private complaint filed before the learned Magistrate had to be referred to the Special Court constituted, to hear offences under the said Act. The said submission is noted only to be rejected, as the complainant in the complaint made plethora of offences of different statutes. What is referred for investigation assumes significance. If the learned Magistrate had referred the case for investigation under Section 156(3) Cr.P.C. even for offences under the Money Laundering Act, it would have been a different circumstance. What is referred to is only offences concerning provisions of the Act and the IPC. What is

registered as a crime and what is being investigated into, is also the offences under the IPC and the Act, not of Prevention of Money Laundering Act. what is necessary to be noticed. Therefore, the submission that the complaint ought to have been entertained only by the Special Court constituted for offences under the Money Laundering Act tumbles down. Thus, fails the first submission of the learned counsel for the petitioners.

12. The second submission is, that prior approval under Section 17A of the Act is not obtained and reference is made and investigation is proceeded thereto. As observed hereinabove, the crime so registered against the petitioner *inter alia* alleges offences under Section 13 of the Act. Section 13 of the Act deals with offences for disproportionate assets. For an offence under disproportionate assets, there need not be prior approval under Section 17A. Therefore, the submission that investigation is being conducted contrary to law, is contrary to the facts.

13. The third submission is, that the private complaint so registered, does not append to it, an affidavit. This is, on the face of

it, contrary to the record. The affidavit of the complainant is appended to the private complaint and it reads as follows:

"BEFORE THE HON'BLE XXIII ADDITIONAL CITY CIVIL AND
SESSIONS JUDGE, BENGALURU (LOKAYUKTA SPECIAL
COURT -CCH24)
P.C.R. No...../2020

Between:
Abraham T.J. .. Complainant.

And:
Dr. Sudha (KAS) & Another. .. Accused.

AFFIDAVIT

I, **Abraham T.J.**, S/o late Sri Joseph T.A., Aged about 59 years, R/at No.2326, 2nd 'A' Cross, 16th 'B' Main, Hal 2nd Stage, Indiranagar, Bengaluru-560 008, do hereby solemnly affirm and state on oath as follows:-

1. That I am the Complainant in the above manner and I am fully acquainted with the facts and circumstances of this case. Hence, I am swearing to the contents of this affidavit.
2. That all the contents and averments of the accompanying complaint are true to the best of my knowledge, belief and information.
3. That the contents of this Affidavit are true to the best of my knowledge, belief and information, no part of it is false and nothing material has been concealed there from.

Verified at Bangalore on this
16th Day of June, 2020.

Identified by me:
Sd/- Advocate. Sd/- Deponent."

The learned counsel for the petitioner has relied on the judgment of the Apex Court in the case of **PRIYANKA SRIVASTAVA** *supra*, as followed by plethora of judgments, to contend that, at the outset

the complainant without approaching the jurisdictional Police under Section 154(1) and (3) of the Cr.P.C., a private complaint would not be maintainable. The said submission also does not hold water in the light of law laid down by the Apex Court in the case of **ANURAG BHATNAGAR v. STATE (NCT OF DELHI)**¹, wherein the Apex Court has held as follows:

"....

Points for determination:

17. On the basis of the submissions of the parties, the following points crop up for determination:

- (i) **Whether an application under Section 156(3) of the CrPC could have been filed without approaching the police authorities;**
- (ii) Whether the order dated 01.07.2005 passed by the Metropolitan Magistrate is an order passed without application of mind, irrespective of the fact that it states that the parties were "heard" and the documents were "perused"
- (iii) Whether the High Court can deny quashing of the order dated 01.07.2005 passed by the Metropolitan Magistrate and the FIR registered pursuant to it for the reason that the investigations have been completed and the chargesheets have been filed against the accused persons;
- (iv) Whether the nature of dispute raised in the offending FIR is of a civil nature and there is no involvement of criminality when both sides have previously lodged FIRs originating from the same MoU dated 11.03.1995; and

¹ **2025 SCC OnLine SC 1514**

- (v) Whether the present FIR amounts to a successive FIR based upon the same allegations as contained in an earlier FIR No. 326/2004 and as such cannot be investigated independently.

18. Now, having outlined the points for determination, we consider it appropriate to deal with the above points serially/sequentially.

Point(i): Whether an application under Section 156(3) CrPC could have been filed without approaching the police authorities?

19. It is a settled law that one of the modes for setting criminal law into motion is by giving information to the police authorities in accordance with Section 154 CrPC whereupon if a cognizable offence is *prima facie* made out to the satisfaction of the police, it may investigate into the offence even without the permission of the Magistrate. The information so given is ordinarily called the "First Information", though this terminology has not been used under the CrPC.

20. Section 154 of CrPC, *inter alia*, provides that information relating to the commission of a cognizable offence can be given orally or in writing to the officer-in-charge of the police station and if it is given orally, it shall be reduced in writing, which shall then be read out to the person giving the information and shall be signed by him. A copy of the information so received and reduced into writing, upon being entered into the book kept for the purpose, shall be given forthwith to the informant.

21. Sub-section (3) of Section 154 CrPC lays down that if the information of a cognizable offence given to the officer-in-charge of the police station is not being recorded or is being refused to be recorded, the informant may send the substance of the said information to the Superintendent of Police concerned in writing and by post, who upon being satisfied that such information discloses a cognizable offence will either direct for the investigation of the offence or may himself investigate the same.

22. A plain and simple reading of Section 154 CrPC as a whole makes it imperative upon the informant to first approach the officer-in-charge of the police station for the purposes of lodging an FIR in respect of a cognizable offence and where the Police refuses to record such information, the remedy is to

approach the concerned Superintendent of Police. It is only when no action is taken even by the Superintendent of Police and the information of commission of a cognizable offence is not being recorded by the officer-in-charge of the police station or even by the Superintendent of Police, that the person aggrieved or the informant may move the court of the Magistrate concerned to get the FIR registered and lodged with the concerned police station.

23. Sub-section (3) of Section 156 CrPC simply empowers the Magistrate to order an investigation of a cognizable offence.

24. Section 190 of the CrPC empowers the Magistrate to take cognizance of an offence in three contingencies, namely: (i) upon receiving a complaint of facts constituting the offence; (ii) upon a police report of such facts; and (iii) upon information received from any person other than the police officer or upon his own knowledge that such an offence has been committed.

25. In view of the provisions of Section 190 read with Section 156(3), the Magistrate is empowered to take cognizance of any offence not only on the basis of the police report submitted under Section 173 of the CrPC consequent to the investigation pursuant to the FIR but also upon receiving a complaint of facts from any person, other than the police officer or on his own motion.

26. On a conspicuous reading of the provisions of Sections 154, 156 and 190 of the CrPC together, it is crystal clear that an informant who wants to report about a commission of a cognizable offence has to, in the first instance, approach the officer-in-charge of the police station for setting the criminal law into motion by lodging an FIR. However, if such an information is not accepted by the officer-in-charge of the police station and he refuses to record it, the remedy of the informant is to approach the Superintendent of Police concerned. It is only subsequent to availing the above opportunities if he is not successful, he may approach the Magistrate under Section 156(3) CrPC for necessary action or of taking cognizance in accordance with Section 190 of the CrPC.

27. In the instant case, a bare perusal of the application filed under Section 156(3) of the CrPC dated 01.07.2005 would reveal that the informant therein had simply stated that an offence under Sections 420, 120-B and 34 of the IPC have been committed and that the informant had approached the "police officials" several times but in vain, but the application is

completely silent as to when did the informant approach the Police or the Superintendent of Police. The application nowhere states that the informant has ever approached the officer-in-charge of the police station for lodging the FIR in accordance with Section 154 of the CrPC or that on refusal to record such information he has availed the remedy of approaching the Superintendent of Police concerned. The mere bald allegation without any details or proof thereof, that the police authorities were approached several times is not acceptable.

28. In *Sakiri Vasu v. State of U.P.*⁷ it had been observed that if a person has a grievance that the police station is not registering the FIR under Section 154 CrPC, then he can approach the Superintendent of Police under Section 154(3) CrPC by an application in writing. Even if that does not yield any satisfactory result in the sense that either the FIR is still not registered, or that even after registering it no proper investigation is held, it is open to the person aggrieved to file an application under Section 156(3) CrPC before the Magistrate concerned. In other words, the court reiterated that the proper procedure has to be availed of and followed before moving the Magistrate under Section 156(3) CrPC.

29. It is well recognized in law that the person aggrieved must first exhaust the alternative remedies available to him in law before approaching the court of law. In other words, he cannot ordinarily approach the court directly.

30. In the case at hand, the fact reveals that the informant had neither approached the officer-in-charge of the police station or the Superintendent of Police concerned as contemplated under Sections 154(1) and 154(3) of the CrPC but has directly gone to the Magistrate under Section 156(3) of the CrPC. In such a situation, the Magistrate ought not to have ordinarily entertained the application under Section 156(3) so as to direct the Police for the registration of the FIR, rather, it ought to have relegated the informant to first approach the officer-in-charge of the police station and then to the Superintendent of Police.

31. The Magistrate while passing the order dated 01.07.2005, directing for the registration of the FIR in exercise of power under Section 156(3) has not considered the above aspect as to whether the informant had exhausted his remedies available in law before approaching him under Section 156(3) of the CrPC.

32. In the facts and circumstances of the case, as the informant had directly moved the Magistrate under Section 156(3) of the CrPC without exhausting his statutory remedies, the Magistrate

could have avoided taking action on the said application and could have refused to direct for the registration of the FIR. **However, as entertaining an application directly by the Magistrate is a mere procedural irregularity and since the Magistrate in a given circumstance is otherwise empowered to pass such an order, the action of the Magistrate may not be illegal or without jurisdiction.**

33. To sum up, the Magistrate ought not to ordinarily entertain an application under Section 156(3) CrPC directly unless the informant has availed and exhausted his remedies provided under Section 154(3) CrPC, but as the Magistrate is otherwise competent under Section 156(3) CrPC to direct the registration of an FIR if the allegations in the application/complaint discloses the commission of a cognizable offence, we are of the opinion that the order so passed by the Magistrate would not be without jurisdiction and would not stand vitiated on this count.

34. The Magistrate by the order dated 01.07.2005 has simply directed for the registration of the FIR so as to set the criminal law in motion but has not exercised his power under Section 190 of the CrPC of taking cognizance thereof. In such a situation, the order so passed by the Magistrate, though irregular, is of no prejudice to any party, much less to the VLS. Therefore, it is not appropriate for this court to interfere in the matter or with the order of the Magistrate dated 01.07.2005 or with the order impugned passed by the High Court.

Point (ii): Whether the order dated 01.07.2005 passed by the Metropolitan Magistrate is an order passed without application of mind, irrespective of the fact that it states that the parties were "heard" and the documents were "perused"?

35. Section 156 of the CrPC provides for the power of the police officer to investigate a cognizable offence. It *inter alia* vide sub-section (3) empowers the Magistrate to order an investigation in a cognizable case. No doubt, sub-section (3) does not specifically provide that the Magistrate in passing such an order of investigation has to pass a speaking order or has to apply his mind to the contents of the application or the material produced in support of it. Nonetheless, it is a well recognized principle of law that whenever any power is bestowed upon a judicial authority, it is incumbent that it should be exercised on the basis of sound legal principles by application of mind and by a speaking order. Therefore, a

reasoned order upon application of judicious mind is inherent while passing an order under Section 156(3) of the CrPC.

36. In *Union of India v. Mohan Lal Capoor* it has been observed that reasons are links between the material on which the conclusions are based. They disclose how the mind is applied to the subject-matter for a decision. They reveal rational nexus between facts considered and the conclusions reached. Only, in this way, opinions or decisions can be recorded which may be manifestly just and reasonable.

37. It is well accepted vide *Alexander Machinery (Dudley) Ltd. v. Crabtree* that failure to give reasons amounts to denial of justice as reasons are live links between mind of the decision-taker to the controversy in question and the decision or the conclusion arrived at.

38. The provisions of Section 156(3) of the CrPC have subsequently been interpreted and it has been held that the Magistrate while directing for registering an FIR has to apply his independent mind based upon legal principles and the order so passed has to be a reasoned order. The provision so interpreted exists from its inception. Merely because a judgment by the Court has simply interpreted and reiterated the established principles of law that ought to have been into practice, it would not mean that such principles would be applicable prospectively only from the date of its interpretation. The interpretation made later on would not mean that the provision had a different meaning prior to its above interpretation. Therefore, the High Court manifestly erred in holding that at the relevant time there was no requirement of application of mind and for passing a speaking order, as the judgments of the higher courts holding otherwise have been penned down subsequently. In other words, the provision as it stands and interpreted, requires passing of the speaking order on application of mind from the very beginning. Moreover, a speaking order is a part and an essential component of the principles of natural justice, which are applicable to every judicial order. Therefore, it was but natural for the Magistrate to pass a reasoned order, irrespective of the interpretation of the provision subsequently which was in line with the principles of natural justice.

39. The order of the Magistrate dated 01.07.2005 clearly states that the Magistrate had "heard" the counsel on the application under Section 156(3) and had "perused" the complaint which reveals commission of a cognizable offence. The said order is reproduced below:

"Fresh Complainant received along with application u/s 156(3) Cr. P.C. Be checked and registered. Heard on the application u/s 156(3) Cr. P.C. Ld. Counsel for the complainant has relied upon a judgment of Allahabad High Court which is reported as "2005 Cri LJ 2028". The perusal of the complaint reveals the commission of cognizable offence and the SHO Police Station Defence colony is directed to get the case registered and investigate the matter u/s 156 (3) Cr. P.C. the compliance report be called for 05.10.2005."

40. The mere stating in the order that the counsel has been heard and the application and the material produced have been perused, may not be indicative of the fact that the Magistrate had actually applied his mind to the controversy in issue. However, the fact that the perusal of the application and complaint attached to it, satisfied the Magistrate that it discloses a cognizable offence, is very material and relevant which proves the application of mind by him. Once such a satisfaction has been recorded by the Magistrate, even if wrongly, it is not liable to be interfered with in exercise of inherent powers by the higher courts. The powers vested in the court either under Section 482 CrPC or Article 226/227 of the Constitution of India are not for the purposes of appreciating the evidence or examining the correctness of the evidence collected during investigation to record a different conclusion other than recorded by the Magistrate that he is satisfied that a cognizable offence has been disclosed in the application/complaint. Moreover, when information disclosing commission of cognizable offence is conveyed to the police station, the officer-in-charge of the police station cannot refuse to register the FIR. Therefore, if a FIR has not been registered for any reason at the police station and the Magistrate is satisfied that the information discloses a cognizable offence, he can certainly direct for its registration obviously on compliance of the provisions of Section 154(3) of the CrPC. This is exactly what has been done by the Magistrate by way of his order dated 01.07.2005 though ignoring the remedy under Section 154(3) of the CrPC which, as said earlier, amounts to mere procedural irregularity."

(Emphasis supplied)

The Apex Court holds that ordinarily, it is mandatory that a private complaint should not be entertained, unless the complainant demonstrates compliance with Section 154(1) and 154(3) of the

Cr.P.C. But, the learned Magistrate having power to order investigation under Section 156(3) on a private complaint, non-compliance with Section 154(1) and 154(3) would not vitiate the proceedings. In the light of the judgment of the Apex Court, the submission of the learned counsel for the petitioners, third in line, also tumbles down.

14. In that light, finding no merit in the case which is shrouded with huge corruption and *prima facie* material available on the strength enormous documents collected during the investigation, would undoubtedly require a trial. It is for the petitioner to come out clean in a full fledged trial.

15. For the aforesaid reasons, finding no merit in the petition, the petition stands ***rejected***.

Interim order, of any kind operating, shall stand dissolved.

Sd/-
(M.NAGAPRASANNA)
JUDGE

Bkp
CT:MJ