

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.3205 OF 2025

Sashidhar Jagdishan

An individual aged 60 years, son of Mr.

Jagdishan Chandrasekharan having
office address at HDFC Bank Limited,

HDFC Bank House,

Senapati Bapat Marg, Lower Parel

(West), Mumbai – 400013. ... Petitioner

Versus

1. State of Maharashtra
Through Public Prosecutor,
Bombay High Court.
2. Bandra Police Station,
Through Senior Police Inspector,
Hill Road, Bandra West,
Mumbai – 400050.
3. Prashant Kishore Mehta
An individual having address at:
Diamond House, 9 Vatcha Gandhi
Road, Gamdevi, Mumbai – 400007.
4. Lilavati Kirtilal Mehta Medical
Trust (Represented by Mr.
Prashant Mehta Through its
power of attorney holder
Mr. Dinanath Sawant)
An individual aged about 64 years,
having office at Diamond House, 9
Vatcha Gandhi Road, Gamdevi,
Mumbai – 400007. Respondents

**WITH
INTERIM APPLICATION NO.3378 OF 2025
IN
CRIMINAL WRIT PETITION NO.3205 OF 2025**

Lilavati Kirtilal Mehta
 Medical Trust (Represented by
 Mr. Prashant Mehta Through
 its Power of Attorney Holder
 Mr. Dinanath Sawant)
 An individual aged about 64
 years, having office at Diamond
 House, 9 Vatcha Gandhi Road,
 Gamdevi, Mumbai 400 007

... Applicant

IN THE MATTER OF

Sashidhar Jagdishan
 An individual aged 79 years
 having office address at HDFC
 Bank Limited, HDFC Bank House,
 Senapati Bapat Marg, Lower Parel,
 Mumbai – 400 013.

... Petitioner

Versus

1. State of Maharashtra
 Through Public Prosecutor,
 Bombay High Court.
2. Bandra Police Station,
 Through Senior Police Inspector,
 Hill Road, Bandra West,
 Mumbai – 400 050.
3. Prashant Kishor Mehta
 An individual having address at
 Diamond House, 9 Vatcha Gandhi
 Road, Gamdevi, Mumbai – 400 007.
4. Lilavati Kirtilal Mehta Medical
 Trust (Represented by Mr.
 Prashant Mehta Through its
 Power of Attorney Holder
 Mr. Dinanath Sawant)
 An individual aged about 64 years,
 having office at Diamond House, 9
 Vatcha Gandhi Road, Gamdevi,
 Mumbai – 400 007.

.... Respondents

**WITH
CRIMINAL WRIT PETITION NO.3215 OF 2025**

Phoenix ARC Private Limited, A
company incorporated under the
Companies Act, 1956 and duly registered
with Reserve Bank of India as an Asset
Reconstruction Company (ARC) under
Section 3 of SARFAESI Act, 2002 and
having its registered office at 3rd Floor,
Wallace Towers, 139-140/B/1, Crossing
of Sahar Road and Western Express
Highway, Vile Parle (East),
Mumbai – 400 057
(through its authorised signatory
Ms. Janhavi Mane, Designation : Manager
Age – 31 years)

... Petitioner

Versus

1. State of Maharashtra
Through Public Prosecutor,
Bombay High Court.
2. Bandra Police Station,
Through Senior Police Inspector,
Hill Road, Bandra West,
Mumbai – 400050.
3. Prashant Kishore Mehta
An individual having address at:
Diamond House, 9 Vatcha Gandhi
Road, Gamdevi, Mumbai – 400007.
4. Lilavati Kirtilal Mehta Medical
Trust (Represented by Mr.
Prashant Mehta Through its
power of attorney holder
Mr. Dinanath Sawant)
An individual aged about 64 years,
having office at Diamond House, 9
Vatcha Gandhi Road, Gamdevi,
Mumbai – 400007.

.... Respondents

**WITH
CRIMINAL WRIT PETITION NO.3216 OF 2025**

Keki Manchersha Elavia,
An individual aged 79 years, having
office at Phoenix ARC Private Limited,
3rd Floor, Wallace Towers, 139-140/B/1,
Crossing of Sahar Road and Western
Express Highway, Vile Parle (East),
Mumbai – 400 057

... Petitioner

Versus

1. State of Maharashtra
Through Public Prosecutor,
Bombay High Court.
2. Bandra Police Station,
Through Senior Police Inspector,
Hill Road, Bandra West,
Mumbai – 400050.
3. Prashant Kishore Mehta
An individual having address at:
Diamond House, 9 Vatcha Gandhi
Road, Gamdevi, Mumbai – 400007.
4. Lilavati Kirtilal Mehta Medical
Trust (Represented by Mr.
Prashant Mehta Through its
power of attorney holder
Mr. Dinanath Sawant)
An individual aged about 64 years,
having office at Diamond House, 9
Vatcha Gandhi Road, Gamdevi,
Mumbai – 400007.

.... Respondents

**WITH
CRIMINAL WRIT PETITION NO.3217 OF 2025**

Venkattu Srinivasan,
An individual aged 64 years, having
office at Phoenix ARC Private

Limited, 3rd Floor, Wallace Towers,
139-140/B/1, Crossing of Sahar Road
and Western Express Highway,
Vile Parle (East), Mumbai – 400 057

... Petitioner

Versus

1. State of Maharashtra
Through Public Prosecutor,
Bombay High Court.
2. Bandra Police Station,
Through Senior Police Inspector,
Hill Road, Bandra West,
Mumbai – 400050.
3. Prashant Kishore Mehta
An individual having address at:
Diamond House, 9 Vatcha Gandhi
Road, Gamdevi, Mumbai – 400007.
4. Lilavati Kirtilal Mehta Medical
Trust (Represented by Mr.
Prashant Mehta Through its
power of attorney holder
Mr. Dinanath Sawant)
An individual aged about 64 years,
having office at Diamond House, 9
Vatcha Gandhi Road, Gamdevi,
Mumbai – 400007.

.... Respondents

**WITH
INTERIM APPLICATION NO.3377 OF 2025
IN
CRIMINAL WRIT PETITION NO.3217 OF 2025**

Lilavati Kirtilal Mehta
Medical Trust (Represented by
Mr. Prashant Mehta Through
its Power of Attorney Holder
Mr. Dinanath Sawant)
An individual aged about 64

years, having office at Diamond House, 9 Vatcha Gandhi Road, Gamdevi, Mumbai 400 007

... Applicant

IN THE MATTER OF

Venkattu Srinivasan,
An individual aged 64 years, having office at Phoenix ARC Private Limited, 3rd Floor, Wallace Towers, 139-140/B/1, Crossing of Sahar Road and Western Express Highway, Vile Parle (East), Mumbai – 400 057

... Petitioner

Versus

1. State of Maharashtra
Through Public Prosecutor,
Bombay High Court.
2. Bandra Police Station,
Through Senior Police Inspector,
Hill Road, Bandra West,
Mumbai – 400050.
3. Prashant Kishor Mehta
An individual having address at:
Diamond House, 9 Vatcha Gandhi Road, Gamdevi, Mumbai – 400 007.
4. Lilavati Kirtilal Mehta Medical Trust (Represented by Mr. Prashant Mehta Through its Power of Attorney Holder Mr. Dinanath Sawant)
An individual aged about 64 years, having office at Diamond House, 9 Vatcha Gandhi Road, Gamdevi, Mumbai – 400 007.

.... Respondents

**WITH
CRIMINAL WRIT PETITION NO.3227 OF 2025**

**WITH
INTERIM APPLICATION (ST) NO.21717 OF 2025
IN
CRIMINAL WRIT PETITION NO.3227 OF 2025**

Lilavati Kirtilal Mehta Medical Trust
Through Mr. Prashant Mehta
Age – 52
(Permanent Trustee for Life)
Having registered office at
A791, Bandra Reclamation,
Bandra West,
Mumbai – 400 050

... Petitioner

Versus

1. Union of India
Through the Secretary
Department of Personnel &
Training (DOPT) in the Ministry
of Personnel, Pension & Grievances
AND
Central Vigilance Commission (CVC)
2. Central Bureau of Investigation
Through its Joint Director
Central Bureau of Investigation
Bandra, Mumbai
3. State of Maharashtra
Through its Secretary
Having office at Mantralaya, Mumbai
4. Bandra Police Station
Through Senior Police Inspector
Hill Road, Bandra West,
Mumbai – 400 050
5. Sashidhar Jagdishan
HDFC Bank House,
Senapati Bapat Marg,
Lower Parel, Mumbai – 400 013

6. Chetan Mehta
R/at: The Imperial – North Tower,
Apartment 3205, Tardeo,
Mumbai – 400034
 7. Rashmi Mehta
Indian Adult,
R/at: Usha Kiran, Flat No.24,
12th Floor, 15, Carmichael Road,
Mumbai – 400 026.
 8. Mr. Bhavin Mehta
Indian Adult,
R/at: Usha Kiran, Flat No.24,
12th Floor, 15, Carmichael Road,
Mumbai – 400 026.
 9. Mr. Niket Mehta
Indian Adult,
R/at: Maker Tower ‘L’, 9th Floor,
Flat No.91, Cuffe Parade, Colaba,
Mumbai – 400 005.
 10. Mr. Nimesh Sheth
Indian Adult,
R/at: Sweekar Bldg., 1st Floor,
V.P. Road, Vile Parle (West),
Mumbai – 400 056.
 11. Mr. Ayushman Mehta
Indian Adult,
R/at: The Imperial – North Tower
Apartment 3205, Tardeo,
Mumbai – 400 034.
- Respondents

**WITH
CRIMINAL WRIT PETITION NO.3313 OF 2025**

Lilavati Kirtilal Mehta Medical Trust
Through Mr. Prashant Mehta

(Permanent Trustee for Life)
Having registered office at
A791, Bandra Reclamation,
Bandra West, Mumbai – 400 050

... Petitioner

Versus

1. Union of India
Through the Secretary
Department of Personnel &
Training (DOPT) in the Ministry
of Personnel, Pension & Grievances
AND
Central Vigilance Commission (CVC)
2. Central Bureau of Investigation
Through its Joint Director
Central Bureau of Investigation
Bandra, Mumbai
3. State of Maharashtra
Through its Secretary
Having office at Mantralaya, Mumbai
4. Bandra Police Station
Through Senior Police Inspector
Hill Road, Bandra West,
Mumbai – 400 050
5. Venkattu Srinivasan
Director of Pheonix ARC,
3rd Floor, Wallace Towers,
Vile Parle East, Mumbai,
Maharashtra - 400057
6. Chetan Mehta
R/at:The Imperial – North Tower,
Apartment 3205, Tardeo,
Mumbai – 400034
7. Rashmi Mehta
Indian Adult,

R/at: Usha Kiran, Flat No.24,
12th Floor, 15, Carmichael Road,
Mumbai – 400 026.

8. Bhavin Mehta
Indian Adult,
R/at: Usha Kiran, Flat No.24,
12th Floor, 15, Carmichael Road,
Mumbai – 400 026.
9. Niket Mehta
Indian Adult,
R/at: Maker Tower 'L', 9th Floor,
Flat No.91, Cuffe Parade, Colaba,
Mumbai – 400 005.
10. Nimesh Sheth
Indian Adult,
R/at: Sweekar Bldg., 1st Floor,
V.P. Road, Vile Parle (West),
Mumbai – 400 056.
11. Ayushman Mehta
Indian Adult,
R/at: The Imperial – North Tower
Apartment 3205, Tardeo,
Mumbai – 400 034.
12. Mr. VSN Murthy,
The Then Recovery Officer,
DRT-II Mumbai.
13. Mr. Keki Elavia
Being the Board of Directors,
Phoenix Arc having address at
Phoenix ARC Pvt. Ltd.
158, 5th Floor, Dani Corporate Park,
CST Road, MMRDA Area, Kalina,
Santacruz (E), Mumbai – 400 098
14. Mr. Chandan Bhattacharya
Being the Board of Directors,

Phoenix Arc having address at
 Phoenix ARC Pvt. Ltd.
 158, 5th Floor, Dani Corporate Park,
 CST Road, MMRDA Area, Kalina,
 Santacruz (E), Mumbai – 400 098

.... Respondents

Mr. Amit Desai, Senior Advocate, a/w Mr. D.P Singh, Senior Advocate, Mr. Sandeep Singhi, Mr. Himanshu Sinha, Ms. Chitra Rentala, Mr. Gopal Krishna Shenoy, Ms. Kriti Srivastava, Mr. Ritesh Desai, Mr. Parikshith K, Ms. Shravani Maddirala, Mr. Utkarsh Mishra, i/b Trilegal for the petitioners in WP/ 3205/2025.

Mr. Ravi Kadam, Senior Advocate a/w Mr. Himanshu Sinha, Ms. Chitra Rentala, Ms. Kriti Srivastava, Mr.Parikshith K., Ms. Shravani Maddirala and Mr. Utkarsh Mishra, i/b Trilegal for the petitioners in WP/3215/2025.

Mr. Charles De Souza a/w Ms. Manaswi Agrawal, Mr. Shantanu Ray, Ms. Pragati Gothi and Ms. Salomi Kalwade i/b Meraki Chambers for the petitioners in WP/3216/2025.

Mr. Devadatt Kamat, Senior Advocate a/w Mr. Tarun Mehra, Mr. Utsav Trivedi, Mr. Monish Bhatia, Ms. Minal Chandnani, Mr. Harsh Pandya Mr. Shivam Bhushan, H. N. Thakore, Ms. Jyoti Ghag, Mr. Shailesh Prajapati, and Mr. Ankit Singhal i/b M/s. Dua Associates for the petitioners in WP/3227/2025.

Mr. Aabad Ponda, Senior Advocate a/w Mr. Rizwan Merchant, Adv. Monish Bhatia Ms. Minal Chandnani, H.N. Thakore, Ms. Jyoti Ghag, Mr. Shailesh Prajapati, Mr. Ankit Singhal i/by M/s. Dua Associates for the petitioner in WP/3313/2025.

Mr. Karan Kadam a/w Mr. Nikhil Rajani, Mr. Ajay Deshmane i/b V. Deshpande and Co., for the petitioner in WP/3217/2025 and for respondent No.5 in WP/3313/2025.

Mr. Devadatt Kamat, Senior Advocate a/w Mr. Utsav Trivedi, Ms. Shivani Bhushan, Mr. Harsh Panday Mr. Monish Bhatia Ms. Minal Chandnani, Ms. Pooja Kothari, Ms. Urvi Gupte, Ms. Etika Srivastava, Ms. Tanvi Mate, Ms. Nishi Doshi and Ms. Raghav

Dharmadhikari i/b M/s. Rashmikant and Partners for respondent No. 3 in WP/3205/2025.

Mr. Devadatt Kamat, Senior Advocate a/w Mr. Aabad Ponda, Senior Advocate, Mr. Monish Bhatia Ms. Minal Chandnani, Barkha Motwani and Mr. Rajesh Ranglani i/b MRB Legal for respondent No. 3 in WP/3217/2025 and WP/3215/2025.

Ms. Pooja Kothari a/w Ms. Urvi Gupte, Ms. Etika Srivastava, Ms. Tanvi Mate, Ms. Nishi Doshi, Mr. Raghav Dharmadhikari i/b Ms. Rashmikant and Partners for respondent No.3 in WP/3216/2025.

Mr. Devadatt Kamat, Senior Advocate a/w Mr. Aabad Ponda, Senior Advocate a/w Mr. Hemant Ingle, Mr. Abhishek Prabhu, H. N. Thakore, Ms. Jyoti Ghag, Mr. Shailesh Prajapati, Mr. Ankit Singhal i/by M/s. Dua Associates for respondent No.4 in WP/3205/2025, WP/3215/2025, WP/3216/2025, and WP/3217/2025.

Mr. Amit Desai, Senior Advocate, a/w Mr. D.P Singh, Senior Advocate, Mr. Sandeep Singhi, Mr. Himanshu Sinha, Ms. Chitra Rentala, Mr. Gopal Krishna Shenoy, Ms. Kriti Srivastava, Mr. Parikshith K, Ms. Shravani Maddirala, Mr. Utkarsh Mishra, i/b Trilegal for respondent No.5 in WP/ 3227/2025.

Mr. Sudeep Pasbola Senior Advocate a/w Adv. Lakshmi Raman, Manisha Prajapati, Mhendi Nakrani i/b Dhiren H. Shah for respondent Nos.6, 10 and 11 in WP/3313/2025 and WP/3227/2025.

Mr. Charles De Souza a/w Ms. Manaswi Agrawal, Mr. Shantanu Ray, Ms. Pragati Gothi and Ms. Salomi Kalwade i/b Meraki Chambers for respondent No.13 in WP/3313/2025.

SPP Mr. Amit Munde, SSP a/w Mr. Jai Vohra, Mr. Shantanu Nakashe for CBI, ACB (Mumbai), for respondent No.2 in WP/3227/2025 and WP/3313/2025.

Smt. Mahalaxmi Ganpati, APP a/w Smt. M. S. Bajoria, APP, and Mr. Pankaj Deokar, APP for State.

API, Rajendra Shivade, a/w P.I. Mundale, EOW, Mumbai.

**CORAM : M. S. KARNIK &
N. R. BORKAR, JJ.**

**RESERVED ON : 8th OCTOBER, 2025
29th JANUARY, 2026**

PRONOUNCED ON : 5th MAY, 2026

JUDGMENT (PER M. S. KARNIK, J.) :

1. Since common issues are involved in respect of the same FIR and by and large similar allegations are levelled against the petitioners, all these writ petitions are disposed of by a common judgment.

2. Writ Petition Nos.3205 of 2025, 3215 of 2025, 3216 of 2025, 3217 of 2025 were reserved for judgment on 08/10/2025. Since according to learned counsel, the decision in the present set of writ petitions would have a bearing on Criminal Writ Petition Nos.3227 of 2025 and 3313 of 2025, a request was made for hearing Criminal Writ Petition Nos.3227 of 2025 and 3313 of 2025 for transfer of the investigation to the Central Bureau of Investigation ("CBI", for short) as well along with this group. Accordingly, we have heard Criminal Writ Petition Nos.3227 of 2025 and 3313 of 2025 and closed the same for orders on 29/01/2026.

3. The petitioner-Sashidhar Jagdishan by this writ petition (Writ Petition No.3205 of 2025) under Articles 226 and 227 of the Constitution of India read with Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 482 of the erstwhile Code of Criminal Procedure, 1973) seeks quashing of (i) FIR No.0818 of 2025 registered at Bandra Police Station under Sections 406, 409 and 420 read with Section 34 of the Indian Penal Code, 1860 (“IPC”, for short), and (ii) the order dated 29/05/2025 passed by the learned Judicial Magistrate First Class, 12th Court, Bandra in S.W. No.63 of 2025 directing registration of the said FIR. The petitioner is the Managing Director and Chief Executive Officer of HDFC Bank Limited. There is another FIR bearing No.0819 of 2025 levelling similar allegations against the accused, of which quashment is sought.

4. The long and short of the petitioner’s case is that the criminal proceedings initiated by the respondent No.3-complainant constitute a gross abuse of process of law and have been initiated with malafide intent to harass him and tarnish the reputation of HDFC Bank. Mr. Amit Desai, learned Senior Advocate for the petitioner submitted that the FIR is a fallout of long-standing

recovery and enforcement proceedings initiated by HDFC Bank against the complainant's family for default in repayment of substantial dues exceeding Rs.65 crores.

5. The allegation in the complaint made by the respondent No.3-Mr. Prashant Mehta ("complainant" for short) is that in 2006, Mr. Chetan Mehta (original accused No.1) and others fraudulently and illegally gained control over the Lilavati Kirtilal Mehta Medical Trust ("the Trust", for short) and in collusion with other accused and with corrupt motive, used the Trust's funds for their own gains and for personal litigation.

6. Pursuant to the judgment of the Hon'ble Supreme Court dated 18/08/2023 and the consequent order dated 14/12/2023 passed by the Assistant Charity Commissioner under the Maharashtra Public Trusts Act, 1950, new trustees, the complainant being one of them, were appointed thereby removing the accused No.1 and other trustees from the Trust. After gaining control over the Trust, the complainant discovered that records pertaining to financial misconduct in the Trust had been destroyed by the accused persons before leaving the Trust. However, certain documents, including a photocopy of the cash register, indicated

cash transactions clearly demonstrating misuse of Trust funds.

7. It is alleged that in 1969, Mr. Kishore Mehta (complainant's father), Mr. Vijay Mehta and Mr. Prabodh Mehta (complainant's uncles) established a partnership named Beautiful Diamond Limited, a diamond trading company. The company availed a loan from Global Trust Bank, which merged into Oriental Bank, then into United Bank of India, and eventually into Punjab National Bank. During the course of recovery of the unpaid dues, Punjab National Bank transferred the loans, rights, shares, benefits and related financial agreements to Phoenix ARC Private Limited (petitioner in Writ Petition No.3215 of 2025, accused No.9 in the FIR) by an Assignment Deed on 30/09/2013. Subsequently, Phoenix ARC Private Limited, under the supervision of accused Nos.10 and 11, communicated with the borrower company for negotiations.

8. That consent terms were filed before the Debts Recovery Tribunal ("DRT", for short) on 01/10/2013, pursuant to which 14 security cheques were handed over by Splendor Gems Limited to accused No.9, Keki Elavia, Director of Phoenix ARC Private Limited. A mortgage deed was purportedly executed against the

immovable properties listed in Table 1 of the consent terms of the borrower company. After issuance of recovery certificates, the mortgaged assets were auctioned and sold by the borrower company through recovery officers. Approximately, property worth Rs.81 crores was sold, in which accused No.8/Phoenix ARC Private Limited was entitled to a significant share of the sale proceeds. The loans availed by the borrower company were insured by Export Credit Guarantee Corporation of India (“ECGCI”, for short), entitling Oriental Bank to 90% insurance amount benefit in case of default of the loan, which amount, the complainant claims, is likely to have been received by the bank.

9. The complainant alleges that the recovery process was executed fraudulently by Phoenix ARC Private Limited by concealing material facts, with the sole intention to mentally harass late Mr. Kishore Mehta and Mr. Rajesh Mehta and the pressure created by the controversy, led to causing the death of Mr. Kishore Mehta. It is alleged that HDFC Bank and Phoenix ARC initiated fraudulent litigation despite the debt being repaid.

10. The complainant has placed heavy reliance on the photocopy of a cash diary which according to him shows the

entries regarding large payments made by accused Nos.1 to 7 (erstwhile trustees) to Senior Phoenix ARC Officials (accused Nos.8 to 11) and the petitioner as well as other accused persons.

11. Thereafter, on 17/04/2025, Lilavati Kirtilal Mehta Medical Trust (through respondent No.3) moved Application No. C.C. 63/SW/2025 under Section 175(3) of the BNSS, seeking direction for registration of an FIR on the basis of the same allegations. The Bandra Police, by its report dated 27/05/2025, pointed out that three FIRs were already pending on identical issues - (i) FIR No. 972/2024 (Sect. 406, 420, 34 IPC), (ii) FIR No. 1916/2024 (Sect. 406, 409, 420, 465, 467, 34 IPC), and (iii) FIR No. 375/2025 (Sect. 403, 406, 409, 420, 465, 467, 471, 474 IPC) — and hence no fresh FIR was warranted.

12. The learned JMFC passed the impugned orders dated 29/05/2025, directing registration of FIR's under Sections 406, 409 and 420 read with Section 34 of IPC against the petitioners and certain former trustees of the Lilavati Trust. Pursuant thereto, FIR No.0818 of 2025 and FIR No.0819 of 2025 was registered on 31/05/2025 at Bandra Police Station.

SUBMISSIONS ON BEHALF OF THE LEARNED SENIOR ADVOCATES FOR THE PETITIONERS :-

13. Mr. Amit Desai, Mr. Ravi Kadam, learned Senior Advocates, Mr. Charles De Souza, learned counsel appearing for the petitioners submit that the impugned order dated 29/05/2025, passed by the learned JMFC, Bandra, in C.C. No.63/SW/2025, directing registration of an FIR against the petitioner and officials of HDFC Bank under Sections 406, 409 and 420 read with Section 34 of the IPC, is patently erroneous, contrary to law, and unsustainable.

14. Learned Senior Advocates submit that the impugned order amounts to a gross abuse of the criminal process, being founded on purely civil and recovery proceedings that have already attained finality through orders of the DRT and this Court. The allegations, even if taken at face value, do not disclose any entrustment or dishonest inducement which are the essential ingredients of Sections 406, 409 or 420 of IPC.

15. It is further contended that Section 175(3) of the BNSS confers no mechanical right to seek registration of an FIR where the allegations have already been examined and rejected. The Magistrate failed to appreciate the binding effect of prior judicial orders and the bar against multiplicity of proceedings on identical

facts.

16. The petitioner relies upon the settled principle laid down by the Hon'ble Supreme Court in *State of Haryana vs. Bhajan Lal*¹, and *Zandu Pharmaceutical Works Ltd. vs. Mohd. Sharaful Haq*², to contend that where the allegations are civil in nature and manifestly attended with malafides, the High Court is empowered to quash the proceedings under Article 226 or Section 482 to prevent abuse of process.

17. It is thus submitted that the impugned order dated 29/05/2025 and the consequent FIR's deserve to be quashed and set aside, being arbitrary, repetitive, and contrary to settled law.

18. The decisions relied upon by the learned Senior Advocate for the petitioner are as under :-

- (1) *Priyanka Srivastava vs. State of U.P.*³
- (2) *Anil Kumar vs. M.K. Aiyappa*⁴
- (3) *Pepsi Foods Ltd. vs. Special Judicial Magistrate*⁵
- (4) *State of Haryana vs. Bhajan Lal* (supra)
- (5) *Zandu Pharmaceutical Works Ltd. vs. Mohd. Sharaful Haque* (supra)

1 1992 Supp (1) SCC 335

2 (2005) 1 SCC 122

3 (2015) 6 SCC 287

4 (2013) 10 SCC 705

5 (1998) 5 SCC 749

- (6) HDFC Bank Ltd. vs. J.J. Manners⁶
- (7) M/s Thermax Ltd. vs. K.M. Johny⁷
- (8) G. Sagar Suri vs. State of U.P.⁸
- (9) HDFC Bank Ltd. vs. State of Gujarat⁹
- (10) Vineet Kumar vs. State of U.P.¹⁰

SUBMISSIONS ON BEHALF OF THE LEARNED APP FOR THE STATE :-

19. Learned APP for the State opposed the writ petition. It is submitted that the orders passed by the Trial Court are well reasoned. It is submitted that the allegations made in the complaint are sufficient to constitute the ingredients of the offence alleged and hence an in-depth investigation is necessary. It is submitted that the investigation should be allowed to proceed and that no case is made out for quashing the FIR. Learned APP argued in support of the submissions made by the learned Senior Advocates for the respondents.

SUBMISSIONS ON BEHALF OF THE LEARNED SENIOR ADVOCATE FOR RESPONDENT NO.3-COMPLAINANT :-

20. Mr. Devadatt Kamat, learned Senior Advocate appearing

6 2022 SCC OnLine Bom 1170

7 (2011) 13 SCC 412

8 (2000) 2 SCC 636

9 2021 SCC OnLine Guj 2603

10 (2017) 13 SCC 369

for respondent No.3 supports the impugned order, submitting that the learned Magistrate acted within his jurisdiction and that the material on record prima facie discloses the commission of cognizable offences warranting investigation.

21. It is contended that the petitioner's challenge is misconceived, as the allegations reveal dishonest conduct and criminal breach of trust on the part of the Bank officials in collusion with former trustees of the Lilavati Kirtilal Mehta Medical Trust. The complaint was supported by documentary material sufficient to justify an order under Section 175(3) of the BNSS.

22. Learned Senior Advocate further submits that allegations of malafide are irrelevant at this preliminary stage. Once an FIR discloses cognizable offences, the veracity of allegations must be tested through investigation, not by pre-emptive quashing. Reliance is placed on *CBI vs. Ravi Shankar Srivastava*¹¹, and *State of Orissa vs. Saroj Kumar Sahoo*¹². It is urged that under the principle in *State of Haryana vs. Bhajan Lal* (supra), the extraordinary jurisdiction of this Court is to be exercised sparingly and not to stifle legitimate investigation at inception.

11 (2006) 7 SCC 188

12 (2005) 13 SCC 540

23. Accordingly, respondent No.3 prays that the petition be dismissed and the investigation be permitted to proceed in accordance with the law.

SUBMISSIONS ON BEHALF OF THE LEARNED SENIOR ADVOCATE FOR RESPONDENT NO.4 :-

24. Mr. Aabad Ponda, learned Senior Advocate appearing on behalf of respondent No.4 (Lilavati Kirtilal Mehta Medical Trust) supports the order dated 29/05/2025 passed by the learned JMFC, Bandra, and the consequent registration of FIR No.0818 of 2025. It is submitted that the learned Magistrate acted well within his jurisdiction under Section 175(3) of the Bharatiya Nagarik Suraksha Sanhita (BNSS), and that minor procedural lapses, if any, do not vitiate the proceedings.

25. Learned Senior Advocate contends that the material placed before the learned Magistrate prima facie disclosed commission of cognizable offences under Sections 406, 409 and 420 read with Section 34 of the IPC, necessitating registration of an FIR for investigation in accordance with law. Reliance is placed on the principle that when allegations disclose ingredients of a cognizable offence, the Magistrate is not expected to evaluate the

sufficiency of evidence at the pre-investigation stage.

26. It is argued that Section 175(3) of the BNSS (analogous to Section 156(3) of the CrPC) confers ample power on the Magistrate to order registration of an FIR, and that the procedural steps contemplated under Sections 173(1) and 173(4) of the BNSS are directory in nature. Any omission in forwarding or acknowledging the written representation to the Superintendent of Police cannot be treated as fatal. Non-compliance, at most, would constitute an irregularity curable under Section 511 of the BNSS (formerly Section 465 of the CrPC) if no failure of justice is shown. In support, reliance is placed on Pradeep Wodeyar vs. State of Karnataka¹³; HDFC Securities vs. State of Maharashtra¹⁴; Girish Kumar Suneja vs. CBI¹⁵.

27. It is further submitted that the requirement of an affidavit accompanying an application under Section 175(3) of the BNSS is a mere procedural formality intended to ensure the authenticity of allegations. Failure to strictly comply with the prescribed verification format cannot result in the nullification of judicial proceedings once the Magistrate, upon application of mind, has

13 (2021) 19 SCC 62

14 (2017) 1 SCC 640

15 (2017) 14 SCC 809

passed a reasoned order. The law laid down in *Anurag Bhatnagar vs. State of NCT of Delhi*¹⁶, is cited to contend that non-compliance with pre-requisites under Section 154(3) of the CrPC is only a procedural irregularity that does not vitiate the Magistrate's jurisdiction when he is otherwise satisfied that an investigation is warranted.

28. Respondent No. 4 also contends that the allegations of malafide or collateral motive raised by the petitioner are irrelevant at this stage. Once the FIR is registered and the investigation initiated, the veracity of allegations must be tested through evidence. The motive or bonafide of the complainant cannot by itself be a ground to quash an FIR which otherwise discloses cognizable offences. Reliance is placed on *Central Bureau of Investigation vs. Ravi Shankar Srivastava* (supra), and *State of Orissa vs. Saroj Kumar Sahoo* (supra), for the proposition that mala fides of the complainant may not be the sole basis for quashing investigations into cognizable offences.

29. It is submitted that HDFC Bank and its officials cannot claim immunity from criminal liability merely because they acted as officers of a financial institution. Where allegations suggest

¹⁶ SLP (Crl) No.18084 of 2024

collusion with former trustees of the Trust in the mismanagement of funds, the matter necessarily requires an independent investigation and cannot be scuttled at the threshold. Reliance is placed on the decision in *Bhajan Lal* (supra) to submit that while the High Court may exercise powers to prevent abuse of process, such jurisdiction must be used sparingly and only where the complaint is manifestly attenuated with malafides or does not disclose any offence.

30. Learned Senior Advocate lastly contends that the petition is premature as the investigation is at a nascent stage and factual disputes ought to be decided only after the collection of relevant evidence by the investigating agency. Accordingly, it is prayed that this Court should decline to exercise extraordinary jurisdiction and permit the investigation to proceed in accordance with the law.

31. The decisions relied upon by the learned Senior Advocates for the respondent Nos.3 and 4 are as under :-

- (1) *Pradeep Wodeyar vs. State of Karnataka* (supra)
- (2) *HDFC Securities Ltd. vs. State of Maharashtra* (supra)
- (3) *Girish Kumar Suneja vs. CBI* (supra)

(4) *Anurag Bhatnagar vs. State of NCT of Delhi*
(supra)

(5) *CBI vs. Ravi Shankar Srivastava* (supra)

(6) *State of Orissa vs. Saroj Kumar Sahoo* (supra)

(7) *State of Haryana vs. Bhajan Lal* (supra)

32. We have heard learned counsel. Perused the materials on record.

CONSIDERATION

33. Before we proceed to examine the rival contentions, we must refer to the relevant provisions and seek guidance from the well settled legal principles laid down by the Hon'ble Supreme Court when it comes to issues concerning quashing of FIR based on a complaint and especially when the investigation is at a nascent stage.

34. Section 482 of the CrPC confers upon this Court inherent powers. The Said Section reads thus:

“482. Saving of inherent powers of High Court.

- Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice”

35. The Section provides that this Court may make any such orders as necessary in the following circumstances:

(i) To give effect to any order passed under the provisions of CrPC

(ii) to prevent abuse of process of any Court, or

(iii) to secure the ends of justice

36. In *State of Haryana vs. Bhajan Lal* (supra), the Hon'ble Supreme Court has examined the scope of the inherent power under Section 482 of the Cr.PC. and the categories of cases where the High Court may exercise its power relating to cognizable offences. Their Lordships enumerated these categories as follows:

“105. 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 extra-ordinary 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 F.I.R. 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 F.I.R. 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 malafide 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.”
37. It is settled law that the inherent powers are to be exercised by this Court in exceptional circumstances to achieve the purpose/s outlined under the said Section. In Janata Dal vs. H.S.

Chowdhary¹⁷, the Hon'ble Supreme Court has exhaustively dealt with the scope of inherent powers conferred by Section 482 of the CrPC and it was held thus:

"137. This inherent power conferred by Section 482 of the Code should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a premature decision in a case wherein the entire facts are extremely incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved whether factual or legal are of great magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard and fast rule can be laid down in regard to the cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceedings at any stage. This Court in *State of Haryana v. Ch. Bhajan Lal* to which both of us were parties have dealt with this question at length and enunciated the law listing out the circumstances under which the High Court can exercise its jurisdiction in quashing proceedings."

38. It is also well settled that at the stage of the FIR, the courts should refrain from interfering especially when the FIR discloses the commission of a cognizable offence and statutory power of police to investigate cannot be interfered with in exercise of the inherent power of the Court.

39. The Hon'ble Supreme Court, in *Imran Pratapgarhi vs. State of Gujarat & Anr.*¹⁸, discussed the scope of the High Court's inherent powers to quash criminal proceedings. It clarified that the

17 (1992) 4 SCC 305

18 (2026) 1 SCC 721

High Court can use its powers under Article 226 of the Constitution and Section 482 of the Code of Criminal Procedure, 1973 (now Section 528 of the BNSS) even when the investigation is at an early stage. The court rejected the idea that there is a strict rule preventing interference during the initial stage of investigation and observed that the decision on whether the criminal proceedings ought to be quashed or not should depend largely on the facts and circumstances of each case. The following observation is relevant :-

“47. We fail to understand how the High Court concluded that the message was posted in a manner that would certainly disturb social harmony. Thereafter, the High Court gave a reason that the investigation was at a nascent stage. There is no absolute rule that when the investigation is at a nascent stage, the High Court cannot exercise its jurisdiction to quash an offence by exercising its jurisdiction under Article 226 of the Constitution of India or under Section 482 CrPC equivalent to Section 528 BNSS. When the High Court, in the given case, finds that no offence was made out on the face of it, to prevent abuse of the process of law, it can always interfere even though the investigation is at the nascent stage. It all depends on the facts and circumstances of each case as well as the nature of the offence. There is no such blanket rule putting an embargo on the powers of the High Court to quash FIR only on the ground that the investigation was at a nascent stage. If such embargo is taken as an absolute rule, it will substantially the powers of the High Court which have been laid down and recognised by this Court in *State of Haryana v. Bhajan Lal*.”

40. A chronology of events from the materials on record, at the cost of repetition, would be useful to appreciate the

controversy properly. A consortium of banks in 1995, including HDFC Bank sanctioned loan facilities to Splendour Gems Limited (formerly Beautiful Diamonds Ltd.), a company owned and managed by the complainant's family. Late Mr. Kishore Mehta along with his sons Mr. Rajesh Mehta and Mr. Rajiv Mehta, executed personal guarantees in favour of lending banks. On persistent default in repayment, HDFC Bank filed Original Application (OA) No.146 of 2002 before the DRT, Mumbai seeking recovery of Rs.14,74,51,929.35 with interest at the rate of 16% p.a. from the borrower and guarantors, jointly and severally.

41. The DRT, Mumbai by the order dated 26/10/2004 allowed OA No.146 of 2002 and directed the borrower and guarantors to jointly and severally pay Rs.14,74,51,929.35 with interest at the rate of 16% p.a. from the date of the application till realisation. Pursuant to the order passed by the DRT, a recovery certificate was issued by the DRT in favour of HDFC Bank on 30/11/2004. Despite the recovery certificate, the borrower and guarantors evaded payment and filed multiple applications before various fora between 2004 to 2020 challenging attachment, valuation, and recovery steps to obstruct full realisation. The DRT

issued arrest warrants against Late Mr. Kishore Mehta, Mr. Rajesh Mehta and Mr. Rajiv Mehta on 05/02/2020. In the order, strong observations were made by the DRT on their conduct saying “Enough is Enough”.

42. The order of the DRT was challenged before this Court. This Court remanded the matter to the DRT. By an order dated 25/10/2023, the DRT reconfirmed its earlier coercive orders, including arrest warrants and attachment of assets against the guarantors.

43. Late Mr. Kishore Mehta and Mr. Rajesh Mehta filed Writ Petition (L) No.2604 of 2024 before this Court challenging the DRT’s 26/10/2004 order and recovery certificate after a delay of nearly two decades. This Court dismissed Writ Petition (L) No.2604 of 2024 vide order dated 03/05/2024 holding that the challenge was grossly delayed and devoid of merit. On 01/03/2024 the Lilavati Trust by its Board Resolution authorised respondent No.3-complainant to file complaints and institute legal proceedings on behalf of the Trust. Respondent No.3 filed complaints dated 25/04/2024 and 26/08/2024 before the Reserve Bank of India and Ministry of Finance, alleging misconduct by

HDFC Bank officials (including the petitioner). Both complaints were found meritless and no action was taken.

44. Due to the demise of Mr. Kishore Mehta on 20/05/2024, his heirs respondent No.3 and Mrs. Charu Mehta were substituted in the pending DRT proceedings. On 05/07/2024 the complainant and Mrs. Charu Mehta were formally impleaded as legal representatives of Late Mr. Kishore Mehta in the DRT matter in the proceedings in respect of the order which is under challenge in Writ Petition (L) No.25597 of 2024. On the same day i.e. 05/07/2024, Lilavati Trust through the complainant filed CC No.105/SW/2024 under Section 156(3) of Code of Criminal Procedure (“CrPC”, for short) before the JMFC, Bandra alleging culpable homicide (Sections 304, 120B and 34 of IPC) against HDFC Bank officials. The JMFC dismissed the complaint on 03/08/2024 holding that the acts of the bank were lawful and pursuant to judicial orders.

45. Mr. Rajesh Mehta filed a complaint dated 22/07/2024 before the Maharashtra State Minorities Commission alleging that HDFC Bank had discriminated against the Jain community. This Court by an order dated 18/09/2024 passed in Writ Petition (L)

No.23881 of 2024, quashed the Minorities Commission proceedings, holding them to be frivolous, vexatious and intended to evade the legally determined debt liability.

46. HDFC Bank issued a Cease and Desist Notice dated 10/09/2024 to Lilavati Trust (through Permanent Trustee Mrs. Charu Mehta) urging cessation of defamatory actions and harassment of bank officials. The complainant filed a police complaint under Section 173(1) of the BNSS (Section 154(1) of the CrPC) on 12/09/2024 at the Bandra Police Station alleging offences under Sections 406, 409, 420 read with Section 34 of IPC based on alleged cash register entries of Rs.2.05 crores between 16/03/2022 and 21/06/2023. The said complaint was received by Bandra Police Station on 16/09/2024 and marked "CC" to the Deputy Commissioner of Police, Bandra Division.

47. The Trust through the complainant represented by POA holder Mr. Dinanath Sawant on 17/04/2025 filed application No.CC 63/SW/2025 under Section 175(3) of the BNSS before JMFC, Bandra, seeking direction for registration of FIR based on a 2008 Power of Attorney ("POA", for short).

48. Bandra Police filed its reply dated 27/05/2025 informing

the JMFC that three FIRs were already registered on identical allegations viz. (i) FIR No.972 of 2024 (Sections 406, 420, 34 of IPC), (ii) FIR No.1916 of 2024 (Sections 406, 409, 420, 465, 467, 34 of IPC), and (iii) FIR No.375 of 2025 (Sections 403, 406, 409, 420, 465, 467, 471, 474 of IPC) and hence, no further FIR was warranted. By the order dated 29/05/2025 the JMFC, Bandra passed an order in CC No.63/SW/2025 directing registration of FIR under Sections 406, 409 and 420 read with Section 34 of IPC against the petitioner and former Trustees of Lilavati Trust. A similar order was simultaneously passed in CC No.SW/49/2025 against Phoenix ARC Private Limited. Pursuant to the JMFC's order dated 29/05/2025, FIR No.0818 of 2025 was registered at Bandra Police Station on 31/05/2025 under Sections 406, 409 and 420 read with Section 34 of IPC against the petitioner and HDFC Bank officials. On the same day, FIR No.0819 of 2025 was registered against Phoenix ARC Private Limited and its directors.

49. In terms of the DRT order dated 26/10/2004 the complainant and his family members continue to owe HDFC Bank an outstanding sum exceeding Rs.65 crores as on 31/05/2025.

50. We thus find that the entire dispute arises out of loan

facilities sanctioned in 1995 to Splendour Gems Ltd. (formerly Beautiful Diamonds Ltd.), a company owned and controlled by the complainant's family. The late Mr. Kishore Mehta and his sons Mr. Rajesh Mehta and Mr. Rajiv Mehta, executed personal guarantees in favour of the lending banks, including HDFC Bank.

51. Upon persistent default in repayment, HDFC Bank filed O.A. No.146 of 2002 before the Debts Recovery Tribunal, Mumbai, seeking recovery of Rs.14,74,51,929.35 crore with at the rate of 16 % p.a. interest. The DRT, by order dated 26/10/2004, allowed the application and directed the borrower and guarantors to jointly and severally pay the dues. A Recovery Certificate was issued on 30/11/2004 in favour of HDFC Bank.

52. Despite these orders, the borrower and guarantors evaded repayment for nearly two decades, initiating multiple proceedings before various fora to obstruct recovery. The DRT, by its order dated 05/02/2020, even issued arrest warrants against the guarantors.

53. Subsequent proceedings, including Writ Petition (L) No. 2604 of 2024, filed by the Mehta family to challenge the 2004 DRT order, were dismissed by this Court on 03/05/2024 on grounds of

gross delay and absence of merit.

54. Following the demise of late Mr. Kishore Mehta on 20/05/2024, his heirs, including respondent No.3 (Prashant Mehta) and Mrs. Charu Mehta, were impleaded as legal representatives in the recovery proceedings. Thereafter, respondent No. 3 and his family began a series of complaints against HDFC Bank officials, including complaints to the RBI and Ministry of Finance (25/04/2024 and 26/08/2024), both found meritless; a complaint before the Maharashtra State Minorities Commission (22/07/2024), later quashed by the High Court on 18/09/2024 as vexatious; and a criminal complaint under Section 156(3) of the CrPC (C.C. No.105/SW/2024) before the JMFC, Bandra, was dismissed on 03/08/2024, holding that the Bank's actions were lawful and pursuant to judicial orders.

55. Despite these categorical judicial findings, the complainant persisted in filing complaints. On 12/09/2024, respondent No.3 filed yet another police complaint at Bandra Police Station, alleging offences under Sections 406, 409, 420 read with Section 34 of IPC based on alleged cash entries between March 2022 and June 2023. Upon inquiry, the police found no

cognizable offence and reported accordingly.

56. Thereafter, on 17/04/2025, Lilavati Kirtilal Mehta Medical Trust (through respondent No.3) moved Application No. C.C. 63/SW/2025 under Section 175(3) of the BNSS, seeking direction for registration of an FIR on the same allegations. The Bandra Police, by its report dated 27/05/2025, pointed out that three FIRs were already pending on identical issues - (i) FIR No. 972/2024 (Sect. 406, 420, 34 IPC), (ii) FIR No. 1916/2024 (Sect. 406, 409, 420, 465, 467, 34 IPC), and (iii) FIR No. 375/2025 (Sect. 403, 406, 409, 420, 465, 467, 471, 474 IPC) — and hence no fresh FIR was warranted.

57. The learned JMFC passed the impugned order dated 29/05/2025, directing registration of FIR under Sections 406, 409 and 420 read with Section 34 of IPC against the petitioners and certain former trustees of the Lilavati Trust. Pursuant thereto, FIR Nos.0818 of 2025 and 0819 of 2025 was registered on 31/05/2025 at Bandra Police Station.

58. It is well settled principle laid down by the Hon'ble Supreme Court in *State of Haryana vs. Bhajan Lal* (supra), and *Zandu Pharmaceutical Works Ltd. vs. Mohd. Sharaful Haque*

(supra), that where the allegations are civil in nature and manifestly attended with mala fides, the High Court is empowered to quash the proceedings under Article 226 or Section 482 to prevent abuse of process.

59. As learned Senior Advocate for the respondent Nos.3 and 4 submitted undoubtedly when the FIR discloses cognizable offences, the veracity of allegations must be tested through investigation, not by pre-emptive quashing. The extraordinary jurisdiction of this Court is to be exercised sparingly and not to stifle legitimate investigation at inception.

60. We are in complete agreement with learned Senior Advocate that HDFC Bank and its officials cannot claim immunity from criminal liability merely because they acted as officers of a financial institution. Undoubtedly where allegations suggest collusion with former trustees of the Trust in the mismanagement of funds, the matter necessarily requires an independent investigation and cannot be scuttled at the threshold.

61. However, we cannot lose sight of the background facts which are already on record. The HDFC Bank was pursuing the recovery proceedings before the DRT where several orders have

been passed against the erstwhile trustees for recovery of the amount. The substantial dues are yet to be recovered by the HDFC Bank. The HDFC Bank has proceeded against the Trust which was then managed by the erstwhile trustees who are the accused Nos.1 to 7 in this complaint. Now what we could gather from the submissions of learned Senior Advocates for the petitioners and even from the materials on record, it is due to the pressure exerted by the Banks in the course of the recovery proceedings for recovering the dues that led to the respondent No.3 firmly believing that these officials are responsible for the death of Mr. Kishore Mehta on 20/05/2024.

62. The respondent No.3 and Mrs. Charu Mehta being the legal heirs of Mr. Kishore Mehta were substituted in the pending DRT proceedings. A complaint was made to the Reserve Bank of India and Ministry of Finance on 25/04/2024 and 26/08/2024 against the HDFC Bank officials. Both complaints were found to be meritless. Then a complaint was made before the Maharashtra State Minorities Commission on 22/07/2024. This complaint was quashed by the order of this Court on 18/09/2024 as vexatious. A criminal complaint under Section 156(3) of the CrPC before the

JMFC, Bandra was dismissed on 03/08/2024, holding that the Bank's actions were lawful and pursuant to judicial orders. It is the contention of the petitioner that the erstwhile trustees accused Nos.1 to 7 herein destroyed all the records when the new trustees took charge.

63. To demonstrate that the erstwhile trustees and the petitioners were responsible for financial misappropriation, reliance is placed on a photocopy of a cash diary which shows the entries regarding large payments made by accused Nos.1 to 7 to the petitioners. It would be significant to extract the relevant portion of the FIR dated 31/05/2025 lodged by the complainant.

“It is pertinent that Chetan Mehta and others (the alleged Trustees) fraudulently and unlawfully took control of Lilawati Kirtilal Mehta Medical Trust in the year 2006. Since then, the Trust's assets and resources have been systematically exploited through collusive, computerized, and corrupt means. They trampled purposefully the objectives and responsibilities of the Trust, and spent the funds of the Trust for their own suits, leisure and for transactions of questionable legality.

The Hon'ble Supreme Court vide its Order dated 18/08/2023, and vide a Decision of the Assistant Charity Commissioner dated 14/12/2023, the cheating of the Accused was exposed and they were removed from their posts. Those Orders have proved that, they were not the true Trustees but they were the Thugs cheating by remaining there behind the Trust. Before their removal, most of the documents of their mal-transactions have been destroyed by them while leaving the Trust but some documents could be observed by us. Wherein I have found serious evidences of misappropriation. Among these, one document is a photocopy of a cash register containing handwritten entries of cash disbursements. In the

said cash register, one such entry reflects a cash payment of Rs.2.05 Crores to Mr. Sashidhar Jagdeeshan, who is currently serving as the Chief Executive Officer of HDFC Bank.

My father, Late Kishor Mehta was the Director of a Company namely Beautiful Diamond Company. The Beautiful Diamond Company had availed a loan from HDFC Bank. With reference to the said loan a dispute was going on with HDFC Bank. While taking advantage of the same, Chetan Mehta and others in collusion with the CEO of the HDFC Bank namely Shri. Sashidhar Jagdeeshan, subjected my father to continuous harassment, mental agony, and unlawful coercion. As a result of this sustained psychological pressure and unjust treatment, my father suffered severe emotional distress, ultimately leading to his untimely death on 20th May 2024. This tragic loss has caused irreparable harm and suffering to my family. The circumstance is partially acknowledged in Paragraph No.06 of the Court's Order, which also refers to the wrongful accumulation of wealth by the accused parties. This wealth, derived through fraudulent means, was not only retained for personal gain but was also secretly distributed to certain officials through secret and malicious way.

Upon further investigation into the matter, it came to light that several illegal transactions were carried out between the periods of 16/03/2022 to 21/06/2022 under the directions of the alleged Trustees. The funds of the Trust, which were meant for charitable and public welfare purposes, were misappropriated and secretly diverted for personal enrichment and corrupt activities. This is not only a cheating but the same is a complete slander to the sacred values and objectives for which the Trust was established.

Shri Sashidhar Jagdishan, CEO of HDFC Bank, misused his official position and, in collusion with Chetan Mehta and others, has taken unfair advantage to himself. These gains were used by Shri. Sashidhar Jagdishan to initiate malicious legal suits, engage in fraudulent campaigns, and exert unlawful pressure on multiple parties. He is not the only one in it but the same has been done with a pre-planned and with fraudulent and malicious intent.

In the said fraud, alongwith Shri. Sashidhar Jagdishan, CEO of the HDFC Bank, the late Alleged Trustee Shri. Chetan Mehta, Shri. Rashmi Mehta, Shri. Bhavin Mehta, Shri. Niket Mehta, Shri. Nimesh Seth, Smt. Sushila Mehta and Shri. Ayushyaman Mehta are also been responsible in the same proportion. During the period of their trusteeship, by completely and openly flouting the duties, they have entered

into various illegal financial transactions, which could be revealed only after dismissing them from their posts. Even after getting removed from the posts vide legal order, they illegally continued the representation of the Trust and did financial transactions without authorized permission. By using their past authorities they misappropriated the funds of the Trust and by showing themselves to be fabricated Trustees of the Trust, used huge amount for themselves.

Due to the so-called past Trustees (the then Alleged Trustee Shri. Chetan Mehta, Shri. Rashmi Mehta, Shri. Bhavin Mehta, Shri. Niket Mehta, Shri. Nimet Set, Smt. Sushila Mehta and Shri. Ayushyman Mehta), the Trust has faced a huge financial loss. Wherein giving unauthorizedly money in cash to Shri. Sashidhar Jagdishan is also included. This act is not only a breach of trust but the same is a criminal conspiracy. The objective of which was to do fraud with the funds of the Trust.

There are many other entries in the cash diary, apart from the entries got exposed which are very much required to take into enquiry. The said entries are the witnesses of secret transactions. From which all the spokes of mal-transactions can be exposed.

1) Shri. Sashidhar Jagdishan, Chief Executive Officer of HDFC Bank, Address-HDFC Bank House, Senapati Bapat Marg, Lower Parel, Mumbai.

2) Shri. Chetan Mehta, The so-called trustee of LKMMT, address- The Imperial, North Tower, Apartment 3205, Tardeo, Mumbai.

3) Shri. Rashmi Mehta, the past so-called Trustee of LKMMT, address-Usha Kiran, Flat No.24, 12th floor, 15 Carmicle Road, Mumbai.

4) Shri. Bhavin Mehta, the past so-called Trustee of LKMMT, address- Usha Kiran, Flat No.24, 12th floor, 15 Carmicle Road, Mumbai.

5) Shri. Niket Mehta, the past so-called Trustee of LKMMT, address- Maker Tower L, 9th floor, Flat No.91, Cough Parade, Colaba, Mumbai.

6) Shri. Sushila Mehta, the past so-called Trustee of LKMMT, address- Maker Tower L, 9th floor, Flat No.91, Cough Parade, Colaba. Mumbai.

7) Shri. Nimesh Seth, the past so-called Trustee of LKMMT, address- Swikar Building, First Floor, V. P. Road, Vileparle (West), Mumbai.

8) Shri. Ayushyman Mehta, the past so-called Trustee of LKMMT, address-The Imperial, North Tower, Apartment 3205, Tardeo, Mumbai.

Hence the former Alleged Trustee of Leelavati Kirtilal Mehta Medical Trust Shri. Chetan Mehta, Shri. Rashmi Mehta, Shri. Bhavin Mehta, Shri. Niket Mehta, Shri. Nimesh Seth, Smt. Sushita Mehta and Shri. Ayushyman Mehta during the period from 2006 to 2023, by keeping illegal control over the management of LKMMT, in collusion amongst themselves, by playing fraud with breaching the trust of the Trust as also for constantly torturing, troubling and for mentally suppressing my father, by giving an amount of approximately Rupees Two Crores and five lakhs in cash to Shri. Sashidhar Jagdishan (The Chief Executive Officer of the HDFC Bank), thereby misappropriating the funds of Leelavati Kirtilal Mehta Medical Trust, by not taking the said amount on any legal record of LKMMT, have played fraud, hence I have a legal Complaint against Shri. Sashidhar Jagdishan, the Chief Executive Officer and the former Alleged Trustee of the Leelavati Kirtilai Mehta Medical Trust Shri. Chetan Mehta, Shri. Rashmi Mehta, Shri. Bhavin Mehta, Shri. Niket Mehta, Shri. Nimesh Sheth, Smt. Sushila Mehta and Shri. Ayushyman Mehta under Sections 406, 409, 420, 34 of the Bharatiya Nyaya Sanhita.”

64. The Trial Court in paragraph Nos.6, 7 and 8 while allowing the application observed thus :-

“6. It is contended that there was a loan recovery proceeding going on between one of the company, of which the father of one of the present trustee was office bearer and the HDFC Bank, a creditor. The Respondent No.1, is senior officer of the creditor bank. During this recovery proceeding the father of one of the present trustee was harassed physically and mentally, which ultimately resulted in his death after assuming office applicant found a diary showing that from time to time several amounts were transferred on the say of Respondent No.2, Mr. Chetan Mehta to Respondent No.1. The total amount transferred to those transactions is about Rs.2.05 crores. The said amount was paid by Respondent Nos.2 to 8, the erstwhile office bearers of trust with a sole view to harass the father of one of the present trustee.

7. From the record i.e. contents of the diary it appears that from time to time amounts were transferred on the say of Respondent No.2 to Respondent No.1. The allegations are constituting cognizable offence and supported by affidavit. Except copies of entries in the diary nothing produced. Specific query to that effect was made and asked whether applicant is having any additional evidence in support of the allegations or not? In this regard it is submitted that respondents were having control over the trust for substantial period of time and before handing over the control of administration respondents destroyed all the documents. It is also submitted that the document produced is enough to draw the inference of fraud. To verify and collect evidence to ascertain the source of those amounts and how those were transferred to the respondents without any reason the investigation through police is necessary as evidence can be collected by the police only.

8. The amount involved is high. As stated above the allegations are constituting cognizable offences. Regarding objection raised by concerned police station, Ld. Advocate for the applicant filed on record copies of First Information Reports, the investigations in respect of which are pending. After going through those copies it is noticed that those allegations are in respect of other matters and the present allegations are not covered by them. The several other requirements are also satisfied. In such a situation there is not much scope except to allow the application to ascertain the genuineness of the allegations also. It can be said that all the persons mentioned are responsible for the alleged acts.”

65. Thus, the learned JMFC has observed that from the contents of the photocopy of a diary it appears that from time to time amounts were transferred to the officials of the Bank including the petitioners. The Trial Court further observed that to verify and collect evidence to ascertain the source of those amounts and how those were transferred to the petitioners

without any reason, the investigation through police is necessary as evidence can be collected by the police only.

66. Mainly this is the material which forms the basis of the complaint alleging the offence which the petitioner wants a thorough investigation to be conducted into. As indicated earlier according to the respondent No.3 as a result of the pressure created by the recovery proceedings initiated by the Bank that led to death of Mr. Kishore Mehta. But this by itself even coupled with the fact that the respondent No.3 found a photocopy of cash diary which according to them shows the entries regarding large payments made by the erstwhile trustees to the officials of the bank, in our opinion, in the facts and circumstances of the present case, are not at all sufficient to form the basis for a thorough investigation. We are more than satisfied that the filing of the complaint by respondent Nos.3 and 4 is a fallout of the recovery proceedings initiated by the financial institutions.

67. In our view the complaint is nothing but a counterblast to the recovery proceedings initiated and the materials on record do not at all justify an investigation into the claim made by the complainant. It is not possible for us to ignore the various orders

passed by the competent Courts in the course of the recovery proceedings while coming to this conclusion.

68. In all fairness to learned Senior Advocates for the petitioners, we must mention that several procedural infirmities with respect to the complaint before the learned JMFC which, according to learned Senior Advocates justify quashing, were raised. However in view of the aforesaid conclusions that we have reached, we have refrained from dealing with such procedural and technical submissions advanced.

69. We find that the impugned order amounts to a gross abuse of the criminal process, being founded on purely civil background and recovery proceedings that have already attained finality through orders of the DRT and this Court. The allegations, even if taken at face value, do not disclose any entrustment or dishonest inducement—essential ingredients of Sections 406, 409 or 420 of IPC.

70. In our view Section 175(3) of the BNSS confers no mechanical right to seek registration of an FIR where the allegations have already been examined and rejected. The Magistrate failed to appreciate the binding effect of prior judicial

orders and the bar against multiplicity of proceedings on identical facts.

THE UPSHOT OF THE FOREGOING DISCUSSION IS AS FOLLOWS :-

71. The complaint is a fall out of the recovery proceedings initiated by the petitioners-financial institutions against the Lilavati trust. There is serious acrimony, distrust and strained relations to the core between the erstwhile trustees and present trustees. When the new trustees took over, several recovery proceedings had already been initiated. Even today dues to the extent of Rs 65 cores are yet to be recovered. It is the complainant's case that it is the pressure exerted due to these recovery proceedings that led to the unfortunate demise of his father. For this the complainant blames the financial institutions, obviously those in charge.

72. The recovery certificates were issued by the competent forum viz the DRT, for recovery of the dues in the manner prescribed by law. Financial institutions are bound to initiate proceedings for recovery of the loan amounts. In fact, they would be remiss in due discharge of their duty had they failed to initiate recovery proceedings. The recovery proceedings did not lead to its

dismissal. There was no castigation of the financial institutions seeking recovery. The institutions were thus justified in pushing for the recovery. The same was contested by the Trust and challenges have been mounted by the Trust to several orders passed by the DRT.

73. The demise of the complainant's father undoubtedly is unfortunate. But the petitioners cannot be blamed for this. The complainant is holding the petitioners responsible. This impression of the complainant is personal to him but cannot be a justifiable reason to trigger a criminal prosecution on the specious plea that a photocopy of a diary is found by the complainant containing some entries of payments made to the petitioners.

74. We are interfering at a very nascent stage of investigation, which as cautioned by the Hon'ble Supreme Court this Court should be extremely slow with. But a personal vendetta writ large on the face of proceedings for recovery is something which we strongly perceive as a reason for interference. Continuance of the investigation in these facts and circumstances would be nothing but be an abuse of the process of court. Undoubtedly, when circumstances justify and the allegations made in the complaint do

constitute the ingredients of the offence, it definitely calls for a detailed investigation. But the complaint at the least should appear bonafide.

75. To dismiss a challenge to a complaint merely on a mechanical reading while holding that the allegations prima facie constitute the offence alleged would be in the teeth of the principles laid down by Their Lordships in *Bhajan Lal* (supra) and other decisions referred to herein before. The ripples of the strained relations between the family members who were and are managing the affairs of the trust are being felt by the petitioners. It is in such view of the matter, we have no hesitation even at such a nascent stage in concluding that this is not a bonafide complaint so far as the petitioners are concerned. To allow a prosecution of such a nature to continue in the present facts not only lacks bonafides but runs the risk of deterring recovery proceedings.

76. We are not expressing any opinion so far as the allegations made against rest of the accused (erstwhile trustees) are concerned.

77. Writ Petition No.3205 of 2025 is therefore allowed in terms of prayer clauses (a) and (b). The allegations against the

petitioners are by and large similar. Hence for the aforesaid reasons even Criminal Writ Petition No.3215 of 2025 is allowed in terms of prayer clauses (a) and (b), Criminal Writ Petition No.3216 of 2025 is allowed in terms of prayer clauses (a) and (b) and Criminal Writ Petition No.3217 of 2025 is therefore allowed in terms of prayer clauses (a) and (b).

78. The relief prayed in Criminal Writ Petition Nos.3227 of 2025 and 3313 of 2025 is for transfer of the investigation to the CBI. We must record that these writ petitions were heard at some length. We have heard learned counsel and the SPP for CBI. However, considering that we have quashed the FIR, there is no question of then entertaining these writ petitions so far as the petitioners in these writ petitions are concerned. It is significant to note that the FIRs were registered on 31/05/2025. The Criminal Writ Petition No.3227 of 2025 was filed on 16/06/2025 and Criminal Writ Petition No.3313 of 2025 on 17/06/2025. It was within a period of two weeks from registering the FIRs that the petitions for transfer of investigation to CBI came to be filed. We do not find that allegations made are of such nature that the Economic Offences Wing (EOW) lacks the capacity or does not

have the necessary wherewithal to investigate the FIRs. These criminal writ petitions have been filed even before the EOW could commence the investigation. There is nothing to justify the transfer of investigation to CBI at such a premature stage. Leaving the liberty of the petitioners in Criminal Writ Petition Nos.3227 of 2025 and 3313 of 2025 open to file appropriate proceedings at a later stage if the circumstances so justify, the said criminal writ petitions are dismissed.

79. In view of the disposal of the Criminal Writ Petitions, Criminal Interim Application No.3378 of 2025, Criminal Interim Application No.3377 of 2025 and Criminal Interim Application (Stamp) No.21717 of 2025 are disposed of.

(N. R. BORKAR, J.)

(M. S. KARNIK, J.)