IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 04TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 4657 OF 2025

C/W

WRIT PETITION NO. 7439 OF 2020 (GM-RES)

IN CRL.P No. 4657/2025

BETWEEN:

1. SHRI BABASAHEB N. KALYANI
S/O NEELAKANTHA KALYANI
AGED ABOUT 76 YEARS
M/S.NANDHI INFRASTRUCTURE CORRIDOR
ENTERPRISES (NICE)
NO.1, MIDFORD HOUSE GARDEN
OFF M.G.ROAD
BENGALURU - 560 001.

Digitally signed by
PADMAVATHI B K
Location: High
Court of
Karnataka

2. SHRI ASHOK KHENY
S/O MAHARUDRAPPA KHENY
AGED ABOUT 75 YEARS
M/S. NANDHI INFRASTRUCTURE CORRIDOR
ENTERPRISES (NICE)
NO.1, MIDFORD HOUSE GARDEN
OFF M.G.ROAD
BENGALURU - 560 001.

3. SHRI D.RAVISANKAR
S/O VEERAYYA
AGED ABOUT 66 YEARS
NO.D-602, 4TH FLOOR
PRESTIGE ST.JOHNS WOOD APARTMENTS
TAVAREKERE MAIN ROAD
BENGALURU - 560 009.

...PETITIONERS

(BY SRI PRABHULING K.NAVADGI, SR.ADVOCATE FOR
SRI S.B.MATHAPATI, ADVOCATE)

AND:

1. SHRI S.RAJENDRAN
S/O LATE SELVARAJ
AGED ABOUT 57 YEARS
NO.941/C, 2ND BLOCK
4TH STAGE, 17TH B MAIN ROAD
BTM LAYOUT
BENGALURU - 560 076.

2. SHRI S.MEGANATHAN
S/O LATE SELVARAJ
AGED ABOUT 53 YEARS
NO.941/C, 2ND BLOCK
4TH STAGE, 17TH B MAIN ROAD
BTM LAYOUT, BENGALURU - 560 076.

3. SHRI S.SAMPATH
S/O LATE SELVARAJ
AGED ABOUT 64 YEARS
NO. 615, 1ST FLOOR
7TH MAIN, 4TH CROSS

VIJAYANAGAR, BENGALURU - 560 040.

…RESPONDENTS

(BY SRI PRABHUGOUD B.TUMBIGI, ADVOCATE)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 528 OF BNSS PRAYING TO QUASH THE PRIVATE COMPLAINT BEARING P.C.R.NO.36/2018 DATED 16.07.2018 FOR THE OFFENCES PUNISHABLE UNDER PROVISIONS OF KARNATAKA SCHEDULE CASTE AND SCHEDULE TRIBE (PREVENTION OF ATROCITIES) ACT, PENDING IN THE FILE OF LXX ADDL. CITY CIVIL AND SESSIONS JUDGE AND SPECIAL JUDGE (CCH-71) BENGALURU AT ANNEXURE-A AND TO SET ASIDE THE ORDER DATED 27.02.2025 IN PCR NO.36/2018 PASSED BY THE LXX ADDL. CITY CIVIL AND SESSIONS JUDGE AND SPECIAL JUDGE (CCH-71) BENGALURU REFERRING THE MATTER TO THE COMMISSIONER OF POLICE U/S. 156(3) OF CR.P.C TO TAKE NECESSARY ACTION AS AGAINST THE PETITIONERS IN ACCORDANCE WITH LAW AT ANNEXURE-B.

IN WP NO. 7439/2020

BETWEEN:

1. BABASAHEB N KALYANI
   S/O NEELAKANTHA KALYANI
   AGED ABOUT 71 YEARS,
   M/S. NANDI INFRASTRUCTURE CORRIDOR
   ENTERPRISE LIMITED
   NO.1, MIDFORD HOUSE
   MIDFORD GARDENS
   OFF M.G.ROAD,
   BENGALURU - 560 001.

2. SRI ASHOK KHENY
   S/O MAHARUDRAPPA KHENY

AGED ABOUT 70 YEARS,
MANAGING DIRECTOR
M/S. NANDI INFRASTUCTURE CORRIDOR
ENTERPRISE LIMITED
NO.1, MIDFORD HOUSE, MIDFORD GARDENS
BENGALURU - 560 001.

3. SRI D.RAVISANKAR
S/O VEERAYYA
AGED ABOUT 62 YEARS,
NO.D-602, 4TH FLOOR
PRESTIGE ST. JOHN'S WOOD APARTMENTS
TAVAREKRE MAIN ROAD,
BENGALURU - 560 009

...PETITIONERS

(BY SRI PRABHULING K.NAVADGI, SR.ADVOCATE FOR
SRI S.B.MATHAPATI, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY
ASSISTANT COMMISSIONER OF POLICE
YESHWANTHAPURA SUB DIVISION
BENGALURU CITY - 560 027.

2. SRI S.RAJENDRAN
AGED MAJOR
S/O LATE SELVARAJ
RESIDING AT NO.941/C, 2ND BLOCK
4TH STAGE, 17TH "B" MAIN ROAD,
BTM LAYOUT

BENGALURU - 560 076.

3. SRI S.MEGANATHAN
AGED MAJOR
S/O LATE SELVARAJ
RESIDING AT NO.941/C, 2ND BLOCK
4TH STAGE, 17TH "B" MAIN ROAD,
BTM LAYOUT
BENGALURU - 560 076.

4. SRI S.SAMPATH
AGED MAJOR
S/O LATE SELVARAJ
RESIDING AT NO.615, 1ST FLOOR
7TH MAIN, 4TH CROSS
VIJAY NAGAR
BENGALURU - 560 040.

...RESPONDENTS

(BY SMT.WAHEEDA M.M., HCGP FOR R-1;
SRI SYED KHALEEL PASHA, ADVOCATE FOR R-2 TO R-4)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WTIH SECTION 482 OF CR.P.C., PRAYING TO i) QUASH THE COMPLAINT IN P.C.R.NO.36/2018 FILED BY R-2 TO 4 / COMPLAINANTS PENDING ON THE FILE OF THE LEARNED ADDITIONAL CITY CIVIL AND SESSIONS AND SPECIAL JUDGE, BANGALORE (ANNEXURE-A); ii) QUASH AND SET ASIDE THE ORDER DATED 24.04.2019 PASSED IN P.C.R. NO.36/2018 BY THE LEARNED LXX ADDITIONAL CITY CIVIL AND SESSIONS AND SPECIAL JUDGE, BANGALORE UNDER THE PROVISIONS OF THE SCHEDULED CASTES AND THE SCHEDULED TRIBES (PREVENTION OF ATROCITIES) ACT 1989 (ANNEXURE-B) AND ALL FURTHER PROCEEDINGS THEREON; iii) QUASH POLICE NOTICE BEARING NO.YSD/COMPLAINT/229/2019 DATED 10.01.2020 ISSUED BY THE ASSISTANT COMMISSIONER OF

POLICE, YESHWANTHPUR SUB-DIVISION, BANGALORE CITY AT BANGALORE TO THE PETITIONERS ON 25.01.2020 ANNEXURE-C.

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

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

CAV ORDER

The petitioners in Criminal Petition No.4657 of 2025 are before the Court seeking the following reliefs:

> "(i) Quash the Private Complaint bearing P.C.R.No.36 of 2018 dated 16-07-2018 for the offences punishable under the provisions of the Karnataka Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 pending in the file of LXX Additional City Civil and Sessions Judge and Special Judge (CC-71) Bengaluru at Annexure-A and to set aside the order dated 27.02.2025 in P.C.R.No.36 of 2018 passed by the LXX Additional City Civil and Sessions Judge and Special Judge (CCH-71) Bengaluru referring the matter to the Commissioner of Police under Section 156 (3) of Cr.P.C to take necessary action as against the petitioners in accordance with law at Annexure-B.
>
> (ii) Further this Hon'ble Court may be pleased to grant such other reliefs as deemed fit in the interest of justice and equity."

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

The petitioners in both these petitions are the accused. Respondent Nos.1 to 3 in the criminal petition and respondent Nos.2 to 4 in the writ petition are the complainants in P.C.R. No.36 of 2018. It is the case of the complainants that the petitioners/accused have trespassed into the property belonging to the complainants and have vandalized their property. The said incident happens in the year 2007. A private complaint comes to be registered against these petitioners in P.C.R.No.36 of 2018 for several offences including the offences under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Act' for short) and offences under the IPC. The concerned Court refers the matter for investigation under Section 156(3) of the Cr.P.C., for taking necessary action and reporting back to the Court. It is this action that has driven the petitioners to this Court in the criminal petition. The petitioners in Writ Petition No.7439 of 2020 challenge the earlier order dated 24-04-2019 passed by the concerned Court. But the two in common challenge the entire proceedings before the concerned Court in P.C.R.No.36 of 2018.

3. Heard in both the petitions Sri **Prabhuling K. Navadgi,** learned senior counsel appearing for the petitioners, Smt. **Waheeda M. M**., learned High Court Government Pleader appearing for respondent No.1 in Writ Petition No.7439 of 2020 and Sri **Prabhugoud B. Tumbigi**, learned counsel appearing for respondent Nos.2 to 4 in Writ Petition No.7439 of 2020 and for the respondents in Criminal Petition No.4657 of 2020.

4. The learned senior counsel Sri **Prabhuling K. Navadgi** appearing for the petitioners would submit that the very registration of private complaint against the petitioners is a blatant abuse of the process of law. The learned Special Judge ought not to have referred the matter for investigation without even preliminary examination whether the offences could have been committed or otherwise. An incident that happens in the year 2007, is complained of in the year 2018, which is 11 years after the incident of alleged trespass and hurling of abuses. If this cannot be termed as abuse of the process of law, the learned senior counsel submits that there cannot be a better illustration. He would seek quashment of the proceedings.

5. *Per contra*, the learned counsel representing the complainants Sri **Prabhugoud B. Tumbigi** would vehemently refute the submissions in contending that there may be delay, but the delay alone will not vitiate the proceedings, as there is fraud played by the petitioners in knocking of the lands belonging to the respondents. The lands belonging to the complainants are granted lands from the hands of the State. These granted lands were never the subject matter of acquisition for the purpose of NICE project/road. Even then, the lands are acquired by forging grant records and when the respondents questioned the petitioners, they were meted with assault and abuses by taking the name of the caste. Therefore, the learned counsel submits that the matter has to be investigated into and the proceedings must not be obliterated.

6. The learned High Court Government Pleader Smt. **Waheeda M. M**. appearing for the State, which is a respondent in Criminal Petition No.4657 of 2020 would also contend that the crime is still at the stage of investigation and this Court must not interfere.

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

8. The afore-narrated facts are all what are pleaded in the petitions or the objections, as the case would be. To answer the issue that is projected before the Court, it is necessary to take a little walk in the history. On 27-10-1998, the State Government issues a Notification under Section 3(1) of the Karnataka Industrial Areas Development Act, 1966 declaring Sy.No.86 of Kodigehalli Village measuring 95 acres 17 guntas as industrial area. The Government issued another notification seeking to acquire 12 acres 20 guntas of remaining portion in Sy.No.86, out of which, 79 acres 7 guntas were transferred to the Government. The possession of the land was taken and handed over to the project – M/s Nandi Infrastructure Corridor Enterprises Limited (NICEL). The Karnataka Industrial Areas Development Board ('KIADB') then executes a sale deed in respect of 79 acres 07 guntas of land. A final notification comes to be issued earlier on 08-05-2003. A portion of the private land measuring 04 acres in Sy.No.86 was handed over to the

project by Government. The KIADB registers a sale deed in respect of the said 04 acres of land as well in favour of the project Company.

9. Then comes public interest petitions before this Court in Writ Petition No.45334 of 2004 and connected cases challenging the frame work agreement and seeking transfer of investigation to the hands of the Central Bureau of Investigation. The matter reaches up to the Apex Court, where the Apex Court on 20-04-2006 disposes of those petitions. The land-owners petitions come to be dismissed and the challenge to the frame work agreement also comes to be dismissed. Thus, ends the claim of those persons who were agitated against the project.

10. After all the said events, on 31-03-2007, the respondents/complainants had trespassed into the petitioners' Company lands and tried to erect sheds with concrete blocks and stone pillars. Therefore, petitioner No.3 registers a complaint against the respondents/complainants in Crime No.130 of 2007 for the offences under Sections 447, 427, 504 r/w 34 of the IPC and a

charge sheet is filed in the said case in C.C.No.4379 of 2012. The respondents/complainants, however, stand acquitted today. On 16-07-2018, the respondents/complainants choose not to challenge the acquisition notification, but register a private complaint in P.C.R.No.36 of 2018 for several offences including the offence under the Act. The concerned Court directed investigation of the matter and report to be submitted.

11. The Yeshwantpur Police Station returned copy of the order to the concerned Court along with papers submitting that the alleged incident pertain to Sy.No.86/3 which would not come within its jurisdiction and the jurisdiction was that of the Tavarekere Police Station. Pursuant to the said report, the concerned Court directs the Assistant Commissioner of Police, Yeshwantpur to register a crime and investigate into the matter. Being aggrieved by issuance of notice dated 10-01-2020, the petitioners approach this court in Writ Petition No.7439 of 2020 seeking quashment of proceedings in P.C.R.No.36 of 2018. The said writ petition is still pending. The respondents challenged the order dated 17-09-2019 in P.C.R.No.36 of 2018 whereby investigation was directed to be conducted before

the wrong jurisdictional police in Criminal Petition No.6452 of 2021. In the interregnum, the said private complaint itself is dismissed for its non-prosecution. In all, by the orders passed by this Court, the private complaint is now restored to file. The Police conduct investigation. The investigation leads to filing of a 'B' report. The 'B' report is challenged and the concerned Court now refers the matter for investigation again to the Commissioner of Police to take necessary action in accordance with law. It is this that is called in question in Criminal Petition No.4657 of 2025.

12. The offences alleged in the private complaint against the petitioners are the ones punishable under the Act. The entire fulcrum of the complaint traverses around an incident that has happened in the year 2007 – a trespass and hurling of abuses. If the incident has happened in the year 2007, nothing stopped the respondents from immediately registering the complaint for the said offences. The respondents/complainants waited for 11 years and after 11 years now project that the hurling of abuses has violated the rights of the respondents and has become the ingredients of the offences under the Act. If this is permitted, hurling of abuses at any

point in the history can be permitted to be projected to become the ingredients of the offences.

13. This forms a classic illustration as to the misuse and abuse of the provisions of the Act. The narration in the complaint begins in the year 2007 and ends in 2018, but the incident remains only of 2007. The relevant portions of the complaint are necessary to be noticed. They read as follows:

".... ....

> 13. The Accused committed heinous crimes against the complainants under the following sections of the scheduled castes and scheduled tribes punishable under (Prevention of Atrocities) Act 1989 and other sections of the Indian Penal code, for which these Complainants beg the Hon'ble Court to take cognizance against the Accused as per law and render justice viz.,
>
> a) **Under section 3(2) (v) and 324, 447, commits any offence under the Indian Penal code (45 of 1860) punishable with imprisonment for a term of ten years or more against a person or property (knowing that such person is a member of a scheduled caste or a scheduled tribe or such property belongs to such member), shall be punishable with imprisonment for life and with fine.**
>
> The Complainants submit that they are the absolute owners of the land situated in Sy No. 86/P3, measuring to an extent for 2 acres granted by the Special Deputy Commissioner, Bangalore District, to their father late Selvaraj during his lifetime as per **G.O. No. RD 105 LGP 77 dated** 01.09.1977 Regularization of U/a Cultivation L.ND.S.R. 230/80-81 dated 17.01.1981 and as per SL No. Darkhastu register No.LND. (3) SR. 514/83-84 dated

02.09.1983 of the Special Deputy Commissioner, Bangalore District of Kodigehalli Village, Yeshwanthapur Hobli, Bangalore North Taluk.

The Complainants submit that for the illegal acts of the Accused caused against the SC/ST Property Acts, the Accused Nos.1 to 3 are punishable under the Section of Prevention of Schedule Caste & Schedule Tribes by the Complainants as per law or with imprisonment for life & with fine or both.

b) **Under section of 3 (2) [2](va) and GSR 316 (E) (2) (d) prevention of Atrocities Rule 1995 non-Government organization means a voluntary organization engaged in the welfare activities relating to the Scheduled Caste and Scheduled Tribes and registered under the Societies Registration Act, 1860 (21 of 1866) or under any law for the registration of documents or such organization for the time being in force, and committed any offence against a person belong to SC/ST or property of SC/St belongs to such member shall be punishable under the Indian Penal Code (45 of 1860) for such offence and shall also be liable to fine.**

The complainants have formed a registered society in the name & style of S & P Education Society and had obtained requisite permission from the Government of Karnataka, vide Register No. BLU/S1154-2006-07 dated 16.01.2007 to impart the education to the poor and needy children.

Accused A1, A2 & A3 engaged by its henchman and anti-social elements destroyed the office building of S & P Education Society by using their money and muscle power with jurisdictional police protection and political cloud (Accused A1,A2 & A3) damaged of education society building on 31.03.2007

They have acted in illegal manner; damaged land belong to Complainant by using J.C.B. and other vehicle & machinery and Excavator etc., kept valuable documents pertain belongs to society building the Accused have taken away with them.

c) **Under Section 3, 14, 20, section17(1) Indian penal code, 1860, sections 312 and 376-code of criminal procedure, 1973, sections 193 and 216- special court for trial of offences under the scheduled castes and scheduled tribes (prevention of atrocities), Act, 1989-Police forwarding the accused to the special court for trial of offences under the act and also under the IPC- special court refusing to take cognizance of the offence under the IPC on the ground of lack of jurisdiction-jurisdiction of the special court-whether limited to offences under the act-offences under the IPC-whereas triable by the special without an order of commitment as contemplated in section 193 of criminal procedure code.**

Preventative under Section 17(1) action to be taken by the law and order a District Magistrate of a Sub- Divisional Magistrate or any other Executive Magistrate or any police officer not below the rank of Deputy Superintendent of Police may, on receiving information and after such inquiry as he may think necessary, has reason to believe that a person or a group of persons not belonging to the scheduled caste or the Schedule Tribes residing in or frequenting any place within the local limits of his jurisdiction is likely to commit an offence or has threatened to commit any offence under this act and is of the opinion that there is sufficient ground for proceeding, declare such an area to be an area prone to atrocities and take necessary action and maintenance of public order and tranquility ad may take preventive action.

The Accused No.3 with the support of accused A1 & A2 (Accused A1,A2 & A3) grabbing the land of the complainants on 31.03.2007 at the point of time. Complainants lodged complaint to Byadrahalli Police Station Magadi Main Road, the police officer ASI refused to take complaint and finally complainant approached to millers road on 31.03.2007 at 11.30 PM to Superintendent of Police office lodged complaint went in vain.

Complaint ledged dated with reference.

31.03.2007 these dated complaint
05.04.2007 (Superintendent of Police

09.05.2009 Byadarahalli Police Station, Tavarekere Police
All the complaint went in vain
Acknowledge for reference.

d) **Under Section 3 (2) (i) Gives or fabrics false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a scheduled caste or a scheduled tribe to be convicted of an offence which is capital by the law for the time being in force shall be punished with imprisonment for life and with fine, and if an innocent member of a scheduled caste or a scheduled tribe be convicted and executed in consequence of such false or fabricated evidence, the person, who gives or fabricates such false evidence, shall be punished with death**;

Accused No.A1, A2 with the support and misdirection of Accused A3, lodged false FIR on 31/03/2007 in crime registered No.130/2007 at Tavarekere police Station. for his alleged offence of 447, 427, 504, R/W 34 of IPC and this after case call of in the Chief Judicial Magistrate Court, Bengaluru in CJM.

Vide No. C.C 4379/2012 destroyed our own property deliberately filed false case without any base.

The said Accused A1,A2 & A3 representative person did not process any documentary evidence to claim their right over the property in CJM court however the Hon'ble Court was pleased to pass on order in our favour of 07.03.2014 a copy of order is produced herewith for ready reference.

e) **under section of 15-A (11) (d) (f)**

It shall be the duty of his concerned state of specify an appropriate scheme to ensure un-implementation of rights and entitlements of victims aerating justice 11 (d) damage of property 11(f) atrocity victims and their dependents in above all the matter ended in acquittal of the alleged charge and offence of Accused A1,A2 & A3 damages loss suffered complaint No.1 Rajendaran 2. Meganathan 3.Sampth, has narrated below:-our land

> is entirely damaged Due to illegal act of Accused A1,A2 & A3 lost our respect and diminished respect in the society, mental agony and harassment due to false case false evidence it made complainants to spend money and thereby case monetary loss beside in told misery.
>
> We are loss suffered by Accused A1,A2 & A3 continuously is in-miserable.
>
> And several other loss chased by accused besides loosing our jobs.
>
> Suffered mentally diseases lost money
>
> Pledged gold jewelry complainants and family members
>
> Sold Valuable vehicles. (Cars)
>
> PRAYER
>
> Wherefore, complaints most respectfully prays this Hon'ble Court be pleased to take cognizance of the events as provided under the Karnataka Schedule Caste & Schedule Tribe (Prevention of Attrocities) Act, 1989, in the interest of justice and equity."

The afore-quoted paragraphs themselves are clear that accused engaged by their henchman, using their money and muscle power damaged Education Society building on 31-03-2007. Hurling of abuses were on the same day i.e., on 31-03-2007. If everything has happened in the year 2007 why did the respondents wait to register the crime for 11 long years remains completely

unexplained, even in the complaint. Therefore, the complaint is full of embellishments.

14. It is in such circumstances the Apex Court directed this Court to examine the complaints not being bogged down by the offences alleged, but by several other factors.

14.1. The Apex Court in the case of **MAHMOOD ALI v. STATE OF UTTAR PRADESH[1],** has held as follows:

"…. …. ….

> **11. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the court owes a duty to look into the FIR with care and a little more closely.**
>
> **12. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance etc. then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be**

[1] **2023 SCC OnLine SC 950**

just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not.

13. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.

14. *State of A.P.* v. *Golconda Linga Swamy* [*State of A.P.* v. *Golconda Linga Swamy*, (2004) 6 SCC 522 : 2004 SCC (Cri) 1805] , a two-Judge Bench of this Court elaborated on the types of materials the High Court can assess to quash an FIR. The Court drew a fine distinction between consideration of materials that were tendered as evidence and appreciation of such evidence. Only such material that manifestly fails to prove the accusation in the FIR can be considered for quashing an FIR. The Court held : (*Golconda Linga Swamy case* [*State of A.P.* v. *Golconda Linga Swamy*, (2004) 6 SCC 522 : 2004 SCC (Cri) 1805] , SCC p. 527, paras 5-7)

> "*5*. … Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent such abuse. It would be an abuse of the process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation

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

***6*. In *R.P. Kapur* v. *State of Punjab* [*R.P. Kapur* v. *State of Punjab*, 1960 SCC OnLine SC 21 : AIR 1960 SC 866] , this Court summarised some categories of cases where inherent power can and should be exercised to quash the proceedings : (SCC OnLine SC para 6)**

(*i*) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;

(*ii*) where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged;

(*iii*) *where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge*.

7*. *In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. *That is the function of the trial Judge*. Judicial process, no doubt should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into

> consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death."
>
> (emphasis supplied)
>
> **15.** In the result, this appeal succeeds and is hereby allowed. The impugned order [*Mahmood Ali* v. *State of U.P.*, 2022 SCC OnLine All 2568] passed by the High Court of Judicature at Allahabad is hereby set aside. The criminal proceedings arising from FIR No. 127 of 2022 dated 4-6-2022 registered at Police Station Mirzapur, Saharanpur, State of U.P. are hereby quashed."

14.2. The Apex Court in its recent judgment rendered in the case of **ANITA MAURYA v. STATE OF UTTAR PRADESH**[2], observes that the criminal law cannot be set into motion to wreak vengeance and that delay would vitiate criminal proceedings and has held as follows:

> "…. …. ….
>
> **14.** We have heard learned counsel for the parties and perused the material on record. The question that falls for our consideration is whether the continuation of complaint against the appellants would amount to an abuse of the process of the court.
>
> **15.** The inherent power preserved by Section 482 of CrPC, now Section 528 of BNSS, is exercisable to prevent the abuse of the process of any court and to secure the ends of

[2] **2026 SCC OnLine SC 1519**

justice. In *State of Haryana* v. *Bhajan Lal*[1], this Court set out the illustrative categories in which the power may be exercised, the relevant paragraph is reproduced as follows:

> "**102.** In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.
>
> (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
>
> (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
>
> (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
>
> (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence,

no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

16. The power is undoubtedly to be exercised sparingly, with circumspection, and never to throttle a legitimate prosecution or to conduct a mini trial at the threshold. These self-imposed restraints, however, do not require the court to shut its eyes to a proceeding that is a manifest abuse. Where mala fide or an oblique motive is alleged, the court is not confined to the four corners of the complaint. In *Mahmood Ali* v. *State of U.P.*[2], this Court held that in such a situation the court owes a duty to examine the complaint with care and a little more closely, and, where necessary, to read in between the lines.

17. The same principle was reiterated in *Mohammad Wajid* v. *State of U.P.*[3], where it was observed:

"30. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. **Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation.** Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged."

(**emphasis supplied**)

18. It is equally settled that a dispute essentially civil in character is not to be permitted to be clothed as a criminal offence, and that the criminal process is not a substitute for the remedies available in law. In *G. Sagar Suri* v. *State of U.P.*[4], this Court cautioned that before issuing process a criminal court must exercise a great deal of caution, and that it is for the court to see whether a matter essentially of a civil nature has been given the cloak of a criminal offence.

19. Delay in setting the criminal law in motion, when it is deliberate and unexplained, is a circumstance that may itself justify the quashing of the proceeding. In *Kishan Singh (Dead) through Legal Representatives* v. *Gurpal Singh*[5], this Court observed:

> "**22. In cases where there is a delay in lodging an FIR, the court has to look for a plausible explanation for such delay. In the absence of such an explanation, the delay may be fatal. The reason for quashing such proceedings may not be merely that the allegations were an afterthought or had given a coloured version of events. In such cases the court should carefully examine the facts before it for the reason that a frustrated litigant who failed to succeed before the civil court may initiate criminal proceedings just to harass the other side with mala fide intentions or the ulterior motive of wreaking vengeance on the other party. Chagrined and frustrated litigants should not be permitted to give vent to their frustrations by cheaply invoking the jurisdiction of the criminal court. The court proceedings ought not to be permitted to degenerate into a weapon of harassment and persecution. In such a case, where an FIR is lodged clearly with a view to spite the other party because of a private and personal grudge and to enmesh the other party in long and arduous criminal proceedings, the court may take a view that it amounts to an abuse of the process of law in the facts and circumstances of the case."**

20. This principle has been applied by this Court very recently in *Nazibul Rahim Khan* v. *State of U.P.*[6], where, this

Court while setting aside an order of the same High Court, held that although civil and criminal remedies may co-exist upon the same cause of action, there ought not to be an unreasonable or inordinate gap between the institution of the two, **the time-factor being an indicator of whether the criminal proceeding is genuine and bona fide or a mere pressure tactic, and that the complainant is obliged to satisfactorily explain the delay.** This Court there expressly approved and applied *Kishan Singh* (supra).

…. …. ….

22. Turning to the facts in the case in hand, the chronology is not in dispute. **The incident is that of 09.11.2020. On that very day the appellants' side lodged the FIR, and a charge-sheet followed on 30.11.2020, upon which the trial has commenced. The complaint of the respondent, founded on the identical incident, was instituted only in the year 2021, and no explanation has been offered for the intervening delay. Such deliberate and unexplained delay, set against a subsisting antecedent proceeding on the same facts, is precisely the circumstance which, in *Kishan Singh* (supra) and *Nazibul Rahim Khan* (supra), was held to point to an oblique motive rather than to a genuine grievance.**

…. …. ….

24. Lastly, there remains the civil substratum of the controversy. The dispute between the parties has, at its root, a long-standing quarrel over land, agitated by the complainant even by way of a public interest litigation. **To permit a private complaint, belatedly instituted and suppressing the earlier FIR, to proceed against an entire family in these circumstances would be to allow a matter essentially civil to be pursued through the criminal process as an instrument of harassment, a course against which this Court in *G. Sagar Suri case* (supra) cautions. The summoning of the entire family, including the three women, upon a solitary and belated version, does not reflect the careful application of mind by the Magistrate that the issuance of process demands.**

> **25.** The High Court confined itself to the bare averments of the complaint and treated the material placed by the appellants as raising only disputed questions of fact for trial. Where, however, **the *indicia* of mala fide and abuse of process appear on the record, the court is not merely entitled but obliged to look beyond the averments and to prevent the perpetuation of the abuse. Taking the cumulative effect of the unexplained delay, the suppression of the antecedent FIR, the counter-blast character of the complaint and the essentially civil nature of the dispute, we are of the considered view that the case falls squarely within categories (1), (5) and (7) of *Bhajan Lal Case* (supra), and that the continuation of the complaint against the appellants would be nothing but an abuse of the process of the court**."

14.3. Prior to the afore-quoted judgments of the Apex Court in the cases of **MAHMOOD ALI** *supra* and **ANITA MAURYA** *supra*, the Apex Court in the case of **CHANCHALPATI DAS v. STATE OF WEST BENGAL**[3] has held as follows:

> "…. …. ….
>
> **14.** It is again pertinent to note that, even as per the case of the complainant, the alleged incident of bus theft had taken place in the year 2001, and it was only in 2009 that the substantial complaint was made in the Court of Chief Judicial Magistrate, Alipore. It is just not believable that the Ballygunge Police Station concerned, Kolkata would not have taken any action on the report made in 2002 on behalf of the powerful body like ISKCON, Kolkata, or on the letter dated 30-9-2006 written by the Branch Manager of ISKCON, Kolkata. Respondent 2 complainant also did not take any concrete action for getting the said complaint registered with regard to the alleged theft of

[3] **2023 SCC OnLine SC 650**

bus for a long period of eight years, till the complaint in the court was filed in the year 2009.

15. In the opinion of the Court such an inordinate delay of eight years in filing the complaint in the court itself would be a sufficient ground to quash the proceedings. If the luxury bus owned by ISKCON, Kolkata Branch in 1998 was so precious to them, they would not have sat silent for such a long time of eight years. In our opinion, the criminal machinery set into motion by filing the complaint for the alleged incident which had taken place eight years ago, that act itself was nothing but a sheer misuse and abuse of the process of the court.

16. That apart, from the bare perusal of the complaint filed before the Court, on the basis of which the FIR was registered at Ballygunge Police Station on 20-2-2009, it is discernible that except bald allegations made in the complaint with regard to the theft of bus in question there was no material or document produced by the complainant to substantiate the allegations against the appellants. Even after the investigation of the said complaint, there was no evidence collected by the investigating officer to prima facie satisfy the ingredients constituting the alleged offences under Sections 468, 471, 406 and 120-BIPC. Even if the allegations made in the complaint as well as in the charge-sheet are taken at their face value none of the ingredients constituting the alleged offences are culled out. The learned Senior Counsel Mr Shyam Divan for the appellants had strenuously urged relying upon the documents pertaining to the transfer of ownership and registration of the said bus, that the said documents were executed by the then authorised persons of ISKCON, Kolkata, in our opinion, the said documents could not be considered in these proceedings, the same being not the part of the charge-sheet papers.

17. In any case, there is nothing to suggest from the other documents on record of the instant appeals that the investigating officer had even bothered to collect any cogent or substantive evidence against the appellants to prosecute them for the alleged offences. There was no expert opinion obtained or scientific evidence collected on the documents allegedly forged to show as to by whom, when and how the theft of vehicle and forgery of documents were committed. Under the

circumstances, allowing such prosecution to continue would not only be an empty formality but would be gross wastage of court's precious time.

18. It cannot be gainsaid that the High Courts have power to quash the proceedings in exercise of powers under Section 482CrPC to prevent the abuse of process of any court or otherwise to secure the ends of justice. Though the powers under Section 482 should be sparingly exercised and with great caution, the said powers ought to be exercised if a clear case of abuse of process of law is made out by the accused. In *State of Karnataka* v. *L. Muniswamy* [*State of Karnataka* v. *L. Muniswamy*, (1977) 2 SCC 699 : 1977 SCC (Cri) 404] the Supreme Court had held that the criminal proceedings could be quashed by the High Court under Section 482 if the court is of the opinion that allowing the proceedings to continue would be an abuse of the process of the court or that the ends of justice require that the proceedings are to be quashed.

... ...

20. In *State of A.P.* v. *Golconda Linga Swamy* [*State of A.P.* v. *Golconda Linga Swamy*, (2004) 6 SCC 522 : 2004 SCC (Cri) 1805] this Court had observed that the court would be justified to quash the proceedings if it finds that initiation or continuance of such proceedings would amount to abuse of the process of court.

21. As regards inordinate delay in filing the complaint it **has been recently observed by this Court in *Hasmukhlal D. Vora* v. *State of T.N.* [*Hasmukhlal D. Vora* v. *State of T.N.*, (2022) 15 SCC 164: (2024) 2 SCC (Cri) 632] that though inordinate delay in itself may not be a ground for quashing of a criminal complaint, however unexplained inordinate delay must be taken into consideration as a very crucial factor and ground for quashing a criminal complaint.**

22. In the light of the aforestated legal position, if the facts of the case are appreciated, there remains no shadow of doubt that the complaint filed by the respondent complainant after an inordinate unexplained

> **delay of eight years was nothing but sheer misuse and abuse of the process of law to settle personal scores with the appellants, and that continuation of such malicious prosecution would also be further abuse and misuse of process of law**, more particularly when neither the allegations made in the complaint nor in the charge-sheet, disclose any prima facie case against the appellants. The allegations made against the appellants are so absurd and improbable that no prudent person can ever reach to a conclusion that there is a sufficient ground for proceeding against the appellants-accused."

In the light of the afore-quoted judgments of the Apex Court, if the allegations are noticed, the alleged hurling of abuses in the year 2007 or incident of the year 2007 had no impact upon these complainants/respondents. The impact is felt in the year 2018. It has taken 11 years to feel the impact. Even if the contents of the complaint are taken as true, it would not make out an offence, for it being marred by delay.

15. In such circumstances, the observations of the Apex Court in **STATE OF HARYANA v. BHAJAN LAL**[4] become apposite. The observations of the Apex Court are as follows:

".... ....

> **102.** In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the

[4] **1992 Supp (1) SCC 335**

principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

(Emphasis supplied at each instance)

In the light of the aforesaid facts, permitting investigation in the case at hand would become an abuse of the process of law and result in miscarriage of justice.

16. For the aforesaid reasons, the following:

O R D E R

(i) Criminal Petition and Writ Petition are **allowed.**

(ii) Proceedings in P.C.R.No.36 of 2018 pending before the LXX Additional City Civil and Sessions Judge and Special Judge, Bengaluru stand quashed *qua* the petitioners.

Pending applications if any, also stand disposed.

Sd/-
(M.NAGAPRASANNA)
JUDGE

BKP