

Reserved on : 03.03.2026
Pronounced on : 13.03.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.28739 OF 2024 (GM - RES)

BETWEEN:

- 1 . SRI GOPAL JOSHI
S/O LATE VENKATESH,
AGED ABOUT 67 YEARS.
- 2 . VIJAYA LAKSHMI JOSHI S.G.,
W/O SHIVARUDRAMURTHY
AGED ABOUT 58 YEARS,
NO.47, PRAKRUTHI, 8TH MAIN
1ST CROSS, SHARAD COLONY
BASVESHWARANAGAR
BENGALURU – 560 079.
- 3 . AJAY JOSHI
S/O GOPAL JOSHI
AGED ABOUT 45 YEARS

PETITIONERS NO.1 AND 3 ARE
RESIDING AT: NO.19, INDIRA COLONY,
NAGASHETTIKOPPA, NEAR SBI COLONY,
KESHWAPURA, HUBLI,
DHARWAD – 580 023

[PRESENTLY ALL PETITIONERS IN DURESS /POLICE
CUSTODY IN 1ST RESPONDENT STATION]

... PETITIONERS

(BY SRI D.R.RAVISHANKAR, SR.ADVOCATE A/W
SRI MAYUR D.BHANU, ADVOCATE)

AND:

- 1 . THE STATE OF KARNATAKA
BY BASAVESHWARA NAGAR POLICE STATION
BASAVESHWARA NAGAR,
BENGALURU – 560 079.
REPRESENTED BY ITS HCGP
HIGH COURT OF KARNATAKA BUILDING,
BENGALURU – 560 001.
- 2 . SMT.SUNITHA CHAUVAN
W/O DEVANAND
AGED ABOUT 48 YEARS
RESIDING AT: PLOT NO.302
BRIGADE GATEWAY
YESHWANTHAPURA
BENGALURU – 560 022
PERMANANT R/O: NO.M-I-J-141
DEVATHA NIVAS, KHB COLONY
SOLAPUR ROAD
VIJAYAPURA – 586 103.

... RESPONDENTS

(BY SRI B.N.JAGADEESHA, ADDL.SPP FOR R-1;
SRI M.T.NANAIAH, SR.ADVOCATE A/W
SRI GAUTHAM NETTAR, ADVOCATE FOR R-2)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA READ WITH SECTION 528 OF BNSS,
2023 PRAYING TO QUASH FIR IN CRIME NO.409/2024, DATED
17.10.2024 AT ANNEXURE-B, IN ITS ENTIRETY FOR THE ALLEGED

OFFENCES SECTIONS 126(2), (WRONGFUL RESTRAINT) 115(2) AND 118(1) (VOLUNTARILY CAUSING HURT OR GRIEVOUS HURT BY DANGEROUS WEAPONS OR MEANS) 118(1), 316(2), (CRIMINAL BREACH OF TRUST) 318(4), (CHEATING) 61, (CRIMINAL CONSPIRACY) 3(5) (COMMON INTENTION) OF THE BHARATIYA NYAYA SANHITA, 2023 AND SECTIONS 3(1)(r), (s) (INSULT AND ABUSES PUBLIC VIEW) AND 3(2)(v-a)(SPECIFIED OFFENCES IN THE SCHEDULE) OF THE SCHEDULE CASTE AND SCHEDULE TRIBE (PREVENTION OF ATROCITIES) ACT, 1989 PENDING ON FILE OF THE HON'LE LXX ADDITIONAL CITY CIVIL AND SESSIONS JUDGE AND SPECIAL JUDGE AT BENGALURU (CCH-71) CR.NO 409/2024. AS PER ANNEXURE-C.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 03.03.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

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

CAV ORDER

The petitioners/accused 1 to 3 are at the doors of this Court calling in question registration of a crime in Crime No.409 of 2024 registered for offences punishable under Sections 3(5), 61, 115(2), 118(1), 126(2), 316(2) and 318(4) of the BNS and Sections 3(1)(r)(s) and 3(2) (v-a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('the Act' for short).

2. Heard Sri D.R.Ravishankar, learned senior counsel appearing for one of the petitioners, Sri Mayur D. Bhanu, learned counsel appearing for the other petitioners, Sri B.N. Jagadeesha, learned Additional State Public Prosecutor appearing for respondent No.1 and Sri M.T. Nanaiah, learned senior counsel appearing for respondent No.2.

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

3.1. The husband of the 2nd respondent/complainant was elected as a Member of Legislative Assembly from a constituency in Vijapura in 2018 elections. He desired of becoming a Member of Parliament. It is alleged that in the month of March 2024, the 2nd respondent meets the 1st petitioner who promises to secure a ticket for the husband of the complainant to contest parliament elections. It is alleged that for getting the ticket a demand of ₹5/- crores was made. The 2nd respondent initially paid ₹25/- lakhs as advance and thereafter, ₹1.75 Crores in a staggered way, to make it ₹2/- crores. The complainant's husband did not get the ticket. Therefore, the complainant demanded the money back. The petitioners are said to

have dodged return of money. Therefore, the 2nd respondent registers a complaint on 17-10-2024 projecting the aforesaid offences including the one punishable under the Act. The registration of crime is called in question in the case at hand, on the score that it was filed for recovery of money.

3.2. This Court, while granting an interim order of stay, at the outset, has passed the following order on 28-10-2024:

"ORAL ORDER

Heard the learned Senior counsel Sri.D.R.Ravishankar, appearing for the petitioners.

The petitioners are accused Nos.1 to 3. They are said to have assured the complainant - respondent No.2 that they would secure a ticket in the then ensuing Parliamentary election and are said to have taken Rs.25/- lakhs. The alleged transaction ostensibly has happened prior to the elections or even announcement of candidates. If the candidature was not announced then, the complaint should have been registered then and there. A complaint is registered on 17.10.2024. Six months after the incident.

The learned Senior counsel submits that the money that has allegedly been taken by these petitioners they would undertake to refund the entire amount to the complainant and that has been the stand of the petitioners that they would in its entirety refund the amount to the complainant.

Therefore, it is a pure money claim between the petitioner and the respondent - complainant. This is now

rendered with the colour of crime by registering several offences.

The complaint itself narrates that the hurling of abuses happens in the house of the petitioners, which admittedly is in the four walls of the house. It is neither in a public place nor a place of public view for it to become an offence under Section 3(1)(r) and (s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The issue *qua* the Atrocities Act stands covered by the judgment of the Apex Court in the case of Hitesh Verma vs State Of Uttarakhand reported in 2020 10 SCC 710.

Since the issue is purely a money claim between the two, permitting further proceedings / investigation would result in the issue running foul of the judgment of the Apex Court in the case of Lalit Chaturvedi v. State of U.P. – 2024 SCC OnLine SC 171.

Therefore, there shall be an interim order of stay of further investigation in Crime No.409/2024 and all consequential action taken pursuant to the registration of the crime, *qua* the petitioners, till the next date of hearing.

The petitioners are said to be in police custody and the custody of which is till tomorrow, they shall in the light of the aforesaid order be released forthwith, in the manner known to law.

Registry is directed to forthwith communicate the same to the respondents.

Hand delivery of the order is permitted.”

(Emphasis supplied)

A submission was made before this Court while granting an interim order that it is purely a money claim between the petitioners and the 2nd respondent. However, the petitioners have offered to return the amount back. In that light, the interim order was granted. It is also submitted that an amount to the tune of ₹75/- lakhs is also returned to the complainant. The matter is heard at that stage.

4. The learned senior counsel Sri D.R. Ravishankar appearing for one of the petitioner and Sri Mayur D. Bhanu appearing for the other petitioners, would in unison contend that it is purely a money claim between the petitioners and the 2nd respondent. The criminal law is set into motion for the purpose of recovery of money, only because the 2nd respondent will have to shell out Court fee and will have to wait for a decision in the civil proceedings. To fast track recovery of money, the present crime is registered.

5. The learned senior counsel Sri M.T. Nanaiah appearing for the 2nd respondent would submit that the petitioners have undertaken that they would pay back the money before this Court. The undertaking cannot now be obviated by making legal

submissions. Therefore, he would submit that a clear case of cheating is made out against these petitioners, as they have lured the husband of the complainant to part with certain money on a desire to contest the elections. The amount was admittedly paid in cash after taking hand loans from several others.

6. The learned senior counsel for the petitioners would join issue in contending that merely because the petitioners have undertaken or have paid certain amount, it would not mean that for the remainder of the amount, the complainant should be permitted to pursue the criminal remedy. It is always open to her and her husband to file a civil suit for the remaining amount that is to be paid to the complainant. Insofar as the offence under the Act is concerned, the learned counsel Sri Mayur D. Bhanu submits that the alleged hurling of abuses has taken place within the four corners of a house and as such it cannot become ingredients of the Act. The learned counsel for the parties have placed reliance on several judgments, all of which would bear consideration *qua* their relevance in the course of the order.

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 and link in the chain of reasons for the transaction between the parties is a matter of record. What remains to be considered is, whether further investigation should be permitted in the case at hand or not? Since the entire issue has triggered from the complaint, I deem it appropriate to notice the complaint. It reads as follows:

“ರವರಿಗೆ,

ದಿನಾಂಕ:17-10-2024

ಪೊಲೀಸ್ ಇನ್ಸ್‌ಪೆಕ್ಟರ್
ಬಸವೇಶ್ವರನಗರ ಪೊಲೀಸ್ ಠಾಣೆ
ಬೆಂಗಳೂರು ನಗರ.

ಇಂದ,

ಸುನಿತಾ ಚವ್ವಾಣ್ ಕೋಂ ದೇವಾನಂದ್, 48 ವರ್ಷ
ವಾಸ ನಂ. ಪ್ಲಾಟ್ ನಂ: ಎಲ್-302, ಬ್ರಿಗಡ್ ಗೇಟ್‌ವೇ
ಯಶವಂತಪುರ, ಬೆಂಗಳೂರು ನಗರ.
ಖಾಯಂ ವಿಳಾಸ:ನಂ.ಎಂ.ಐ.ಜಿ-141, ದೇವತಾ ನಿವಾಸ್,
ಕೆ.ಹೆಚ್.ಬಿ ಕಾಲೋನಿ, ಸೊಲ್ಲಾಪುರ್ ರಸ್ತೆ, ವಿಜಯಪುರ - 586103
ಮೊಬೈಲ್ ನಂಬರ್: 9449816769 / 9448136769
ಜಾತಿ-ಎಸ್.ಸಿ(ಲಂಬಾಣಿ), ವೃತ್ತಿ-ಗೃಹಿಣಿ

ಮಾನ್ಯರೇ,

ವಿಷಯ:- ನನಗೆ ಮೋಸ ಉದ್ದೇಶದಿಂದ ಒಳಸಂಚು ನಡೆಸಿ, ಲೋಕಸಭಾ ಚುನಾವಣೆಗೆ
ಬಿ.ಜೆ.ಪಿಯಿಂದ ಟಿಕೆಟ್ ಕೊಡಿಸುವುದಾಗಿ ನಂಬಿಸಿ, ನಮ್ಮಿಂದ ಹಣವನ್ನು
ಪಡೆದು ಮೋಸ ಮಾಡಿ, ಕೇಳಲು ಹೋದ ನನಗೆ ಜಾತಿ ನಿಂದನೆ ಮಾಡಿ,
ಹಲ್ಲೆ ಮಾಡಿರುವ ಬಗ್ಗೆ ದೂರು.

ನಾನು ಮೇಲೆ ತಿಳಿಸಿರುವ ಬೆಂಗಳೂರಿನ ವಿಳಾಸದಲ್ಲಿ ಸುಮಾರು 05 ವರ್ಷಗಳಿಂದ
ವಾಸವಾಗಿರುತ್ತೇನೆ, ನಾನು ಮೂಲತಃ ಬಿಜಾಪುರದ ಸೊಲ್ಲಾಪುರ್ ರಸ್ತೆಯ ಕೆ.ಹೆಚ್.ಬಿ ಕಾಲೋನಿಯ
ನಿವಾಸಿಯಾಗಿರುತ್ತೇನೆ. ನಾನು ಗೃಹಿಣಿಯಾಗಿದ್ದು, ಕೆಲವು ಸಮಾಜ ಸೇವಾ ಕಾರ್ಯಗಳನ್ನು ಹಾಗೂ
ರಾಜಕೀಯ ಚಟುವಟಿಕೆಗಳಲ್ಲಿ ತೊಡಗಿಕೊಂಡಿರುತ್ತೇನೆ. ನನ್ನ ಪತಿಯಾದ ಶ್ರೀ ದೇವಾನಂದ್ ಪುಲ್ ಸಿಂಗ್
ಚವ್ವಾಣ್ ರವರು 2018 ನೇ ಸಾಲಿನಲ್ಲಿ ಬಿಜಾಪುರ ಜಿಲ್ಲೆಯ ವಿಧಾನ ಸಭಾ ಕ್ಷೇತ್ರ-31, ನಾಗರಾಣಾದಲ್ಲಿ
ಜೆ.ಡಿ.ಎಸ್ ಪಕ್ಷದ ಅಭ್ಯರ್ಥಿಯಾಗಿ ಜಯಗಳಿಸಿದ್ದರು. 2023ನೇ ಸಾಲಿನಲ್ಲಿ ಸ್ಪರ್ಧಿಸಿದ್ದು,
ಚುನಾಯಿತರಾಗಿರುವುದಿಲ್ಲ.

ನಮ್ಮ ಪತಿಗೆ ಉತ್ತಮವಾದ ಬೆಂಬಲವಿದ್ದ ಕಾರಣ, ನಮಗೆ ಪರಿಚಯವಿದ್ದ ಹಾಗೂ ಅಥಣಿಯಲ್ಲಿ
ಇಂಜಿನಿಯರ್ ಆಗಿ ಕಾರ್ಯ ನಿರ್ವಹಿಸುತ್ತಿರುವ ಶೇಖರ್ ನಾಯಕ್ ಎಂಬುವವರ ನಮಗೆ ಪರಿಚಯವಿದ್ದು,
ಇವರು ಇದೇ ವರ್ಷದ ಮಾರ್ಚ್ ತಿಂಗಳ ಮೊದಲನೇ ವಾರದಲ್ಲಿ ನಮ್ಮ ಮನೆಗೆ ಬಂದಿದ್ದು, ತನಗೆ ಶ್ರೀ
ಪ್ರಹ್ಲಾದ್ ಜೋಷಿಯವರ ಸಹೋದರರಾದ ಶ್ರೀ ಗೋಪಾಲ್, ಜೋಷಿರವರ ಪರಿಚಯವಿರುವುದಾಗಿ, ಈ
ಭಾರಿ ಚುನಾವಣೆಯಲ್ಲಿ- ಬಿ.ಜೆ.ಪಿ ಮತ್ತು ಜೆ.ಡಿ.ಎಸ್ ಪಕ್ಷಗಳು ಒಟ್ಟಾಗಿ ಮೈತ್ರಿ ಮಾಡಿಕೊಂಡು ಸ್ಪರ್ಧಿಸುತ್ತಿದ್ದು
ಅವರ ಮುಖಾಂತರ ಪ್ರಭಾವ ಭೀರಿ ನನಗೆ ಈ ಬಾರಿಯ 2024ನೇ ಸಾಲಿನ ಲೋಕಸಭಾ ಚುನಾವಣೆಯಲ್ಲಿ
ಸೀಟ್ ಕೊಡಿಸುವುದಾಗಿ ಹೇಳಿ, ಇದೇ ವರ್ಷದ ಮಾರ್ಚ್ ತಿಂಗಳ ಮೊದಲನೇ ವಾರದ ಒಂದು ದಿನ ನನ್ನನ್ನು
ಹಾಗೂ ನನ್ನ ಪತಿಯನ್ನು ಗೋಪಾಲ್ ಜೋಶಿ ಯವರ ಹುಬ್ಬಳ್ಳಿಯ ಮನೆಗೆ ಕರೆದುಕೊಂಡು ಹೋಗಿದ್ದು, ನಾನು
ಹಾಗೂ ನನ್ನ ಪತಿಯು ಶ್ರೀ ಗೋಪಾಲ್ ಜೋಶಿಯವರನ್ನು ಭೇಟಿ ಮಾಡಲಾಗಿ, ಶ್ರೀ ಗೋಪಾಲ್
ಜೋಶಿಯವರು ಈಗಾಗಲೇ ನಿಮ್ಮ ಬಗ್ಗೆ ನನಗೆ ಶೇಖರ್ ನಾಯಕ್ ರವರು ಎಲ್ಲವನ್ನೂ ಹೇಳಿದ್ದಾರೆ. ಬನ್ನಿ ನನ್ನ
ತಮ್ಮ ಪ್ರಹ್ಲಾದ್ ಜೋಶಿಯವರ ಆಫೀಸ್‌ನಲ್ಲಿ ಕುಳಿತು ಮಾತನಾಡೋಣವೆಂದು ನಮ್ಮನ್ನು ಗೋಪಾಲ್
ಜೋಶಿಯವರು ಹುಬ್ಬಳ್ಳಿಯ ಪ್ರಹ್ಲಾದ್ ಜೋಶಿಯವರ ಕಛೇರಿಗೆ ಕರೆದುಕೊಂಡು ಹೋದರು. ಅಲ್ಲಿ ಗೋಪಾಲ್
ಜೋಶಿಯವರು ಸದ್ಯಕ್ಕೆ ಕೇಂದ್ರ ಸರ್ಕಾರದಲ್ಲಿ ನನ್ನ ತಮ್ಮ ಪ್ರಹ್ಲಾದ್ ಜೋಶಿಯವರ ವರ್ಚಸ್ಸು ತುಂಬಾ
ಚೆನ್ನಾಗಿದೆ, ಆತನು ಹೇಳಿದಂತೆ ಮೋದಿ ಹಾಗೂ ಅಮಿತ್ ಶಾ ಇಬ್ಬರು ಕೇಳುತ್ತಾರೆ, ಎಂಟೈರ್ ಕರ್ನಾಟಕದ
ರಾಜಕೀಯ ಜವಾಬ್ದಾರಿಯನ್ನು ಮೋದಿ ಮತ್ತು ಅಮಿತ್ ಶಾ ರವರು ನನ್ನ ತಮ್ಮ ಪ್ರಹ್ಲಾದ್ ಜೋಶಿಯವರಿಗೆ
ಉಸ್ತುವಾರಿ ವಹಿಸಿದ್ದಾರೆ. ಆಗಾಗಿ ಬಿಜಾಪುರ ಕ್ಷೇತ್ರದಲ್ಲಿ ನಿಮ್ಮ ಹೆಸರು ಸಹ ಚೆನ್ನಾಗಿರುವುದರಿಂದ ನಾನು
ನನ್ನ ತಮ್ಮನೊಂದಿಗೆ ಮಾತನಾಡಿ ನಿಮಗೆ ಬಿ.ಜೆ.ಪಿ ಯಿಂದ ಲೋಕಸಭಾ ಚುನಾವಣೆಗೆ ಬಿಜಾಪುರ ಕ್ಷೇತ್ರಕ್ಕೆ
ಟಿಕೆಟ್ ಕೊಡಿಸುತ್ತೇನೆ. ನೀವು ಹೇಗಾದರೂ ಮಾಡಿ ಇಮಿಡಿಯೇಟ್ 5 ಕೋಟಿ ಹಣ ರೆಡಿ ಮಾಡಿಕೊಳ್ಳಿ, ನಿಮಗೆ
ಟಿಕೆಟ್ ಪಕ್ಕ ಕೊಡಿಸುತ್ತೇನೆಂದು ತಿಳಿಸಿದರು. ಆಗ ನಾನು ನಮ್ಮ ಬಳಿ ಅಷ್ಟೊಂದು ಹಣವಿಲ್ಲ, ಅಗಲಲ್ಲಾ ಬಿಡಿ

ನಮಗೆ ಟಿಕೆಟ್ ಬೇಡ ಎಂದು ನಮ್ಮ ಮನೆಗೆ ಬಂದವು. ಮರುದಿನ ಬೆಳಿಗ್ಗೆ ಸುಮಾರು 11-00 ಗಂಟೆಗೆ ಗೋಪಾಲ್ ಜೋಶಿಯವರು ತನ್ನ ಮೊ.ನಂ.7795230162ನಿಂದ ನನ್ನ ಪತಿಗೆ ಕರೆ ಮಾಡಿ ನೆನ್ನೆ ನಡೆದ ವಿಚಾರದ ಬಗ್ಗೆ ಮಾತನಾಡುತ್ತಾ ನೀವು 5 ಕೋಟಿ ಒಟ್ಟಿಗೆ ಕೊಡುವುದು ಬೇಡ ಸದ್ಯಕ್ಕೆ 25 ಲಕ್ಷ ಕೊಡಿ, ಉಳಿದ ಹಣದ ಭದ್ರತೆಗಾಗಿ ಒಂದು ಚೆಕ್ ಕೊಡಿ ಎಂದು ಕೇಳಿದರು, ಅದಕ್ಕೆ ನನ್ನ ಪತಿಯವರು ನಮ್ಮ ಬಳಿ 25 ಲಕ್ಷವು ಸಹ ಇಲ್ಲವೆಂದು, ನಮಗೆ ಕಡ ಖಂಡಿತವಾಗಿ ಟಿಕೆಟ್ ಬೇಡವೆಂದು ಕರೆ ಕಟ್ ಮಾಡಿರುತ್ತಾರೆ. ಆ ಬಳಿಕ 'ಗೋಪಾಲ್ ಜೋಶಿಯವರು ನನ್ನ ಮೊ.ನಂ.9449816769ಗೆ, ಕರೆ, ಮಾಡಿ ಯಾಕೇ ನಿಮ್ಮ ಸಾಹೇಬರು ಹಿಂಗ್ ಮಾತಾಡ್ತಿದಾರೆ, ಯಾಕ್ ಸರಿಯಾಗಿ ರೆಸ್ಟಾನ್ಸ್ ಮಾಡ್ತಿಲ್ಲ, ಯೋಚೆ ಮಾಡಿ. ಇದೊಳ್ಳೆ ಅಪರ್ಚುನಿಟಿ 'ಮಿಸ್ ಮಾಡ್ಕೊಬೇಡಿ. ಸದ್ಯಕ್ಕೆ 25 ಲಕ್ಷ ತೆಗೆದುಕೊಂಡು ಬೆಂಗಳೂರಿನ ಬಸವೇಶ್ವರನಗರದ ನನ್ನ ಸಹೋದರಿಯ ಮನೆಗೆ ತಂದು ಕೊಡಿ, ಉಳಿದ ಹಣದ ಶೂರಿಟಿಗಾಗಿ ಒಂದು ಚೆಕ್ ಕೊಡಿ ಎಂದು ಹೇಳಿದ್ದು, ಆತನೇ ಹಿಂದೆಯೇ ಶೇಖರ್ ನಾಯಕ್ ರವರು ಸಹ ಕರೆ ಮಾಡಿ ಗೋಪಾಲ್ ಜೋಶಿಯವರು ನಿಮಗೆ ಒಳ್ಳೆಯ ಅವಕಾಶವನ್ನು ನೀಡುತ್ತಿದ್ದಾರೆ ಮಿಸ್ ಮಾಡ್ಕೊಬೇಡಿ ಎಂದು ನನಗೆ ತಿಳಿಸಿದರು. ನಾನು ಆಯ್ತು ನನಗೆ ಒಂದು ದಿನ ಟೈಂ ಕೊಡಿ. ಯೋಚನೆ ಮಾಡುತ್ತೇವೆಂದು ತಿಳಿಸಿದೆನು. ಆಗ ಶೇಖರ್ ನಾಯಕ್ ರವರು ಅಷ್ಟೆಲ್ಲ ಸಮಯವಿಲ್ಲ, ಇಂದೇ ಏನಿದ್ದು ಮುಗುಸ್ಕೋಳ್ಳಿ ಎಂದು ತಿಳಿಸಿದ್ದು, ನಾನು ನನ್ನ ಬಂಧು-ಬಳಗದವರಿಂದ 25 ಲಕ್ಷ ಸಾಲ ಪಡೆದು ಅದೇ ದಿನ ರಾತ್ರಿ ನಾನು 25 ಲಕ್ಷ ನಗದು ಹಣವನ್ನು ಗೋಪಾಲ್ ಜೋಶಿರವರು ಸೂಚಿಸಿದ ಅವರ ಸಹೋದರಿ ವಿಜಯಲಕ್ಷ್ಮೀ ಯವರ ಮನೆಗೆ ಹೋಗಿದ್ದು, ಅವರ ಮನೆಯಲ್ಲಿ ಒಬ್ಬರು ಮಹಿಳೆಯಿದ್ದು, ಅವರನ್ನು ಮಾತನಾಡಿಸಲಾಗಿ ತನ್ನ ಹೆಸರು ವಿಜಯಲಕ್ಷ್ಮೀ ಎಂದು ತಾನು ಪ್ರಹ್ಲಾದ್ ಜೋಶಿಯವರ ಸಹೋದರಿ ಎಂದು ತಿಳಿಸಿದರು. ಆಗ ನಾನು ಗೋಪಾಲ್ ಜೋಶಿ ರವರು ತಿಳಿಸಿದ್ದ ವಿಚಾರವನ್ನು ತಿಳಿಸಿದ್ದು, ಅವರು ನನ್ನನ್ನು ತಮ್ಮ ಮನೆ ಒಳಗೆ ಬರಮಾಡಿಕೊಂಡರು. ಬಳಿಕ ನಾನು ಗೋಪಾಲ್ ಜೋಶಿಗೆ ಕರೆ ಮಾಡಿ ನಾನು ಹಣವನ್ನು ತೆಗೆದುಕೊಂಡು ಬಂದಿರುವ ವಿಚಾರವನ್ನು ತಿಳಿಸಿದ್ದು ಆತನು ಆ ಹಣವನ್ನು ತನ್ನ ಸಹೋದರಿ ವಿಜಯಲಕ್ಷ್ಮೀಯವರಿಗೆ ನೀಡಿ ಎಂದನು. ಆದ್ದರಿಂದ ನನ್ನ ಬಳಿಯಿದ್ದ 25 ಲಕ್ಷ ನಗದು ಹಣವನ್ನು ತೆಗೆದು ಗೋಪಾಲ್ ಜೋಶಿಯವರ ಸಹೋದರಿ ವಿಜಯಲಕ್ಷ್ಮೀ ಜೋಶಿಗೆ ನೀಡಿದೆನು. ಇದಾದ ಸ್ವಲ್ಪ ಸಮಯದಲ್ಲಿಯೇ ಗೋಪಾಲ್ ಜೋಶಿಯವರು ನಾವಿದ್ದ ಮನೆಗೆ ಬಂದರು. ಬಳಿಕ ನಾನು ಗೋಪಾಲ್ ಜೋಶಿರವರು ಆತನು ಹಣವನ್ನು ಪಡೆದು ಈ ಹಣ ನನಗಲ್ಲ, ಇದು ಅಮಿತ್ ಶಾ ರವರ ಪರ್ಸನಲ್ ಸೆಕ್ರೆಟರಿಗೆ ನೀಡಬೇಕೆಂದು ತನ್ನ ಬಳಿಯಿದ್ದ ಮೊಬೈಲ್ ತೆಗೆದು ಯಾವುದೋ ಒಂದು ನಂಬರ್ಗೆ ಕರೆ ಮಾಡಿ ಸ್ವಲ್ಪ ಅಂತರದಲ್ಲಿ ನಿಂತು ಮಾತನಾಡಿಕೊಂಡು ವಾಪಸ್ಸು ನನ್ನ ಬಳಿ ಬಂದು, ಅಮಿತ್ ಶಾ ರವರ ಪಿ.ಎಸ್ ಗೆ ಮಾತನಾಡಿಯಾಯಿತು. ಇನ್ನೂ ನಿವೇನೂ ತಲೆ ಕೆಡಿಸಿಕೊಳ್ಳಬೇಡಿ. ನಿಮ್ಮ ಟಿಕೆಟ್ ಕನ್ಸರ್ಟ್ ಎಂದು ಹೇಳಿ, ಉಳಿದ ಹಣದ ಭದ್ರತೆಗಾಗಿ ನನ್ನಿಂದ 5 ಕೋಟಿ ಬೆಲೆಯ ಚೆಕ್ ಅನ್ನು ಪಡೆದುಕೊಂಡು ನನ್ನನ್ನು ಕಳುಹಿಸಿಕೊಟ್ಟನು. ಇದಾದ ಬಳಿಕ ಗೋಪಾಲ್ ಜೋಶಿಯವರು ತಾವು ತಿಳಿಸಿದಂತೆ ನನಗೆ ಬಿ.ಜೆ.ಪಿ ಯಿಂದ ಲೋಕಸಭಾ ಚುನಾವಣೆಗೆ ಟಿಕೆಟ್ ಕೊಡಿಸಲಿಲ್ಲ. ಆ ಬಳಿಕ ನಾನು ಗೋಪಾಲ್ ಜೋಶಿಯವರಿಗೆ ಕರೆ ಮಾಡಿ ನಮಗೆ ಟಿಕೆಟ್ ನೀಡಿಲ್ಲದ ಕಾರಣ, ನಾವು ನೀಡಿರುವ ಹಣ ಮತ್ತು ಚೆಕ್ ಅನ್ನು ವಾಪಸ್ಸು ನೀಡುವಂತೆ ಕೇಳಿಕೊಳ್ಳಲಾಗಿ ಆತನು ನನ್ನನ್ನು ಬೆಂಗಳೂರಿನ ಬಸವೇಶ್ವರನಗರದ ತನ್ನ ಸಹೋದರಿಯ ಮನೆಗೆ ಬನ್ನಿ

ಮಾತನಾಡೋಣಾವೆಂದು, ನನ್ನನ್ನು ತಮ್ಮ ಸಹೋದರಿ ವಿಜಯಲಕ್ಷ್ಮಿಯವರ ಮನೆಗೆ ಮತ್ತೊಮ್ಮೆ ಕರೆಸಿಕೊಂಡನು.

ವಿಜಯಲಕ್ಷ್ಮಿಯವರ ಮನೆಯಲ್ಲಿ ನನಗೆ ನಾನು ಈ ಹಿಂದೆ ನೀಡಿದ್ದ 5 ಕೋಟಿಯ ಚೆಕ್‌ನ್ನು ವಾಪಸ್ಸು ನೀಡಿದರು. ಆಗ ನಾನು ನನಗೆ ನೀಡಬೇಕಾದ 25 ಲಕ್ಷ ಹಣವನ್ನು ನೀಡಿ ಎಂದು ಕೇಳಿದ್ದು, ಆತನು ತಾನು ಈಗ ನಿಮಗೆ ನೀಡಬೇಕಾದ ಹಣವನ್ನು ವಾಪಸ್ಸು ನೀಡಲಾಗುವುದಿಲ್ಲ. ತನಗೆ 200 ಕೋಟಿ ಬೆಲೆಯ ಪ್ರಾಜೆಕ್ಟ್‌ನ ಬಿಲ್ಲು ಗವರ್ನಮೆಂಟ್‌ನಲ್ಲಿದೆ. ಆ ಪ್ರಾಜೆಕ್ಟ್‌ನ ಬಿಲ್ಲು ರೆಡಿಯಾಗಿದ್ದು, ಇನ್ನೂ ಇಪ್ಪತ್ತು ದಿನಗಳಲ್ಲಿ ಆಗುತ್ತೆ ಎಂದು ನನಗೆ 200 ಕೋಟಿ ಪ್ರಾಜೆಕ್ಟ್‌ನ ಬಿಲ್ಲುಗಳ ಬಗ್ಗೆ ಕೆಲವು ದಾಖಲಾತಿಗಳನ್ನು ತೋರಿಸಿ, ನೀವು ಹೇಗಾದರೂ ಮಾಡಿ ಇನ್ನೂ 1 ಕೋಟಿ 75 ಲಕ್ಷವನ್ನು ಅರೆಂಜ್ ಮಾಡಿಕೊಡಿ, ಕೇವಲ ಇಪ್ಪತ್ತು ದಿನಗಳಲ್ಲಿ ಹಿಂದಿರುಗಿಸುತ್ತೇನೆ. ಆ ಬಳಿಕ ನೀವು ಯಾವುದಾದರೂ ಎಲೆಕ್ಷನ್‌ಗೆ. ನಿಂತರೆ 5 ಕೋಟಿ ಹಣವನ್ನು ನಾನೇ ನಿಮ್ಮ ಚುನಾವಣೆಯ ಖರ್ಚಿಗೆ ನೀಡುವುದಾಗಿ ನನ್ನನ್ನು ನಂಬಿಸಿದರು. ಆಗಾಗಿ ಆತನ ಮಾತನ್ನು ನಂಬಿ ನಾನು ದಿನಾಂಕ:24.04.2024ರಂದು ಗೋವಿಂದ ಎಂಬುವವರಿಂದ 50 ಲಕ್ಷ, ನಂದು ಓಸ್ಕಾಲ್ ಎಂಬುವವರಿಂದ 50 ಲಕ್ಷ ಹಾಗೂ ನನ್ನ ಸಹೋದರಿ ಸವಿತಾ ರವರಿಂದ 25 ಲಕ್ಷ ಒಟ್ಟು 1 ಕೋಟಿ 75 ಲಕ್ಷ ಹಣವನ್ನು ಗೋಪಾಲ್ ಜೋಶಿ ರವರು ಸೂಚಿಸಿದಂತೆ ವಿಜಯಲಕ್ಷ್ಮಿಯವರ ಬ್ಯಾಂಕ್ ಖಾತೆಗೆ ವರ್ಗಾವಣೆ ಮಾಡಿರುತ್ತೇವೆ. ಅದೇ ದಿನ ಸಂಜೆ ಸುಮಾರು: 4-00 ಗಂಟೆಗೆ 50 ಲಕ್ಷ ನಗದು ಹಣವನ್ನು ನಾನು ಹಾಗೂ ನನ್ನ ಪತಿಯು ಬಸವೇಶ್ವರನಗರಕ್ಕೆ ತೆಗೆದುಕೊಂಡು ಬಂದು, ವಿಜಯಲಕ್ಷ್ಮಿಯವರ ಮನೆಯಲ್ಲಿ ಅವರ ಮುಂದೆಯೇ ಗೋಪಾಲ್ ಜೋಶಿಯವರಿಗೆ ನೀಡಿರುತ್ತೇನೆ.

ಇದಾದ ನಂತರ ಸುಮಾರು ಒಂದು ತಿಂಗಳು ಕಳೆದರೂ ನಮ್ಮ ಹಣವನ್ನು ಗೋಪಾಲ್ ಜೋಶಿಯವರು ನಮಗೆ ಹಿಂದಿರುಗಿಸಲೇ ಇಲ್ಲ, ನಾವು ಆತನಿಗೆ ಕರೆ ಮಾಡಿ ಕೇಳಲಾಗಿ ಸ್ವಲ್ಪ ದಿನಗಳಲ್ಲಿ ತನಗೆ ಬರಬೇಕಾದ ಪ್ರಾಜೆಕ್ಟ್‌ನ ಬಿಲ್ ಬರುತ್ತದೆ. ಬರುತ್ತಿದ್ದಂತೆಯೇ ನಿಮಗೆ ನೀಡಬೇಕಾದ ಹಣವನ್ನು ಬಡ್ತಿ ಸಮೇತ ವಾಪಸ್ಸು ನೀಡುವುದಾಗಿ ನಮಗೆ ತಿಳಿಸುತ್ತ ಕಾಲಹರಣ ಮಾಡುತ್ತಿದ್ದರು. ಹೀಗಿರುವಲ್ಲಿ ಆತನು ದಿನಕಳೆದಂತೆ ನನ್ನ ಕರೆಗಳನ್ನು ಸ್ವೀಕರಿಸದೇ ಇದ್ದ ಕಾರಣ ಹುಬ್ಬಳ್ಳಿಯ ಆತನ ಮನೆಗೆ ಹೋಗಿ ಆತನನ್ನು ಭೇಟಿ ಮಾಡಲು ಹಲವಾರು ಬಾರಿ ಪ್ರಯತ್ನಿಸಿದರು ಆತನು ನಮಗೆ ಅಲ್ಲಿ ಸಿಕ್ಕಲಿಲ್ಲ. ಆಗಾಗಿ ಆತನು ತನ್ನ ಸಹೋದರಿ ವಿಜಯಲಕ್ಷ್ಮಿಯವರ ಮನೆಯಲ್ಲಿ ಸಿಗಬಹುದೆಂದು ಆಗಾಗ ನಾವು ವಿಜಯಲಕ್ಷ್ಮಿಯವರ ಮನೆಗೆ ಹೋಗಿ, ನಮಗೆ ನೀಡಬೇಕಾಗಿದ್ದ ಹಣದ ಬಗ್ಗೆ ಕೇಳಲಾಗಿ ಗೋಪಾಲ್ ಜೋಶಿಯವರ ಮಗ ಅಜಯ್ ಜೋಶಿಯವರು ನಿಮ್ಮ ಹಣಕ್ಕೆ ನಾನೇ ಶೂರಿಟಿ, ಯಾವುದೇ ಕಾರಣಕ್ಕೂ ನಿಮಗೆ ಮೋಸ ಆಗಲ್ಲ, ನಮ್ಮ ತಂದೆಯ ಬದಲು ನಾನೇ ನಿಮಗೆ ಹಣ ನೀಡುವುದಾಗಿ ನಮಗೆ ತಿಳಿಸಿ ನಮ್ಮನ್ನು ಕಳುಹಿಸಿಕೊಡುತ್ತಿದ್ದರು. ಅಲ್ಲದೇ ಗೋಪಾಲ್ ಜೋಶಿಯವರು ಕರೆ ಸ್ವೀಕರಿಸದ ಸಂದರ್ಭದಲ್ಲಿ ಅಜಯ್ ಜೋಶಿಯವರಿಗೆ ಕರೆ ಮಾಡಿ ನಮಗೆ ನೀಡಬೇಕಾದ ಹಣದ ಬಗ್ಗೆ ಕೇಳಲಾಗಿ ಆತನು ಸ್ವಲ್ಪ ದಿನಗಳಲ್ಲಿಯೇ ನಿಮ್ಮ ಹಣವನ್ನು ತಾನೇ ಹಿಂದಿರುಗಿಸುವುದಾಗಿ ಭರವಸೆ ನೀಡುತ್ತಿದ್ದನು. ಹೀಗಿರುವಾಗ್ಗೆ ಆಗಸ್ಟ್ ತಿಂಗಳ 1ನೇ ತಾರೀಖಿನಂದು ನನ್ನ ಮಗನೊಂದಿಗೆ ಬೆಂಗಳೂರಿನ ಬಸವೇಶ್ವರನಗರದ ವಿಜಯಲಕ್ಷ್ಮಿಯವರ ಮನೆಗೆ ಹೋದವು. ಸದರಿ ವಿಜಯಲಕ್ಷ್ಮಿಯವರ ಮನೆಯ ಬಾಗಿಲು ಮುಚ್ಚಿದ್ದು, ನಾನು ಬಾಗಿಲನ್ನು ಬಡಿಯಲಾಗಿ ವಿಜಯಲಕ್ಷ್ಮಿಯವರು

ಮನೆಯೊಳಗಿನಿಂದ ಹೊರ ಬಂದರು. ನಾನು ಆಕೆಯನ್ನು ನಮಗೆ ನೀಡಬೇಕಾದ ಹಣದ ಬಗ್ಗೆ ವಿಚಾರಿಸಲಾಗಿ ಅವಳು ಸದ್ಯ ನಮ್ಮ ಬಳಿ ಯಾವುದೇ ಹಣವಿಲ್ಲ, ನೀವು ಬೇಕಾದರು ಈ ಬಗ್ಗೆ ಕೋರ್ಟ್‌ನಲ್ಲಿ ಕೇಸು ಹಾಕಿಕೊಳ್ಳಿ ಎಂದರು. ನನಗೆ ಬೇಜಾರಾಗಿ ನೀವು ಈ ರೀತಿ ಮಾತನಾಡಿದರೆ ಹೇಗೆ? ನೀವು ನನ್ನಿಂದ ಪಡೆದಿರುವ ಹಣ ನೀಡುವವರೆಗೂ ನಾನು ಈ ಮನೆಯನ್ನು ಬಿಟ್ಟು ಹೋಗುವುದಿಲ್ಲವೆಂದು ತಿಳಿಸಿದ್ದು, ಆಗ ವಿಜಯಲಕ್ಷ್ಮೀಯವರು ನನ್ನನ್ನು ತಮ್ಮ ಮನೆಯಿಂದ ರಸ್ತೆಗೆ ತಳ್ಳಿ, ನೀವು ಹೆಂಜಲು ತಿನ್ನುವ ಲಂಬಾಣಿ ಜನ, ನಮ್ಮ ಮನೆಗೆ ಬಂದು ಮೈಲಿಗೆ ಮಾಡಬೇಡಿ ಇಲ್ಲಿಂದ ಹೋದರೆ ಸರಿ, ಇಲ್ಲವಾದರೇ ನಿಮಗೆ ಒಂದು ಗತಿ ಕಾಣಿಸುವುದಾಗಿ ಬೆದರಿಕೆ ಹಾಕಿ ತನ್ನ ಕೈಗಳಿಂದ ನನಗೆ ಹಲ್ಲೆ ಮಾಡಿ, ತನ್ನ ಬಳಿಯಿದ್ದ ಕೀ ಚೈನಿಂದ ನನ್ನ ಬಲ ಕುತ್ತಿಗೆಯ ಭಾಗಕ್ಕೆ ಎಸೆದು ನೋವುಂಟು ಮಾಡಿ, ಅವಾಚ್ಯವಾಗಿ ಬೈದಿರುತ್ತಾರೆ. ನಾನು ಹಾಗೂ ನನ್ನ ಮಗ ಇಬ್ಬರು ಏನಾದರೂ ಸರಿಯೆಂದು ಮನೆಯ ಮುಂಬಾಗ ನಿಂತಿದ್ದು, ವಿಜಯಲಕ್ಷ್ಮೀಯವರು ತನ್ನ ಮೊಬೈಲ್‌ನಿಂದ ಯಾರಿಗೋ ಕರೆ ಮಾಡಿ ಕೆಲವು ಗೊಂಡಾಗಳನ್ನು ತನ್ನ ಮನೆಯ ಬಳಿ ಕರೆಸಿಕೊಂಡಿದ್ದು, ನಾವು ಅವರನ್ನು ಕಂಡು ಹೆದರಿ ವಾಪಸ್ಸು ನಮ್ಮ ಮನೆಗೆ ಬಂದಿರುತ್ತೇವೆ.

ಇದಾದ ಬಳಿಕ ನನಗಾದ ಹಲ್ಲೆ ಹಾಗೂ ಮೋಸದ ಬಗ್ಗೆ ನನ್ನ ಹಿತೈಷಿಗಳೊಂದಿಗೆ ಚರ್ಚಿಸಿ ಈ ದಿನ ತಡವಾಗಿ ಬಂದು ದೂರನ್ನು ನೀಡುತ್ತಿದ್ದು, ನನಗೆ ಬಿ.ಜೆ.ಪಿಯಿಂದ ಲೋಕಸಭಾ ಟಿಕೆಟ್ ಕೊಡಿಸುವುದಾಗಿ ನಂಬಿಸಿ, ನನಗೆ ಮೋಸ ಮಾಡುವ ಉದ್ದೇಶದಿಂದ ಎಲ್ಲರೂ ಸೇರಿ ಒಳಸಂಚು ನಡೆಸಿ. ನಮ್ಮಿಂದ ಹಣ ಪಡೆದು, ಲೋಕಸಭಾ ಚುನಾವಣೆಗೆ ಟಿಕೆಟ್ ಅನ್ನು ಕೊಡಿಸದೇ, ನಮ್ಮಿಂದ ಪಡೆದ ಹಣವನ್ನು ನೀಡದೇ, ಕೇಳಲು ಹೋದ ನನಗೆ ಮನೆಯಿಂದ ರಸ್ತೆಗೆ ತಳ್ಳಿ, ಜಾತಿ ನಿಂಧನೆ ಮಾಡಿ, ಹಲ್ಲೆ ಮಾಡಿರುವ ಆಸಾಮಿಗಳ ವಿರುದ್ಧ ಕಾನೂನು ರೀತ್ಯಾ ಕ್ರಮ ಜರುಗಿಸಬೇಕೆಂದು ಈ ಮೂಲಕ ಕೋರಿಕೊಳ್ಳುತ್ತೇನೆ.”

(Emphasis added)

The allegation is that the petitioners have received the amount on the assurance that they would get the complainant's husband a ticket to contest in the parliament elections. The desire tumbled and crime emerged. The amount involved in the transaction was ₹2/- crores. Certain amount is repaid before filing of the present petition or during subsistence of the present petition. The issue now would be, in such cases whether criminal law which is set into

motion for the purpose of recovery of money, should be permitted to be investigated into and permitted to continue.

9. Jurisprudence is replete with the judgments of the Apex Court that criminal justice system should not be used for the purpose of recovery of money.

9.1. The Apex Court in **LALIT CHATURVEDI v. STATE OF UTTAR PRADESH**¹, has held as follows:

"....

6. In *Mohd. Ibrahim v. State of Bihar* [*Mohd. Ibrahim v. State of Bihar*, (2009) 8 SCC 751 : (2009) 3 SCC (Cri) 929] , this Court had referred to Section 420IPC, to observe that in order to constitute an offence under the said section, the following ingredients are to be satisfied: (SCC pp. 757-58, paras 18-19)

"18. Let us now examine whether the ingredients of an offence of cheating are made out. **The essential ingredients of the offence of "cheating" are as follows:**

- (i) **deception of a person either by making a false or misleading representation or by dishonest concealment or by any other act or omission;**
- (ii) **fraudulent or dishonest inducement of that person to either deliver any property or to consent to the retention thereof by any person or to intentionally induce that person so deceived to do or omit to do anything**

¹(2024) 12 SCC 483

which he would not do or omit if he were not so deceived; and

- (iii) such act or omission causing or is likely to cause damage or harm to that person in body, mind, reputation or property.

19. To constitute an offence under Section 420, there should not only be cheating, but as a consequence of such cheating, the accused should have dishonestly induced the person deceived:

- (i) to deliver any property to any person, or
- (ii) to make, alter or destroy wholly or in part a valuable security (or anything signed or sealed and which is capable of being converted into a valuable security)."

7. Similar elucidation by this Court in *V.Y. Jose v. State of Gujarat* [*V.Y. Jose v. State of Gujarat*, (2009) 3 SCC 78: (2009) 1 SCC (Cri) 996], explicitly states that a contractual dispute or breach of contract per se should not lead to initiation of a criminal proceeding. The ingredient of "cheating", as defined under Section 415IPC, is existence of a fraudulent or dishonest intention of making initial promise or representation thereof, from the very beginning of the formation of contract. Further, in the absence of the averments made in the complaint petition wherefrom the ingredients of the offence can be found out, the High Court should not hesitate to exercise its jurisdiction under Section 482CrPC. Section 482CrPC saves the inherent power of the High Court, as it serves a salutary purpose viz. a person should not undergo harassment of litigation for a number of years, when no criminal offence is made out. It is one thing to say that a case has been made out for trial and criminal proceedings should not be quashed, but another thing to say that a person must undergo a criminal trial despite the fact that no offence has been made out in the complaint. This Court in *V.Y. Jose* [*V.Y. Jose v. State of Gujarat*, (2009) 3 SCC 78: (2009) 1 SCC (Cri) 996] placed reliance on several earlier decisions in *Hira Lal Hari Lal Bhagwati v. CBI* [*Hira Lal Hari Lal Bhagwati v. CBI*, (2003) 5 SCC 257: 2003 SCC (Cri) 1121:

(2003) 262 ITR 466], *Indian Oil Corpn. v. NEPC India Ltd.* [*Indian Oil Corpn. v. NEPC India Ltd.*, (2006) 6 SCC 736: (2006) 3 SCC (Cri) 188], *Vir Prakash Sharma v. Anil Kumar Agarwal* [*Vir Prakash Sharma v. Anil Kumar Agarwal*, (2007) 7 SCC 373: (2007) 3 SCC (Cri) 370] and *All Cargo Movers (India) (P) Ltd. v. Dhanesh Badarmal Jain* [*All Cargo Movers (India) (P) Ltd. v. Dhanesh Badarmal Jain*, (2007) 14 SCC 776: (2009) 1 SCC (Cri) 947].

8. Having gone through the complaint, which was registered as an FIR and the assertions made therein, it is quite clear that Respondent 2 complainant Sanjay Garg's grievance is regarding failure of the appellants to pay the outstanding amount, in spite of Respondent 2 complainant Sanjay Garg's repeated demands. Respondent 2 complainant Sanjay Garg states that the supplies were made between the period 1-12-2015 and 6-8-2017. The appellants had made the payments from time to time of Rs 3,76,40,553 leaving a balance of Rs 1,92,91,358.

9. We will assume that the assertions made in the complaint are correct, but even then, a criminal offence under Section 420 read with Section 415IPC is not established in the absence of deception by making false and misleading representation, dishonest concealment or any other act or omission, or inducement of the complainant to deliver any property at the time of the contract(s) being entered. The ingredients to allege the offence are neither stated nor can be inferred from the averments. A prayer is made to the police for recovery of money from the appellants. The police is to investigate the allegations which discloses a criminal act. Police does not have the power and authority to recover money or act as a civil court for recovery of money.

10. The charge-sheet also refers to Section 406IPC, but without pointing out how the ingredients of the said section are satisfied. No details and particulars are mentioned. There are decisions which hold that the same act or transaction cannot result in an offence of cheating and criminal breach of trust simultaneously. [*Wolfgang Reim v. State*, (2012) 173 Comp Cas 86 : 2012 SCC OnLine Del 3341; *Mahindra and Mahindra Financial Services Ltd. v. Delta Classic (P) Ltd.*, (2009) 151

Comp Cas 661 : 2009 SCC OnLineGau 105 : (2011) 6 Gau LR 604; *Mukesh Sharma v. State of H.P.*, 2024 SCC OnLine HP 426] **For the offence of cheating, dishonest intention must exist at the inception of the transaction, whereas, in case of criminal breach of trust there must exist a relationship between the parties whereby one party entrusts another with the property as per law, albeit dishonest intention comes later.**

11. In this case entrustment is missing, in fact it is not even alleged. It is a case of sale of goods. The charge-sheet does refer to Section 506IPC relying upon the averments in the complaint. However, no details and particulars are given, when and on which date and place the threats were given. Without the said details and particulars, it is apparent to us, that these allegations of threats, etc. have been made only with an intent to activate police machinery for recovery of money.

12. It is for Respondent 2 complainant Sanjay Garg to file a civil suit. Initiation of the criminal process for oblique purposes, is bad in law and amounts to abuse of process of law.”

The Apex Court clearly holds that if there is intention to cheat from the inception, then it would become an offence under Section 316 or Section 318 of the BNS. The issue, in the case at hand, is a transaction which has gone wrong. Money allegedly changed hands. Therefore, it was purely for the purpose of recovery of money criminal proceedings are set into motion, which the Apex Court deprecated in the aforesaid judgment.

9.2. The Apex Court in the case of **ANUKUL SINGH v. STATE OF UTTAR PRADESH**², has held as follows:

"... .."

11.5. Thus, the cumulative principles that emerge are: while the jurisdiction under Section 482 Cr.P.C. is extraordinary and must be exercised sparingly, it is the duty of the High Court to intervene where continuation of criminal proceedings would amount to an abuse of process of law, or where the dispute is purely of a civil nature and criminal colour has been artificially given to it. Conversely, where disputed questions of fact arise requiring adjudication, the matter must ordinarily proceed to trial.

12. The specific case of the appellant is that his father purchased land comprised in Khasra Nos. 18, 19, 20, 21 and 22 situated at Village Sherpur Mafi, District Moradabad, from one Akil Hussain. This land was used for the purposes of Qurbani. According to the appellant, in order to usurp the said property, the Shaher Imam of Bilari, in collusion with the district administration and under pressure exerted upon the local police, ensured that a series of false criminal cases were foisted against him. **As many as eight FIRs were lodged against the appellant, including the present one, all of which, in substance, arise out of a civil dispute relating to ownership and possession of the property. Initiation of the present criminal proceedings, therefore, amounts to a clear abuse of the process of law, squarely falling within the illustrative categories delineated in *Bhajan Lal*, particularly where the dispute is manifestly civil in nature and the prosecution is maliciously instituted with an ulterior motive.**

13. The record reveals that within a short span, as many as eight FIRs were registered against the appellant. The gravamen of the allegations in the present FIR is that Respondent No. 2/complainant approached the appellant for a loan of Rs. 2,00,000/-, but was allegedly advanced only Rs. 1,40,000/-. It is further alleged that, in connection with the said

²2025 SCC OnLine SC 2060

transaction, an agreement to sell dated 09.11.1998 was executed in respect of a plot owned by the complainant, and that the appellant procured three cheques from Respondent No. 2, which, upon presentation, were dishonoured for insufficiency of funds. Even if accepted in entirety, these allegations disclose, at best, a civil dispute and do not *prima facie* constitute the essential ingredients of the criminal offences alleged.

14. It is significant to note that prior to registration of the present FIR, the appellant had already initiated proceedings against Respondent No. 2, namely a complaint under Section 138 of the N.I. Act (Complaint No. 2402840/2005) before the N.I. Court, Moradabad, as well as FIR No. 120/2002, in which, the complainant himself was arrested. The present FIR was lodged nearly three months after the filing of the Section 138 complaint and seven months after FIR No. 120/2002. The plea that the FIR is a retaliatory counterblast to the proceedings legitimately initiated by the appellant, therefore, carries substantial weight.

15. The mala fide nature of the complaint is further fortified by the fact that, by judgment dated 15.01.2025, the trial Court convicted Respondent No. 2 under Section 138 of the N.I. Act, sentencing him to one month's imprisonment and imposing a fine of Rs. 90,000/-. This conviction lends strong support to the appellant's case that the initiation of the present FIR was a retaliatory measure, maliciously instituted with an ulterior motive to neutralise the lawful action taken by him.

16. Despite this background, the police proceeded to file a charge sheet dated 16.04.2003 against the appellant for offences under sections 420, 467, and 468 IPC. Even if the allegations are assumed to be true, they unmistakably arise out of a commercial/contractual transaction relating to loan and repayment, which has been given a criminal colour. The case thus falls squarely within categories (1) and (7) of *Bhajan Lal*, namely, where the allegations do not disclose the commission of an offence, and where the proceedings are maliciously instituted with an ulterior motive. Continuation of such prosecution would amount to an abuse of process of law and consequently, warrant quashing under Section 482 Cr.P.C.

17. This Court has, in a long line of decisions, deprecated the tendency to convert civil disputes into criminal proceedings. In *Indian Oil Corporation v. NEPC India Ltd.*, it was held that criminal law cannot be used as a tool to settle scores in commercial or contractual matters, and that such misuse amounts to abuse of process. The following paragraphs from the decision are apposite:

"9. The principles, relevant to our purpose are:

- (i) **A complaint can be quashed where the allegations made in 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 the case alleged against the accused. For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.**
- (ii) **A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with malafides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.**
- (iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.
- (iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. **Quashing of the complaint is warranted only where the**

complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

- (v) ***A given set of facts may make out: (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceedings are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.***

10. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable break down of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged."

18. Similarly, in Inder Mohan Goswami v. State of Uttaranchal, it was emphasized that criminal prosecution must not be permitted as an instrument of harassment or private vendetta. In Ganga Dhar Kalita v. State of Assam, this Court again reiterated that criminal complaints in respect of property disputes of civil nature, filed solely to harass the accused or to exert pressure in civil litigation, constitute an abuse of process.

19. Most recently, in *Shailesh Kumar Singh @ Shailesh R. Singh v. State of Uttar Pradesh*, this Court disapproved the practice of using criminal proceedings as a substitute for civil remedies, observing that money recovery cannot be enforced through criminal prosecution where the dispute is essentially civil. The Court cautioned High Courts not to direct settlements in such matters but to apply the settled principles in *Bhajan Lal*. The following paragraphs are relevant in this context:

"9. What we have been able to understand is that there is an oral agreement between the parties. The Respondent No. 4 might have parted with some money in accordance with the oral agreement and it may be that the appellant - herein owes a particular amount to be paid to the Respondent No. 4. However, the question is whether prima facie any offence of cheating could be said to have been committed by the appellant.

10. How many times the High Courts are to be reminded that to constitute an offence of cheating, there has to be something more than prima facie on record to indicate that the intention of the accused was to cheat the complainant right from the inception. The plain reading of the FIR does not disclose any element of criminality.

11. The entire case is squarely covered by a recent pronouncement of this Court in the case of "Delhi Race Club (1940) Limited v. State of Uttar Pradesh", (2024) 10 SCC 690. In the said decision, the entire law as to what constitutes cheating and criminal breach of trust respectively has been exhaustively explained. It appears that this very decision was relied upon by the learned counsel appearing for the petitioner before the High Court. However, instead of looking into the matter on its own merits, the High Court thought fit to direct the petitioner to go for mediation and that too by making payment of Rs. 25,00,000/- to the 4th respondent as a condition precedent. We fail to understand why the High Court should undertake such exercise. The High Court may either allow the petition saying that no offence is disclosed or may reject the petition saying that no case for quashing is made out. Why should the High Court make an attempt to help the complainant to recover the amount due and payable by the accused. It is for the Civil Court or Commercial Court as the case may be

to look into in a suit that may be filed for recovery of money or in any other proceedings, be it under the Arbitration Act, 1996 or under the provisions of the IB Code, 2016.

12. Why the High Court was not able to understand that the entire dispute between the parties is of a civil nature.

13. We also enquired with the learned counsel appearing for the Respondent No. 4 whether his client has filed any civil suit or has initiated any other proceedings for recovery of the money. It appears that no civil suit has been filed for recovery of money till this date. Money cannot be recovered, more particularly, in a civil dispute between the parties by filing a First Information Report and seeking the help of the Police. This amounts to abuse of the process of law.

14. We could have said many things but we refrain from observing anything further. If the Respondent No. 4 has to recover a particular amount, he may file a civil suit or seek any other appropriate remedy available to him in law. He cannot be permitted to take recourse of criminal proceedings.

15. We are quite disturbed by the manner in which the High Court has passed the impugned order. The High Court first directed the appellant to pay Rs. 25,00,000/- to the Respondent No. 4 and thereafter directed him to appear before the Mediation and Conciliation Centre for the purpose of settlement. That's not what is expected of a High Court to do in a Writ Petition filed under Article 226 of the Constitution or a miscellaneous application filed under Section 482 of the Criminal Procedure Code, 1973 for quashing of FIR or any other criminal proceedings. What is expected of the High Court is to look into the averments and the allegations levelled in the FIR along with the other material on record, if any. The High Court seems to have forgotten the well-settled principles as enunciated in the decision of this Court in the "State of Haryana v. Bhajan Lal", 1992 Supp (1) SCC 335"

20. Applying the above principles to the facts of the present case, it is manifest that the dispute - concerning repayment of loan money and the alleged coercion in execution of documents - is purely civil in character. The essential ingredients of cheating or forgery are not *prima*

facie made out. The institution of multiple FIRs in quick succession, particularly after the appellant had already initiated lawful proceedings, reinforces the inference of mala fides.

21. The High Court, in refusing to quash the proceedings, misdirected itself in law by failing to apply the ratio laid down in *Bhajan Lal*, and the subsequent authorities referred to above, which uniformly hold that the machinery of criminal law cannot be permitted to be misused for settling civil disputes or to wreak vengeance.

22. Accordingly, the impugned judgment dated 22.10.2019 of the High Court is set aside. FIR No. 47 of 2003 dated 05.02.2003 and the consequential charge sheet dated 16.04.2003, pending before the trial Court, are hereby quashed. This judgment, however, shall not preclude the parties from pursuing civil remedies as may be available to them in accordance with law."

9.3. Later, the Apex Court, in the case of **INDER CHAND BAGRI v. JAGADISH PRASAD BAGRI**³, 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 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

³2025 SCC OnLine SC 2529

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.

26. In this regard, it would be apposite to rely on the judgment in the case of *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426 ("Bhajan Lal") with particular reference to paragraph 102 therein, where this Court observed:

"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."

27. On a careful consideration of the aforementioned judicial dicta, we find that none of the offences alleged against the appellant-accused herein is made out. In fact, we find that the allegations of criminal intent and other allegations against the appellant-accused herein have been made with a *mala-fide* intent and therefore, the judgment of this Court in the case

of *Bhajan Lal* extracted above, squarely applies to the facts of these cases. It is neither expedient nor in the interest of justice to permit the present prosecution to continue.

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."

10. What remains next is the offence under the Act. The complaint itself indicates that the alleged hurling of abuses has taken place in the house of the accused No.2. If it is inside the house within the four corners, it would not become an offence under the Act is by now too well settled principle.

10.1. The Apex Court in **HITESH VERMA v. STATE OF UTTARAKHAND**⁴, has held as follows:

"....

⁴ (2020) 10 SCC 710

12. The basic ingredients of the offence under Section 3(1)(r) of the Act can be classified as “(1) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe and (2) in any place within public view”.

13. The offence under Section 3(1)(r) of the Act would indicate the ingredient of intentional insult and intimidation with an intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe. All insults or intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of victim belonging to Scheduled Caste or Scheduled Tribe. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. Thus, an offence under the Act would be made out when a member of the vulnerable section of the society is subjected to indignities, humiliations and harassment. The assertion of title over the land by either of the parties is not due to either the indignities, humiliations or harassment. Every citizen has a right to avail their remedies in accordance with law. Therefore, if the appellant or his family members have invoked jurisdiction of the civil court, or that Respondent 2 has invoked the jurisdiction of the civil court, then the parties are availing their remedies in accordance with the procedure established by law. Such action is not for the reason that Respondent 2 is a member of Scheduled Caste.

14. Another key ingredient of the provision is insult or intimidation in “any place within public view”. What is to be regarded as “place in public view” had come up for consideration before this Court in the judgment reported as *Swaran Singh v. State* [*Swaran Singh v. State*, (2008) 8 SCC 435 : (2008) 3 SCC (Cri) 527] . The Court had drawn distinction between the expression “public place” and “in any place within public view”. It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building,

but some members of the public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view (*sic*) [**Ed.** : This sentence appears to be contrary to what is stated below in the extract from *Swaran Singh*, (2008) 8 SCC 435, at p. 736d-e, and in the application of this principle in para 15, below: "Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view."] . The Court held as under : (SCC pp. 443-44, para 28)

"28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by Appellants 2 and 3 (by calling him a "chamar") when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, *and* also was not in the public view. However, **if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the expression "place within public view" with the expression "public place". A place can be a private place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaonsabha or an instrumentality of the State, and not by private persons or private bodies.**"

(emphasis in original)

15. As per the FIR, the allegations of abusing the informant were within the four walls of her building. It is not the case of the informant that there was any member of the public (not merely relatives or friends) at the time of the incident in the house. Therefore, the basic ingredient that the words were uttered "in any place

within public view” is not made out. In the list of witnesses appended to the charge-sheet, certain witnesses are named but it could not be said that those were the persons present within the four walls of the building. The offence is alleged to have taken place within the four walls of the building. Therefore, in view of the judgment of this Court in *Swaran Singh [Swaran Singh v. State, (2008) 8 SCC 435 : (2008) 3 SCC (Cri) 527]*, it cannot be said to be a place within public view as none was said to be present within the four walls of the building as per the FIR and/or charge-sheet.

16. There is a dispute about the possession of the land which is the subject-matter of civil dispute between the parties as per Respondent 2 herself. Due to dispute, the appellant and others were not permitting Respondent 2 to cultivate the land for the last six months. Since the matter is regarding possession of property pending before the civil court, any dispute arising on account of possession of the said property would not disclose an offence under the Act unless the victim is abused, intimidated or harassed only for the reason that she belongs to Scheduled Caste or Scheduled Tribe.

17. In another judgment reported as *Khuman Singh v. State of M.P. [Khuman Singh v. State of M.P., (2020) 18 SCC 763 : 2019 SCC OnLine SC 1104]*, this Court held that in a case for applicability of Section 3(2)(v) of the Act, the fact that the deceased belonged to Scheduled Caste would not be enough to inflict enhanced punishment. This Court held that there was nothing to suggest that the offence was committed by the appellant only because the deceased belonged to Scheduled Caste. The Court held as under:

“15. As held by the Supreme Court, the offence must be such so as to attract the offence under Section 3(2)(v) of the Act. The offence must have been committed against the person on the ground that such person is a member of Scheduled Caste and Scheduled Tribe. In the present case, the fact that the deceased was belonging to “Khangar” Scheduled Caste is not disputed. There is no evidence to show that the offence was committed only on the ground that the victim was a

member of the Scheduled Caste and therefore, the conviction of the appellant-accused under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is not sustainable."

18. Therefore, offence under the Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste.

In the present case, the parties are litigating over possession of the land. The allegation of hurling of abuses is against a person who claims title over the property. If such person happens to be a Scheduled Caste, the offence under Section 3(1)(r) of the Act is not made out.

19. This Court in a judgment reported as *Subhash Kashinath Mahajan v. State of Maharashtra* [Subhash Kashinath Mahajan v. State of Maharashtra, (2018) 6 SCC 454 : (2018) 3 SCC (Cri) 124] issued certain directions in respect of investigations required to be conducted under the Act. In a review filed by the Union against the said judgment, this Court in a judgment reported as *Union of India v. State of Maharashtra* [Union of India v. State of Maharashtra, (2020) 4 SCC 761 : (2020) 2 SCC (Cri) 686] reviewed the directions issued by this Court and held that if there is a false and unsubstantiated FIR, the proceedings under Section 482 of the Code can be invoked. The Court held as under : (*Union of India case* [Union of India v. State of Maharashtra, (2020) 4 SCC 761 : (2020) 2 SCC (Cri) 686] , SCC p. 797, para 52)

"52. There is no presumption that the members of the Scheduled Castes and Scheduled Tribes may misuse the provisions of law as a class and it is not resorted to by the members of the upper castes or the members of the elite class. For lodging a false report, it cannot be said that the caste of a person is the cause. It is due to the human failing and not due to the caste factor. Caste is not attributable to such an act. On the other hand, members of the Scheduled Castes and Scheduled Tribes due to backwardness hardly muster the courage to lodge even a first information report, much less, a false one. In case it is found to be false/unsubstantiated, it may be due to the faulty

investigation or for other various reasons including human failings irrespective of caste factor. There may be certain cases which may be false that can be a ground for interference by the Court, but the law cannot be changed due to such misuse. In such a situation, it can be taken care of in proceeding under Section 482 CrPC."

20. Later, while examining the constitutionality of the provisions of the amending Act (Central Act 27 of 2018), this Court in a judgment reported as *Prathvi Raj Chauhan v. Union of India* [*Prathvi Raj Chauhan v. Union of India*, (2020) 4 SCC 727 : (2020) 2 SCC (Cri) 657] held that proceedings can be quashed under Section 482 of the Code. It was held as under : (SCC p. 751, para 12)

"12. The Court can, in exceptional cases, exercise power under Section 482 CrPC for quashing the cases to prevent misuse of provisions on settled parameters, as already observed while deciding the review petitions. The legal position is clear, and no argument to the contrary has been raised.""

10.2. Again, the Apex Court in **KARUPPUDAYAR v. STATE**⁵

has held as follows:

"....

8. For appreciating the rival submissions, it will be apposite to refer to the provisions of Sections 3(1)(r) and 3(1)(s) of the SC-ST Act, which read thus:

"3. Punishments for offences of atrocities.—

(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

- (a)
- (b)

xxx xxxxxx

⁵ 2025 SCC OnLine SC 215

- (r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;
- (s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;"

9. A perusal of Section 3(1)(r) of the SC-ST Act would reveal that for constituting an offence thereunder, it has to be established that the accused intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view. Similarly, for constituting an offence under Section 3(1)(s) of the SC-ST Act, it will be necessary that the accused abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view.

10. The term "any place within public view" initially came up for consideration before this Court in the case of *Swaran Singh v. State through Standing Counsel*². This Court in the case of *Hitesh Verma v. State of Uttarakhand*³ referred to *Swaran Singh* (supra) and reiterated the legal position as under:

"14. Another key ingredient of the provision is insult or intimidation in "any place within public view". What is to be regarded as "place in public view" had come up for consideration before this Court in the judgment reported as *Swaran Singh v. State* [*Swaran Singh v. State*, (2008) 8 SCC 435 : (2008) 3 SCC (Cri) 527]. The Court had drawn distinction between the expression "public place" and "in any place within public view". It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view (*sic*) [**Ed.** : This sentence appears to be contrary to what is stated below in the extract from *Swaran Singh*, (2008) 8 SCC 435, at p. 736d-e,

and in the application of this principle in para 15, below: "Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view."]. The Court held as under: (SCC pp. 443-44, para 28)

"28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by Appellants 2 and 3 (by calling him a "chamar") when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, *and* also was not in the public view. However, **if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the expression "place within public view" with the expression "public place". A place can be a private place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaonsabha or an instrumentality of the State, and not by private persons or private bodies.**"
(emphasis in original)"

11. It could thus be seen that, to be a place 'within public view', the place should be open where the members of the public can witness or hear the utterance made by the accused to the victim. If the alleged offence takes place within the four corners of the wall where members of the public are not present, then it cannot be said that it has taken place at a place within public view."

10.3. In **SOHANVIR v. STATE OF UTTAR PRADESH**⁶ the Apex Court has held as follows:

"....

10. The expression "*any place within public view*" has been interpreted by this Court in numerous decisions, most recently in *Karuppudayar v. State represented by the Deputy Superintendent of Police, Lalgudi, Trichy*⁴. Relying on *Hitesh Verma v. State of Uttarakhand*⁵, this Court reaffirmed that:

"11. It could thus be seen that, to be a place 'within public view', the place should be open where the members of the public can witness or hear the utterance made by the accused to the victim. If the alleged offence takes place within the four corners of the wall where members of the public are not present, then it cannot be said that it has taken place at a place within public view."

11. A perusal of the Application filed by the complainant under Section 156(3) of the CrPC reveals that the alleged casteist abuses were stated to have been used by the Appellants inside the premises of the complainant. This circumstance, on its face, does not satisfy the statutory requirement that the abuses were made "in any place within public view," which is an essential component of the offence under Section 3(1)(s) of the SC/ST Act. The house of the complainant cannot be considered to be within public view.

12. Learned counsel appearing for the Respondent no. 2 has not been able to show that the complaint or the statement recorded under Section 200 CrPC contained any specific averment that the caste based abuses were hurled at a place within public view.

13. In our considered view, the High Court erred in concluding that the incident occurred in public view. **A careful reading of the complaint makes it evident that the**

⁶ 2025 SCC OnLine SC 2730

alleged caste-based abuses were uttered inside the premises, in the presence of the Appellants and Respondent No. 2. Therefore, the essential requirement of the offence under Section 3(1)(s) of the SC/ST Act is not satisfied."

(Emphasis supplied at each instance)

The Apex Court clearly holds in the afore-mentioned judgments that the allegations under the Act cannot spring in air. It is to be made in public view or in a public place. Neither of which is present in the case at hand. Therefore, a pure and simple money transaction between the parties is sought to be rendered with the colour of crime and criminal law is being set into motion for the recovery of money. Therefore, the petition deserves to succeed as, if the investigation is permitted in the case at hand, it would run foul of the judgments rendered by the Apex Court quoted *supra*.

11. For the aforesaid reasons the following:

ORDER

- (i) Writ Petition is ***allowed***.
- (ii) FIR in Crime No.409 of 2024 registered before Basaveshwara Nagar Police Station on 17-10-2024 and

pending before the LXX Additional City Civil and Sessions Judge and Special Judge at Bengaluru stands quashed.

- (iii) It is made clear that the observations made in the course of the order are only for the purpose of consideration of the case of the petitioners under Section 528 of the BNSS, and the same would not influence or bind any proceedings pending or to be filed between the parties.

Consequently, I.A.No.1 of 2024 and I.A.No.1 of 2025 also stand disposed.

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

Bkp
CT:MJ