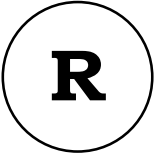


Reserved on : 25.08.2026
Pronounced on : 02.09.2026



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 02ND DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 8032 OF 2026

BETWEEN:

M/S. ANANYA COLLEGE OF NURSING
REPRESENTED BY ITS PROPRIETOR,
SRI PRASANTH KUMAR K.N.,
RESIDING AT CHAKKANATTU,
VECHOOOR, KOTTAYAM,
KERALA - 686 144
PRESENT AT No.101
GOLDEN HEIGHTS
ANNAYA ROAD,
BENGALURU - 560 100,
KARNATAKA.

...PETITIONER

(BY MS. ANAGHA S. DESAI, ADVOCATE)

AND:

DR.SUDEEP KUMAR D.,
S/O DORESWAMY G.R.,
AGED ABOUT 35 YEARS,

Digitally
signed by
CHETAN B C

Location:
High Court
of Karnataka

RESIDING AT NO. 174,
DADDY'S GARDEN,
PHASE I, 1ST MAIN ROAD,
2ND CROSS, KAMMASANDRA,
BENGALURU - 562 106.

...RESPONDENT

(BY SRI MANJUNATH B.R., ADVOCATE)

THIS CRIMINAL PETITION IS FILED U/S 528 OF BNNS PRAYING TO QUASH THE ENTIRE CRIMINAL PROCEEDINGS IN C.C.NO.20318/2026 INITIATED AGAINST THE PETITIONER FOR THE OFFENCES P/U/S 316, 318, 319, 336, 337, 338 AND 125 OF THE BNS, 2023 PENDING ON THE FILE OF THE III A.C.J.M BENGALURU CITY.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 25.08.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

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

CAV ORDER

The petitioner is before the Court calling in question proceedings in C. C. No.20318 of 2026 pending before the III Addl. Chief Judicial Magistrate, Bengaluru City, initiated for the offences

punishable under Sections 316, 318, 319, 336, 337, 338 and 125 of the BNS.

2. Heard Ms. Anagha S.Desai, learned counsel appearing for the petitioner and Sri Manjunath B.R., learned counsel appearing for the respondent.

3. Facts, adumbrated, are as follows: -

3.1. The respondent is the owner of Sacred Oak Hospital situated in Electronic City, an Allopathy Level-2 service providing healthcare facility. The allegation is that under the Rules pertaining to Nursing Colleges, any institution must be affiliated with a functional hospital. The petitioner/institution is running a Nursing College under the MSM Foundation Trust in the name and style of M/s Ananya College of Nursing ('the College' for short). The allegation is that the College has created fake fee receipt and a fraudulent memorandum of understanding to hold that the College has a valid tie-up with the complainant's hospital. It is the further allegation that the petitioner uploaded these documents for compliance verification before the Karnataka Nursing Council and thereby committed acts of forgery, cheating and misrepresentation.

3.2. The complainant on 24-01-2025 approached the Parapana Agrahara Police Station and the police refusing to register a crime rendered an NCR on the score that the issue was purely civil in nature. It is later the complainant approaches the concerned Court invoking Section 223 of the BNSS in P.C.R.No.8310 of 2025. The concerned Court does not refer the matter for investigation, but takes cognizance of the offences against the petitioner for the aforesaid offences and registers C.C.No.20318 of 2026.

SUBMISSIONS:

PETITIONER:

4. The learned counsel Ms. Anagha S. Desai appearing for the petitioner would vehemently contend that the concerned Court has taken cognizance of documents produced by the respondent which are not even visible. The petitioner had filed objections to the complaint in P.C.R.No.8310 of 2025, which the concerned Court has completely ignored. The complaint was not supported by a detailed affidavit as contemplated in the case of **PRIYANKA SRIVASTAVA**

v. STATE OF U.P. reported in **(2015) 6 SCC 287**. She would further contend that the respondent is not even a 100 bedded hospital. An affiliation under statutory rules to run a nursing hospital can be only with a 100 bedded hospital. The respondent not being a 100 bedded hospital cannot claim that the petitioner has forged a memorandum of understanding with the respondent from which they would not make any benefit. The basic ingredients necessary to prove criminal breach of trust and cheating are completely absent, much less the other offences upon which cognizance is taken.

RESPONDENT-COMPLAINANT:

5. Contrariwise, the learned counsel Sri Manjunath B.R, appearing for the respondent would vehemently submit contending that the private complaint completely captures entire fulcrum of allegations against the petitioner. The learned counsel would further contend that the documents available are indicative of the fact that the petitioner has sought to run the College claiming affiliation with the respondent on a forged memorandum of understanding. No memorandum of understanding is executed by the respondent with

the petitioner. Therefore, it is a clear case of cheating and forgery. The Court has appropriately taken cognizance of the offence, therefore, the matter must be permitted to be tried is the submission of the learned counsel. He would admit that the respondent is not a 100 bedded hospital, but only a 28 bedded hospital and has applied for increase to 100 beds, which is yet to be considered by the authorities. He would submit that the Court at the first instance took cognizance on the documents available before it. All the documents are now produced before the Court. If the Court is now wanting to obliterate the order of taking cognizance upon alleged blank documents, the matter be remitted back to the hands of the concerned Court.

6. The learned counsel for the petitioner would join issue in contending that the matter need not be remitted back for reason of order of taking cognizance, as none of the allegations made in the complaint would meet the basic threshold of ingredients as is necessary in law. Therefore, a wisely drafted complaint would not mean that the petitioner must face trial for an allegation that does not make out any offence.

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

CONSIDERATION:

8. The afore-narrated facts are a matter of record, either averred or admitted. The complainant initially approaches the jurisdictional police seeking to register a crime. The police refuse to register the crime and render a non-cognizable report. The non-cognizable report reads as follows:

"ಸ್ವೀಕೃತಿ/Acknowledgement.

ನ.ಸಂ.76ಎ ಮೂಲ ಪ್ರತಿ

ಉಲ್ಲೇಖ ಸಂಖ್ಯೆ/ Reference No: DP NO.150/2025

ಜಿ ಎಸ್ ಸಿ(GSC No)ಸಂಖ್ಯೆ: P01800250600173 ದಿನಾಂಕ /Date: 24/01/2025

ಅರ್ಜಿ ನಮೂನೆ :Miscellenious

1. ಸಂದರ್ಶಕರ/ಪಿರ್ಯಾದುದಾರರ/ಅಹ್ವಾನಿಸಲಾದ ಸೂಚಕರ ಹೆಸರ : DR SUDEEP KUMAR

2. Father/Husband Name : DORESWAMY G R

3. Address : NO. 174 DADDYS GARDEN
PHASE 1 1ST MAIN 2ND CROSS
KAMMASANDRA
Bengaluru City
Kamataka. 562106

4. Mobile

5. ಸಂದರ್ಶನದ ಉದ್ದೇಶ :

ದೂರುದಾರರು ರಾಣಿಗೆ ಬಂದು ನೀಡಿದ ದೂರಿನ ಸಾರಾಂಶವೆನೆಂದರೆ ದೂರುದಾರರಾದ ಸುದೀಪ್ ಕುಮಾರ್ ರವರು HEALTHCARE PVT LTD ಡೈರೆಕ್ಟರ್ ಆಗಿದ್ದು ಸದರಿಯವರು SACRED OAK HOSPITAL ನ್ನು ನಡೆಸುತ್ತಿದ್ದು ರಿಜಿಸ್ಟ್ರೇಶನ್ ಮಾಡಿಸಿಕೊಂಡಿರುತ್ತಾರೆ ಹೀಗಿರುವಾಗ ಅನನ್ಯಾ ಕಾಲೇಜ್ ಆಫ್ ನರಸಿಂಗ್ ರವರು ಸದರಿ ಹಾಸ್ಪಿಟಲ್ ಟೈ ಆಫ್ ಆಗಿದೆ ಎಂದು ಹೇಳಿ ದೂರುದಾರರ ಆಸ್ಪತ್ರೆಯ ಹೆಸರಿನಲ್ಲಿ 75000/- ರೂ ಹಣದ ರಶೀದಿ ನೀಡಿರುತ್ತಾರೆ ಮತ್ತು ದೂರುದಾರರ ಆಸ್ಪತ್ರೆಯ ಸಿಬ್ಬಂದಿಯಂತೆಯೇ ಸದರಿ ಕಾಲೇಜಿನ ವಿದ್ಯಾರ್ಥಿಗಳಿಗೆ ಬಟ್ಟೆಯನ್ನು ನೀಡಿರುತ್ತಾರೆ ಹೀಗೆ ದೂರುದಾರರೊಂದಿಗೆ ಯಾವುದೇ ಸಂಬಂಧವಿಲ್ಲದಿದ್ದರೂ ಸದರಿ ಕಾಲೇಜಿನವರು ದೂರುದಾರರ ಆಸ್ಪತ್ರೆಯ ಹೆಸರಿನಲ್ಲಿ ತೊಂದರೆ ನೀಡುತ್ತಿದ್ದಾರೆ ಆದ್ದರಿಂದ ಸದರಿಯವರನ್ನು ರಾಣಿಗೆ ಕರೆಯಿಸಿ ಇನ್ನು ಮುಂದೆ ಈ ರೀತಿ ಮಾಡದಂತೆ ಸೂಕ್ತ ತಿಳುವಳಿಕೆ ನೀಡಿ ದೂರುದಾರರ ಆಸ್ಪತ್ರೆಯ ತಂಟೆಗೆ ಬಾರದಂತೆ ಸೂಕ್ತ ಬಂದೊಬ್ಬನು ಮಾಡಿಸಬೇಕೆಂದು ಕೊಟ್ಟ ದೂರು ಇತ್ಯಾದಿ...

6. Counter Party Details :

Name : ANANYA COLLEGE OF NURSING, S/o
Address: NO
Bengaluru City
Karnataka "

It is then the respondent approaches the concerned Court by filing a private complaint as obtaining under Section 223 of the BNSS. The concerned Court registers the complaint as P.C.R.No.8310 of 2025. The grounds are set out seeking a reference or taking of cognizance as the case would be. Since the entire issue is triggered from registration of the complaint, I deem it appropriate to notice the complaint. It reads as follows:

"....

(3) The Complainant submits that, the complainant named Dr.Sudeep Kumar, is the director of Somideep Healthcare pvt ltd, which mans the Sacred Oak Hospital, a healthcare facility located near Royal Oak Furniture, Phase-2, Electronic City, Hosur Main Road, Bangalore. My hospital is duly registered under the Karnataka Private Medical Establishment (Amended) Act 2018 and Rules 2018, bearing Certificate of Registration No. BLU02222ALHL2. Sacred Oak Hospital is a recognized Level 2 facility, providing medical services under the Allopathy system of medicine. The complainant has a good reputation for providing quality services to our patients.

(4) The Complainant further submits that, as per the rules pertaining to Nursing College, each college have to get themselves affiliated with a hospital. Ananya college of nursing states that they have a tie up with the Scared Oak Multi-Specialty Hospital, which is not true. Ananya college also makes false claim of having made a payment of Rs.75,000 on 27.02.2024 by providing fake receipt of my hospital. This has not been received by our Hospital, Ananya college of Nursing has also uploaded certain documents like a Memorandum of Understanding and some other documents, which are not legible and claimed Sacred Oak Hospital as their parent hospital with Karnataka State Nursing Council. The Complainant further submits that, neither the complainant nor anyone connected or associated with our organization has either signed nor consented to such an arrangement.

(5) That the complainant filed an RTI application seeking the documents uploaded by Ananya College of Nursing to know it's veracity. After receipt of the said documents, the Complainant realized that all the documents attached were fake and the complainant signature was forged in the document. And now the complainant hospital is not in position to take on any other nursing college as false proof have been submitted on affiliation. The nursing students of Ananya College of Nursing have been provided with uniforms identical to those of Sacred Oak Hospital staff, further perpetuating their false claims of affiliation.

(6) The Complainant further submit that, the aforementioned acts by Ananya College of Nursing amount to criminal offenses such as Endangering the life or personal safety of other, cheating, acts of misappropriation and fraudulent claims and Forgery under the Bharatiya Nyaya Sanhita, 2023. These fraudulent actions have severely impacted the reputation and operations of Sacred Oak Hospital. Furthermore, they have jeopardized our ability to enter into genuine affiliations with other nursing colleges due to the false records submitted to the Karnataka State Nursing Council.

(7) The Complainant further submits that, the said Ananya College of Nursing further has adopted the mischievous tactic of using the same uniform as our staff for their trainee nurses thus trying to bring confusion in the minds of the patients and other stake holders.

(8) the Complainant further submits that, In light of the above, the complainant hereby request the accused to investigate into the fraudulent activities of Ananya College of Nursing, by taking appropriate legal action against the perpetrators for forgery, cheating, misrepresentation and to ensure the immediate withdrawal of any false claims or affiliations made by Ananya College of Nursing using Sacred Oak Hospital's name.

(9) the Complainant submits that, the complainant hereby lodge this complaint against Ananya College of Nursing for engaging in fraudulent activities, misrepresentation, cheating and forgery that have caused serious harm to my institution's reputation and operations. It further does not allow me to align our hospital with any nursing college as this has been locked fraudulently by the said Ananya College of Nursing.

GROUND

10) These are the false documents which have been submitted the fake of affiliation letter by Ananya College of Nursing with Sacred Oak Hospital. Forgery of signatures on fake documents (like Memorandum of Understanding)by Ananya College of Nursing. Fake receipts claiming a payment of ₹75,000 to the hospital has been uploaded, which the hospital never received. Uploading fraudulent documents to Karnataka State

Nursing Council. Unauthorized use of hospital's name and staff uniform designs to mislead spatients and authorities.

11) It is further submitted that, there was harm caused to reputation and operations of Sacred Oak Hospital. Inability to form genuine affiliations with other nursing colleges due to false records already being submitted.

12) The complainant is also requesting that justice be served to the complainant for which the complaint lodged a police complaint before the concerned Jurisdictional police and be provided with appropriate necessary action against the accused, but no use or purpose served for justice even though the accused confessed to the above mentioned crime in front of the police officer. However the NCR Acknowledgement was issued on 24.01.2025 stating the reason of the matter is MISCELLANEOUS.

13) The complainant submits that, the complainant then escalated the matter to The Commissioner of Police on 12.02.2024 and also on 11.04.2025 who ordered with a direction to the police officer for the Registration of an FIR. Instead of complying, the police officer recorded the complainant's statement and sent them away back to home. The Complainant was forced to approach the court, which ordered for the registration of the FIR.

14) It is further submitted that, till date, no legal action has been taken and that they were instructed to move the concerned court and obtain permission as per the column of 155(1) of CR.P.C. Later, the complainant forwarded the same complaint to the Commissioner of Police, Bengaluru city but the concerned police officials failed to take action against the accused persons.

15) The complainant submits that, the above said transaction took place within the limits of Parapana Agrahara police station which comes under the territorial jurisdiction of this Hon'ble court.

16) The complainant submits that, from the attitude of accused persons, it is very clear that, the accused persons have

committed offences under relevant sections invoked Section 316 for cheating, 319 -cheating by personation, 318 - Cheating and dishonesty, 336 and 337 for forgery, 338 for using forged documents as genuine, 125 for endangering life or personal safety, Covered under cheating and fraud related sections for misrepresentation.

17). The complainant submits that, the complainant has not filed any other complaint before any other authorities for the same relief.

18) The complainant submits that, for the reasons explained herein above, the complainant could not approach the police for relief earlier.

PRAYER

WHEREFORE, the complainant above named prays that this Hon'ble court may be pleased to :-

(1) Refer the matter u/s 175 (3) of CR.P.C. to Register a proper FIR against the Accused under relevant sections of the Bharatiya Nyaya Sanhita (BNS) punishable under section 316, , 318, 319, 336, 337, 338, 125, of B.N.S. Act

(2). Investigate the incident fairly and transparently to ensure justice for the complainant and hold the guilty accountable.

(3) To file FIR against the accused and initiate legal proceedings against those responsible for filing the false complaint."

The concerned Court does not refer the matter for investigation.

The petitioner was issued a notice at pre-cognizance stage, at which point in time the objections filed by the petitioner are as follows:

"The Accused in the above case respectfully submits as follows:

1. The accused most respectfully submits that, the complainant had filed a complaint under section 223 OF THE BHARATIYA NAGARIK SURAKSHA SANHITA 2023, against the accused for alleged offences punishable under section 318, 319, 336, 337, 338, 125. Of B.N.S Act which is false, frivolous and baseless vexatious allegations and it is not maintainable either in law or on facts and same is liable to be dismissed in limine.
2. The accused most respectfully submits that, the complainant as alleged to state in his complaint that, he is a Doctor, and he is the Director of Somideep Healthcare Pvt Ltd which runs the Sacred oak Hospital, a healthcare facility located near Royal Oak Hospital Furniture, Phase-2 Electronic City, Hosur Main Road, Bangalore and his Hospital is duly registered under the Karnataka Private Medical Establishment (Amended) Act 2018 and Rules 2018, bearing Certificate of Registration No: BLU02222ALHL2, SACRED OAK HOSPITAL is a recognized Level 2 facility, providing medical services under the Allopathy system of medicine. The complainant has a good reputation for providing quality services to our patients.
3. The accused most respectfully submits that, the complainant as alleged to state in his complaint that, as per the rules pertaining to Nursing College, each college has to get themselves affiliated with a hospital. Ananya college of nursing states that they have a tie up with the Scared Oak Multi-Specialty Hospital, which is not true. Ananya college also makes false claim of having made a payment of Rs. 75,000/- on 27.02.2024 by providing fake receipt of the complainant's hospital. This has not been received by their hospital. Ananya college of Nursing has also uploaded certain documents like Memorandum of Understanding and some other documents, which are not legible and claimed Sacred Oak Hospital as their parent hospital with Karnataka State Nursing Council. The Complainant further submits that, neither the complainant nor anyone connected or associated with their organization has either signed nor consented to such an arrangement. Further he filed an RTI application seeking

the documents uploaded by the Ananya College of Nursing to know its veracity. After receipt of the said documents, the Complainant realized that, all the documents attached were fake and the complainant's signature was forged in the document. And now the complainant hospital is not in position to take on any other nursing college as false proof have been submitted on affiliation. The nursing students of Ananya College of Nursing have been provided with uniforms identical to those of Sacred Oak Hospital staff. Further, perpetuating their false claims of affiliation, Further the complaint alleged that, the aforementioned acts by Ananya College of Nursing amount to criminal offenses such as Endangering the life or personal safety of other, cheating, acts of misappropriation and fraudulent claims and fraudulent claims and forgery under the Bharatiya Nyaya Sanhita, 2023, these fraudulent actions have severely impacted the reputation and operations of Sacred Oak Hospital, Furthermore, they have jeopardized their ability to enter into genuine affiliations with other nursing colleges due to the false records submitted to the Karnataka State Nursing Council. Further the said Ananya College of Nursing further has adopted the mischievous tactic of using the same uniform as their staff for their trainee nurses thus trying to bring confusion in the minds of the patients and other stake holders. Thus, in light of the above, the complainant request the accused to investigate into the fraudulent activities of Ananaya College of Nursing, by taking appropriate legal action against the perpetrators for forgery, cheating, misrepresentation and to ensure the immediate withdrawal of any false claims or affiliations made by Ananaya college of Nursing Using Sacred Oak Hospital's Name. The above allegations are totally false and faraway from the truth and the allegations made by the complainant is imaginary and baseless allegations, without proper, evidence/documents he is trying to file the false case against to the accused only to harass the accused damage the reputation of the Accused's college reputation in the society.

4. The accused respectfully submit that, the accused is director of the Ananya College of Nursing which running

under the M.S.M foundation Trust ®, the said accused is the president of the said trust and the said college was obtained a permission from the Karnataka state government in the year 2004-2005 to run the nursing college in name and style "Ananya College of Nursing". After obtaining permission the said college was running and conducting the Nursing courses. With following all the rules and regulation of the government.

5. The accused respectfully submit that, the accused's college was established before the 2013-2014, hence there is no necessary to establish get themselves affiliated or parent Hospital to run the nursing courses as per the INDIAN NURSING COUNCIL Letter No. F.No. 1-5/2014-INC. which is also mentioned in the Inspection proforma for Nursing. Thus the rules pertaining to Nursing College have to get themselves affiliated with a parental Hospital will not be applicable to this Accused's college. Hence there is no necessary to send the parent Hospital details.
6. **The accused respectfully submits that, Moreover, the accused did not upload/submitted any documents in the name of Sacred Oak Multi-Specialty Hospital and the accused did not make false claim of having made a Payment of Rs. 75,000/- (Rupees Seventy-Five Thousand only) and provided the fake receipt of Scared Oak Multi-Specialty Hospital. It is further submitted that, the accused never-ever uploaded/submitted any Memorandum of Understanding and some other Documents as stated by the complaint in his complaint, the allegation made against accused is totally false and faraway from the truth and concocted. This complaint has created the documents which are stated by the complaint in his complaint and he filed this false complaint before this Hon'ble court only to Harass the accused with a Mala-fide intention.**
7. **The Accused respectfully submits that, has created the false and concocted story that, he filed an RTI application seeking the Documents uploaded by**

Ananya College of Nursing to know its's veracity. After receipt of the said documents is totally false and moreover, the entire plain reading of the complaint which is filed by the complainant, he never told that from where he obtained the documents and when he it was applied and where he got the documents, it is clearly shows that, the complainant created the false documents and filed this false complaint against to this accused.

8. The Accused respectfully submits that, the complainant's wife by name Dr. Somi Solomon, she is also working with complainant in the Sacred Oak Hospital and the Accused have sent a requesting letter to the Complainant's college i.e., Sacred Oak Hospital on: 03/07/2022 through their letter Ref: No. ANCON/HOSPITAL/NSG-25/2022-23 and requested the Complainant to sending their BSc Nursing Students to Clinical practice in the complainant's Hospital for that the complaint had given the permission to the accused to send their students to complainant's Hospital. Further, **the complainant and his wife are made wats up chats with accused regarding the students' requirements and attendance and other things. Now this complaint is stated in his complaint that, the complaint Hospital neither the complainant nor anyone connected or associated with their organization it's totally false and suppressing the complaint suppressing the real facts, and created this false case against to this accused.**
9. **The accused respectfully submits that, the accused have submitted the genuine documents to the Karnataka State Nursing council arid he never uploaded the documents which are stated in the complaint by the complainant anywhere.**
10. The accused respectfully submits that, the accused's nursing college was tie-up with the Neo True North Hospitals, No. 01, Sy No. 110/4 Electronic City phase -1 Bengaluru-560 100 and Kauvery Hospital, Konappana Agrahara, Electronic City, Bengaluru 560 100 and made Memorandum of Understanding with both colleges for Entrepreneurial Skill Development Hospital trainings,

research, placement and related services and the said MOU's and other related documents are submitted before the Karnataka Nursing council.

- 11. The accused respectfully submits that, as per the Indian Nursing Council's Resolutions approved by governing body for improvement of nursing educational standards, the nursing institute shall have 100 bedded parent hospital for opening new GNM/B.Sc. (N)- programme. But the complaint Hospital did not have 100 beds. Thus, the accused stopped to send his college for students and to the complainant's hospital, thus he created this false complaint and documents against to the accused. Moreover, the accused did not give the same uniform of complainant's hospital as stated by the complainant, which is totally false.**
12. The accused respectfully submits that, on 24/01/2025 he lodged the false complaint before the Parappana Agrahara police station, the said police have registered the same has GSC No. PO1800250600173. After that the compliant filed this false complaint, after receiving of the notice/summons from this Hon'ble court, the accused filed the RTI and obtained the documents which are received by the police from the Karnataka state nursing council. In the said documents there is no documents as mentioned by the complainant in his complaint. Moreover, the complaint never made any forgery, cheating, misrepresentation with complaint or with his Hospital. Moreover the complaint is one of the director of the Somideep Healthcare Pvt Ltd, and which runs the Sacred Oak Hospital. He did not obtained any authorization file this complaint against to this accused. Hence, this complaint is liable to be dismissed.
13. The accused respectfully submits that, the complaint filed this false case against to this accused with malafide intention and creates the false documents against to this accused and filed this false complaint without material and merits. The complainant filed this complaint against to this accused's college to damage the reputation and respect of the college. The complaint did not filed a prima

facie against to this accused. The complaint filed false case only to harass the accused and gave threat to him and he filed this case with mala-fide intention. Thus, this complaint liable to be dismissed."

The concerned Court takes cognizance of the offence and registers

C.C.No.20318 of 2026 by the following order:

"ORDER

The complainant has filed this complaint under section 223 of BNSS, 2023 against the accused person for the offences punishable under section 316, 318, 319, 336, 337, 338, 125 of BNS, 2023.

2. Further the sworn statement of complainant recorded as CW-1 and documents got marked as per Ex.C-1 to Ex.C-8.

3. It is pertinent to note that as per the Section 223 Proviso stated that no cognizance of an offence shall be taken by the Magistrate without giving the accused an opportunity of being heard. Hence, before taking cognizance this Court given an opportunity to the accused person for hearing/submission under section 223 Proviso of BNSS. After summons received by the accused person appeared before the court through his counsel and filed the objections to the complainant case and also filed the written arguments and some xerox documents.

4. The learned counsel for accused person filed objection, where in it is contended that he is a Doctor, and he is the Director of Somideep Healthcare Pvt. Ltd., which runs the Sacred Oak Hospital, a healthcare facility located near Royal Oak Furniture, Phase-2, Electronic City, Hosur Main Road, Bangalore and his hospital duly registered under the Karnataka Private Medical Establishment (Amended) Act 2018- and Rules 2018, is a recognized Level 2 facility, providing medical services under the Allopathy System of Medicine. The complainant has a good reputation for providing quality services to our patients. It is further contended that Ananya College of Nursing states that they have a tie up with the Sacred Oak Multi-Specialty Hospital,

which is not true. Ananya College also make false claim of having made a payment of Rs.75,000/- on 27.02.2024 by providing fake receipt of the complainant's hospital. This has not been received by their hospital. **Ananya College of Nursing also uploaded certain documents which are not legible and claimed Sacred Oak Hospital as their parent hospital with Karnataka State Nursing Council. Further he claimed RTI application seeking the documents uploaded by the Ananya College of Nursing to know its veracity. After receipt of the said documents complainant realize that all the documents attached were fake and forged signature in the documents.** The complainant hospital is not in a position to take on any other nursing college as false proof have been submitted on affiliation. The allegations made by the complainant is imaginary and baseless allegations, without proper evidence/documents he is trying to file the false case against the accused only to harass the accused damage the reputation of the accused college reputation in the society. The accused is a Director of the Ananya College of Nursing which running under the M.S.M. Foundation Trust ®, the said accused is the President of the said trust and the said college was obtained a permission from the-Karnataka State Government in the year 2004-05 to run the Nursing College in the name and style Ananya College of Nursing and running the college with following all the rules and regulation of the Government. After the false complaint registered by the Parappana Agrahara PS he received the summons from this Hon'ble court, the accused filed the RTI and obtained the documents which are received by the Police from the Karnataka State nursing council. There is no documents as mentioned by the complainant in his complaint. The complaint never made any forgery, cheating, misrepresentation with complaint or with his hospital. The complaint is one of the Director of the Somideep Healthcare Pvt. Ltd., and which runs the Sacred Oak Hospital. He did not obtained any authorization to file this complaint against to this accused and prayed to dismiss the complaint.

5. It is pertinent to note that the documents marked by the complainant as Ex.C-1 to Ex.C-8. These documents clearly shows that there is a prima facie case in favour of the complainant.

6. At this stage on plain reading of the complaint and perusal of the materials available on record and sworn statement of the complainant has made out prima facie case. Hence, cognizance is taken against the accused person for the offences punishable under section 316, 318, 319, 336, 337, 338, 125 of BNS. There are sufficient materials to prosecute the accused person for the offences punishable under sections 316, 318, 319, 336, 337, 338, 125 of BNS. Hence, I proceed to pass the following;

ORDER

Office is hereby directed to register this case in calendar case Register No.III against the accused person for the offences punishable under section 316, 318, 319, 336, 337, 338, 125 of BNS and issue summons to the accused person and compelling his appearance on 24.04.2026."

(Emphasis added at each instance)

9. The issue that now falls for consideration is, whether the narrative of the complainant bears even a semblance of truth, or whether it crumbles when tested against admitted and incontrovertible circumstances. The answer to this issue lies in the documents placed on record by the petitioner, which speak louder than the allegations in the complaint.

10. The petitioner has placed before the Court copies of the Memoranda of Understanding entered into by the petitioner-College

with different hospitals, for the very purpose for which the complainant now alleges that a Memorandum of Understanding had been entered into with his hospital. For the academic year 2023-2024, the petitioner had entered into a Memorandum of Understanding with Mathru Hospital. This was followed by a Memorandum of Understanding with Neo TrueNorth Hospitals and, later, with Kauvery Hospital. What assumes significance, and indeed strikes at the very root of the allegation, is that all these hospitals are hospitals having a bed strength of 100 beds or more.

11. The respondent-complainant, Sacred Oak Hospital, presents an altogether different picture. Its certificate of registration was valid up to 18-08-2026. The information available in the public domain on the website of the Department of Health and Family Welfare depicts the hospital of the complainant to be a **28-bedded hospital and not a 100-bedded hospital**. This is not even seriously in dispute. The respondent himself admits that his hospital has only 28 beds. This admitted circumstance assumes overwhelming significance in the light of the statutory prescription governing nursing colleges. The statutory regime mandates that,

for a nursing college to conduct the course in question, it must have the requisite affiliation or clinical tie-up with a hospital possessing a minimum bed strength of 100 beds. The respondent's hospital, admittedly possessing only 28 beds, could never have satisfied this statutory requirement. Therefore, any Memorandum of Understanding with the respondent's hospital would be of no statutory utility whatsoever to the petitioner.

12. A pointed query was, therefore, posed by the Court: **why would the petitioner fabricate a Memorandum of Understanding with a 28-bedded hospital, when such a document could confer no advantage, statutory recognition or benefit upon the petitioner?** The query cuts at the very foundation of the complaint. No plausible answer emerges.

13. Forgery, like every other offence, must have a purpose or an object sought to be achieved. A person may fabricate a document to secure a benefit, evade a liability, create a right, extinguish an obligation or otherwise gain an advantage, which the genuine state of affairs would not confer upon him. But to allege that a person fabricated a document, which even if accepted as

genuine, would be wholly useless to him, is to attribute criminality without either motive or consequence. **A fabrication that fabricates no advantage is, in the peculiar facts of the case, an allegation that defeats itself.**

14. The allegation of the complainant, therefore, runs headlong into an insurmountable circumstance: the petitioner could gain absolutely nothing by entering into, much less fabricating a Memorandum of Understanding with the respondent. When the admitted bed strength of the respondent's hospital rendered it statutorily incapable of serving the very purpose for which such Memoranda of Understanding are entered into, the theory of fabrication becomes inherently improbable.

15. There is yet another circumstance which cannot be brushed aside. **The learned counsel for the petitioner submits that the petitioner-College and the hospital of the complainant are situated cheek by jowl.** According to him, professional and commercial rivalry between the two establishments has supplied the genesis for the complaint. Viewed in the backdrop of the admitted circumstances narrated

hereinabove, the submission does not appear to be without substance. **The complaint appears to be the product of a rivalry dressed in the apparel of criminal law. What therefore emerges is that the respondent has twined a tale, clothed it as a complaint and sought to set the criminal law in motion as an instrument of vengeance.**

16. Criminal law cannot be permitted to become a weapon in the hands of a business rival to settle professional scores. The coercive machinery of criminal prosecution cannot be activated merely by adorning a commercial or professional dispute with expressions of cheating, fabrication or forgery. If the petitioner could derive no statutory benefit from an association with a 28 bedded hospital; if the statutory requirement was a tie-up with a 100-bedded hospital; if the petitioner had, in fact, entered into Memoranda of Understanding with hospitals satisfying that requirement; and if the respondent admittedly did not satisfy it, the substratum on which the complaint is constructed disappears. What then remains is an allegation bereft of probability and a prosecution bereft of foundation. Therefore, neither the ingredients of the

offences alleged under Sections 316 and 318 of the BNS nor those relating to forgery can, *prima facie*, be said to be met in the case at hand. Since these are the offences that are now pressed into service to sustain the impugned proceedings, I deem it appropriate to notice the provisions and their ingredients. They read as follows:-

"316. Criminal breach of trust.—(1) Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits criminal breach of trust.

Explanation 1.—A person, being an employer of an establishment whether exempted under Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) or not who deducts the employee's contribution from the wages payable to the employee for credit to a Provident Fund or Family Pension Fund established by any law for the time being in force, shall be deemed to have been entrusted with the amount of the contribution so deducted by him and if he makes default in the payment of such contribution to the said Fund in violation of the said law, shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid.

Explanation 2.—A person, being an employer, who deducts the employees' contribution from the wages payable to the employee for credit to the Employees' State Insurance Fund held and administered by the Employees' State Insurance

Corporation established under the Employees' State Insurance Act, 1948 (34 of 1948) shall be deemed to have been entrusted with the amount of the contribution so deducted by him and if he makes default in the payment of such contribution to the said Fund in violation of the said Act, shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid.

Illustrations

- (a) A, being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed criminal breach of trust.
- (b) A is a warehouse-keeper Z going on a journey, entrusts his furniture to A, under a contract that it shall be returned on payment of a stipulated sum for warehouse room. A dishonestly sells the goods. A has committed criminal breach of trust.
- (c) A, residing in Kolkata, is agent for Z, residing at Delhi. There is an express or implied contract between A and Z, that all sums remitted by Z to A shall be invested by A, according to Z's direction. Z remits one lakh of rupees to A, with directions to A to invest the same in company's paper. A dishonestly disobeys the directions and employs the money in his own business. A has committed criminal breach of trust.
- (d) But if A, in illustration (c), not dishonestly but in good faith, believing that it will be more for Z's advantage to hold shares in the Bank of Bengal, disobeys Z's directions, and buys shares in the Bank of Bengal, for Z, instead of buying company's paper, here, though Z should suffer loss, and should be entitled to bring a civil action against A, on account of that loss, yet A, not having acted dishonestly, has not committed criminal breach of trust.
- (e) A, a revenue officer, is entrusted with public money and is either directed by law, or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. A

dishonestly appropriates the money. A has committed criminal breach of trust.

- (f) A, a carrier, is entrusted by Z with property to be carried by land or by water. A dishonestly misappropriates the property. A has committed criminal breach of trust.

(2) Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

(3) Whoever, being entrusted with property as a carrier, wharfinger or warehouse-keeper, commits criminal breach of trust in respect of such property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

(4) Whoever, being a clerk or servant or employed as a clerk or servant, and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

(5) Whoever, being in any manner entrusted with property, or with any dominion over property in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent commits criminal breach of trust in respect of that property, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

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318. Cheating.—(1) Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes

or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to cheat.

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

Illustrations

- (a) A, by falsely pretending to be in the Civil Service, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.
- (b) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.
- (c) A, by exhibiting to Z a false sample of an article intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats.
- (d) A, by tendering in payment for an article a bill on a house with which A keeps no money, and by which A expects that the bill will be dishonoured, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.
- (e) A, by pledging as diamonds articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.
- (f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.
- (g) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such

delivery. A cheats; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

- (h) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.
- (i) A sells and conveys an estate to B. A, knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z, without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z. A cheats.

(2) Whoever cheats shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

(3) Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound, either by law, or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

(4) Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

319. Cheating by personation.—(1) A person is said to cheat by personation if he cheats by pretending to be some other person, or by knowingly substituting one person for or another, or representing that he or any

other person is a person other than he or such other person really is.

Explanation.—The offence is committed whether the individual personated is a real or imaginary person.

Illustrations

(a) A cheats by pretending to be a certain rich banker of the same name. A cheats by personation.

(b) A cheats by pretending to be B, a person who is deceased. A cheats by personation.

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336. Forgery.—(1) Whoever makes any false document or false electronic record or part of a document or electronic record, with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

(2) Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

(3) Whoever commits forgery, intending that the document or electronic record forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

(4) Whoever commits forgery, intending that the document or electronic record forged shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

337. Forgery of record of Court or of public register, etc.—Whoever forges a document or an electronic record,

purporting to be a record or proceeding of or in a Court or an identity document issued by Government including Voter Identity Card or Aadhaar Card, or a Register of Birth, Marriage or Burial, or a register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power of attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—For the purposes of this section, “register” includes any list, data or record of any entries maintained in the electronic form as defined in clause (r) of sub-section (1) of Section 2 of the Information Technology Act, 2000 (21 of 2000).

338. Forgery of valuable security, will, etc.—Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

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125. Act endangering life or personal safety of others.—Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to two thousand five hundred rupees, or with both, but—

- (a) where hurt is caused, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both;

- (b) where grievous hurt is caused, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine which may extend to ten thousand rupees, or with both."

A conspectus of the provisions alleged would reveal their distinct ingredients.

Section 316 of the BNS deals with criminal breach of trust and necessarily predicates entrustment of property or dominion over property, followed by its dishonest misappropriation, conversion, use or disposal contrary to law or the terms of such entrustment. **Thus, *entrustment coupled with dishonest misappropriation* lies at the heart of the offence.**

Section 318 of the BNS deals with cheating. Its essential foundation is *deception*, followed by fraudulent or dishonest inducement causing a person to deliver or permit retention of property, or intentionally inducing him to do or omit something, which he would not otherwise have done or omitted, resulting in, or being likely to result in, harm. **Therefore, deception and dishonest intention at the inception of the transaction constitute the gravamen of the offence.**

Section 319 of the BNS concerns cheating by personation. **The offence arises when cheating is committed by pretending to be another person.**

Section 336 of the BNS defines forgery. It requires making of a false document or false electronic record with the requisite intent - *inter alia*, to cause damage or injury, support a claim or title, cause a person to part with property or enter into a contract, or commit fraud. Sub-section (3) provides an enhanced punishment where the forgery is intended to be used for cheating. **Thus, mere existence of a disputed document would not constitute forgery; the making of a *false document with the statutorily prescribed intent* is indispensable.**

Section 337 of the BNS is an aggravated species of forgery concerning records of Courts, public registers, Government identity documents.

Section 338 of the BNS deals with forgery of documents of particular legal or proprietary significance, such as valuable securities, wills, documents authorising receipt or transfer of money

or property, and receipts or acquittances acknowledging payment or delivery. Owing to the gravity of such documents, the provision prescribes punishment extending even to imprisonment for life.

Section 125 of the BNS, standing on a different footing, punishes a rash or negligent act which endangers human life or the personal safety of others. The punishment becomes progressively graver where such act results in hurt or grievous hurt. **Therefore, rashness or negligence endangering life or personal safety is the *sine qua non* of the provision.**

Thus, Sections 316 and 318 of the BNS require foundational elements of **entrustment/dishonest misappropriation and deception/dishonest inducement respectively**; Sections 336 to 338 of the BNS revolve around the **making of a false document with the requisite fraudulent intent**, with Sections 337 and 338 dealing with aggravated forms of forgery; Section 319 of the BNS requires **personation**; and Section 125 of the BNS requires a **rash or negligent act endangering human life or personal safety**. It is on the touchstone of these essential ingredients that the

allegations in the complaint and the order of cognizance must be tested.

17. A juxtaposition of the allegations in the complaint and the order of cognizance, with the ingredients necessary to constitute the offences alleged, even at a *prima facie* stage, would reveal a complete mismatch. The allegations simply do not travel anywhere near the ingredients of the provisions invoked.

17.1. The first offence alleged is under **Section 316 of the BNS**, which deals with criminal breach of trust. The very substratum of criminal breach of trust is *entrustment*. There must first be entrustment of property, or dominion over property, by the complainant to the accused and thereafter dishonest misappropriation, conversion, use or disposal of such property. In the case at hand, entrustment is conspicuous by its absence. **It is not even the case of the complainant that any property was entrusted to the petitioner, much less that such property was dishonestly misappropriated. Therefore, Section 316 cannot even be *prima facie* laid at the door of the petitioner.**

17.2. The next offence alleged is under **Section 318 of the BNS**, which deals with cheating. For the offence of cheating to emerge, deception and dishonest intention must exist at the inception, pursuant to which the complainant should have been induced to deliver property or to do or omit to do something which he would not otherwise have done or omitted. **There is not a whisper in the complaint that the petitioner lured, deceived or dishonestly induced the complainant at the inception of any transaction. If there is no deception, there can be no dishonest inducement; and if there is no dishonest inducement, the offence of cheating cannot spring into existence.**

17.3. **Section 319 of the BNS** deals with cheating by personation. It requires the accused to cheat by pretending to be another person, knowingly substituting one person for another, or representing himself or another to be someone other than who he really is. No allegation remotely resembling personation is found in the complaint. The invocation of Section 319 is, therefore, equally inexplicable.

17.4. The remaining offences alleged are under **Sections 336, 337 and 338 of the BNS**, which concern forgery and its aggravated forms. **The fulcrum of the complainant's allegation is the alleged Memorandum of Understanding. As noticed hereinabove, an association with the respondent's 28-bedded hospital could confer no statutory advantage whatsoever upon the petitioner-College, when what was required was an association with a hospital possessing the prescribed bed strength. The petitioner had nothing to gain by either entering into or fabricating such a Memorandum of Understanding. The very purpose that could have supplied a fraudulent intent is thus absent.**

17.5. It becomes difficult to comprehend why the petitioner would forge a document which, even if treated as genuine, would be of no use to him. **Forgery without a conceivable object, benefit or fraudulent purpose, in the peculiar facts of the case, becomes an allegation bereft of foundation.** When the alleged Memorandum of Understanding could neither secure affiliation nor satisfy the statutory requirement nor confer any other

advantage upon the petitioner, the theory of its fabrication becomes inherently improbable.

17.6. Therefore, there is neither criminal breach of trust, for want of entrustment; nor cheating, for want of deception and dishonest inducement; nor cheating by personation, for want of personation; nor forgery, for want of the foundational ingredients necessary to constitute the offence. **The provisions appear merely to have been arrayed in the complaint; their ingredients are nowhere to be found in its narrative. Criminal offences cannot be generated by the mere citation of penal provisions, when the facts necessary to breathe life into those provisions are themselves absent.**

18. The case at hand, therefore, becomes a **classic illustration of a dispute resting entirely in the realm of civil law being deliberately draped in the colour of crime.** The fulcrum of the controversy is nothing but a Memorandum of Understanding, the very existence and genuineness of which is disputed. Even assuming that a dispute concerning such Memorandum of Understanding survives, it would remain one

concerning civil rights and obligations between the parties. The criminal law cannot be permitted to be invoked merely to lend coercive teeth to a dispute which is essentially civil in character. **A civil dispute does not metamorphose into a crime merely because allegations of cheating, breach of trust and forgery are sprinkled over the complaint.** The facts must breathe life into the ingredients of the offences alleged; where those ingredients are absent, mere nomenclature cannot convert a civil disagreement into a criminal prosecution.

THE JUDICIAL LANDSCAPE:

19.1. The Apex Court in **DEEPAK GABA v. STATE OF UTTAR PRADESH**¹, has held as follows:

"....

29. In *Thermax [Thermax Ltd. v. K.M. Johnny, (2011) 13 SCC 412: (2012) 2 SCC (Cri) 650]*, it was pointed out that the court should be watchful of the difference between civil and criminal wrongs, though there can be situations where the allegations may constitute both civil and criminal wrongs. The court must cautiously examine the facts to ascertain whether they only constitute a civil wrong, as the ingredients of criminal wrong are missing. A conscious application of the said aspects is required by the Magistrate, as a

¹ (2023) 3 SCC 423

summoning order has grave consequences of setting criminal proceedings in motion.

30. Even though at the stage of issuing process to the accused the Magistrate is not required to record detailed reasons, there should be adequate evidence on record to set the criminal proceedings into motion. The requirement of Section 204 of the Code is that the Magistrate should carefully scrutinise the evidence brought on record. He/She may even put questions to complainant and his/her witnesses when examined under Section 200 of the Code to elicit answers to find out the truth about the allegations. Only upon being satisfied that there is sufficient ground for summoning the accused to stand the trial, summons should be issued. [*Birla Corpn. Ltd. v. Adventz Investments & Holdings Ltd.*, (2019) 16 SCC 610; (2020) 2 SCC (Cri) 828; (2020) 2 SCC (Civ) 713; *Pepsi Foods Ltd. v. Judicial Magistrate*, (1998) 5 SCC 749; 1998 SCC (Cri) 1400]; and *Mehmood Ul Rehman v. Khazir Mohammad Tunda*, (2015) 12 SCC 420; (2016) 1 SCC (Cri) 124.]

31. Summoning order is to be passed when the complainant discloses the offence, and when there is material that supports and constitutes essential ingredients of the offence. It should not be passed lightly or as a matter of course. When the violation of law alleged is clearly debatable and doubtful, either on account of paucity and lack of clarity of facts, or on application of law to the facts, the Magistrate must ensure clarification of the ambiguities. Summoning without appreciation of the legal provisions and their application to the facts may result in an innocent being summoned to stand the prosecution/trial. Initiation of prosecution and summoning of the accused to stand trial, apart from monetary loss, sacrifice of time, and effort to prepare a defence, also causes humiliation and disrepute in the society. It results in anxiety of uncertain times."

19.2. The Apex Court in **JUPALLY LAKSHMIKANTHA REDDY v. STATE OF ANDHRA PRADESH**² has held as follows:

" "

10. The gist of the accusation in the impugned chargesheet is that the appellant had dishonestly used a fake NOC from the Fire Department to obtain recognition/renewal of affiliation to run the educational institution. It is evident from the order passed in the writ proceedings that NOC from the Fire Department was not necessary for recognition/renewal of affiliation of educational institutions which are imparting education from the buildings having height below 15 metres.

11. Admittedly, the appellant's educational institution is in a building having height of 14.20 metres and no NOC affiliation from the Fire Department is necessary for obtaining recognition/renewal.

12. The ingredients of the offence of cheating are as follows:

- 1) Deception of a person by making false representation which the maker knows or has reason to believe is false and thereby**
- 2)(a) Fraudulently or dishonestly inducing such person:**
 - (i) to deliver any property to any person, or**
 - (ii) to consent that any person shall retain any property, or**
- (b) Intentionally induces that person to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property.**

² 2025 SCC OnLine SC 1950

13. The words 'dishonestly' and 'fraudulently' are defined as follows:

"24. "Dishonestly"—

Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing "dishonestly".

25. "Fraudulently"—

A person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise."

Section 23 IPC defines wrongful loss/wrongful gain:

"Wrongful gain": Wrongful gain is gain by unlawful means of property to which the person gaining is not legally entitled.

"Wrongful loss": Wrongful loss is the loss by unlawful means of property to which the person losing it is legally entitled."

Reading the ingredients in the backdrop of these definitions, it is evident in order to attract the offence of cheating, a person must knowingly make a false statement which would induce another to part with property or to do or omit to do a thing which the latter would not do or omit unless deceived and thereby is likely to suffer damage/harm in body, mind, reputation or property.

14. In *Dr. Sharma's Nursing Home v. Delhi Admn.*, this Court held mere deception by itself would not constitute cheating unless the other essential ingredient, i.e., dishonest inducement is established. This Court held as follows:

"...both the learned courts have rested their findings on deception only and did not go into the question whether the complaint and its accompaniments disclosed the other essential ingredient of the offence under Section 420 IPC, namely, dishonest inducement. "Dishonesty" has been defined in Section 24 IPC to mean deliberate intention to cause wrongful gain or wrongful loss; and when with such intention, deception

is practised and delivery of property is induced then the offence under Section 420 IPC can be said to have been committed..."

15. In *Hridaya Ranjan Prasad Verma v. State of Bihar*⁶, this Court reiterated that Section 415 IPC contemplates two distinct situations; the first where a person is dishonestly induced to deliver property, and the second where a person is induced to do or omit an act which, but for the deception, he would not have done or omitted. In the former, the inducement must be fraudulent or dishonest, whereas in the latter it need only be intentional. Therefore, intention is the gist of the offence.

16. It is strenuously argued the appellant had used a fake NOC from the Fire Department and thereby held out a false representation that he possessed a valid NOC to obtain recognition/renewal of affiliation for his institution. Uncontroverted allegations in the charge sheet including the order in the writ proceedings, unequivocally show NOC from the Fire Department was not necessary for grant of such recognition/renewal of affiliation as the height of the appellant's building was below 15 metres. Given this situation, the representation of the appellant that he possessed a valid NOC cannot be said to have induced the Education Department to grant recognition or renew the affiliation. To attract penal consequences, it must be shown that the false representation was of a material fact which had induced the victim to either part with property or act in a manner which they would not otherwise do but for such false representation. In the absence of such vital link between the alleged false representation and the issuance of recognition/renewal of affiliation, the essential ingredient of offence is not satisfied.

17. Ms. Prerna Singh has also argued that though the chargesheet has been filed under Section 420, the contours of the offence of forgery are evident as the appellant has knowingly used a fake document.

18. We are unable to accept her submission on this score too. There is nothing on record to show the appellant had manufactured the alleged fake document which is a *sine qua non* to attract Section 465 IPC.² In fact, the original fabricated document had not been recovered.

19. In *Sheila Sebastian v. R. Jawaharaj*, this Court held to attract Section 464 IPC, the prosecution must establish that the accused had made the fake document. No material connecting the appellant to the making of the fake document has been adduced in the impugned charge sheet.

20. Similarly, offences under Section 468 IPC and Section 471 IPC are not attracted, as the requisite *mens rea*, i.e., dishonest intention to cause wrongful loss to the Education Department and wrongful gain to himself has not been demonstrated as the issuance of the recognition was not dependent on the production of the alleged forged NOC."

19.3. The Apex Court in **INDER CHAND BAGRI v. JAGADISH PRASAD BAGRI**³ has held as follows:

"....

17. The contents of the complaint would have to be read in light of the ingredients of Sections 406 and 420 of the IPC and the law settled by this Court through various judicial dicta. On perusal of the complaint dated 19.09.2013, it is noted that the complainant/respondent No. 1 has filed the said complaint invoking Sections 406/420 of the IPC. For ease of reference, the aforesaid Sections are extracted as under:

"406. Punishment for criminal breach of trust.— Whoever commits criminal breach of trust shall

³ 2025 SCC OnLine SC 2529

be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

xxx

420. Cheating and dishonestly inducing delivery of property.- Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

18. In *Inder Mohan Goswami v. State of Uttaranchal*, (2007) 12 SCC 1 : (2008) 1 SCC (Cri) 259 ("*Inder Mohan Goswami*"), while dealing with Section 420 of the IPC, this Court observed thus:

"42. On a reading of the aforesaid section, it is manifest that in the definition there are two separate classes of acts which the person deceived may be induced to do. In the first class of acts he may be induced fraudulently or dishonestly to deliver property to any person. The second class of acts is the doing or omitting to do anything which the person deceived would not do or omit to do if he were not so deceived. In the first class of cases, the inducement must be fraudulent or dishonest. In the second class of acts, the inducing must be intentional but need not be fraudulent or dishonest. Therefore, it is the intention which is the gist of the offence. To hold a person guilty of cheating it is necessary to show that he had a fraudulent or dishonest intention at the time of making the promise. From his mere failure to subsequently keep a promise, one cannot presume that he all along had a culpable intention to break the promise from the beginning."

19. In light of the facts and circumstances of the present case, we find that the complainant/respondent No. 1 has failed to make out a case that satisfies the

basic ingredients of the offence under Section 420 of the IPC. We fail to understand as to how the allegations against the appellant-accused herein could be brought within the scope and ambit of the aforesaid section. On a bare perusal of the complaint, we do not find that the offence of cheating as defined under Section 420 of the IPC is made out at all and we do not find that there is any cheating and dishonest inducement to deliver any property of a valuable security involved in the instant case.

20. It is settled law that for establishing the offence of cheating, the complainant/respondent No. 1 was required to show that the appellant-accused had a fraudulent or dishonest intention at the time of making a promise or representation of not fulfilling the partnership agreement. Such a culpable intention right at the beginning cannot be presumed but has to be made out with cogent facts. In the facts of the present case, there is a clear absence of material on record to attribute any dishonest and fraudulent intention to the appellant-accused at the time of creation of partnership agreement. We must hasten to add that there is no allegation in the complaint indicating either expressly or impliedly any intentional deception or fraudulent/dishonest intention on the part of the appellant-accused right from the time of formation of the partnership deed. Nothing has been said on what the misrepresentations were and how the appellant-accused intentionally deceived the complainant/respondent No. 1. Mere allegations that the appellant-accused dishonestly induced the complainant/respondent No. 1 to part with the property of the partnership firm and subsequently sold the property to a third party does not satisfy the test of dishonest inducement to deliver a property or part with a valuable security as enshrined under Section 420 of the IPC.

21. On perusal of the allegations contained in the complaint, in the light of the ingredients of Section 406 of the IPC, read in the context of Section 405 of the IPC, we again fail to see how an offence of criminal breach of trust can be

made out. **It is a trite law that every act of breach of trust may not result in a penal offence unless there is evidence of a manipulating act of fraudulent misappropriation of a property entrusted to him. In the case of criminal breach of trust, if a person comes into possession of the property and receives it legally, but illegally retains it or converts it to its own use against the terms of contract, then the question whether such retention is with dishonest intention or not and whether such retention involves criminal breach of trust or only civil liability would depend upon the facts and circumstances of the case.**

22. In the present case, the complainant/respondent No. 1 has failed to establish ingredients essential to constitute an offence under Section 406 of the IPC. The complainant/respondent No. 1 has failed to place any material on record to show us as to how he had entrusted the subject property to the appellant-accused. Furthermore, the complaint/respondent No. 1 also omits to aver as to how the property, so entrusted to the appellant-accused, was dishonestly misappropriated or converted for his own use, thereby committing a breach of trust. On the contrary, the bare perusal of the partnership deed dated 01.10.1976 shows that the disputed property was solely owned and enjoyed by the appellant-accused wherein as per Clause 4 of the said agreement he agreed to bring into the partnership the said disputed property. We must hasten to mention herein that upon reading of the supplementary agreement dated 03.04.1981, it becomes amply clear that all the partners including the complainant/respondent No. 1 had agreed that upon expiry of the lease period of 15 years with the Food Corporation of India i.e. 01.06.1993, the said land would revert back to the appellant-accused along with all the constructions erected upon it. In the facts of the present case, the complainant/respondent No. 1 cannot be allowed to blow hot and cold at the same time wherein on one hand, through the supplementary deed, he has agreed upon the reversion of the said disputed property back to the original owner i.e. appellant-accused and yet on the other hand has proceeded to file a complaint alleging cheating and misappropriation of said disputed property against appellant-accused.

23. Furthermore, it is pertinent to mention that if it is the case of the complainant/respondent No. 1 that the offence of criminal breach of trust as defined under Section 405 of the IPC, punishable under Section 406 of the IPC, is committed by the accused, then in the same breath it cannot be said that the accused has also committed the offence of cheating as defined in Section 415, punishable under Section 420 of the IPC. This Court in *Delhi Race Club (1940) Limited v. State of Uttar Pradesh*, (2024) 10 SCC 690 : (2025) 1 SCC (Cri) 281 observed that there is a distinction between criminal breach of trust and cheating. For cheating, criminal intention is necessary at the time of making false or misleading representation i.e. since inception. In criminal breach of trust, mere proof of entrustment is sufficient. Thus, in case of criminal breach of trust, the offender is lawfully entrusted with the property, and he dishonestly misappropriated the same. Whereas, in case of cheating, the offender fraudulently or dishonestly induces a person by deceiving him to deliver a property. In such a situation, both offences cannot co-exist simultaneously. Consequently, the complaint cannot contain both the offences that are independent and distinct. The said offences cannot coexist simultaneously in the same set of facts as they are antithetical to each other.

24. The complainant/respondent No. 1 has an alternative remedy of filing a civil suit to set aside the sale deed dated 20.06.2011 and claim damages for the alleged violation of his contractual rights which he is already pursuing *vide* Title Suit No. 160 of 2012 against the appellant-accused which is currently pending adjudication and hence the route through criminal proceedings, when no ingredient of offence is made out, cannot be permitted. **Criminal law ought not to become a platform for initiation of vindictive proceedings to settle personal scores and vendettas. The appellant-accused therefore, in our view, could not be attributed any *mens rea* and therefore, the allegations levelled by the prosecution against the appellant-accused are unsustainable.**

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

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

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

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

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR

do not disclose a cognizable offence, justifying an investigation by police officers Under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

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

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

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

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

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

27. On a careful consideration of the aforementioned judicial dicta, we find that none of the offences alleged against the appellant-accused herein is made out. In fact, we find that the allegations of criminal intent and other allegations against the appellant-accused herein have been made with a *mala-fide* intent and therefore, the judgment of this Court in the case of *Bhajan Lal* extracted above, squarely applies to the facts of these cases. It is neither expedient nor in the interest of justice to permit the present prosecution to continue.

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

19.4. Again, the Apex Court in **SUNISHA ANAND v. STATE OF HARYANA**⁴ has held as follows:

"....

4. The allegation as seen from the first FIR is that the appellant is the daughter of one Onkar Singh and Mohinder Kaur, who are title holders to certain properties. Onkar Singh having died, the appellant also obtained right over the said property by way of succession. It is the allegation that the mother of the appellant got fake GPAs executed and registered on the strength of which lands were transferred to the accused Pratap Singh and Prem Pal, who entered into further conveyances with respect to the same properties. It was also alleged that the appellant and her mother did not have title over the entire properties, the title to a portion of which having been divested by transfer to the Government. In the first FIR, the first information statement refers to the appellant, but the appellant was not made one of the accused. In the second FIR

⁴ 2026 SCC OnLine SC 859

produced as Annexure P10 the very same allegations are levelled and there is nothing unearthed to find the culpability of the appellant herein but for a reference to a *jamabandi* having been referred to in the document, which in fact does not exist.

5. As we see from the records, the de-facto complainant, the second respondent is said to be in possession of certain lands, which was the subject matter of the transaction alleged. The appellant along with her mother is said to have executed a GPA on the strength of which and by a separate sale deed having conveyed certain properties to the accused. We are unable to comprehend how the GPA can be termed as fake or fraudulent, when the very contention is that the GPAs were executed by the mother and daughter. Further the *jamabandi* having been noticed in the sale deed or the vendors having conveyed more property than they had title over cannot lead to any criminal liability as such; which if at all alleged, should be by the purchasers. Here, a person alleged to be in occupation of a land has filed the complaint and we are unable to find any reason on facts as disclosed from the FIR to even allege any criminality on the appellant herein. Admittedly, there is a civil suit pending as initiated by the de-facto complainant. Criminal law cannot be used to further the cause in a purely civil dispute."

19.5. The Apex Court in **NARAYANA HEALTH v. STATE OF WEST BENGAL**⁵ has held as follows:

" "

10. The appellants had approached the High Court against issuance of process by the Magistrate by invoking its inherent jurisdiction under Section 482 of the CrPC. The circumstances in which the High Court can exercise its power and jurisdiction under Section 482 to quash criminal proceedings is well articulated in a number of precedents,

⁵ 2026 SCC OnLine SC 844

commencing with the celebrated decision of this Court in *State of Haryana v. Bhajan Lal*, the relevant excerpt of which is as follows-

- "1. *Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
2. *Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
3. *Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
4. *Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.*
5. *Where the allegations made in the FIR or complaint are so absurd and inherently improbable, on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*
6. *Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*

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

11. The complainant alleged commission of offences under Sections 405, 420 and 120B, IPC in his complaint. For criminal breach of trust under Section 405, IPC, it is necessary that there must be entrustment of property to the accused; such entrustment must create a fiduciary obligation regarding the handling or use of that property; and the accused must have dishonestly misappropriated or converted the entrusted property. Applying these principles to the present case, the allegations in the complaint indicate that the amount of Rs. 2,500/- was paid by the complainant as part of the hospital bill towards charges for an HRCT test, at the time of discharge of the patient. The complaint does not contain any averment that the amount in question was entrusted to the hospital to be held or utilised for a fiduciary or trust-based purpose, nor does it refer to any legal or contractual stipulation governing the manner in which such amount was required to be dealt with or any other averment to show as to how Section 405, IPC is made out. Furthermore, upon mistake being pointed out, the hospital had offered to refund the amount wrongly charged. Thus, in the absence of entrustment, dishonest misappropriation, or violation of a fiduciary obligation, foundational ingredients of the offence of criminal breach of trust as enshrined in Section 405, IPC are not satisfied.

12. For the offence of cheating under Section 420, IPC there must be deception on part of the accused from the very beginning; such deception must lead to fraudulent or dishonest inducement; and the accused must have had dishonest intention at the time the inducement was made. The allegation in the complaint is merely that the bill issued by the hospital reflected charge for a test that was not performed. Once

the issue of wrong charge was raised by the complainant, the hospital communicated its decision to refund the amount. The discrepancy in billing appears to be more of an inadvertence, than a case of dishonest intention on part of the hospital. We are of the opinion that the allegation of cheating is completely misplaced."

19.6. A conspectus of the afore-quoted judgments of the Apex Court would yield a few unmistakable principles.

19.6.1. In **DEEPAK GABA** *supra*, the Apex Court cautions that Courts must remain alive to the distinction between a civil wrong and a criminal offence. Criminal process cannot be issued merely because allegations are made; the material must disclose the essential ingredients of the offence, as summoning an accused carries grave consequences.

19.6.2. Most significantly, in **JUPALLY LAKSHMIKANTHA REDDY** *supra*, the Apex Court deals with a situation strikingly akin to the case at hand. The allegation concerned use of a fake no-objection certificate for obtaining recognition/renewal of affiliation of an educational institution. The Apex Court found that the no-objection certificate itself was not necessary for obtaining such recognition and, therefore, its alleged production could not

have induced the authority to grant any benefit. The Apex Court holds that a false representation must concern a **material fact which actually induces the victim to act**; in the absence of that vital link, cheating is not made out. Equally, forgery requires material demonstrating that the accused had himself made the false document, coupled with the requisite *mens rea*; mere allegation concerning a fake document would not suffice.

19.6.3. In **INDER CHAND BAGRI** *supra*, the Apex Court sounds a further note of caution that criminal law ought not to become a platform for vindictive proceedings intended to settle personal scores or vendettas. Where the ingredients of the offences are absent, continuation of criminal proceedings itself becomes harassment, warranting interference by this Court.

19.6.4. In **SUNISHA ANAND** *supra*, the Apex Court reiterates that criminal law cannot be pressed into service to further the cause of a dispute which is essentially civil in character. A transaction concerning property or contractual rights does not acquire criminality merely because allegations of fraud are appended to it.

19.6.5. In **NARAYANA HEALTH** *supra*, reiterating the principles laid down in **STATE OF HARYANA v. BHAJAN LAL** reported in **1992 Supp (1) SCC 335**, the Apex Court holds that criminal proceedings are liable to be interdicted where the allegations, even if accepted in their entirety, do not constitute an offence; where they are inherently improbable; or where the prosecution is actuated by *mala fides* or instituted to wreak vengeance. More importantly, criminal breach of trust necessarily requires **entrustment followed by dishonest misappropriation**, while cheating requires **deception and dishonest intention from the very inception**. In the absence of these foundational ingredients, prosecution cannot be sustained.

19.7. **Thus, the golden thread running through all the judgments is that criminality must emerge from the ingredients of the offence and not from the vocabulary employed in the complaint. A civil dispute cannot be transformed into a criminal prosecution by merely sprinkling allegations of cheating, breach of trust or forgery. Where there is no entrustment, no dishonest inducement, no**

wrongful gain, no corresponding wrongful loss and no material connecting the accused with the making of the alleged forged document, continuation of the criminal proceedings would become an abuse of the process of law.

19.8. If the facts obtaining in the case at hand are tested on the bedrock of the principles elucidated by the Apex Court in the afore-quoted judgments, the inevitable conclusion is that permitting further proceedings in **C.C.No.20318 of 2026** would amount to permitting an abuse of the process of law to continue and would, in consequence, result in miscarriage of justice. **Criminal law cannot be allowed to remain in motion when the very allegations that set it in motion do not make out the offences alleged.**

20. The submission of the learned counsel appearing for the respondent that, if this Court were to find fault with the order taking cognizance, the matter should be remitted to the concerned Court for reconsideration, is a submission that is noticed only to be rejected.

21. The order taking cognizance, to say the least, does not inspire confidence. What is more disquieting is that the certified copies of the documents appended to the sworn statement and maintained in the records of the concerned Court have been produced before this Court. A perusal thereof reveals that several of those documents are either blank or so illegible that they are incapable of being read by the naked eye. If the documents forming part of the very record before the concerned Court were unreadable, it is unfathomable as to how those documents could have furnished material for formation of an opinion that there existed sufficient ground to proceed against the petitioner.

22. Taking cognizance of an offence is not an empty formality, nor can it become a mechanical ritual of putting pen to paper. The order must demonstrate, at the least, application of mind to the allegations, the sworn statement and the material placed in support thereof. **An unreadable document cannot become readable merely because it finds a place in a judicial file; nor can illegible material supply a legible foundation for setting the criminal law in motion.** The manner in which

cognizance has been taken in the case at hand, baldly and cryptically, therefore, cannot receive the imprimatur of this Court. That, however, would not mean that the matter should be remitted merely to enable the concerned Court to pass a better-worded order of cognizance.

23. Remand is not a ritualistic consequence of every defective order. If the defect were only in the manner of consideration, remand may have been warranted. But the infirmity in the case at hand travels much deeper. As noticed hereinabove, **the allegations themselves do not cross the threshold necessary to constitute any of the offences alleged**. If the substratum of the complaint does not disclose an offence, remitting the matter for reconsideration of cognizance would only breathe artificial life into a prosecution that is otherwise stillborn. Therefore, while the manner in which cognizance has been taken deserves to be deprecated, the proceedings need not be remitted on that score. **No purpose known to law would be served by sending an inherently untenable complaint on a needless journey from this Court**

to the concerned Court and back again. The submission seeking remand is, therefore, rejected.

24. Thus, the **armoury of documents and the exposition of law by the Apex Court** marshalled by the learned counsel appearing for the petitioner Ms. Anagha S Desai, is so overwhelming that it demolishes every submission urged on behalf of the complainant/respondent and every contention projected in the statement of objections. The allegations, when juxtaposed with the admitted documents and tested on the touchstone of the law laid down by the Apex Court, simply do not survive scrutiny.

25. It is in circumstances of this nature that the Apex Court has repeatedly cautioned that, while exercising jurisdiction under Section 482 of the Cr.P.C./Section 528 of the BNSS, the High Court cannot remain a mute spectator to the weaponization of criminal law. The Court is entitled, and indeed duty-bound in an appropriate case, to look beyond the mere incantation of penal provisions and examine whether the criminal proceeding is a bona fide prosecution or a proceeding engineered to wreak vengeance, settle a personal

or professional score, or give a criminal complexion to an essentially civil dispute.

26. What remains, therefore, is a criminal proceeding **bereft of the ingredients of the offences alleged, founded upon an inherently improbable accusation and evidently employed to give a criminal colour to a dispute otherwise civil in character**. To permit such a proceeding to continue would be to allow the process of criminal law itself to become the punishment. The jurisdiction of this Court cannot lend its imprimatur to such an exercise. In that light, permitting further proceedings in the criminal case would not merely amount to an abuse of the process of law, but would result in **manifest and patent injustice to the petitioner**. The proceedings, therefore, deserve to be obliterated.

27. For the aforesaid reasons, the following: -

ORDER

- (i) Criminal Petition is **allowed**.
- (ii) Proceedings in C.C.No.20318 of 2026 arising out of P.C.R.No.8310 of 2025 and pending before the III

Additional Chief Judicial Magistrate, Bengaluru stand quashed.

- (iii) It is made clear that the observations made in the course of the order are only for the purpose of consideration of the case of petitioner under Section 528 of the BNSS and the same shall not bind or influence the proceedings before any other *fora*.

Ordered accordingly.

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

bkp
CT:MJ