

Reserved on : 27.11.2025
Pronounced on :21.02.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.5163 OF 2023

BETWEEN:

PRABHUGOWDA PATIL,
S/O SIDDANAGOWDA PATIL
AGED ABOUT 39 YEARS
RESIDING AT NO.16
MARASANAHALLI TALUKA
INDI, MARASANAHALLI
VIBHUTHALLI INDI,
VIJAYAPURA – 586 217.

... PETITIONER

(BY SRI TEJAS N., ADVOCATE)

AND:

1 . STATE OF KARNATAKA
BY LOKAYUKTA POLICE
M.S.BUILDING
DR.AMBEDKAR VEEDHI
BENGALURU – 560 001
REPRESENTED BY
SPECIAL PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU – 560 001.

2 . SRI SHASHIDHAR G.,
S/O GANGADHAR G.,
AGED ABOUT 41 YEARS
NO.55, NO.1, 2ND FLOOR
THIMMAIAH CHAMBERS
1ST CROSS, GANDHINAGAR
BENGALURU – 560 009.

... RESPONDENTS

(BY SRI VENKATESH S.ARBATTI, ADVOCATE FOR R1;
SRI SURESH S., ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO QUASH THE FIR IN CR.NO.45/2019 FOR THE ALLEGED OFFENCES P/U/S 7A OF P.C. ACT REGISTERED BY THE THEN ACB AND NOW BEING TRANSFERRED TO LOKAYUKTA POLICE PURSUANT TO THE COMPLAINT LODGED BY THE RESPONDENT NO.2 PENDING ON THE FILE OF THE XXIII ADDL.CITY CIVIL AND SESSIONS JUDGE, BENGALURU.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 27.11.2025, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

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

CAV ORDER

The petitioner/accused No.2 in Crime No.45 of 2019 is at the doors of this Court calling in question registration of a crime against him for offence punishable under Section 7(a) of the Prevention of Corruption Act, 1988 ('the Act' for short).

2. Heard Sri Tejas N., learned counsel appearing for the petitioner, Sri Venkatesh Arbatti, learned counsel appearing for respondent No.1 and Sri Suresh. S, learned counsel appearing for respondent No.2.

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

The petitioner is the Sub-Inspector of Police and the 2nd respondent is the complainant. Pursuant to a complaint made by one Rajendra against the 2nd respondent, the petitioner investigated the said case and filed the final report in respect of offence punishable under Sections 341, 324, 506 r/w Section 34 of the IPC. After the said registration of crime, the complainant appears before the 1st respondent/Lokayukta Police alleging that the petitioner had demanded ₹1,00,000/- for the purpose of filing a 'B' report in respect of the case registered against him in Crime No.173 of 2019 and that accused No.1, one Ananda is said to have called the complainant over phone and demanded ₹1,00,000/- for the aforesaid purpose of filing of 'B' report, which would be shared by himself and the petitioner. The complaint further alleges that

accused No.2, the present petitioner, was brought before the complainant in his chambers, wherein the complainant was informed that after making payment of ₹1,00,000/-, the petitioner would somehow get the case closed. It is based upon these allegations, the crime is registered by the then Anti-Corruption Bureau, the ACB in Crime No.45 of 2019. Registration of crime leads to investigation. At the stage of investigation, the petitioner approaches this Court in the subject petition.

4. The learned counsel appearing for the petitioner would vehemently contend that no trap is laid against the petitioner. He has neither demanded nor accepted any money. The complainant's allegation itself is against accused No.1. The complaint is registered only to wreak vengeance against the petitioner for having registered the crime against the complainant. The learned counsel would seek to place reliance upon plethora of judgments of the Apex Court and that of this Court to buttress his submission that there is neither demand nor acceptance in the case at hand.

5. Per contra, the learned counsel appearing for the complainant would vehemently refute the submission contending that the petitioner has deliberately registered a crime against the complainant when the complainant was not even in the City. It is alleged that he has indulged in voluntarily restraining another person which led to serious dent on the image of the complainant. The learned counsel submits that the petitioner had summoned the complainant to file a 'B' report for which he had demanded bribe. The learned counsel submits that it is a matter of investigation in the least which should be permitted, as the crime registered is of the year 2019 and the issue with regard to existence of ACB itself was in doubt and, therefore, the investigation had not progressed further despite four years having been passed, prior to filing of the present petition.

6. The learned counsel appearing for the 1st respondent/ Lokayukta would again take this Court through the documents appended to the petition to demonstrate that the petitioner had demanded money and there is a recording with regard to demand of money. No trap is laid, but there is clear demand. In the light of

demand being there, the petition must not be entertained. It is for the petitioner to prove that, he has neither demanded nor accepted or demanded not accepted, accepted but never demanded, all before the concerned Court in a full-blown trial. He would seek dismissal of the petition.

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 events are all a matter of record. Before embarking upon consideration of the subject complaint, it is necessary to notice that a crime was registered in Crime No.173 of 2019 against the complainant in which the Investigating Officer was the present petitioner. The investigation is conducted in the crime and charge sheet is filed by the petitioner for offences punishable under Sections 341, 324, 506 r/w 34 of the IPC. The charge sheet is filed on 13-12-2019. A week before filing of the charge sheet against the complainant, the complainant registers a complaint before the Lokayukta. Since the

entire issue in the subject petition has figured from registration of the complaint, I deem it appropriate to notice the complaint. It reads as follows:

“ರವರಿಗೆ,
ಮಾನ್ಯ ಪೊಲೀಸ್ ವರಿಷ್ಠಾಧಿಕಾರಿಗಳು
ಭ್ರಷ್ಟಾಚಾರ ನಿಗ್ರಹ ದಳ,
ಖನಿಜ ಭವನ, ರೇಸ್‌ಕೋರ್ಸ್ ರಸ್ತೆ,
ಬೆಂಗಳೂರು.

ದಿನಾಂಕ: 04/12/2019

ಇಂದ,
ಶಶಿಧರ್, ಜಿ
ಬಿನ್. ಗಂಗಾಧರ್ ಜಿ.
ವಯಸ್ಸು : 38 ವರ್ಷ
S-5, ನಂ. 1, 2 ನೇ ಮಹಡಿ,
ತಿಮ್ಮಯ್ಯ ಚೇಂಬರ್ಸ್ 1ನೇ ಅಡ್ಡರಸ್ತೆ, ಗಾಂಧಿನಗರ,
ಬೆಂಗಳೂರು – 560 009.
ಮೊ: 9845933390

ಮಾನ್ಯರೆ,

ವಿಷಯ : ಸುದ್ದುಗುಂಟೆಪಾಳ್ಯ ಪೊಲೀಸ್ ಠಾಣೆಯ ಮುಖ್ಯಪೇದೆ ಆನಂದ್, ಪಿ.ಎಸ್.ಐ. ಪ್ರಭುಗೌಡಪಾಟೀಲ್ ಹಾಗೂ ಈರಣ್ಣ ರವರುಗಳು ಮೊಕದ್ದಮೆ ಸಂಖ್ಯೆ: 173/19 ರಲ್ಲಿ ಕಲಂ 324 ಐ.ಪಿ.ಸಿ. ಪ್ರಕರಣಕ್ಕೆ ಬಿ. ಅಂತಿಮವರದಿ ತಯಾರಿಸಿದ್ದು, ಅದನ್ನು ಮಾನ್ಯ ಎ.ಸಿ.ಪಿ. ಸಾಹೇಬರ ಅನುಮತಿಗಾಗಿ ಕಳುಹಿಸಲು ರೂ.1 ಲಕ್ಷ ಲಂಚ ಕೊಡುವಂತೆ ಬೇಡಿಕೆ ಇಟ್ಟು ಮಾತುಕತೆಗೆ ಕರೆಸಿ ಅಧಿಕಾರ ದುರ್ಬಳಕೆ ಮಾಡಿಕೊಂಡು ಬೆದರಿಕೆ ಹಾಕಿರುವ ಬಗ್ಗೆ ದೂರು.

ಈ ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ತಮ್ಮಲ್ಲಿ ವಿನಂತಿಸಿಕೊಳ್ಳುವುದೇನೆಂದರೆ, ನಾನು 2005ನೇ ಸಾಲಿನಿಂದ ವಕೀಲವೃತ್ತಿ ಮಾಡುತ್ತಿದ್ದು, ನನಗೆ ಸೇರಿದ ಸ್ವತ್ತು ನಂ. 37/1, 1ನೇ ಮುಖ್ಯರಸ್ತೆ, 1ನೇ ಅಡ್ಡರಸ್ತೆ, ಬಿ.ಟಿ.ಎಂ. ಬಡಾವಣೆ 1ನೇ ಹಂತ, ತಾವರೆಕೆರೆ, ಬೆಂಗಳೂರು ಇಲ್ಲಿ ಇತ್ತೀಚೆಗೆ ಮನೆ ಕಟ್ಟುತ್ತಿದ್ದು, ಸದರಿ ಮನೆಗೆ ಟೈಲ್ಸ್ ಆಸಿಡ್‌ವಾಶ್ ಕೆಲಸ ಮಾಡಲು ತಮಿಳುನಾಡಿನ ಮೂಲದ ರಾಜೇಂದ್ರ ಎಂಬುವವರಿಗೆ ನನ್ನ ಕಟ್ಟಡದ ಮೇಸ್ತ್ರಿ ಮಾದೇಶ್ ರವರ ಮೂಲಕ ನೇಮಕ ಮಾಡಿದ್ದು, ಸದರಿ ವ್ಯಕ್ತಿ ನನಗೆ ತಿಳಿಯದ ಹಾಗೆ ಆಗಸ್ಟ್ 2019 ರಲ್ಲಿ ಸುಮಾರು 800 ಅಡಿಯ ಟೈಲ್ಸ್ ಗಳನ್ನು ಕಳ್ಳತನ ಮಾಡಿದ್ದು, ಸದರಿ ವಿಚಾರ ಮಾದೇಶನಿಗೆ ತಿಳಿದಿದ್ದು, ಈ ವಿಚಾರವಾಗಿ ಮಾದೇಶ್ ಮತ್ತು ರಾಜೇಂದ್ರ ರವರು ಜಗಳ ಮಾಡಿಕೊಂಡಿರುತ್ತಾರೆ.

ನಂತರ ಸದರಿ ವಿಚಾರ ನನ್ನ ಗಮನಕ್ಕೆ ಬಂದು ನಾನು ಇಬ್ಬರಿಗೂ ಬುದ್ಧಿವಾದ ಹೇಳಿರುತ್ತೇನೆ. ಹೀಗಿರುವಾಗ ರಾಜೇಂದ್ರ ರವರು ಸುದ್ದುಗುಂಟೆಪಾಳ್ಯ ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ನನ್ನ ಮತ್ತು ಮಾದೇಶನ ವಿರುದ್ಧ ಮೊಕದ್ದಮೆ ಸಂಖ್ಯೆ : 173/2019 ಕಲಂ 324 ಐ.ಪಿ.ಸಿ. ಯಂತೆ ಪ್ರಕರಣ ದಾಖಲು ಮಾಡಿಸಿದ್ದು, ಪ್ರಕರಣದ ವಿಚಾರವಾಗಿ ಎಸ್.ಜಿ. ಪಾಳ್ಯ ಪೊಲೀಸ್ ಠಾಣೆಯ ರಾಣಾಧಿಕಾರಿಗಳು ನನಗೆ ವಿಚಾರಣೆಗೆ ಹಾಜರಾಗುವಂತೆ ದೂರವಾಣಿ ಮೂಲಕ ತಿಳಿಸಿದ ಮೇರೆಗೆ ನಾನು ಮತ್ತು ಮಾದೇಶ ರವರು ಠಾಣೆಗೆ ಹೋಗಿ ದೂರಿನ ವಿಚಾರ ತಿಳಿದುಕೊಂಡು ನಡೆದ ಸತ್ಯಾಂಶವನ್ನು ತಿಳಿಸಿದ ಮೇರೆಗೆ, ಸದರಿ ಠಾಣೆಯವರು ದಿನಾಂಕ :07-11-2019 ರಂದು ದೂರುದಾರ ರಾಜೇಂದ್ರ ರವರನ್ನು ಕರೆಸಿ ವಿಚಾರ ಮಾಡಿ ವಿಚಾರಣೆಯ ಸಮಯದಲ್ಲಿ ಫಿರ್ಯಾದುದಾರ ತಾನು ತಪ್ಪು ತಿಳುವಳಿಕೆಯಿಂದ ಕೊಟ್ಟ ದೂರಂದು ಒಪ್ಪಿಕೊಂಡ ಮೇರೆಗೆ ಸದರಿ ಠಾಣೆಯ ರಾಣಾ ಬರಹಗಾರ ಆನಂದ್ ರವರು ನನಗೆ ಕರೆ ಮಾಡಿ ಠಾಣೆಗೆ ಬರುವಂತೆ ವಿಚಾರ ತಿಳಿಸಿದ್ದು, ಅದರಂತೆ ನಾನು ದಿನಾಂಕ : 11-11-2019 ರಂದು ಠಾಣೆಗೆ ಹೋಗಿದ್ದು, ಆಗ ಪಿ.ಎಸ್.ಐ.ಪಾಟೀಲ್ ರವರು ಆನಂದ್ ರವರಿಗೆ ಹೇಳಿಕೆಯನ್ನು ಪಡೆಯಲು ತಿಳಿಸಿ, ವಕೀಲರೆ ನಾನು ಆನಂದ್ ರವರಿಗೆ ಎಲ್ಲಾ ವಿಚಾರ ತಿಳಿಸಿದ್ದೇನೆ. ಇದು ಬಿ ಅಂತಿಮ ವರದಿ ಮಾಡಲು ಹೇಳಿದ್ದೇನೆ ಉಳಿದ ವಿಚಾರ ಅವರ ಬಳಿ ಮಾತನಾಡಿಕೊಳ್ಳಿ ಎಂದು ತಿಳಿಸಿದರು. ಆನಂದ್ ರವರು ಫಿರ್ಯಾದಿಯ ಹೇಳಿಕೆ ಪಡೆದು ಅಣ್ಣ ಸದ್ಯದಲ್ಲೇ ಇದನ್ನು ಬಿ ಅಂತಿಮ ವರದಿ ತಯಾರಿಸಿ ಅದನ್ನು ಎ.ಸಿ.ಪಿ. ಕಛೇರಿಗೆ ಕಳುಹಿಸಿ ನಂತರ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಕಳುಹಿಸುತ್ತೇವೆ. ಇಲ್ಲಿ ಪಿ.ಎಸ್.ಐ. ರವರು ಮತ್ತು ಪಿ.ಐ. ರವರು ನನ್ನ ಬಿಟ್ಟು ಏನು ಮಾಡುವುದಿಲ್ಲ. ಎಲ್ಲವನ್ನು ನನಗೆ ತಿಳಿಸಿದ್ದಾರೆ. ನಾನು ಹೇಳಿದ್ದಕ್ಕೆ ಅವರು ಎಸ್. ಎನ್ನುತ್ತಾರೆ. ಆದರೆ ಇದಕ್ಕೆಲ್ಲಾ ಸ್ವಲ್ಪ ಖರ್ಚಾಗುತ್ತದೆ ಎಂದು ತಿಳಿಸಿದ್ದು, ಆಗ ನಾನು 2000 ರೂಗಳನ್ನು ನೀಡಿ ನಿಮ್ಮ ಕಾಫಿ ತಿಂಡಿಗೆ ಇದನ್ನು ಇಟ್ಟುಕೊಳ್ಳಿ ಎಂದು ಹೇಳುತ್ತಿದ್ದಂತೆ ಆಗ ಸದರಿ ಆನಂದ್ ರವರು ಹಣ ಪಡೆದು ವಕೀಲರೆ ನಾನು ಸಿ.ಸಿ.ಬಿ. ಯಲ್ಲಿ ಕರ್ತವ್ಯ ಮಾಡಿ ಈ ಠಾಣೆಗೆ

ಬಂದಿದ್ದೇನೆ. ಸಿ.ಸಿ.ಬಿ. ಯಲ್ಲಿ ಕೆಲಸ ಮಾಡುವವರ ಯೋಗ್ಯತೆಗನುಸಾರವಾಗಿ ನೀವು ನಮ್ಮನ್ನು ನೋಡಿಕೊಳ್ಳಬೇಕು. ಇದರಲ್ಲಿ ಪಿ.ಎಸ್.ಐ ಪಾಟೀಲರು ಮತ್ತು ಈರಣ್ಣ ನವರು ಇದ್ದಾರೆ. ಮೂರು ಜನರಿಗೂ ಅನುಕೂಲವಾಗುವ ರೀತಿಯಲ್ಲಿ ನೋಡಿಕೊಳ್ಳಬೇಕು ಎಂದು ತಿಳಿಸಿದ್ದು, ಆಗ ನಾನು ನನಗೆ ಕೆಲಸ ಇದೆ. ನಂತರ ಮಾತನಾಡೋಣ ಎಂದು ವಾಪಸ್ ಬಂದಿರುತ್ತೇನೆ.

ನಂತರ ದಿನಾಂಕ: 13-11-2019 ರಂದು ನಾನು ನ್ಯಾಯಾಲಯದಲ್ಲೆರಬೇಕಾದರೆ ಸದರಿ ಆನಂದ್ ರವರು ಮೊ ಸಂಖ್ಯೆ : 9900948352 ರಿಂದ ನನ್ನ ಮೊ. ಸಂಖ್ಯೆ. : 9845933390 ಗೆ ಬೆಳಿಗ್ಗೆ 11-05 ಕ್ಕೆ ಕರೆ ಮಾಡಿ ವಕೀಲರ ನಿಮ್ಮ ಪ್ರಕರಣದ ಬಿ. ಅಂತಿಮ ವರದಿ ರೆಡಿ ಮಾಡಿದ್ದೇನೆ. ನಾನು ಹೇಳಿದ ಹಾಗೆ ಪ್ರಕರಣದ ಐ.ಓ. ಪ್ರಭುಗೌಡ ಪಾಟೀಲ್ ಮತ್ತು ಈರಣ್ಣ ಹಾಗೂ ನನಗೆ ನೋಡಿಕೊಳ್ಳಬೇಕು. ತುಂಬಾ ಖರ್ಚಿದೆ ನೀವು ಕೂಡಲೇ ಬಂದರೆ ಅದನ್ನು ತಕ್ಷಣ ನಾನು ಮುಂದಿನ ವರದಿಗೆ ಮೇಲಾಧಿಕಾರಿಗಳಿಗೆ ಕಳುಹಿಸುತ್ತೇನೆ ಎಂದು ತಿಳಿಸಿದ್ದು, ಆಗ ನಾನು ಅಣ್ಣ ನಾನು ಕೋರ್ಟ್‌ನಲ್ಲಿದ್ದೇನೆ. ನಿಮಗೆ ಕಾಲ್ ಮಾಡುತ್ತೇನೆ ಎಂದು ತಿಳಿಸಿದ್ದು, ನಂತರ ಅದೇ ದಿನ ನಾನು ಆತನಿಗೆ 1 ಗಂಟೆ 11 ನಿಮಿಷಕ್ಕೆ ಕರೆ ಮಾಡಿ ನಿಮಗೆ ಎಷ್ಟು ಖರ್ಚಾಗುತ್ತದೆ ಎಷ್ಟು ಹಣ ಕೊಡಬೇಕು ಹೇಳಿ ಏಕೆಂದರೆ ನಾನು ಹಣವನ್ನು ರೆಡಿ ಮಾಡಿಕೊಳ್ಳಬೇಕು ಎಂದು ಹೇಳಿದ್ದಕ್ಕೆ, ಆತ 1 ಲಕ್ಷ ಕೊಟ್ಟ. ನಿಮಗೇನು ಕಡಿಮೆ ಎಂದು 1 ಲಕ್ಷ ಹಣ ಕೊಡುವಂತೆ ಬೇಡಿಕೆ ಇಟ್ಟಿರುತ್ತಾರೆ. ತದನಂತರ ನಾನು ಏನಣ್ಣ ಅದು ಇಷ್ಟೊಂದಾ ಎಂದು ಕೇಳಿದಾಗ, ರಾಣೆಗೆ ಬನ್ನಿ ಮಾತನಾಡೋಣ ಎಂದು ತಿಳಿಸಿರುತ್ತಾರೆ. ಅಷ್ಟರಲ್ಲಿ ನನ್ನ ತಾತ ಆಸ್ಪತ್ರೆಯಲ್ಲಿದ್ದು, ಮೃತರಾಗಿದ್ದ ಕಾರಣ ನಾನು ರಾಣೆಗೆ ಹೋಗಲಾಗಿರುವುದಿಲ್ಲ.

ದಿನಾಂಕ : 19-11-2019 ರಂದು ಸಂಜೆ 5-23 ಕ್ಕೆ ಸದರಿ ಆನಂದ್ ರವರು ಕರೆ ಮಾಡಿ ಅಣ್ಣ ಯಾಕೆ ಬಂದಿಲ್ಲ ? ಯಾವಾಗ ಬರುತ್ತೀರಾ ? ಎಂದು ಕೇಳಿದ್ದು, ಆಗ ನಾನು ನಮ್ಮ ತಾತ ಮೃತರಾಗಿದ್ದು, ಆ ಕಾರಣ ಬರಲಿಕ್ಕೆ ಆಗಿರುವುದಿಲ್ಲ ಸ್ವಲ್ಪ ಕಾಲಾವಕಾಶ ಕೊಡಿ ಬರುತ್ತೇನೆ ಎಂದು ತಿಳಿಸಿದ್ದು, ಆತ ಆಯಿತು ಎಂದು ಹೇಳಿ ನಂತರ ಸದರಿ ಆನಂದ್ ದಿನಾಂಕ : 21-11-2019 ರಂದು ಬೆಳಿಗ್ಗೆ 11-04 ಕ್ಕೆ ಕರೆ ಮಾಡಿ ಎಲ್ಲಿದ್ದೀರಾ ? ಏಕೆ ಬಂದಿಲ್ಲ ಎಂದು ಕೇಳಿದ್ದು ನಾನು ಈದಿನ ನಮ್ಮ ತಾತನ ಮೂರು ದಿನ ಹಾಲು ತುಪ್ಪ ಕಾರ್ಯವಿದೆ ಎಂದು ಹೇಳಿದ್ದು, ಅದಕ್ಕೆ ಆತ ಆಯಿತು ಸಂಜೆ ರಾಣೆಗೆ ಬಾ ಎಂದು ತಿಳಿಸಿದ್ದು, ಆಗ ನಾನು ನಮ್ಮ ತಾತ ತೀರಿಕೊಂಡು ಮೂರು ದಿನವಾಗಿದೆ. ನಿಮಗೆ ಸಾವಿನ ಮನೆಯಲ್ಲಿ ಹೇಗೆ ಮಾತನಾಡಬೇಕು ಎಂಬುದು ಗೊತ್ತಿಲ್ಲವಾ ? ಎಂದು ಕೇಳಿದ್ದಕ್ಕೆ, ಆತ ಏರುಧ್ವನಿಯಲ್ಲಿ ನನ್ನಿ ಹಾಲು ತುಪ್ಪ ಇದೆ ಎಂದು ಹೇಳಿದ್ದೆ. ಈಗ ಈದಿನ ಎಂದು ಹೇಳುತ್ತೀಯಾ ಎಂದು ಇತ್ಯಾದಿಯಾಗಿ ಮಾತನಾಡುತ್ತಿದ್ದು, ಆಗ ನಾನು ಪೋನ್ ಕಟ್ ಮಾಡಿ ಮಧ್ಯಾಹ್ನ ರಾಣೆಗೆ ಹೋಗಿದ್ದು ಪಿ.ಎಸ್.ಐ. ಪ್ರಭುಗೌಡ ಪಾಟೀಲರವರನ್ನು ಭೇಟಿ ಮಾಡಿ ಆನಂದ್ ರವರು ರೂ.1 ಲಕ್ಷ

ಹಣಕ್ಕೆ ಬೇಡಿಕೆ ಇಟ್ಟು ಏರುಧ್ವನಿಯಲ್ಲಿ ಮಾತನಾಡಿದ ವಿಚಾರವನ್ನು ತಿಳಿಸಿದ್ದು, ಅದಕ್ಕೆ ಪಿ.ಎಸ್.ಐ. ಪಾಟೀಲ್ ರವರು ನೋಡಿ ವಕೀಲರ ಇದನ್ನು ಬಿ ವರದಿ ಮಾಡಿರುವುದೇ ಹೆಚ್ಚು. ನೀವು ಆನಂದ್ ರವರು ಹೇಳಿದ ಹಾಗೆ ಕೇಳಿ ರೂ.1 ಲಕ್ಷ ಹೇಳಿದ್ದಾರೆ ಸ್ವಲ್ಪ ಹೆಚ್ಚು ಕಡಿಮೆ ಮಾಡಿ ಕೊಟ್ಟು ಕೆಲಸ ಮುಗಿಸಿ ಕೈತೊಳೆದುಕೊಳ್ಳಿ. ನಾನು ಒಂದು ವಾರ ಆಂದ್ರಪ್ರದೇಶಕ್ಕೆ ಪ್ರಕರಣದ ಸಲುವಾಗಿ ಹೋಗುತ್ತಿದ್ದೇನೆ ಎಂದು ತಿಳಿಸಿರುತ್ತಾರೆ. ಆ ಸಮಯದಲ್ಲಿ ಈರಣ್ಣ ರವರು ಸಹ ಜೊತೆಗಿದ್ದು ಅವರು ಸಹ ಸಾಹೇಬರು ಹೇಳಿದ ಹಾಗೆ ಕೇಳಿ ನಾನು ಮತ್ತು ಆನಂದ್ ಇಬ್ಬರು ಸೇರಿ ವರದಿ ತಯಾರಿಸಿದ್ದೇವೆ. ಸ್ವಲ್ಪ ಹೆಚ್ಚು ಕಡಿಮೆ ಮಾಡಿದರಾಯ್ತು ಎಂದು ತಿಳಿಸಿರುತ್ತಾರೆ.

ನಂತರ ದಿನಾಂಕ : 22-11-2019 ರಂದು ರಾತ್ರಿ 9-00 ಗಂಟೆಗೆ ನಾನು ಮತ್ತು ನನ್ನ ಸ್ನೇಹಿತ ರಾಣೆಗೆ ಹೋಗಿದ್ದು, ನಾವು ಹೋದ ಕೂಡಲೇ ಸದರಿ ಆನಂದ್ ರವರು ನಮ್ಮನ್ನು ನೋಡಿ ಸಾರ್ ಬನ್ನಿ ಎಂದು ಕರೆದು ನಿಮ್ಮ ಪ್ರಕರಣದ ಬಿ ರಿಪೋರ್ಟ್ ವರದಿಯನ್ನು ತೋರಿಸಿ ನಾನೇ ಎಲ್ಲವನ್ನು ರೆಡಿ ಮಾಡಿ ರಾಣಾಧಿಕಾರಿಗಳ ಸಹಿಯನ್ನು ಕೂಡ ಮಾಡಿಸಿದ್ದೇನೆ. ನೀವು ಬೆಳಿಗ್ಗೆ ಬಂದಿದ್ದರೆ ನಾನೇ ಮಧ್ಯಾಹ್ನ ಎ.ಸಿ.ಪಿ. ಸಾಹೇಬರ ಕಛೇರಿಗೆ ತೆಗೆದುಕೊಂಡು ಹೋಗುತ್ತಿದ್ದೆ. ನಿಮಗೆ ಫೋನ್ ಮಾಡಿದರೆ ಏನೇನು ಮಾತನಾಡುತ್ತಿರಾ ಎಂದು ಹೇಳಿದ್ದು, ಆಗ ನಾನು ಸರಿ ಆಯಿತು ಈಗ ಎಷ್ಟು ಕೊಡಬೇಕು ಎಂದು ಹೇಳಿ ಎಂದು ಕೇಳಿದ್ದು, ಅದಕ್ಕೆ ಆತ ಫೋನ್‌ನಲ್ಲೇ ಹೇಳಿದ್ದೀನಲ್ಲಾ ಎಷ್ಟು ಬಾರಿ ಹೇಳಬೇಕು ಪಾಟೀಲ್ ಸಾಹೇಬರು, ಈರಣ್ಣ ಮತ್ತು ನಾನು ಮೂರು ಜನ ಇದ್ದೇವೆ. ಒಂದು ಲಕ್ಷ ಕೊಟ್ಟು ಬಿಡಿ. ನಂತರ ಇನ್ನೂ ಕೊಡಬೇಕು ಅಂತ ಅನಿಸಿದರೆ ಕೊಡಿ. ಇಲ್ಲ ಅಂದರೆ ನಾನು ಅದರಲ್ಲೇ ಅಡ್ಡೆಸ್ ಮಾಡಿಕೊಳ್ಳುತ್ತೇನೆ ಎಂದು ತಿಳಿಸಿದ್ದು, ಆಗ ನಾನು ಏನ್ ಸಾರ್ ಇದು 324 ಕೇಸ್. ನಾನು ವಕೀಲ, ನಮಗೆ ಈ ರೀತಿ ಮಾಡಿದರೆ ಹೇಗೆ ? ಇದು ಅತಿಯಾಯಿತು ಎಂದು ಹೇಳಿದ್ದು, ಅದಕ್ಕೆ ಆತ ನೋಡಿ ಮೊದಲೆ ನೀವು ವಕೀಲರು. ಕೆಲಸ ಆದ ಮೇಲೆ ಈ ರೀತಿ ಮಾಡುತ್ತೀರಲ್ಲಾ. ನಾನು ರಿಪೋರ್ಟ್ ರೆಡಿಮಾಡದೆ ನೀವು ಹಣ ಕೊಟ್ಟ ಮೇಲೆ ರಿಪೋರ್ಟ್ ತಯಾರಿಸಬೇಕಿತ್ತು. ಈಗ ನನಗೆ ಇದು ಬೇಕಿತ್ತು ಎಂದು ಏರುಧ್ವನಿಯಲ್ಲಿ ಮಾತನಾಡಲು ಶುರು ಮಾಡಿದರು. ಆಗ ನಾನು ನೋಡಿ ನೀವು ಈ ರೀತಿ ಒಂದು ಲಕ್ಷ ಕೊಡಲೇಬೇಕು ಎಂದು ಡಿಮ್ಯಾಂಡ್ ಮಾಡಿದರೆ ನಮ್ಮಿಂದ ಅಷ್ಟೊಂದು ಹಣ ಕೊಡಲಾಗುವುದಿಲ್ಲ. ನಾವು ನ್ಯಾಯಾಲಯದಲ್ಲೇ ನೋಡಿಕೊಳ್ಳುತ್ತೇವೆ ಎಂದು ತಿಳಿಸಿದ್ದು. ಅದಕ್ಕೆ ಆತ ಹೌದಾ..... ನ್ಯಾಯಾಲಯದಲ್ಲೇ ನೋಡಿಕೊಳ್ಳುತ್ತೀರಾ ? ನೋಡಿಕೊಳ್ಳಿ ಈಗ ಏನು ಮಾಡುತ್ತೇನೆ ನೋಡಿ ಎಂದು ಅವರು ತಯಾರಿಸಿದ್ದ ಬಿ ಅಂತಿಮ ವರದಿಯ ರಾಣಾಧಿಕಾರಿಗಳು ಸಹಿ ಮಾಡಿದ್ದ ವರದಿಗೆ ಪೆನ್‌ನಿಂದ ಹೊಡೆದು ಹಾಕಿ ಈಗಲೇ ಬಿ ವರದಿಯ ಎಲ್ಲಾ ದಾಖಲೆಗಳನ್ನು ಕಂಪ್ಯೂಟರ್‌ನಿಂದ ನಾಶಗೊಳಿಸುತ್ತೇನೆ. ಈ ಪ್ರಕರಣದಿಂದ ನಾನು ಅಮಾನತ್ತಾದರೂ ಪರವಾಗಿಲ್ಲ ನನ್ನ ಮೇಲೆ ಈಗಲೇ ಒಂದು ಪ್ರಕರಣವಿದೆ. ಅದರಲ್ಲೇ ಯಾರೋ ಏನೂ ಕಿತ್ತುಕೊಳ್ಳಲಾಗಲಿಲ್ಲ.

ನಿನಗಿಂತ ನಾನು ಡಬಲ್ ಇದ್ದೇನೆ. ನನ್ನ ಮನೆಯಲ್ಲಿಯೂ ವಕೀಲರಿದ್ದಾರೆ. ನೀವು ಏನು ಬೇಕಾದರೂ ಮಾಡಿಕೊಳ್ಳಿ ಎಂದು ಹೇಳಿದ್ದು, ಆಗ ನಾನು ರಾಣಾಧಿಕಾರಿಗಳ ರೂಮಿಗೆ ಹೋಗಿ ನಡೆದ ವಿಚಾರವನ್ನು ತಿಳಿಸಿದ್ದು, ಅದಕ್ಕೆ ಸದರಿಯವರು ನೋಡಿ ಈ ವಿಚಾರಕ್ಕೆ ನಾನು ಎಂಟ್ರಿ ಆಗುವುದಿಲ್ಲ. ನೀವು ಅವರು ಏನು ಮಾತನಾಡಿಕೊಂಡಿದ್ದೀರೋ ಗೊತ್ತಿಲ್ಲ. ನೀವು ಅವರ ಮೂಲಕ ಬಗೆಹರಿಸಿಕೊಳ್ಳಿ. ಈಗ ನನಗೆ ಕೆಲಸವಿದೆ ತಾವು ಹೊರಡಬಹುದು ಎಂದು ತಿಳಿಸಿರುತ್ತಾರೆ.

ನಂತರ ದಿನಾಂಕ : 26-11-2019 ರಂದು ನನಗೆ ಪರಿಚಯವಿರುವ ಸಂಪತ್ ಮತ್ತು ಮಹದೇವ್ ರವರನ್ನು ಆನಂದ್ ರವರ ಬಳಿ ಕಳುಹಿಸಿ ವಕೀಲರು ಏನು ಮಾತನಾಡಿದ್ದಾರೆ. ಅದನ್ನು ಮನಸ್ಸಿನಲ್ಲಿ ಇಟ್ಟುಕೊಳ್ಳಬೇಡಿ. ಸ್ವಲ್ಪ ಹೆಚ್ಚು ಕಡಿಮೆ ಮಾಡಿಕೊಡುತ್ತಾರೆ. ಹೇಗೋ ಬಿ ವರದಿ ಮಾಡಿದ್ದೀರಿಲ್ಲಾ. ಅದನ್ನು ಕ್ಲಿಯರ್ ಮಾಡಿಕೊಟ್ಟುಬಿಡಿ ಎಂದು ತಿಳಿಸಿದ್ದು, ಅದಕ್ಕೆ ಆತ ಆಯಿತು ಅವರಿಗೆ ಹೇಳಿ ನನಗೆ ಯಾವುದೇ ಹಣ ಕೊಡುವುದು ಬೇಡ ಪಿ.ಐ. ರವರನ್ನು ಭೇಟಿ ಮಾಡಿ ಅವರ ಬಳಿ ಇರುವ ಫೋನ್ ರೆಕಾರ್ಡ್ ಅನ್ನು ಡಿಲೀಟ್ ಮಾಡಿ ನನ್ನ ವಿರುದ್ಧ ಅಥವಾ ಪಿ.ಎಸ್.ಐ. ಮತ್ತು ಈರಣ್ಣ ರವರ ವಿರುದ್ಧ ಮೇಲಾಧಿಕಾರಿಗಳಿಗೆ ದೂರು ನೀಡುವುದಿಲ್ಲ ಎಂದು ಮುಚ್ಚಳಿಕೆ ಬರೆದುಕೊಟ್ಟರೆ ಕೂಡಲೇ ಇದನ್ನು ಮುಗಿಸಿಕೊಡುತ್ತೇವೆ ಎಂದು ತಿಳಿಸಿರುತ್ತಾರೆ.

ಇದರಿಂದ ನನಗೆ ಮಾನಸಿಕವಾಗಿ ತುಂಬಾ ತೊಂದರೆಗೊಳಗಾಗಿದ್ದು, ಅಲ್ಲದೆ ನಮ್ಮ ತಾತ ಮೃತರಾಗಿದ್ದು, ಮೃತರ ಕೆಲಸ ಕಾರ್ಯಗಳು ಇದ್ದುದರಿಂದ ಇಂದು ಬಂದು ತಡವಾಗಿ ದೂರು ಸಲ್ಲಿಸುತ್ತಿದ್ದೇನೆ. ಇದರ ಜೊತೆ ಸದರಿ ಆನಂದ್ ರವರು ನನ್ನ ಜೊತೆ ಮಾತನಾಡಿರುವ ಸಂಭಾಷಣೆಯ 2 ಸಿ.ಡಿಗಳನ್ನು ಈ ಅರ್ಜಿಯೊಂದಿಗೆ ಲಗತ್ತಿಸಿರುತ್ತೇನೆ.

ಆದುದರಿಂದ ಸುದ್ದುಗುಂಟೆ ಪಾಳ್ಯೆ ರಾಣಿಯ ರಾಣಾ ಬರಹಗಾರ ಆನಂದ್‌ರವರು ನನಗೆ ಮೊಕದ್ದಮೆ ಸಂಖ್ಯೆ : 173/19 ರಲ್ಲಿ ಬಿ.ಅಂತಿಮ ವರದಿ ಸಲ್ಲಿಸಲು ರೂ.1 ಲಕ್ಷ ಲಂಚ ಕೊಡುವಂತೆ ಬೇಡಿಕೆ ಇಟ್ಟು, ನನಗೆ ಅಗೌರವವಾಗಿ ಮಾತನಾಡಿ ಬೆದರಿಕೆ ಹಾಕಿ ತನ್ನ ಅಧಿಕಾರವನ್ನು ದುರುಪಯೋಗಪಡಿಸಿಕೊಂಡಿರುವ ಸದರಿ ಆನಂದ್, ಪಿ.ಎಸ್.ಐ. ಪ್ರಭುಗೌಡ ಪಾಟೀಲ್ ಹಾಗೂ ಈರಣ್ಣ ರವರುಗಳ ವಿರುದ್ಧ ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಂಡು ನನಗೆ ನ್ಯಾಯ ದೊರಕಿಸಿಕೊಡಬೇಕೆಂದು ಈ ಮೂಲಕ ವಿನಂತಿಸಿಕೊಳ್ಳುತ್ತೇನೆ.”

Based upon the said complaint there is no trap laid against the petitioner. He is not caught accepting the bribe. The allegation is,

that he had demanded, in the complaint. Nonetheless, crime had been registered in Crime No.45 of 2019 for offence punishable under Section 7(a) of the Act. The 1st respondent/Lokayukta has filed its statement of objections. The contention with regard to no trap being laid and no acceptance of any amount has not been controverted. Therefore, it is undoubtedly a case where there is a demand as alleged by the complainant. But, there is no document or evidence to prove that the petitioner had accepted.

9. It is an admitted fact that in the case at hand no pre-trap mahazar is drawn, no demand and acceptance is proved even to its *prima facie* sense, there is no recovery of money from the petitioner and there is no conversation between the complainant and the petitioner. The petitioner has also placed on record that on 20-11-2019 he was not even in the City of Bengaluru, he was at Hyderabad. There are 9 cases registered against the complainant before different police stations, one of which is registered by the petitioner himself. The facts and contentions being thus, it becomes necessary to notice the interpretation of Section 7(a) of the Act by

the Apex Court, both in the pre-amendment stage and post amendment stage.

INTERPRETATION UNDER THE UN-AMENDED ACT:

10.1. The Apex Court in the case of **B.JAYARAJ v. STATE OF ANDHRA PRADESH**¹ interprets Section 7 of the Act and holds as follows:

"... .."

7. Insofar as the offence under Section 7 is concerned, it is a settled position in law that demand of illegal gratification is sine qua non to constitute the said offence and mere recovery of currency notes cannot constitute the offence under Section 7 unless it is proved beyond all reasonable doubt that the accused voluntarily accepted the money knowing it to be a bribe. The above position has been succinctly laid down in several judgments of this Court. By way of illustration reference may be made to the decision in **C.M. Sharma v. State of A.P. [(2010) 15 SCC 1 : (2013) 2 SCC (Cri) 89]** and **C.M. Girish Babu v. CBI [(2009) 3 SCC 779: (2009) 2 SCC (Cri) 1]."**

(Emphasis supplied)

10.2. The Apex Court later, in the case of **N.VIJAYAKUMAR v. STATE OF TAMILNADU**² has held as follows:

¹ (2014) 13 SCC 55

² (2021) 3 SCC 687

"... .."

26. It is equally well settled that mere recovery by itself cannot prove the charge of the prosecution against the accused. Reference can be made to the judgments of this Court in C.M. Girish Babu v. CBI [C.M. Girish Babu v. CBI, (2009) 3 SCC 779 : (2009) 2 SCC (Cri) 1] and in B. Jayaraj v. State of A.P. [B. Jayaraj v. State of A.P., (2014) 13 SCC 55 : (2014) 5 SCC (Cri) 543] In the aforesaid judgments of this Court while considering the case under Sections 7, 13(1)(d)(i) and (ii) of the Prevention of Corruption Act, 1988 it is reiterated that to prove the charge, it has to be proved beyond reasonable doubt that the accused voluntarily accepted money knowing it to be bribe. Absence of proof of demand for illegal gratification and mere possession or recovery of currency notes is not sufficient to constitute such offence. In the said judgments it is also held that even the presumption under Section 20 of the Act can be drawn only after demand for and acceptance of illegal gratification is proved. It is also fairly well settled that initial presumption of innocence in the criminal jurisprudence gets doubled by acquittal recorded by the trial court.

27. The relevant paras 7, 8 and 9 of the judgment in B. Jayaraj [B. Jayaraj v. State of A.P., (2014) 13 SCC 55 : (2014) 5 SCC (Cri) 543] read as under: (SCC pp. 58-59)

"7. Insofar as the offence under Section 7 is concerned, it is a settled position in law that demand of illegal gratification is sine qua non to constitute the said offence and mere recovery of currency notes cannot constitute the offence under Section 7 unless it is proved beyond all reasonable doubt that the accused voluntarily accepted the money knowing it to be a bribe. The above position has been succinctly laid down in several judgments of this Court. By way of illustration, reference may be made to the decision in C.M. Sharma v. State of A.P. [C.M. Sharma v. State of A.P., (2010) 15 SCC 1 : (2013) 2 SCC (Cri) 89] and C.M. Girish Babu v. CBI [C.M. Girish Babu v. CBI, (2009) 3 SCC 779 : (2009) 2 SCC (Cri) 1] .

8. In the present case, the complainant did not support the prosecution case insofar as demand by the

accused is concerned. The prosecution has not examined any other witness, present at the time when the money was allegedly handed over to the accused by the complainant, to prove that the same was pursuant to any demand made by the accused. When the complainant himself had disowned what he had stated in the initial complaint (Ext. P-11) before LW 9, and there is no other evidence to prove that the accused had made any demand, the evidence of PW 1 and the contents of Ext. P-11 cannot be relied upon to come to the conclusion that the above material furnishes proof of the demand allegedly made by the accused. We are, therefore, inclined to hold that the learned trial court as well as the High Court was not correct in holding the demand alleged to be made by the accused as proved. The only other material available is the recovery of the tainted currency notes from the possession of the accused. In fact such possession is admitted by the accused himself. **Mere possession and recovery of the currency notes from the accused without proof of demand will not bring home the offence under Section 7.** The above also will be conclusive insofar as the offence under Sections 13(1)(d)(i) and (ii) is concerned as in the absence of any proof of demand for illegal gratification, the use of corrupt or illegal means or abuse of position as a public servant to obtain any valuable thing or pecuniary advantage cannot be held to be established.

9. Insofar as the presumption permissible to be drawn under Section 20 of the Act is concerned, such presumption can only be in respect of the offence under Section 7 and not the offences under Sections 13(1)(d)(i) and (ii) of the Act. In any event, it is only on proof of acceptance of illegal gratification that presumption can be drawn under Section 20 of the Act that such gratification was received for doing or forbearing to do any official act. Proof of acceptance of illegal gratification can follow only if there is proof of demand. As the same is lacking in the present case the primary facts on the basis of which the legal presumption under Section 20 can be drawn are wholly absent.”

The abovesaid view taken by this Court fully supports the case of the appellant. In view of the contradictions noticed by us above in the depositions of key witnesses examined on behalf of the prosecution, we are of the view that the demand for and acceptance of bribe amount and cellphone by the appellant, is

not proved beyond reasonable doubt. Having regard to such evidence on record the acquittal recorded by the trial court is a "possible view" as such the judgment [State of T.N. v. N. Vijayakumar, 2020 SCC OnLine Mad 7098] of the High Court is fit to be set aside. Before recording conviction under the provisions of the Prevention of Corruption Act, the courts have to take utmost care in scanning the evidence. Once conviction is recorded under the provisions of the Prevention of Corruption Act, it casts a social stigma on the person in the society apart from serious consequences on the service rendered. At the same time it is also to be noted that whether the view taken by the trial court is a possible view or not, there cannot be any definite proposition and each case has to be judged on its own merits, having regard to evidence on record."

(Emphasis supplied)

10.3. The Apex Court in the case of **K.SHANTHAMMA v. STATE OF TELANGANA**³ has held as follows:

"...."

10. We have given careful consideration to the submissions. We have perused the depositions of the prosecution witnesses. The offence under Section 7 of the PC Act relating to public servants taking bribe requires a demand of illegal gratification and the acceptance thereof. **The proof of demand of bribe by a public servant and its acceptance by him is sine qua non for establishing the offence under Section 7 of the PC Act.**

11. In P. Satyanarayana Murthy v. State of A.P. [P. Satyanarayana Murthy v. State of A.P., (2015) 10 SCC 152 : (2016) 1 SCC (Cri) 11] , this Court has summarised the well-settled law on the subject in para 23 which reads thus : (SCC p. 159)

"23. The proof of demand of illegal gratification, thus, is the gravamen of the offence under Sections 7 and

³ (2022) 4 SCC 574

13(1)(d)(i) and (ii) of the Act and in absence thereof, unmistakably the charge therefor, would fail. Mere acceptance of any amount allegedly by way of illegal gratification or recovery thereof, dehors the proof of demand, ipso facto, would thus not be sufficient to bring home the charge under these two sections of the Act. As a corollary, failure of the prosecution to prove the demand for illegal gratification would be fatal and mere recovery of the amount from the person accused of the offence under Section 7 or 13 of the Act would not entail his conviction thereunder."

(emphasis supplied)

12. The prosecution's case is that the appellant had kept pending the return of commercial tax filed by the said Society for the year 1996-97. The appellant had issued a notice dated 14-2-2000 to the said Society calling upon the said Society to produce the record. Accordingly, the necessary books were produced by the said Society. The case made out by PW 1 is that when he repeatedly visited the office of the appellant in February 2020, the demand of Rs.3000 by way of illegal gratification was made by the appellant for passing the assessment order. However, PW 1, in his cross-examination, accepted that the notice dated 26-2-2000 issued by the appellant was received by the said Society on 15-3-2000 in which it was mentioned that after verification of the books of accounts of the said Society, exemption from payment of commercial tax as claimed by the said Society was allowed. PW 1 accepted that it was stated in the said notice that there was no necessity for the said Society to pay any commercial tax for Assessment Year 1996-97.

13. According to the case of PW 1, on 23-3-2000, he visited the appellant's office to request her to issue final assessment order. According to his case, at that time, initially, the appellant reiterated her demand of Rs 3000. But she scaled it down to Rs 2000. Admittedly, on 15-3-2000, the said Society was served with a notice informing the said Society that an exemption has been granted from payment of commercial tax to the said Society. Therefore, the said Society was not liable to pay any tax for the year 1996-97. The issue of the final assessment order was only a procedural formality. Therefore, the prosecution's case about the demand of bribe made on 23-3-2000 by the appellant appears to be highly doubtful.

14. PW 1 described how the trap was laid. In the pre-trap mediator report, it has been recorded that LW 8, Shri R. Hari Kishan, was to accompany PW 1 — complainant at the time of offering the bribe. PW 7 Shri P.V.S.S.P. Raju deposed that PW 8 Shri U.V.S. Raju, the Deputy Superintendent of Police, ACB, had instructed LW 8 to accompany PW 1 — complainant inside the chamber of the appellant. PW 8 has accepted this fact by stating in the examination-in-chief that LW 8 was asked to accompany PW 1 and observe what transpires between the appellant and PW 1. PW 8, in his evidence, accepted that only PW 1 entered the chamber of the appellant and LW 8 waited outside the chamber. Even PW 7 admitted in the cross-examination that when PW 1 entered the appellant's chamber, LW 8 remained outside in the corridor. Thus, LW 8 was supposed to be an independent witness accompanying PW 1. In breach of the directions issued to him by PW 8, he did not accompany PW 1 inside the chamber of the appellant, and he waited outside the chamber in the corridor. The prosecution offered no explanation why LW 8 did not accompany PW 1 inside the chamber of the appellant at the time of the trap.

15. Therefore, PW 1 is the only witness to the alleged demand and acceptance. According to PW 1, firstly, the demand was made of Rs.3000 by the appellant on 24-2-2000. Thereafter, continuously for three days, she reiterated the demand when he visited the appellant's office. Lastly, the appellant made the demand on 29-2-2000 and 23-3-2000. On this aspect, he was cross-examined in detail by the learned Senior Counsel appearing for the appellant. His version about the demand and acceptance is relevant which reads thus:

“In the vicinity of office of AO the jeep, in which we went there was stopped and I was asked to go into the office of AO and the trap party took vantage positions. Accordingly, I went inside the office of AO. I wished AO. At that time apart from AO some other person was found in the office room of AO and he was talking to the AO. AO offered me a chair. After discussion with the AO the said other person left the room of AO. I informed AO that I brought the bribe amount as demanded by her and also asked her to issue the final assessment orders. Then I took the said tainted currency notes from my shirt pocket and I was about to give the same to the AO and on which instead of taking the same amount directly by her with her hands

she took out a diary from her table drawer, opened the diary and asked me to keep the said amount in the diary. Accordingly, I kept the amount in the said diary. She closed the said diary and again kept the same in her table drawer and locked the drawer and kept the keys in her hand bag which was hanging to her seat. She pressed the calling bell and a lady attender came into the room of AO, then she instructed the lady attender to call ACTO concerned to her along with the society records concerned.

Accordingly, ACTO came to AO along with record. After going through the ledger and cash book, etc. AO signed on the last page of the said ledger and cash book mentioning 26-2-2000 below her signature in the said register though she signed on 27-3-2000 in my presence. AO directed her attender to affix official rubber stamp below her signature in the ledger and cash book and accordingly attender affixed the same. AO also signed on the office note of final assessment orders at that time. Thereafter, I collected the general ledger and cash book from the attender after affixing the said rubber stamp thereon and came out of the office of AO and relayed the pre-arranged signal to the trap party."

(emphasis supplied)

16. Thus, PW 1 did not state that the appellant reiterated her demand at the time of trap. His version is that on his own, he told her that he had brought the amount. What is material is the cross-examination on this aspect. In the cross-examination, PW 1 accepted that his version regarding the demand made by the appellant on various dates was an improvement. The relevant part of the cross-examination of the appellant reads thus:

"I did not state to ACB Inspector in Section 161 CrPC statement that on the evening of 24-2-2000 I met the AO and that she demanded the bribe. I did not mention in Ext. P-3 complaint that continuously for 3 days after 24-2-2000 I met the AO and the AO reiterated her demand. I did not mention in Ext. P-3 complaint that on 29-2-2000 I approached the AO and the AO demanded bribe of Rs 3000 and that unless I pay the said bribe amount she will not issue final assessment orders. I did not state in my Section 164 statement before the Magistrate that 13-3-2000 to 16-3-2000 I was on leave and from 1-3-2000 to 12-3-2000, I

was engaged in recovering the dues of the society. It is not true to suggest that I did not meet the AO continuously 3 days i.e. on 25-2-2000, 26-2-2000 and 27-2-2000 and that 27-2-2000 is Sunday. It is not true to suggest that I did not meet the AO in the evening of 24-2-2000 and that AO did not demand any money from me. I did not state in my Section 161 CrPC statement to Inspector of ACB that before I left the office of DSP on the date of trap I made a phone call enquiring about the availability of AO and the AO was in the office and informed me that she should be available in the office from 6.00 to 7.00 p.m. on that day so also in my Section 164 CrPC. I made such a phone call from the office of the DSP, ACB. I do not remember as to from which phone number I made phone call on that day. I cannot describe office telephone number of the AO. It is not true to suggest that I did not make any such phone call to AO and that she did not give any such reply to me. I did not state to ACB Inspector in my Section 161 CrPC statement or to the Magistrate in my Section 164 CrPC statement that I went inside the office of AO and I wished AO and at that time apart from AO some other person was found in the office room of AO and that he was talking to the AO and that the AO offered me a chair and that after discussion with the AO the said person left the room of AO and then I informed the AO that I brought the bribe amount. I did not state that said aspects to DSP during the post trap proceedings also.”

(emphasis supplied)

17. Thus, the version of PW 1 in his examination-in-chief about the demand made by the appellant from time to time is an improvement. As stated earlier, LW 8 did not enter the appellant's chamber at the time of trap. There is no other evidence of the alleged demand. Thus, the evidence of PW 1 about the demand for bribe by the appellant is not at all reliable. Hence, we conclude that the demand made by the appellant has not been conclusively proved.

18. PW.2, Shri B.D.V. Ramakrishna had no personal knowledge about the demand. However, he accepted that on 15-3-2000, the said Society received a communication informing that the said Society need not pay any tax for the year 1996-97. PW 3 Shri L. Madhusudhan was working as Godown Incharge with the said Society. He stated that on 15-3-2000, when he visited the appellant's office, ACTO served the original notice dated 26-2-2000 in which it was mentioned that

the Society was not liable to pay any tax. It is his version that when he met the appellant on the same day, she enquired whether he had brought the demanded amount of Rs 3000. However, PW 3 did not state that the appellant demanded the said amount for granting any favour to the said society.

19. PW.4 Ahmed Moinuddin was ACTO at the relevant time. He deposed that on 27-3-2000, the appellant instructed him to prepare the final assessment order, which was kept ready in the morning. He stated that he was called at 6 p.m. to the chamber of the appellant along with books of the said Society. At that time, PW 1 was sitting there. He stated that the appellant subscribed her signature on a Register of the said Society and put the date as 26-2-2000 below it. He was not a witness to the alleged demand. However, in the cross-examination, he admitted that the appellant had served a memo dated 21-3-2000 to him alleging that he was careless in performing his duties.”

(Emphasis supplied)

The afore-quoted judgments were rendered interpreting Section 7 as it stood prior to amendment. The Apex Court holds that demand and acceptance are *sine qua non* for an offence under Section 7 of the Act.

INTERPRETATION POST AMENDMENT:

10.4. The Apex Court has further interpreted Section 7(a) post amendment in the case of **NEERAJ DUTTA v. STATE (GOVT. OF NCT OF DELHI**⁴ and holds as follows:

⁴ 2023 SCC OnLine SC 280

"... .."

8. Before we analyze the evidence, we must note that we are dealing with Sections 7 and 13 of the PC Act as they stood prior to the amendment made by the Act 16 of 2018 with effect from 26th July 2018. We are referring to Sections 7 and 13 as they stood on the date of commission of the offence. Section 7, as existed at the relevant time, reads thus:

"7. Public servant taking gratification other than legal remuneration in respect of an official act.—

Whoever, being, or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than three years but which may extend to seven years and shall also be liable to fine.

Explanations.-

- (a) "Expecting to be a public servant"- If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.
- (b) "Gratification". The word "gratification" is not restricted to pecuniary gratifications or to gratifications estimable in money.
- (c) "Legal remuneration"- The words "legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the

Government or the organisation, which he serves, to accept.

- (d) "A motive or reward for doing". A person who receives a gratification as a motive or reward for doing what he does not intend or is not in a position to do, or has not done, comes within this expression.
- (e) Where a public servant induces a person erroneously to believe that his influence with the Government has obtained a title for that person and thus induces that person to give the public servant, money or any other gratification as a reward for this service, the public servant has committed an offence under this section."

9. Section 13(1)(d), as existed at the relevant time, reads thus:

"13. Criminal misconduct by a public servant.—

- (1) A public servant is said to commit the offence of criminal misconduct,-
 - (a)
 - (b)
 - (c)
 - (d) if he,-
 - (i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or
 - (ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or
 - (iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest; or
 - (e)"

10. The demand for gratification and the acceptance thereof are sine qua non for the offence punishable under Section 7 of the PC Act.

11. The Constitution Bench⁴ was called upon to decide the question which we have quoted earlier. In paragraph 74, the conclusions of the Constitution have been summarised, which read thus:

"**74.** What emerges from the aforesaid discussion is summarised as under:

- (a) **Proof of demand and acceptance of illegal gratification by a public servant as a fact in issue by the prosecution is a sine qua non in order to establish the guilt of the accused public servant under Sections 7 and 13(1)(d)(i) and (ii) of the Act.**
- (b) **In order to bring home the guilt of the accused, the prosecution has to first prove the demand of illegal gratification and the subsequent acceptance as a matter of fact. This fact in issue can be proved either by direct evidence which can be in the nature of oral evidence or documentary evidence.**
- (c) **Further, the fact in issue, namely, the proof of demand and acceptance of illegal gratification can also be proved by circumstantial evidence in the absence of direct oral and documentary evidence.**
- (d) In order to prove the fact in issue, namely, the demand and acceptance of illegal gratification by the public servant, the following aspects have to be borne in mind:
 - (i) if there is an **offer to pay by the bribe giver** without there being any demand from the public servant and the latter simply accepts the offer and receives the illegal gratification, it is a **case of acceptance** as per Section 7 of the Act. In such a case, there need not be a prior demand by the public servant.

- (ii) On the other hand, **if the public servant makes a demand** and the bribe giver accepts the demand and tenders the demanded gratification which in turn is received by the public servant, it is **a case of obtainment**. In the case of obtainment, the prior demand for illegal gratification emanates from the public servant. This is an offence under Section 13(1)(d)(i) and (ii) of the Act.
- (iii) **In both cases of (i) and (ii) above, the offer by the bribe giver and the demand by the public servant respectively have to be proved by the prosecution as a fact in issue. In other words, mere acceptance or receipt of an illegal gratification without anything more would not make it an offence under Section 7 or Section 13(1)(d), (i) and (ii) respectively of the Act.** Therefore, under Section 7 of the Act, in order to bring home the offence, there must be an offer which emanates from the bribe giver which is accepted by the public servant which would make it an offence. **Similarly, a prior demand by the public servant when accepted by the bribe giver and in turn there is a payment made which is received by the public servant, would be an offence of obtainment under Section 13(1)(d) and (i) and (ii) of the Act.**
- (e) **The presumption of fact with regard to the demand and acceptance or obtainment of an illegal gratification may be made by a court of law by way of an inference only when the foundational facts have been proved by relevant oral and documentary evidence and not in the absence thereof.** On the basis of the material on record, the Court has the discretion to raise a presumption of fact while considering whether the fact of demand has been proved by the prosecution or not. Of course, a presumption of fact is subject to rebuttal by the accused and in the absence of rebuttal presumption stands.
- (f) In the event the complainant turns 'hostile', or has died or is unavailable to let in his evidence during trial, demand of illegal gratification can be proved by letting in the evidence of any other witness who can again let in evidence, either orally or by

documentary evidence or the prosecution can prove the case by circumstantial evidence. The trial does not abate nor does it result in an order of acquittal of the accused public servant.

- (g) **In so far as Section 7 of the Act is concerned, on the proof of the facts in issue, Section 20 mandates the court to raise a presumption that the illegal gratification was for the purpose of a motive or reward as mentioned in the said Section.** The said presumption has to be raised by the court as a legal presumption or a presumption in law. Of course, the said presumption is also subject to rebuttal. Section 20 does not apply to Section 13(1)(d)(i) and (ii) of the Act.
- (h) We clarify that the presumption in law under Section 20 of the Act is distinct from presumption of fact referred to above in point
- (e) as the former is a mandatory presumption while the latter is discretionary in nature."

(emphasis added)

12. The referred question was answered in paragraph 76 of the aforesaid judgment, which reads thus:

"76. Accordingly, the question referred for consideration of this Constitution Bench is answered as under:

In the absence of evidence of the complainant (direct/primary, oral/ document-tary evidence), it is permissible to draw an inferential deduction of culpability/guilt of a public servant under Section 7 and Section 13(1)(d) read with Section 13(2) of the Act based on other evidence adduced by the prosecution."

(emphasis added)

13. Even the issue of presumption under Section 20 of the PC Act has been answered by the Constitution Bench by holding that only on proof of the facts in issue, Section 20 mandates the Court to raise a presumption that illegal gratification was for the purpose of motive or reward as

mentioned in Section 7 (as it existed prior to the amendment of 2018). In fact, the Constitution Bench has approved two decisions by the benches of three Hon'ble Judges in the cases of B. Jayaraj¹ and P. Satyanarayana Murthy². There is another decision of a three Judges' bench in the case of N. Vijayakumar v. State of Tamil Nadu⁵, which follows the view taken in the cases of B. Jayaraj¹ and P. Satyanarayana Murthy². In paragraph 9 of the decision in the case of B. Jayaraj¹, this Court has dealt with the presumption under Section 20 of the PC Act. In paragraph 9, this Court held thus:

"9. Insofar as the presumption permissible to be drawn under Section 20 of the Act is concerned, such presumption can only be in respect of the offence under Section 7 and not the offences under Sections 13(1)(d)(i) and (ii) of the Act. In any event, it is only on proof of acceptance of illegal gratification that presumption can be drawn under Section 20 of the Act that such gratification was received for doing or forbearing to do any official act. Proof of acceptance of illegal gratification can follow only if there is proof of demand. As the same is lacking in the present case the primary facts on the basis of which the legal presumption under Section 20 can be drawn are wholly absent."

(emphasis added)

14. The presumption under Section 20 can be invoked only when the two basic facts required to be proved under Section 7, are proved. The said two basic facts are 'demand' and 'acceptance' of gratification. The presumption under Section 20 is that unless the contrary is proved, the acceptance of gratification shall be presumed to be for a motive or reward, as contemplated by Section 7. It means that once the basic facts of the demand of illegal gratification and acceptance thereof are proved, unless the contrary are proved, the Court will have to presume that the gratification was demanded and accepted as a motive or reward as contemplated by Section 7. However, this presumption is rebuttable. Even on the basis of the preponderance of probability, the accused can rebut the presumption.

15. In the case of N. Vijayakumar⁵, another bench of three Hon'ble Judges dealt with the issue of presumption under

Section 20 and the degree of proof required to establish the offences punishable under Section 7 and clauses (i) and (ii) Section 13(1)(d) read with Section 13(2) of PC Act. In paragraph 26, the bench held thus:

"26. It is equally well settled that mere recovery by itself cannot prove the charge of the prosecution against the accused. Reference can be made to the judgments of this Court in C.M. Girish Babu v. CBI [C.M. Girish Babu v. CBI, (2009) 3 SCC 779 : (2009) 2 SCC (Cri) 1] and in B. Jayaraj v. State of A.P. [B. Jayaraj v. State of A.P., (2014) 13 SCC 55 : (2014) 5 SCC (Cri) 543] **In the aforesaid judgments of this Court while considering the case under Sections 7, 13(1) (d)(i) and (ii) of the Prevention of Corruption Act, 1988 it is reiterated that to prove the charge, it has to be proved beyond reasonable doubt that the accused voluntarily accepted money knowing it to be bribe.** Absence of proof of demand for illegal gratification and mere possession or recovery of currency notes is not sufficient to constitute such offence. In the said judgments it is also held that even the presumption under Section 20 of the Act can be drawn only after demand for and acceptance of illegal gratification is proved. It is also fairly well settled that initial presumption of innocence in the criminal jurisprudence gets doubled by acquittal recorded by the trial court."

(emphasis added)

16. Thus, the demand for gratification and its acceptance must be proved beyond a reasonable doubt.

17. Section 7, as existed prior to 26th July 2018, was different from the present Section 7. The unamended Section 7 which is applicable in the present case, specifically refers to "any gratification". The substituted Section 7 does not use the word "gratification", but it uses a wider term "undue advantage". When the allegation is of demand of gratification and acceptance thereof by the accused, it must be as a motive or reward for doing or forbearing to do any official act. The fact that the demand and acceptance of gratification were for motive or reward as provided in Section 7 can be proved by invoking the presumption under Section 20 provided the basic allegations of the demand and acceptance are proved. In this case, we are also concerned with the offence punishable under clauses (i)

and (ii) Section 13(1)(d) which is punishable under Section 13(2) of the PC Act. Clause (d) of sub-section (1) of Section 13, which existed on the statute book prior to the amendment of 26th July 2018, has been quoted earlier. On a plain reading of clauses (i) and (ii) of Section 13(1)(d), it is apparent that proof of acceptance of illegal gratification will be necessary to prove the offences under clauses (i) and (ii) of Section 13(1)(d). In view of what is laid down by the Constitution Bench, in a given case, the demand and acceptance of illegal gratification by a public servant can be proved by circumstantial evidence in the absence of direct oral or documentary evidence. While answering the referred question, the Constitution Bench has observed that it is permissible to draw an inferential deduction of culpability and/or guilt of the public servant for the offences punishable under Sections 7 and 13(1)(d) read with Section 13(2) of the PC Act. The conclusion is that in absence of direct evidence, the demand and/or acceptance can always be proved by other evidence such as circumstantial evidence.

18. The allegation of demand of gratification and acceptance made by a public servant has to be established beyond a reasonable doubt. The decision of the Constitution Bench does not dilute this elementary requirement of proof beyond a reasonable doubt. The Constitution Bench was dealing with the issue of the modes by which the demand can be proved. The Constitution Bench has laid down that the proof need not be only by direct oral or documentary evidence, but it can be by way of other evidence including circumstantial evidence. When reliance is placed on circumstantial evidence to prove the demand for gratification, the prosecution must establish each and every circumstance from which the prosecution wants the Court to draw a conclusion of guilt. The facts so established must be consistent with only one hypothesis that there was a demand made for gratification by the accused. Therefore, in this case, we will have to examine whether there is any direct evidence of demand. If we come to a conclusion that there is no direct evidence of demand, this Court will have to consider whether there is any circumstantial evidence to prove the demand.”

10.5. Subsequent to **NEERAJ DUTTA'S** case, the Apex Court in the case of **SOUNDARAJAN v. STATE**⁵ has held as follows:

FINDING ON PROOF OF DEMAND:

9. We have considered the submissions. It is well settled that for establishing the commission of an offence punishable under Section 7 of the PC Act, proof of demand of gratification and acceptance of the gratification is a sine qua non. Moreover, the Constitution Bench in the case of Neeraj Dutta³ has reiterated that the presumption under Section 20 of the PC Act can be invoked only on proof of facts in issue, namely, the demand of gratification by the accused and the acceptance thereof.

10. As stated earlier, complainant PW-2 has not supported the prosecution. He has not said anything in his examination-in-chief about the demand made by the appellant. The public prosecutor cross-examined PW-2. The witness stated that there was no demand of a bribe made by the appellant. According to him, he filed a complaint as the return of the sale deed was delayed. Though PW-2 accepted that he had filed the complaint, in the cross-examination, he was not confronted with the material portions of the complaint in which he had narrated how the alleged demand was made. The public prosecutor ought to have confronted the witness with his alleged prior statements in the complaint and proved that part of the complaint through the concerned police officer who had reduced the complaint into writing. However, that was not done.

11. Now, we turn to the evidence of the shadow witness (PW-3). In the examination-in-chief, he stated that the appellant asked the PW-2 whether he had brought the amount. PW-3 did not say that the appellant made a specific demand of gratification in his presence to PW-2. To attract Section 7 of the PC Act, the demand for gratification has to be proved by the prosecution beyond a reasonable doubt. The word used in Section 7, as it existed before 26th July 2018, is 'gratification'. There has to be a demand for gratification. It is not a simple demand for money, but it has to be

⁵ **2023 SCC OnLine SC 424**

a demand for gratification. If the factum of demand of gratification and acceptance thereof is proved, then the presumption under Section 20 can be invoked, and the Court can presume that the demand must be as a motive or reward for doing any official act. This presumption can be rebutted by the accused.

12. There is no circumstantial evidence of demand for gratification in this case. In the circumstances, the offences punishable under Section 7 and Section 13(2) read with Section 13(1)(d) have not been established. Unless both demand and acceptance are established, offence of obtaining pecuniary advantage by corrupt means covered by clauses (i) and (ii) of Section 13(1)(d) cannot be proved.”

(Emphasis supplied)

The Apex Court in the case of **NEERAJ DUTTA** *supra* was clarifying and interpreting the judgment in the case of **NEERAJ DUTTA**, which was rendered by a Constitution Bench and further holds that proof of demand and acceptance of gratification is *sine qua non* for any allegation under Section 7 of the Act, be it pre-amendment or post-amendment. This is reiterated in the case of **SOUNDARAJAN** *supra*.

11. On a coalesce of the judgments rendered by the Apex Court, as quoted *supra*, the soul of Section 7 of the Act is demand and acceptance. The unmistakable inference on the interpretation, in the considered view of the Court, would be if there is demand but

no acceptance, it would not make an offence under Section 7 of the Act. If there is acceptance but no demand, it would then also make no offence under Section 7 of the Act. An act alleged under Section 7 of the Act should have the ingredients of demand and acceptance and it is for the performance of a public duty or forbearance from performance. Therefore, demand and acceptance should be for the purpose of performance of some public duty. For such performance, there should be work pending at the hands of the public servant against whom Section 7 of the Act is alleged.

12. The aforesaid judgments have been considered by this Bench sitting at Dharwad Bench in the case of **BEERALINGA v. STATE OF KARNATAKA – W.P.No.105067 of 2023 decided on 7th June, 2024**. The said judgment was challenged by the State before the Apex Court in **S.L.P.No.6770 of 2025**. The said S.L.P. comes to be dismissed on **04-09-2025** by the following order:

“Upon hearing the counsel the court made the following:

ORDER

1. The delay of 152 days in filing and 173 days in refiling the Special Leave Petition is condoned in the facts and

circumstances of the case. Accordingly, I.A.Nos. 211938 of 2025 and 211943 of 2025 are allowed.

2. In the facts and circumstances of the case, we are not convinced that any case for interference under Article 136 of the Constitution on India is made out.
3. The Special Leave Petition is, accordingly, dismissed. Pending application(s), if any, shall stand disposed of."

The Apex Court refuses to interfere with the findings recorded by this Court. In the light of the judgment rendered as afore-quoted the issue in the case at hand need not detain this Court for long or delve deep into the matter. It is admitted that there is no trap and there is not even a prima facie finding that there has been demand and acceptance. There is no tainted money recovered from the hands of the petitioner and it is a fact that the petitioner was instrumental in registering several crimes against the complainant and the complaint against the petitioner is filed undoubtedly to wreak vengeance. The statement of objections filed by the complainant is a vindication of the finding recorded hereinabove.

13. In that light, there is no warrant to permit investigation to continue six years after registration of the crime, when there is not even a titter of document to permit such investigation. It

becomes apposite, in this regard, to refer to the judgment of the Apex Court in the case of **STATE OF HARYANA v. BHAJAN LAL**⁶, wherein the Apex Court has held as follows:

"... .."

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

- (1) **Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.**
- (2) where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

⁶ **1992 Supp.(1) SCC 335**

- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
- (5) **Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.**
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

(Emphasis supplied)

14. For the aforesaid reasons, the following:

ORDER

- (i) Criminal Petition is **allowed**.

- (ii) FIR registered against the petitioner in Crime No.45 of 2019 pending before the XXIII Additional City Civil and Sessions Judge, Bengaluru stands quashed.

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

Bkp
CT:MJ