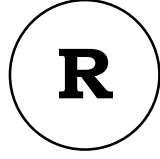


**Reserved on : 24.02.2026**  
**Pronounced on : 12.06.2026**



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12<sup>TH</sup> DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.20336 OF 2023 (GM - RES)

C/W

WRIT PETITION No.20341 OF 2023 (GM - RES)

WRIT PETITION No.21486 OF 2023 (GM - RES)

**IN WRIT PETITION No.20336 OF 2023**

**BETWEEN:**

SRI S.RAJENDRA  
AGED ABOUT 53 YEARS,  
S/O LATE S.SURYNARAYANA  
RESIDING AT NO.119, 1<sup>ST</sup> CROSS,  
BALAJI LAYOUT, MALLATHALLI,  
NEAR NARAYANA E TECHNO SCHOOL,  
BENGALURU - 560 056.

... PETITIONER

(BY SRI SATYANARAYANA CHALKE S., ADVOCATE)

**AND:**

1. STATE OF KARNATAKA  
BY THE STATION HOUSE OFFICER,



CHANDRA LAYOUT POLICE STATION,  
REPRESENTED BY  
THE STATE PUBLIC PROSECUTOR,  
HIGH COURT BUILDINGS  
BENGALURU – 560 001.

2. RAJANNA T.,  
AGED ABOUT 52 YEARS,  
S/O LATE THIMMAIAH  
RESIDING AT NO.93/2, 1<sup>ST</sup> FLOOR,  
2<sup>ND</sup> BLOCK, 2<sup>ND</sup> CROSS, 8<sup>TH</sup> MAIN,  
KANAKANAPALYA, JAYANAGAR  
BENGALURU – 560 011.
3. SMT.R.CHANDRAMMA  
AGED ABOUT 62 YEARS,  
W/O T.RAMANNA  
RESIDING AT NO.93/2, 1<sup>ST</sup> FLOOR,  
2<sup>ND</sup> BLOCK, 2<sup>ND</sup> CROSS, 8<sup>TH</sup> MAIN,  
KANAKANAPALYA, JAYANAGARA  
BENGALURU – 560 011.
4. THIPPESWAMY K.P.,  
POLICE SUB INSPECTOR,  
CHANDRA LAYOUT POLICE STATION  
BENGALURU – 560 072.

... RESPONDENTS

(BY SRI B.N.JAGADEESHA, ADDL.SPP FOR R-1 AND R-4;  
SRI K.N.DAYALU, ADVOCATE FOR R-2 AND R-3)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE  
CONSTITUTION OF INDIA READ WITH SECTION 482 OF CR.P.C.,  
PRAYING TO i) QUASH THE ENTIRE FIR IN CRIME NO. 360/2023 OF  
CHANDRA LAYOUT POLICE STATION ANNEXURE-A FOR THE

OFFENCES PUNISHABLE UNDER SECTIONS 102, 420, 468, 506 (B) READ WITH SECTION 34 OF THE INDIAN PENAL CODE, ON THE FILE OF THE LEARNED VIII ADDL. CHIEF METROPOLITAN MAGISTRATE COURT, AT BENGALURU, IN SO FAR AS THE PETITIONER IS CONCERNED; ii) QUASH THE ENTIRE FIR IN CRIME NO. 361/2023 OF CHANDRA LAYOUT POLICE STATION ANNEXURE-C FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 102, 420, 468, 506(B) READ WITH SECTION 34 OF THE INDIAN PENAL CODE, ON THE FILE OF THE LEARNED VIII ADDL. CHIEF METROPOLITAN MAGISTRATE COURT, AT BENGALURU, IN SO FAR AS THE PETITIONER IS CONCERNED.

**IN WRIT PETITION No.20341 OF 2023**

**BETWEEN:**

- 1 . SRI S.RAJENDRA  
AGED ABOUT 53 YEARS,  
S/O LATE S.SURYNARAYANA.
- 2 . SMT. PANKAJA V.,  
AGED ABOUT 47 YEARS,  
W/O SRI S.RAJENDRA.
- 3 . SMT.SHAKUNTALA V.,  
AGED ABOUT 70 YEARS,  
W/O LATE VENKATARAMA SHARMA

PETITIONERS NO.1, 2 AND 3 ARE  
RESIDING AT NO.119, 1<sup>ST</sup> CROSS,  
BALAJI LAYOUT, MALLATHALLI,  
NEAR NARAYANA E TECHNO SCHOOL  
BENGALURU – 560 056.

- 4 . SMT.SUMA V.,  
AGED ABOUT 44 YEARS  
W/O SRI HEMANTH

RESIDING AT NO.118,  
2<sup>ND</sup> FLOOR, 3<sup>RD</sup> CROSS, MISSION ROAD,  
BENGALURU – 560 027.

- 5 . SRI SUDHINDRA SHARMA  
AGED ABOUT 38 YEARS  
S/O LATE VENKATARAMA SHARMA  
C/OF SMT. PANKAJA V.,  
NO.119, 1<sup>ST</sup> CROSS, BALAJI LAYOUT  
MALLATHALLI, BENGLAURU – 560 056  
CURRENTLY RESIDING IN  
UNITED STATES OF AMERICA  
REPRESENTED BY HIS  
AUTHORISED REPRESENTATIVE  
SMT.PANKAJA V.

... PETITIONERS

(BY SRI SATYANARAYANA CHALKE S., ADVOCATE)

**AND:**

- 1 . STATE OF KARNATAKA  
BY THE STATION HOUSE OFFICER,  
CHANDRA LAYOUT POLICE STATION,  
REPRESENTED BY  
THE STATE PUBLIC PROSECUTOR  
HIGH COURT BUILDINGS  
BENGALURU – 560 001.
- 2 . SMT.CHANDRAMMA  
AGED ABOUT 62 YEARS  
W/O T.RAMANNA  
RESIDING AT NO.93/2, 1<sup>ST</sup> FLOOR,  
2<sup>ND</sup> BLOCK, 2<sup>ND</sup> CROSS, 8<sup>TH</sup> MAIN,  
KANAKANAPALYA,  
JAYANAGARA,  
BENGALURU – 560 011.

... RESPONDENTS

(BY SRI B.N.JAGADEESHA, ADDL.SPP FOR R-1;  
SRI K.N.DAYALU, ADVOCATE FOR R-2 )

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF CR.P.C., PRAYING TO QUASH THE FIR IN CRIME NO.351/2023 OF CHANDRA LAYOUT POLICE STATION FOR THE OFFENCES PUNISHABLE U/S 102, 420, 468, 506(B) R/W SECTION 34 OF THE INDIAN PENAL CODE IN SO FAR AS THE PETITIONERS ARE CONCERNED ANNEXURE-A.

**IN WRIT PETITION No.21486 OF 2023**

**BETWEEN:**

- 1 . DASEGOWDA  
S/O LATE CHIKKATHIMMAIAH  
AGED ABOUT 46 YEARS.
- 2 . JAGADISH C.,  
S/O LATE CHIKKATHIMMAIAH  
AGED ABOUT 44 YEARS
- 3 . PADMA C.,  
D/O LATE CHIKKATHIMMAIAH  
AGED ABOUT 58 YEARS

PETITIONERS 1 TO 3 ARE  
RESIDENTS OF NO.95, MUDALAMANE  
ISEC MAIN ROAD  
NAGARABHAVI VILLAGE  
BENGALURU – 560 072.

- 4 . GANGAMMA  
D/O LATE CHIKKATHIMMAIAH  
AGED ABOUT 54 YEARS  
RESIDING AT NO.3163/1,

THUNGABADRA STREET  
MARUTHI NAGAR  
NAGARABHAVI VILLAGE  
BENGALURU – 560 072.

5 . NAGARATHNA  
D/O LATE CHIKKATHIMMAIAH  
AGED ABOUT 50 YEARS

6 . KEMPARATHNA  
D/O LATE CHIKKATHIMMAIAH  
AGED ABOUT 47 YEARS

PETITIONERS 5 AND 6 ARE  
RESIDENTS OF NO.95,  
MUDALAMANE  
ISEC MAIN ROAD  
NAGARABHAVI VILLAGE  
BENGALURU – 560 072.

7 . NAVEEN  
S/O KADIREPATHI  
AGED ABOUT 36 YEARS  
RESIDING AT NO.80,  
2<sup>ND</sup> MAIN, LAGGERE  
BENGALURU – 560 058.

8 . K.RAJANNA  
S/O LATE KALAPPA  
AGED ABOUT 76 YEARS  
RESIDING AT NO.5  
ISEC MAIN ROAD  
NAGARABHAVI VILLAGE  
BENGALURU – 560 072.

... PETITIONERS

(BY SRI DEVARAJA M., ADVOCATE)

**AND:**

- 1 . STATE OF KARNATAKA  
BY THE STATION HOUSE OFFICER  
CHANDRA LAYOUT POLICE STATION  
REPRESENTED BY  
THE STATE PUBLIC PROSECUTOR  
HIGH COURT BUILDINGS  
BENGALURU – 560 001.
  
- 2 . RAJANNA T.,  
S/O LATE THIMMAIAH  
AGED ABOUT 52 YEARS  
RESIDING AT NO.93/2, 1<sup>ST</sup> FLOOR  
2<sup>ND</sup> BLOCK, 2<sup>ND</sup> CROSS, 8<sup>TH</sup> MAIN  
KANAKANAPALYA, JAYANAGAR  
BENGALURU – 560 011.
  
- 3 . SMT.CHANDRAMMA  
W/O T.RAMANNA  
AGED ABOUT 62 YEARS  
RESIDING AT NO.93/2, 1<sup>ST</sup> FLOOR  
2<sup>ND</sup> BLOCK, 2<sup>ND</sup> CROSS, 8<sup>TH</sup> MAIN  
KANAKANAPALYA, JAYANAGAR  
BENGALURU – 560 011.

... RESPONDENTS

(BY SRI B.N.JAGADEESHA, ADDL.SPP FOR R-1;  
SRI K.N.DAYALU, ADVOCATE FOR R-2 AND R-3)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF CR.P.C., PRAYING TO QUASH THE FIR IN CRIME NO. 351/2023 OF CHANDRA LAYOUT POLICE STATION FOR THE OFFENCES PUNISHABLE UNDER SEC 102, 420, 468, 506(B) R/W SEC 34 OF THE IPC ON THE FILE OF THE LEARNED VIII ADDL. CHIEF METROPOLITAN MAGISTRATE COURT, AT BENGALURU, AS PER ANNEXURE-A IN SO FOR AS PETITIONERS ARE CONCERNED; QUASH THE FIR IN CRIME NO.

360/2023 OF CHANDRA LAYOUT POLICE STATION FOR THE OFFENCES PUNISHABLE UNDER SEC 102, 420, 468, 506(B) R/W SEC 34 OF THE IPC ON THE FILE OF THE LEARNED VIII ADDL. CHIEF METROPOLITAN MAGISTRATE COURT, AT BENGALURU, AS PER ANNEXURE-C IN SO FAR AS PETITIONERS ARE CONCERNED; QUASH THE FIR IN CRIME NO. 361/2023 OF CHANDRA LAYOUT POLICE STATION FOR THE OFFENCES PUNISHABLE U/S 102, 420, 468, 506(B) R/W SEC 34 OF THE IPC ON THE FILE OF THE LEARNED VIII ADDL. CHIEF METROPOLITAN MAGISTRATE COURT, AT BENGALURU AS PER ANNEXURE-E IN SO FAR AS PETITIONERS ARE CONCERNED.

THESE WRIT PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 24.02.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

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

**CAV ORDER**

Writ Petition No.20336 of 2023 is filed by an Advocate, for the reason of arraigning him as accused Nos.8 and 9 in two crimes in Crime Nos. 360 of 2023 and 361 of 2023 respectively. Therefore, the challenge is by the said accused in the said writ petitions. Writ Petition No.20341 of 2023 is calling in question registration of a crime in Crime No.351 of 2023 against five accused, in which the Advocate is arrayed as accused No.1 and several other private persons as accused No.2 to 6. Writ Petition No.21486 of 2023 is calling in question registration of crime in all the aforesaid crimes

where the challenge is only by the private parties. The crimes have been registered on a solitary incident and the parties to the FIRs are common. Therefore, these cases are taken up together and considered by this common order.

2. Facts, adumbrated, are as follows:

Before embarking upon consideration of the issue on its merit, I deem it appropriate to notice the relationship between the protagonists in the *lis*. One Lakshmiddevamma and K.Rajanna – petitioner No.8 in Writ Petition No.21486 of 2023 are said to be the landlords in Nagarbhavi village of vast areas of land in and around the said village. The averment is, Lakshmiddevamma is the sole owner of land measuring 5 acres and 20 guntas in Sy.No.25/2 of Nagarbhavi village. One late Jayamma is the daughter of Lakshmiddevamma. Petitioners 1 to 6 in Writ Petition No.21486 of 2023 are all children of late Chikkathimmaiah and late Jayamma. Petitioner No.7 in the said petition is the son of one late Neelamma daughter of late Chikkathimmaiah. The 1<sup>st</sup> petitioner in Writ Petition No.20336 of 2023 and Writ Petition No.20341 of 2023 is the Advocate who represents the petitioners before the civil Court

in all civil disputes pertaining to the properties in those civil disputes. Petitioners 2 to 5 in Writ Petition No.20341 of 2023 are the wife and family members of the Advocate.

**HISTORY TO THE DISPUTE:**

3. Lakshmiddevamma, the sole owner of 5 acres 20 guntas in Sy.No.25/2 sold one acre of land to one Padmanabha Shetty in the year 1980. Remaining land was used to form various residential sites; some were sold and some retained. After about 14 years, Padmanabha Shetty and others tried to interfere with the possession of the property owned by Lakshmiddevamma. Smt. Lakshmiddevamma then filed a suit for injunction in O.S.No.6078 of 1994 against Padmanabha Shetty. The suit against Padmanabha Shetty comes to be decreed in favour of Lakshmiddevamma on 05-03-1997. Lakshmiddevamma then institutes another suit for permanent injunction against one T.Rananna and the husband of Chandamma in O.S.No.5066 of 2000. Smt. Chandamma and T.Rajanna were abutting land owners of the lands belonging to Lakshmiddevamma. The suit comes to be dismissed for its non-prosecution. After the dismissal of the

suit, it appears, that Lakshmiddevamma enters into an agreement of sale with one Venkatarama Sharma who is the father-in-law of S. Rajendra, the Advocate, agreeing to sell a residential site in Sy.No.25/2. Lakshmiddevamma dies on 19-06-2001 by executing a Will. This led to several disputes before the civil Court and before this Court. Matters were dismissed by the learned single Judge and affirmed by the Division Bench. Those would not be material for the issue that is projected in the *lis*.

4. The suit in O.S.No.5066 of 2000 which had come to be dismissed for non-prosecution was recalled pursuant to an order passed by this Court in R.F.A. No. 1365 of 2019, which is pending consideration before this Court. Therefore, the said suit became alive. Chandramma and T.Rajanna caused legal notices on all these petitioners seeking cancellation of a particular deed of partition that had taken place about a decade ago. Pending reply to the legal notice, three crimes come to be registered between 21-08-2023 and 24-08-2023 on common allegations for offences punishable under Sections 102, 420, 468, 506(B) r/w 34 of the IPC. The complainants are T.Rajanna and Chandramma who had caused

legal notices upon the petitioners seeking cancellation of deed of partition. Registration of crimes is what has driven all these petitioners to this Court in these petitions.

5. Heard Sri Satyanarayana Chalke. S, learned counsel appearing for the petitioners in Writ Petition Nos.20336 and 20341 of 2023; Sri Devaraj. M, learned counsel appearing for the petitioners in Writ Petition No.21486 of 2023; Sri B.N. Jagadeesha, learned Additional State Public Prosecutor for respondents 1 and 4 in W.P.No.20336 of 2023 and for respondent No.1 in other two petitions and Sri K.N.Dayalu, learned counsel appearing for other respondents.

6. learned counsel Sri Satyanarayana Chalke spearheading the submissions on behalf of all the counsel appearing for the petitioners would contend that none of the ingredients of any of the offences are made out in the cases at hand. Multiple crimes are registered on the same cause of action in three different places. No cognizable offence is made in all the three complaints, as hurling of abuses or intimidation are only non-cognizable offences. Since

three crimes are registered on the same incident, three petitions are preferred. Offence under Section 420 of the IPC is not even met even to its semblance in the case at hand. The partition deed executed is in the year 2015 and Chikkathimmaiah had died in the year 2017. Legal notices are caused six years later in 2023 and parties are before the civil Court in plethora of cases. Against the Advocate the only allegation is that he has represented the parties in the civil suit or before the revenue authorities. Complainants had challenged the khata and revenue entries made in favour of the petitioners and have failed to secure any order and those orders have been upheld by the learned single Judge as well as by the Division Bench. The learned counsel would submit that the issue is purely civil in nature and not an ingredient of criminality is present in the case at hand. The instances which are purely civil in nature are dressed by registering three FIRs on a particular incident of a day. He would submit that permitting investigation even in the cases at hand, would on the face of it become an abuse of the process of law.

7. Contrariwise, the learned counsel appearing for the complainants Sri K.N. Dayalu would vehemently refute the submissions in contending that the Advocate himself has conducted civil suit in 2001 and the suit filed with respect to the properties of few of the petitioners, comes to be dismissed in O.S.No.5066 of 2000. The Advocate himself conducts the case knowing fully well his father-in-law had entered into an agreement of sale in the year 2001. The civil suit has ended in favour of the complainants. He would submit that both civil and criminal cases can go on parallelly and it is a matter of investigation in the least, therefore, the FIRs must not be quashed and the investigation must be permitted to be continue.

8. The learned Additional State Public Prosecutor Sri B.N. Jagadeesha appearing for the State would partially accept the submissions of the learned counsel for the complainants, for the reason that investigation was yet to be taken to its logical conclusion, as it has come to be stayed at the hands of this Court. Therefore, if this Court would permit investigation, they would conclude the investigation, but would admit the fact that plethora of

cases are pending between the parties before different *fora*. Both the learned counsel for the petitioners and the respondents have relied on certain judgments of the Apex Court and that of this Court, all of which would bear consideration *qua* their relevance in the course of the order.

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

10. The afore-narrated facts are all a matter of record. They would not require any iteration. The history to the litigation dates back to 03-10-1980. Every factor since 1980 till registration of crimes are shrouded with such proceedings which are completely civil in nature. Right from the sale deed executed, to the proceedings before the revenue authorities, several civil suits are pending between the parties and in all the cases right from 2000 till the date of registration of crimes, the Advocates have represented the parties in the civil suits. One factor needs to be noticed is, the revenue entries that were in favour of few of the petitioners were

called in question before this Court in Writ Petition Nos.3478 of 2006 and 6046 of 2006. A learned single Judge of this Court rejected the challenge to the revenue entries by the following order:

In W.P.No.3478/2006:

"Petitioner claiming to be the owner of a certain immovable property has called in question the endorsements dated 5-8-2005 Annexure-"J" and dated 16-03-2006 Annexure-"M", of the 4<sup>th</sup> respondent, incorporating the name of the 5<sup>th</sup> respondent Smt. Jayamma as the kathedar of the property in question for the purpose of payment of taxes.

2. The petition is opposed by filing statement of objections dated 27.3.2006 of the contesting respondent Smt. Jayamma, who is reported to have died during the pendency of this petition and is since represented by her LRs respondents 5(A) to (C).

3. Sri. N.K. Ramesh, learned counsel for the petitioner contends that though no final decision over the katha is taken by the endorsement Annexure-"J", the observations regarding the validity of the Sale Deed executed by the petitioner's vendor are findings contrary to law prejudicially affecting the rights of the petitioner, tantamounting to a decision on civil rights which is without jurisdiction. In addition, it is contended that the observations in Annexure 'M', endorsement, are also illegal and if not interfered with, the 5<sup>th</sup> respondent is likely to press into service the said observations, against the petitioner, collateral proceedings.

4. Sri C M Nagabhushan, learned counsel for the legal heirs of the deceased Jayamma, contends that being the owners of the land did not convey the site in question either to the vendor in title of the petitioner or to the petitioner and that the sale deed conveying the site, is only in respect of an imaginary site, the petitioner, it is contended having instituted OS

15341/06, withdraw the same on 4.3.2006. The retention of the name of the owner as the kathedar of the property in question, cannot be found fault with. According to the learned counsel, the endorsements impugned are well merited, fully justified and do not call for interference.

5. Learned counsel for the Corporation submits that Annexure-"J" endorsement being not a final decision over the application for change of katha filed by the petitioner, but the recording of certain opinion over the documents produced by the petitioner, there is no need to quash Annexure-"J". In addition it is contended that the order Annexure 'M', does not decide the rights of the parties over their respective claims of title, and the same is kept open for a decision by a competent court.

6. There is considerable force in the submission of the learned counsel for the Corporation that the endorsement Annexure-"J" not being a final order need not be quashed. Since the Corporation officials had no jurisdiction to adjudicate upon the validity of the Sale Deed, or render an opinion over the same as recorded in the endorsement Annexure-"J", it is needless to state that the opinion cannot influence any legal forum having jurisdiction to decide the claim of title to property of the parties.

7. An examination of the endorsement dated 16-03-2006 Annexure M", discloses recording of a finding that the documents produced by the 5<sup>th</sup> respondent are more probable, in relation to title to property, than those produced by the petitioner. It is well established law that in exercise of power under Section 114 of the Karnataka Municipal Corporation Act, 1976, for short Act, the authorities have no jurisdiction to go into the question of right, title or interest of the parties to the property in question on the basis of the documents, which is the exclusive domain of the Civil Court having jurisdiction to declare the title of immovable property. Legality or validity of a document cannot be adjudicated by the revenue authorities. At the same time, it is needless to state that katha does not confer title, but is indicative of the person in possession of the property and one who is primarily responsible to pay the taxes. Although learned counsel for the 5<sup>th</sup> respondent vehemently contends that

no legal injury is caused to the petitioner by recording such a finding, nevertheless, there can be no doubt that the authority exercised a jurisdiction not, vested in it, while deciding whether the documents did make the case of either of the parties, probable. By the impugned endorsement, Annexure 'M', the name of the 5<sup>th</sup> respondent is shown as the kathedar of the property in question, for the purpose of collection of taxes, subject to the result of the legal proceedings.

8. The courts exercising jurisdiction under Article 226 of the Constitution of India, are reluctant to examine matters which would involve investigation of facts which is better done in the appropriate forum, if statutory remedy is provided.

9. It is apparent from the relative position taken by the parties that there is considerable dispute in regard to material facts and that the dispute is of such a nature which cannot be conveniently adjudicated upon in this writ petition. It is a dispute which, it seems to me, is more appropriate for adjudication by a competent civil court, hence I decline to interfere with the question of title to the property.

10. In the result, this Writ petition is disposed of relating the parties to a competent civil court for a decision over the right, title and interest to the property in question and for consequential directions to the Corporation as regards the katha. It is made clear that the civil court would not be influenced by the observations/opinions of the revenue authorities recorded in the endorsements Annexure-"J" and Annexure-"M" in the event the parties seek declaration of their right, title and interest to the immovable property in question."

In W.P.No.6046/2006:

"Petitioner claiming to be the owner in possession of immovable property bearing No. 1 formed out of Sy.No.25/2, Nagarbhavi, Now Chandra Layout, Bangalore, seeks a Writ of Certiorari to quash the order dated 16-03-2006 Annexure-"E" of Respondent No.4 directing registration of the katha of the said property in favour of the 5<sup>th</sup> respondent Smt.Jayamma and a

direction to cancel the katha as recorded in Certificate Annexure-"F".

2. The Writ petition is opposed by filing Statement of objections dated 12-12-2006 of the LRs of deceased Respondent No.5 interalia contending that the petitioner claims title to an imaginary property, though the 5<sup>th</sup> respondent is the absolute owner of the property in question.

3. This Court, in exercise of writ jurisdiction under Article 226 of the Constitution of India is reluctant to examine matters which would involve investigation of facts, which would be better done by an appropriate forum, if statutory remedy is available. It is apparent from the relative position taken by the parties that there is considerable dispute in regard to material facts and that the dispute is of such a nature which cannot be conveniently adjudicated upon in this Writ petition. It is a dispute which seems to me is more appropriate for adjudication before a competent Civil Court. Hence, I decline to interfere in the matter. Writ petition is accordingly rejected."

The parties were directed to approach a competent civil Court for a decision over the right, title and interest of the properties in question. It was also observed that the civil Court would not be influenced by the revenue entries made or the orders passed by the revenue authorities as well as this Court. This was called in question before the Division Bench. The Division Bench, in terms of its order dated 11-08-2008 in Writ Appeal No.295 of 2007 rejected the appeal on the following order:

"Heard Sri M.S. Rajendra Prasad, learned Senior Counsel for the appellant, Sri V.Y. Kumar, learned counsel for respondents No. 1 to 4, Sri C.M. Nagabhushana, learned counsel

for respondent No.5 (a) and Sri S. Rajendra, learned counsel for respondents No. 5 (b) and (c).

2. The appellant appears to be aggrieved by the order passed by the learned Single Judge in W.P.No.3478/06 (LB-BMP), whereby and whereunder the challenge was made to the endorsements dated 5.8.2005 (Annexure-J) and 16.3.2006 (Annexure-M) said to have been passed by respondent No.4 incorporating the name of respondent No.5 Smt. Jayamma as the khatedar of the property in question for the purpose of payment of taxes.

3. The learned Single Judge after considering the matter from all angles, came to the conclusion that several disputed questions of fact have been projected in the writ petition which cannot be gone into in a petition filed under Articles 226 and 227 of the Constitution of India. Thus, directed the parties to approach the competent Civil Court.

4. We have also gone through the contents of the petition and are of the opinion that whatever direction has been issued by the learned Single Judge calls for no interference. The facts as mentioned in the petition could not have been gone into to be adjudicated upon by a Writ Court. In this view of the matter, against such a finding recorded by the learned Single Judge, we find that no case has been made out

5. The learned senior Counsel for the appellant made a serious grievance that even though the matter was pending disposal before the learned Single Judge, taking advantage that no order of stay was passed in favour of the appellant during the pendency of the petition change of name of khatedar has been effected. At this stage, we do not find any merit or substance in this argument also since any such revenue entries would yield to the substantive rights to be decided by the jurisdictional Court. As such, if parties approach the competent Civil Court, they can make appropriate application for grant of injunction.

6. In the light of the aforesaid observations, it is needless to say that as and when any application for grant of injunction is filed before the competent Civil Court, it shall be considered and disposed of in accordance with law without being influenced by

any of the amendment that has been made in the khatha during the pendency of the writ petition or any of the observations made by this Court.

The appeal is devoid of merit or substance and the same is hereby dismissed. No costs."

After the aforementioned orders, a suit in O.S.No.27171 of 2007 is preferred by the complainants. The said suit is pending adjudication before the concerned Court. Here again, the Advocate represents the parties to the *lis*. Right from 1980, till the filing of the aforesaid suit, several proceedings which are purely civil in nature are initiated, pending or closed.

11. What triggers registration of crime on an incident that took place on 20-08-2023 forms the fulcrum of the complaint. Complainant in one of the cases is Chandramma W/o T. Ramanna and in the other case T.Rajanna himself. The incident remains the same. Therefore, it would suffice if one of the complaints is noticed. It reads as follows:

"From:

Smt.R.Chandramma, 62 Years  
W/o. T. Ramanna,  
No.93/2, I Floor,  
2<sup>nd</sup> Block, 2<sup>nd</sup> Cross,

8<sup>th</sup> Main, Jayanagar,  
Kanakanapalya,  
Bangalore-560011.  
Cast-Hallikar Gouda  
Mob No.:9845292350

TO:

The inspector of police  
Chandra lay out police station  
Chandra lay out  
Bangalore-560072

Sub: to register the complaint and to take  
necessary action against the following  
persons:

(1). **SRI. S.RAJENDRA**, Advocate, Res:No.275, 8<sup>th</sup> Main, 12<sup>th</sup>  
Cross, Vidyagiri lay out, Near Nagarabhavi circle, Bangalore  
560072

Office: Rajendra S, Advocate, RMN legal advocates No.22, 1<sup>st</sup>  
Cross, Vishwanath Rao Road, Madhavanagar, Bengaluru  
560001. (Mobile No.9844075808)

2). **SMT. PANKAJA V**, W/o. S. Rajendra D/o.late A.R.  
Venkatarama Sharma, No.275, 8<sup>th</sup> Main, 12<sup>th</sup> Cross, Vidyagiri lay  
out, Near Nagarabhavi circle, Bengaluru -560072 (Mobile No.  
9844075808)

(3). **SMT.SHAKUNTHALA V**, W/o.late A.R. Venkatarama  
Sharma No. 19, MIG II, KHB Colony, Bidadi, Ramanagara  
district Pin-562109

(4). **SMT.AMMACHAMMA**, W/o. Late Rama Sharma, No.19,  
MIG II, KHB Colony, Bidadi, Ramanagara District, Pin:562 109

(5). **SMT.SUMA V**.W/o.Hemanth Kumar K.H.No.118, 2<sup>nd</sup> Floor,  
3<sup>rd</sup> Cross, Mission Road, Bengaluru -560027

(6).**SRI. SUDHINDRA SHARMA V.** S/o.late A.R.Venkarama Sharma, No.19, MIG II, KHB Colony, Bidadi, Ramanagara District pin: 562 109

(7) SRI.K.RAJANNA, S/o.Kalappa, No.5, Manjunatha Nilaya, ISEC main Road, Nagarabhavi village, Chandra layout, Bangalore -560072 (Mobile No.7618731035).

(8)**C.DASE GOWDA** S/o.late Chikkathimmaiah, Ex-corporater Mudlapalya, resident of Nagarabhavi village, Opp; to Maruthi temple, ISFC Road, Bengaluru -560072 (**Mobile No.9845258168**);

(9)**C.JAGADEESHA**,S/o.late Chikkathimmaiah, resident of Nagarabhavi village, Opo;to Maruthi temple, ISFC Road Bengaluru -560072(**Mobile No.9845617773**);

(10) **C.PADMA**, W/o.Mahadev, No.3, "Sri Srinivasa", 3<sup>rd</sup> Cross,,ISEC Post, Nagarabahvi, Bangalore -560072 (mobile No.9742254444);

(11)**SMT.GANGAMMA** W/o.Ramakrishna No.3163/1, Tungabhadra Street, Nagarabhavi Road, Maruthi nagar, Bangalore – 560 072.

(12) **SMT.NAGARATHNA** W/o. Sathyanarayana, Nagarabhavi village Opo to Maruthi temple, ISFC Road, Bengaluru-560072 (Mobile No.9632376610);

(13)**KEMPARATHNA** W/o.Ramakrishna Nagarabhavi village.. Opo to Maruthi temple, ISFC Road, Bengaluru-560072(**Mobile No.9880625753**);

(14)**NAVEENA** S/o. Kadirapathi, No.5/A, 106 C, 2<sup>nd</sup> Main 4<sup>th</sup> Cross, Bhuvaneshwari Nagar, Lavakhusa Nagar, Bangalore 560058 (**Mobile No.7353055627**)

(15). **THE REVENUE OFFICER**  
Chandra Extension, sub division  
Palike soudha, 14<sup>th</sup> Cross Road  
1<sup>st</sup> Stage, Chandra Extension  
Bangalore -560079

**(16).ASSISTANT REVENUE OFFICER**

Chandra Extension, sub division  
Palike soudha, 14<sup>th</sup> Cross Road  
1<sup>st</sup> Stage, Chandra Extension  
Bangalore -560079

**(17). THE PRESIDENT**

The Janatha Co-operative Bank Limited  
H.O.17<sup>th</sup> Cross 8<sup>th</sup> Main  
Malleswaram, Bangalore-560055.

**(18). THE SECRETARY**

The Janatha Co-operative Bank Limited  
H.O.17<sup>th</sup> Cross 8<sup>th</sup> Main  
Malleswaram, Bangalore-560055

**(19). THE MANAGER**

The Janatha Co-operative Bank Limited,  
H.O.17<sup>th</sup> Cross 8<sup>th</sup> Main  
Malleswaram, Bangalore-560055:

Sirs

I, the above named would like to bring the following few lines to your good self as follows:

1. I submit that originally one K.Rajanna and his mother puttassiddamma sold site No.6 formed in survey No.25/2 and site No.6A formed in survey No.25/3; situated at Nagarabhavi village, Chandra lay out, Bangalore-560072 by power of attorney and affidavit to my husband T.Ramanna and put my husband in possession of the properties. By virtue of power of attorney executed by puttassiddamma and K.Rajanna, my husband executed registered sale deed dated 18.06.2001 in my favour and put me in possession of the same. Thus I am the full and absolute owner of the above properties in possession more fully detailed hereunder:

(i) site No.6, new No.6/1 formed in survey No.25/2(PID No.39-71-6/1) situated at ISEC Main Road, Nagarabhavi village, Chandra lay out, Bangalore -560072 measuring east to west 48 feet and north to south 32 feet (totally measuring 1536 Sq feet) bounded on the east by ISEC Road, West by: private property,

North by compound of Rajanna property and south by :property baring site No.6A acquired under the registered sale deed dated 18.06.2001 bearing the registration No.3832/2001-2002 and

(iii) site No.6A, new No.6/2 formed in Survey No.25/3 (PID No.39-71-6/2), situated at ISEC Road, Nagarabhavi village. Chandra lay Out, Bangalore-560072 measuring east to west 45 feet and north to south 60 feet (totally measuring 2700 sq.feet) bounded on the East by: ISEC Road, West by site No.1 formed in survey No.25/2 north by site No.6 formed in sy.No.25/2 belonged to my client, south by 2<sup>nd</sup> Cross Road acquired **under the registered sale deed dated 18.06.2001 bearing the registration No.3826/2001-02** .

2. The copies of the above sale deeds (two sale deeds) (i)(ii) referred to above are produced. I have got the Katha of the above properties made over by the revenue authorities in the records of BBMP old site No. 6 and later No.6/1 and old site No.6A new site 6/2. The Katha and tax paid receipts are produced herewith. Thus I am the full and absolute owner in possession of the above items of properties.

3. I state that the sale deeds of my above property is in my name from the year 2001 and revenue records are in my name and my sale deeds are in force and not disturbed so far. I shockingly came to know recently late Chikkathimmaiah at the instance of his sons and daughters named above in collusion with one S.Rajendra, Advocate, who is their personal advocate and K.Rajanna, resident of Nagarabhavi village who are the key persons for all illegal transactions fabricated the sale deed in the name of father in law of Rajendra namely **V.R. Venkatarama Sharma and** all of them colluded and got the katha of my above property in collusion with revenue authorities

giving different numbers to my very same property as property No.1 and after the death of 'the said V.R. Venkatarama Sharma, the katha was made over illegally in the name of the said advocate mother in law Smt. Shakunthala, thereafter sons and daughters of the said V.R. Venkatarama Sharma and Shakunthala released from the property so illegally transferred in favour of the said Smt. Shakuathala, the said Shakuathala gifted the property to her daughter V.Pankaja W/o. Rajendra and by virtue of illegal transactions, wife of Rajendra namely

Pankaja V and her husband Rajendra above named have raised the loan on my property in a sum of **Rs.1,19,70,000/- (Rupees one crore nineteen lakhs seventy thousand)** and have opened the super market in the property of K.Rajanna. Thus by fabricating the documents have raised the loan fraudulently by the said Pankaja V and her husband Rajendra and all illegal transactions have been done by the Advocate S. Rajendra and one K. Rajanna has joined them in fabricating all illegal documents in the name of Pankaja by virtue of created, fraudulent partition deed got obtained among the sons and daughters, with Chickathimmaiah. The sons of late Chikkathimmaiah namely C.Dase Gowda and C.Jagadeesh and one K.Rajanna, who is residing in Nagarabhavi village and their advocate S.Rajendra (who is the main person for illegal transactions) who are all abettors have abetted to execute the illegal documents and illegal transactions through their late father late Chikkathimmaiah and by virtue of the illegal documents, all the above named persons are making continuous attempts coming near my above property with rowdy elements and threatening my persons and security and when I had come accompanying with my husband and my persons to the above my property, the said C.Dase Gowda, C. Jagdheesh and their sisters along with their advocate Rajendra, his wife Pankaja her sisters and brother had come with some rowdy elements on 20.08.2023 at 4 P.M. to dump the stones, bricks and jellies and it is at that point of time I came to the spot of my above property, all of the above named persons who were all had gathered there nearby my property along with one K.Rajanna, the resident of Nagarabhavi village, and their advocate S. Rajendra and abused me, my husband and my relatives with such filthy and vulgar words and have threatened to my life threatening that they do not mind to kill me, if I obstruct them from entering into my above property. This has become routine and continuous.

Hence, actions may be taken (1) for fabricating documents in collusion with S.Rajendra, Advocate in respect of my above properties (2) and illegal transfer of katha in their names by the revenue authorities to my very same property by giving different numbers, (3) and for illegally granting loan by the Janatha Co-operative bank on my above property on the fabricating, created document and for illegal attempt to trespass into my property and threatening to my life for the offence

under section 102(b) 420, 468, 506(B) read with section 34 of Indian Penal code. Kindly give protection against the above persons and register the case and take necessary action against the above persons for the offence committed by them.

**Documents produced by me are as follows:**

1. Registered sale deed dated: 18.06.2023 (two deeds)executed by my husband T.Ramanna in my name;

(2)Katha transfer of my property (2)

(3) Tax paid receipts (2) of my property;

(4) illegal transfer of properties but illegal documents by the accused persons partition deed dated 22.06.2006, sale deed dated 12.08.2015, release deed dated 23.01.2016, rectification deed dated 25.02.2016, Gift deed dated: 18.02.2016, mortgage deed dated: 28.09.2017

(5) illegal transfer of katha of my above properties giving different Katha number as No.1.

(6) illegally advancing loan by the Janatha co operative bank, Mallehshwaram to pankaja V with the consenting witness of her husband S. Rajendra

Sd/-  
(Chandramma)“

**12. A perusal of the complaint would unmistakably reveal a narrative woven, not around any immediate criminal transgression, but around the long and chequered history of civil proceedings *inter se* the parties, extending even to sale deeds executed more than two decades prior to the**

**registration of the impugned crime. Curiously, no concrete cause of action germinating on 20-08-2023 is even remotely articulated in any of the complaints, save and except a vague and nebulous allegation of fabrication of documents on the said date – an allegation which, prima facie, finds no supporting substratum in the material placed before this Court. A deeper excavation into the factual labyrinth, however, becomes wholly unnecessary, for the parties already stand before the competent civil Court seeking adjudication of their rival claims.**

13. The pivotal issue, therefore is, **whether in the teeth of such circumstances, the criminal law ought to be permitted to be unleashed, and more alarmingly, whether an Advocate, whose only role is that of representing a litigant, can be dragged into the whirlpool of criminal prosecution, merely for discharging his professional duty.**

14. **What unmistakably emanates from the afore-narrated facts is that the dispute projected before the**

**jurisdictional police is overwhelmingly, if not entirely, civil in complexion. This conclusion is neither conjectural nor debatable; it is indubitable and self-evident.** To permit the investigating machinery of the State to intrude into what is essentially a civil discord would itself amount to a grave abuse of the process of law.

15. **Jurisprudence is replete with solemn pronouncements of the Apex Court cautioning against the pernicious tendency of converting civil disputes into criminal prosecutions and exhorting constitutional Courts to thwart such misuse at its inception.**

#### **JUDICIAL LANDSCAPE:**

16.1. The Apex Court in **TUHIN KUMAR BISWAS ALIAS BUMBA v. STATE OF WEST BENGAL**<sup>1</sup> has held as follows:

“ .... .... ”

*"TENDENCY OF FILING CHARGESHEETS AND FRAMING CHARGES IN MATTERS WHERE NO STRONG SUSPICION IS MADE OUT CLOGS THE JUDICIAL SYSTEM"*

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<sup>1</sup>2025 SCC OnLine SC 2604

**28.** Before parting with this case, this Court would like to emphasise that where there is a pending civil dispute between the parties, the Police and the Criminal Courts must be circumspect in filing a chargesheet and framing charges respectively. In a society governed by rule of law, the decision to file a chargesheet should be based on the Investigating Officer's determination of whether the evidence collected provides a reasonable prospect of conviction. The Police at the stage of filing of Chargesheet and the Criminal Court at the stage of framing of Charge must act as initial filters ensuring that only cases with a strong suspicion should proceed to the formal trial stage to maintain the efficiency and integrity of the judicial system. The tendency of filing chargesheets in matters where no strong suspicion is made out clogs the judicial system. It forces Judges, court staff, and prosecutors to spend time on trials that are likely to result in an acquittal. This diverts limited judicial resources from handling stronger, more serious cases, contributing to massive case backlogs. Undoubtedly, there can be no analysis at the charge framing stage as to whether the case would end in conviction or acquittal, but the fundamental principle is that the State should not prosecute citizens without a reasonable prospect of conviction, as it compromises the right to a fair process.

**29.** In the present case, the Police and the Trial Court should have been cognizant that as there was a pending civil dispute with regard to the property in question as well as a prior subsisting injunction order and the complainant had refused to make any judicial statement, strong suspicion founded on legally tenable material/evidence was absent."

The Hon'ble Apex Court in **TUHIN KUMAR BISWAS ALIAS BUMBA v. STATE OF WEST BENGAL** has sounded a clarion warning in the following terms:

**“The tendency of filing charge sheets by the police and framing charges by the concerned Courts in matters where no strong suspicion is made out clogs the judicial system.”**

The Apex Court observed that **the police at the stage of filing a charge sheet, and the criminal Court at the stage of framing charge, must function as vital filters, ensuring that only those prosecutions founded upon a strong suspicion and a reasonable prospect of conviction are permitted to proceed to trial. The Apex Court emphatically underscored that the coercive arm of criminal law cannot be invoked against citizens, in the absence of legally tenable material, merely because a civil dispute subsists between the parties.**

16.2. The Apex Court, a little earlier, in **S.N. VIJAYALAKSHMI v. STATE OF KARNATAKA**<sup>2</sup> has held as follows:

“ .... .... ....

**42.** Coming to the second question i.e., whether civil and criminal proceedings both can be maintained on the very same set of allegations *qua* the same person(s), the answer *stricto sensu*, is that there is no bar to simultaneous civil and criminal proceedings. If the element of criminality is there, a civil case

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<sup>2</sup> 2025 SCC OnLine SC 1575

can co-exist with a criminal case on the same facts. The fact that a civil remedy has already been availed of by a complainant, *ipso facto*, is not sufficient ground to quash an FIR, as pointed out, *inter alia*, in *P Swaroopa Rani v. M Hari Narayana*, (2008) 5 SCC 765 and *Syed Aksari Hadi Ali Augustine Imam v. State (Delhi Admn.)*, (2009) 5 SCC 528. The obvious caveat being that the allegations, even if having a civil flavour to them, must *prima facie* disclose an overwhelming element of criminality. In the absence of the element of criminality, if both civil and criminal cases are allowed to continue, it will definitely amount to abuse of the process of the Court, which the Courts have always tried to prevent by putting a stop to any such criminal proceeding, where civil proceedings have already been instituted with regard to the same issue, and the element of criminality is absent. If such element is absent, the prosecution in question would have to be quashed. In this connection, *Paramjeet Batra v. State of Uttarakhand*, (2013) 11 SCC 673 can be referred to:

'12. ... Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court.'

(emphasis supplied)

**43.** In *Usha Chakraborty v. State of West Bengal*, (2023) 15 SCC 135, while quashing the FIR therein and further proceedings based thereon, it was observed *'...the factual position thus would reveal that the genesis as also the purpose of criminal proceedings are nothing but the aforesaid incident and further that the dispute involved is essentially of civil nature.'*

In **S.N. VIJAYALAKSHMI v. STATE OF KARNATAKA** *supra*, the Apex Court reiterated that though civil and criminal proceedings may, in a given case, co-exist, criminal prosecution can survive only where the allegations disclose an overwhelming element of criminality. The Court lucidly held that where a dispute is essentially civil in nature and is merely draped in the garb of a criminal offence, continuation of criminal proceedings would amount to a patent abuse of the process of Court. Reliance was placed therein upon the celebrated dictum in **PARAMJEET BATRA v. STATE OF UTTARAKHAND**, wherein it was observed that High Courts should not hesitate to interdict criminal proceedings where civil remedies are already being pursued and the criminality alleged is but illusory.

16.3. The Apex Court, again in **INDER CHAND BAGRI v. JAGADISH PRASAD BAGRI**<sup>3</sup>, has held as follows:

“.... ....

**24.** The complainant/respondent No. 1 has an alternative remedy of filing a civil suit to set aside the sale deed dated 20.06.2011 and claim damages for the alleged violation of his

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<sup>3</sup> 2025 SCC OnLine SC 2529

contractual rights which he is already pursuing *vide* Title Suit No. 160 of 2012 against the appellant-accused which is currently pending adjudication and hence the route through criminal proceedings, when no ingredient of offence is made out, cannot be permitted. Criminal law ought not to become a platform for initiation of vindictive proceedings to settle personal scores and vendettas. The appellant-accused therefore, in our view, could not be attributed any *mens rea* and therefore, the allegations levelled by the prosecution against the appellant-accused are unsustainable.

**25.** Furthermore, in ***Inder Mohan Goswami***, it was held by this Court that the Court must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private vendetta or with an ulterior motive to pressurise the accused. It was further held by this Court that it is neither possible nor desirable to lay down an inflexible rule that would govern the exercise of inherent jurisdiction. In view of the above and for the reasons stated above, we are of the firm opinion that to continue the criminal proceedings against the appellant-accused herein would cause undue harassment to him because as observed hereinabove, no *prima facie* case for the offence under Sections 406 or 420 of the IPC is made out.

... ..

**28.** At this juncture, we find it apposite to mention the observations of this Court in *Vishal Noble Singh v. State of Uttar Pradesh*, (2024) 14 SCC 112 wherein it was observed that in recent years the machinery of criminal justice is being misused by certain persons for their vested interests and for achieving their oblique motives and agenda. Courts have therefore to be vigilant against such tendencies and ensure that acts of omission and commission having an adverse impact on the fabric of our society must be nipped in the bud. We say so for the reason that while the complainant/respondent No. 1 has made grave allegations against the appellant herein, he has failed to justify the same before this Court. Such actions would create significant divisions and distrust among people, while also placing an unnecessary strain on the judicial system, particularly criminal courts."

Again, in **INDER CHAND BAGRI v. JAGADISH PRASAD BAGRI**, the Apex Court, with unmistakable clarity, **held that criminal law ought not to become a theatre for vendetta, vengeance, or coercive arm-twisting in matters fundamentally civil in nature. The Court warned that the machinery of criminal justice is increasingly being employed as an instrumentality to settle personal scores and achieve oblique motives, thereby placing an unwarranted burden upon criminal Courts and eroding public confidence in the sanctity of judicial process, a caveat, with the facts obtaining in each of the cases.**

16.4. The Apex court again in **JIT VINAYAK AROLKAR v. STATE OF GOA**<sup>4</sup> observes as follows:

".... ....

**8.** We have carefully perused one of the sale deeds, which is the subject matter of the impugned FIR. The sale deeds are similar. The appellant signed the sale deed as the constituted attorney of Vidhya Natekar and Sanjay Natekar and also in his capacity as a confirming party. The said power of attorney executed by Vidhya Natekar and Sanjay Natekar in favour of the appellant contains a recital that the executants,

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<sup>4</sup> 2025 SCC OnLine SC 31

i.e., Vidhya Natekar and Sanjay Natekar, are the co-owners of the subject property. The legal effect of the sale deeds which are the subject matters of the impugned FIR is that the ownership rights of Vidhya Natekar and Sanjay Natekar were transferred to the purchasers.

**9.** It is pertinent to note that civil suits were filed by the 4<sup>th</sup> respondent in October 2018. In the suits, he claims to be a co-owner or person with an undivided share in the subject property. Two years after the institution of the said suits, the constituted attorney of the 4<sup>th</sup> respondent filed a complaint with the Superintendent of Police on 23<sup>rd</sup> October 2020. In the complaint, she stated that the subject property was originally owned by the predecessor of the 4<sup>th</sup> respondent and Sadashiv Natekar. In paragraph 5 of the complaint, the constituted attorney of the 4<sup>th</sup> respondent stated thus:

“5. This vicious and malafide exercise of deceit, forgery and land-grabbing has been systematically and high-handedly perpetrated by **one Mr. Jit Vinayak Arolkar who claims to be the Power of Attorney holder of legal heirs of Sadashiv Sakharam Natekar. The said Sadashiv Natekar was the co-owner of the said property along with vaikunthRawlookhalap.** Thus, it is clear that, the said property can in no way be arbitrarily sold without the express consent of all the legal heirs of both the Co-owners of the said property.”

(emphasis added)

It is pertinent to note that the constituted attorney of the 4<sup>th</sup> respondent has omitted to mention in the complaint that two years before the filing of the complaint, declaratory suits were filed by the 4<sup>th</sup> respondent, which were pending. Interestingly, two years after the registration of the FIR, on 13<sup>th</sup> October 2022, the 4<sup>th</sup> respondent filed a supplementary complaint with the police alleging that even the said Vidhya Natekar and Sanjay Natekar had also committed an offence.

**10.** Thus, in short, the grievance of the 4<sup>th</sup> respondent is that the vendors under the sale deeds had only an undivided share in the subject property, and they could not have sold the

entire subject property under the sale deeds. The contention of the appellant is that what is sold is the right, title and interest of Vidhya Natekar and Sanjay Natekar. Thus, the dispute between the parties is predominantly a civil dispute.

**11.** Section 415, which defines cheating, reads thus:

"415. Cheating.—Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat".

*Explanation.*—A dishonest concealment of facts is a deception within the meaning of this section."

**12.** It is pertinent to note that the purchasers under the sale deeds have not made any grievance about the sale deeds. In the case of *Mohd. Ibrahim v. State of Bihar*<sup>2</sup>, in paragraphs 20 to 23, this Court held thus:

**"20. When a sale deed is executed conveying a property claiming ownership thereto, it may be possible for the purchaser under such sale deed to allege that the vendor has cheated him by making a false representation of ownership and fraudulently induced him to part with the sale consideration. But in this case the complaint is not by the purchaser. On the other hand, the purchaser is made a co-accused.**

**21. It is not the case of the complainant that any of the accused tried to deceive him either by making a false or misleading representation or by any other action or omission, nor is it his case that they offered him any fraudulent or dishonest inducement to deliver any property or to consent to the retention thereof by any person or to intentionally induce him to do or omit to do anything which he would not do or omit if he were not so deceived.** Nor did the complainant allege that

the first appellant pretended to be the complainant while executing the sale deeds. Therefore, it cannot be said that the first accused by the act of executing sale deeds in favour of the second accused or the second accused by reason of being the purchaser, or the third, fourth and fifth accused, by reason of being the witness, scribe and stamp vendor in regard to the sale deeds, deceived the complainant in any manner.

22. As the ingredients of cheating as stated in Section 415 are not found, it cannot be said that there was an offence punishable under Sections 417, 418, 419 or 420 of the Code.

A clarification

**23. When we say that execution of a sale deed by a person, purporting to convey a property which is not his, as his property, is not making a false document and therefore not forgery, we should not be understood as holding that such an act can never be a criminal offence. If a person sells a property knowing that it does not belong to him, and thereby defrauds the person who purchased the property, the person defrauded, that is, the purchaser, may complain that the vendor committed the fraudulent act of cheating. But a third party who is not the purchaser under the deed may not be able to make such complaint."**

(emphasis added)

**12.1** In this case, it is impossible to understand how the appellant deceived the 4<sup>th</sup> respondent and how the act of execution of sale deeds by the appellant caused or was likely to cause damage or harm to the 4<sup>th</sup> respondent in body, mind, reputation or property. The appellant has not purported to execute the sale deeds on behalf of the 4<sup>th</sup> respondent. He has not purported to transfer the rights of the 4<sup>th</sup> respondent. There is no allegation that the appellant deceived the 4<sup>th</sup> respondent to transfer or deliver the subject property.

**13.** Taking the complaint as correct, the offence of cheating under Section 415 of IPC was not made out against the appellant. Moreover, the complaint was filed by the

4<sup>th</sup> respondent for the first time after a time gap of two years from the date of institution of the civil suits. In the complaint, he suppressed the fact that civil suits were already filed in which applications for temporary injunction were made. When there was a dispute over the title, the act of the 4<sup>th</sup> respondent of setting in motion criminal law two years after the date of filing of the suits amounts to nothing but abuse of the process of law.”

The principle was carried further in **JIT VINAYAK AROLKAR v. STATE OF GOA**, where the Apex Court observed that disputes relating to title, undivided share, power of attorney, or execution of sale deeds are predominantly civil disputes, unless accompanied by overwhelming criminality. The Court categorically held that an allegation of cheating cannot arise in vacuum merely because a sale deed is executed in relation to disputed property rights, particularly when the complainant is not the purchaser under the deed and no deception, inducement, or fraudulent delivery of property is pleaded.

17. On a conjoint reading of the aforesaid pronouncements, the unmistakable legal position that emerges is, that the police ought not to be permitted to

**investigate matters which are purely civil in character. Investigative restraint must be exercised in disputes concerning title deeds, revenue entries, powers of attorney, or sale deeds unless, the allegations unmistakably exude overwhelming criminality. Equally, criminal Courts, even at the stage of framing of charge, are duty-bound to scrutinize whether the material placed before them genuinely discloses strong suspicion and a reasonable prospect of conviction. The pendency of civil proceedings cannot be ignored while assessing whether criminal prosecution is being employed as a weapon of harassment. The criminal justice system, therefore, must operate through these twin filters—first, at the stage of investigation and filing of charge sheet, and next, at the stage of framing of charge by the concerned Court. At both stages, the law vests ample power in the Courts to terminate proceedings that amount to abuse of process, subject always to the peculiar facts of each case.**

18. Diving back to the facts of the case at hand, **what emerges with crystalline clarity is, the complete absence of**

**even an iota of criminality. A simmering land dispute between the parties has been artfully clothed in the robes of criminal prosecution.** On the basis of a solitary and seemingly imaginary cause of action alleged to have arisen on 20-08-2023 not less than three criminal cases have come to be registered. The gravamen of the accusation is merely that the petitioners threatened the respondents. **How, from such bald assertions, a cognizable offence has suddenly sprung into existence remains an inscrutable mystery.** Continuation of the proceedings, in the teeth of the aforesaid facts, would unquestionably amount to an abuse of the process of law and occasion a grave miscarriage of justice. **The criminal law cannot be permitted to degenerate into a weapon of oppression in aid of a civil contest. Therefore, on this solitary yet substantial ground, the impugned crime deserves to be obliterated at its very inception.**

19. This leaves this Court with the contention whether an Advocate can be drawn into the web of crime. While it cannot be any straight jacket formula erecting a bar to draw an Advocate into

the web of crime. If the said accused has indeed committed a crime which is found as ingredients in the complaint or contents of the charge sheet, this Court would test the veracity of the challenge by an Advocate on the touchstone of the parameters of ingredients present in the complaint, contents found in the charge sheet. Therefore, it would be an examination on a case to case basis. However, an Advocate, for his mere representation of the accused before the Courts of law, espousing the cause of the clients, owing to his profession, becoming the fulcrum of the crime, is *sans* countenance. **This Court is encountering plethora of cases, wherein Advocates, who merely represent parties before Courts of law in the discharge of their professional obligations, are themselves being dragged into criminal proceedings and arrayed as accused. Therefore, this Court considers it both necessary and appropriate to record its deep, disquiet and increasingly disturbing trend that has surfaced in recent times. The only "fault" attributable to such Advocates, is that they appeared for their clients and articulated their cause before the concerned judicial forum.**

20. **Such tendency strikes at the very heart of independence of the bar, by necessary extension the purity of administration of justice itself. Advocates are officers of the Court, they function within the confines of professional duty, acting upon the instructions of their client and presenting their cause within the four corners of law. If every Advocate, merely by a reason of appearing for a litigant is exposed to criminal prosecution and trauma of investigative proceedings, the inevitable consequence would be a chilling and paralyzing effect upon fearless discharge of professional responsibilities. The majesty of legal profession cannot be permitted to be diminished by disgruntled litigants to wield criminal law as a weapon of intimidation against the members of the bar.** In the facts of the case as well, the only allegation against one of the accused, an Advocate is that he has represented the parties before various *fora* against the complainants or against the interest of the complainants. Barring this, no other allegation is found in the complaint, no other submission is made across the bar.

21. On all the aforesaid reasons, permitting further investigation in the cases at hand would become an abuse of the process of law and result in patent injustice. Accordingly, I proceed to pass the following:

**ORDER**

- (i) Writ Petitions are **allowed**.
- (ii) Crime Nos. 351, 360 and 361 of 2023 registered in all these cases before Chandra Layout Police Station, Bengaluru and pending before VIII Additional Chief Metropolitan Magistrate, Bengaluru stand quashed.
- (iii) It is made clear that the observations made during the course of this order are only for the purpose of consideration of the cases of these petitioners in exercise of jurisdiction under Section 482 of the Cr.P.C. and the same would not become applicable or transmutable to any other proceedings pending between the parties before any other *fora*.

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

Bkp/CT:MJ