THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

Crl.P.M.P.Nos.14791 of 2014 and 4817 of 2015 in Crl.P.No.11995 of 2014

and

Crl.P.No.11995 of 2014, Crl.P.Nos.2213, 2214, 2215 and 4280 of 2015

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COMMON ORDER:

The 5 quash petitions are filed to quash the proceedings in Cr.Nos.71 of 2013, 78 of 2013 and 266 of 2012 of Charminar Police Station-renumbered as Cr.Nos.231, 226 and 225 of 2014 by the CCS, DD, Hyderabad, and also the Cr. No.68 of 2013 of Charminar Police Station-renumbered as Cr.No.232 of 2014 by the CCS, DD, Hyderabad. The quash petition Nos.2213, 2214, 2215 and 4280 of 2015 are impugning the proceedings in Cr.Nos.71, 78 and 266(supra) and the quash petition No.11995 of 2014 is impugning the proceedings in Cr.No.68-(supra). The Crl.P.M.P.No.14791 of 2014 is filed by Sri M.V.Subbaiah and Sri G.Anil Kumar, employees of the High Court-cum-members of the Society-(R3&4 of quash petition No.11995 of 2014-impleaded as per orders in Crl.P.M.P.No.12348 of 2014, on 23-09-2014), to vacate the interim stay of the proceedings in Cr.No.68 of 2013-(supra) and the Crl.P.M.P.Nos.4817 of 2015 is filed by Sri Rajkumar K.N.P.M., employee of the High Court-cum-member of the Society to implead him as co-respondent-R5 to the quash petition No.11995 of 2014.

1.(i). All the quash petitioners/accused are the employees of the High Court of Judicature at Hyderabad vis-a-vis members-cum-office bearers of Managing Committee of the A.P. High Court Mutually Aided Co-operative Housing Society Limited (for short, ‘APHCMACHSL/Society’).

1.(ii). They are besides accused in the crime Nos.286 of 2012 & 68 of 2013, some among the accused, including officers of the Co-operative Department, in the Cr.Nos.71 of 2013, 78 of 2013 and 266 of 2012(supra). The Cr.Nos.71 of 2013, 78 of 2013 and 266 of 2012(supra), are registered on the respective private complaints of one Purshottam Reddy-(High Court employee & the Society Ex. Secretary)-A38 of the crime No.286 of 2012.

1.(iii). The crime Nos.286 of 2012 & 68 of 2013 are registered on the reports of said Sri G.Srinivasa Rao-(Joint Registrar-cum-District Co-operative Officer, Hyderabad).

In Cr.No.286 of 2012, there are 38 accused persons & in Cr.No.68 of 2013, there are 25 accused persons. The 9 quash petitioners are among the 25 accused of Cr.No.68 of 2013, who are among the 38 accused of Cr.No.286 of 2012 registered for the offences punishable under Sections 406, 409, 420 IPC and 38(2,3&4) of the MACS Act, and self same 38 respondents in Co.O.P.No.22 of 2013, filed under Section 31 read with 33(1) of the A.P. Mutually Aided Co-operative Housing Societies Act,1995 (for short, 'APMACS Act') pending before the Co-operative Tribunal, Hyderabad. They are all shown as members and acted as office bearers of the Adhoc or elected Managing Committee of the Society-either as chairman or President or Vice-president or Secretary or Treasurer or Director/s of the APHCMACHSL. The report in Cr.No.68 of 2013 was mainly based on the enquiry report dt.20.06.2002 on about 28 counts of the allegations. Even Cr.No.286 of 2012, dt.18.10.2012, was based on the enquiry report dt.20.06.2002, by referring to the direction of the High Court in the W.P.M.P.No.37324 of 2012 to the Joint Registrar of the Co-operative Department-(R2 herein) *to consider initiation of criminal proceedings against those found responsible for commissions and omissions as pointed out in the report by the Enquiry Officer*. The Cr.No.286 of 2012 is undisputedly no longer survives by virtue of the order in W.A.No.1366 of 2012, setting aside to the extent of direction in the W.P.M.P.No.37324 of 2012, dt.18.09.2012, to consider initiation of criminal proceedings against those found responsible for commissions and omissions as pointed out in the report by the Enquiry Officer and also the consequential proceedings of Cr.No.286 of 2012. It is subsequently, the Cr.No.68 of 2013, dt.25.02.2013 (supra) is registered for same offences and pending.

1.(iv). Before coming to the 5 quash petitions to quash the proceedings in the 4 Crimes bearing Nos.71 of 2013, 78 of 2013, 266 of 2012 & 68 of 2013(supra) with averments for the reliefs, the factual background requires to mention further is that:

1.(iv).(i). Said writ petition 29232 of 2012, was filed by one Sri A.Venkata Rami Reddy, retired Asst. Registrar of the High Court-cum-Member of the Society, against the Commissioner, Additional Registrar, Sri M.Raji Reddy-Enquiry Officer-cum-D.C.O. and the Society represented by its Secretary Sri P.Venkat Reddy. The interim prayer therein is to direct R.2 Additional Registrar not to permit R.4 Society to conduct Annual General Body meeting going to be held on 23.09.2012.

1.(iv).(ii). The interim order supra speaks that Enquiry Officer under the MACS Act submitted detailed report on 20.06.2012, whereunder found R.4 Society Managing Committee committed omissions and commissions of about 28 counts including improper accounting and financial misfeasance, notice issued by R.2 under Section 31 of the MACS Act to the President of R.4 Society with enquiry report to place before General Body meeting within 30 days and initiate action for rectification of defects and irregularities pointed out in the report. Challenge to the notice is without any basis. However, purporting to comply with said notice of R.2, R.4 Society issued notice dated 10.09.2012, listing 7 items in the agenda for discussion and only item No.7 relates to the enquiry report and all other relates to the Society business. The Managing Committee itself is under serious cloud, it is appropriate that the General Body may discuss items 1 to 6 in the agenda and no final decision thereon shall be taken. The General Body however is permitted to take appropriate decision on discussion only with respect to item No.7 in the agenda. In T.N.G. officers Vs. S.V.Prasad in C.C.No.919 of 2011, this Court held that completion of action on enquiry report is not a sine-quo-non for initiation of criminal prosecution as both are independent. <u>This Court however feels it appropriate that having regard to the commissions and omissions pointed out by the Enquiry Officer in his report on large scale basis, R.2 shall consider initiation of criminal proceedings against those who are found responsible as pointed in the enquiry report.</u>

1.(iv).(iii). Said direction in the W.P.M.P.No.37324 of 2012 was impugned by said Venkat Reddy by filing W.A.No.1366 of 2012 and there was interim suspension of the impugned direction in the order and ultimately, the <u>W.A.No.1366 of 2012 was allowed</u> setting aside to the extent of direction in the W.P.M.P.No.37324 of 2012 to consider initiation of criminal proceedings against those found responsible for commissions and omissions as pointed out in the report by the Enquiry Officer and also the consequential proceedings. Thus, the Writ Appeal was allowed quashing the proceedings including steps taken for registering Cr.No.286 of 2012 pursuant to the interim direction in the impugned W.P.M.P.No.37324 of 2012.

2. Among the quash petitions:

2.(i). The **quash petition Crl.P.No.11995 of 2014** is filed by 9 out of the 25 accused-(A14,16,18-21,23-25) of **<u>Cr.No.68 of 2013,</u>** viz., 1.P.Venkat Reddy(A1 of all the crimes), 2.KSN Murthy, 3.Md.Shameer, 4.D.Narsing Rao, 5.M.Nageswar Rao, 6.G.Devender, 7.P.Nagu Rao, 8.Md.Mahboob Sharif and 9.M.Muralidhar.

2.(i).(a). The Crime registered on 25.02.2013 from the report of Sri G.Srinivasa Rao, Joint Registrar-cum-D.C.O, Hyderabad, dated 31.01.2013, reads in nutshell that the proceedings of the Registrar MACS, dated 22.02.2012 and 25.05.2012 in ordered enquiry under Section 29(2) of MACS Act into the affairs of the Society and appointed D.C.O. to enquiry into the functioning and gross violation of the provisions of the Act by the Society with reference to 10 specific allegations mentioned and the enquiry officer conducted and completed and also submitted a detailed enquiry report (reference No.1 of police report) and the High Court of, A.P directed in W.P.no.29232 of 2012, on 18.09.2012 and legal opinion of Government pleader received (reference Nos.2 and 3 of police report), report given and registered as Cr.No.286 of 2012 on 18.12.2012 and while so orders received in W.A.1366.2012, dated 06.12.2012 setting aside the orders passed by Single Judge in W.P. No.29232 of 2012, by saying the provisions of the Act provided measures within the domain of the authority to take steps in the matter and it is their right to decide what steps they would avail, concerning the allegations of commissions and omissions are violations, referred to representation dated 05.01.2013 by A.V.Rami Reddy and 24 others and on 07.01.2013 by S.R.N.Tagore and 44 others to the Collector, Hyderabad and that based on the enquiry report findings presenting the fresh complaint for the offences under Section 38 of the MACS Act and the bye-laws and also the relevant sections of I.P.C. for the irregularities by detailing the same in several pages with reference to the enquiry officer’s report against 25 accused. The relevant portions of the enquiry report which are part of the police report being referred in the course of discussion in the later paras.

2.(i).(b). The averments in the quash petition Crl.P.No.11995 of 2014 are that, the petitioners are Directors of the Society and also office bearers of the Managing Committee of the Society, that Registrar of the ‘MACS’ by proceedings vide RC.No.11864 of 2011-HR-4, dated 22.02.2015 ordered an enquiry under Section 29 of the MACS Act, into the functioning of the Society authorising one District Co-operative Officer by name Raji Reddy to conduct an enquiry and submit report and after enquiry he submitted report dated 20.06.2012 pointing out commissions and omissions on as many as 28 counts and when the report was to be placed before General Body of the Society to be held on 23.09.2012, one A. Venkat Rami Reddy filed W.P.No.29232 of 2012 challenging the same including W.P.M.P.No.27324 of

2012 for interim orders and pursuant to which there was a direction by the High Court to the Joint Registrar of Co-op.(R2 herein) to consider initiation of criminal proceedings against those found responsible for commissions and omissions as pointed out in the report by the Enquiry Officer, that the 2nd respondent(Joint Registrar) filed a complaint/report before the Station House Officer, Charminar Police Station-R.1 represented by State and the same was registered as Cr.No.286 of 2012 dated 18.10.2012 and while so, the 'Society' rep. by its Secretary P.Venkat Reddy, 4th respondent to said W.P.No.29272 of 2012, filed Writ Appeal No.1366 of 2012 against the W.P.M.P.No.37324 of 2012 dated 18.09.2012, and the Division Bench of High Court in the Writ Appeal initially granted interim stay of all proceedings in Cr.No.286 of 2012 of the Charminar Police Station, and ultimately the Writ Appeal was allowed on 06.12.2012, by quashing the proceedings including steps taken for registering Cr.No.286 of 2012 pursuant to the interim direction in the impugned W.P.M.P.No.37324 of 2012 with the observation-

> *"Therefore, it is made clear that there is no question of initiation of Criminal Proceedings. Under the Criminal law, as tried to be done, at that point of time, by the authority under the Act, while the order so passed by the learned single Judge, was suspended. In these circumstances, we do not, at this stage, accept the contention of Mr. C.V.Mohan Reddy, learned Senior Counsel appearing on behalf of the first respondent/writ petitioner and according to us, the Court cannot pass any mandatory orders directing the officials to take or initiate proceedings against the persons found responsible for Commission and Omissions, although under the provisions of the Act itself there are other measures provided entirely within the domain of the authority under the Act to take steps in the matter and it is their right to decide what steps they would have avail concerning the allegations of Commissions and Omissions or any other violations as per Act and bye-laws as per MACS Act,1995".*

2.(i).(c). The contention therefrom is that 2nd respondent-(DCO) without taking decision as per the order of the Division Bench that he has to take a decision on commissions and omissions with regard to the nature of steps that are to be taken under the Act, mechanically filed another complaint with 1st respondent–police containing the same allegations as were made in Cr.No.286 of 2013 dated 18.10.2012, which is registered as Cr.No.68 of 2013 dated 25.02.2013, that on perusal of the both the FIRs show one and the same allegations except that the earlier was made pursuant to the directions in W.P.No.29232 of 2012,dated 18.09.2012 and the latter after disposal of the W.A.No.1366 of 2012, that so far as 28 counts of the allegations in FIR No.68 of 2013, dt.25.02.2013 already 2nd respondent filed O.P.No.22 of 2013 under Section 31 read with 33(1) of the APMACS Act before the Co-operative Tribunal, Hyderabad and as such once approached the Cooperative Tribunal, the other measure to file report before police in registering the crime No.68 of 2013 amounts to abuse of process of law by 2nd respondent, needless to say against the orders passed in W.A.No.1366 of 2015 quashing the direction and consequential FIR No.286 of 2012, Special Leave Petition(SLP) No.11391 of 2013 filed was ended in dismissal on 05.04.2013, that General Body Meeting was conducted on 23.09.2012, that the allegations under the complaint on the 28 counts were ratified by the General Body except on count/allegation 21 pertaining to N.Purushotham Reddy for which he already filed O.P.No.22 of 2013 and when all the allegations of commissions and omissions were explained in the General Body meeting by taken all the facts and circumstances into considerations and ratified all the counts except 21 pertaining to N.Purushotham Reddy; filing crime No.68 of 2013 simultaneously and mechanically, without taking any decision as per the directions of the Division Bench of the Hon'ble High Court in W.A.No.1366 of 2012,dated 06.12.2012, is nothing but purely abuse of process and thereby sought for quashing of F.I.R.No.68 of 2013 of Charminar P.S.

2.(i).(d). In the quash petition, respondents 1&2 shown are the Station House Officer, Charminar Police Station (who registered the crime as R.1 rep. by State) and Sri G.Srinivasa Rao-Joint Registrar cum District Co-operative Officer, Hyderabad, who is the defacto-Complainant-R2 and subsequently, Sri M.V.Subbaiah and Sri G.Anil Kumar are impleaded on their petition as R3 & R4.

2.(i).(e). In the quash petition, pursuant to the prayer of interim stay of the crime proceedings, interim stay was granted on 23-09-2014 of investigation of the Crime No.68 of 2013, referring to the order/direction of the High Court in the W.P.M.P.No.37324 of 2012(in W.P.No.29232 of 2012), order/direction of the High Court in the W.A.M.P.No.2939 of 2012(in W.A.No.1366 of 2012), setting aside the direction in the order in W.P.M.P.No.37324 of 2012, to consider the initiation of the criminal proceedings and any steps taken pursuant to it, with the observation-*"in our opinion, all consequential proceedings and all steps taken stand set aside since we are setting aside that part of the order"*; and dismissal before admission of the SLP by the Apex Court on 05.04.2013, by not chosen to interfere with the order of the High Court in the W.A.M.P.No.2939 of 2012, dt.26.10.2012. The operative portion of stay of investigation of the crime reads- *"The learned counsel for the petitioners submits that the registration of the crime is totally in violation of the order passed by this court in Writ Appeal No.1366 of 2012. He further submits that even accepting the allegations in the report to be true, the ingredients constituting the offences punishable under sections 406 and 420 IPC are not made out as the contents of the report only refer to the negligence on the part of the officers of the Society. In view of the orders passed by this court in Writ Appeal No.1366 of 2012 and since the allegations in the report prima facie do not made out any offence under sections 406 and 420 IPC, there shall be interim stay of investigation in Crime No.68 of 2013of Charminar police station, Hyderabad, for a period of six weeks, insofar as the petitioners only"*.

2.(i).(f). The quash petition R3&4 supra, filed with counter affidavit of Sri M.V. Subbaiah, petition in **Crl.P.M.P.No.14791 of 2014, to vacate the stay order supra**, saying in nutshell that even from observations in the Writ Appeal No.1366 of 2012, it is the right of the authority to decide what steps they would avail.......the authorities are always at liberty to proceed against the petitioners and others for the commissions and omissions under the provisions of the MACS Act.....for the offences under Section 38 MACS Act and of IPC.....in FIR 68 of 2013. The observations in the Judgement of the Division Bench of this Court are nowhere helpful to the petitioners and by showing the order, the petitioners obtained interim stay. Therefore, there is no justification in wrongly interpreting the observations of the Hon`ble Division Bench of this Court for obtaining the interim stay..........The interim stay order amounts to restraining the police officials and Co-operative dept. Officials from discharging their duties.....The statutory enquiry report dt.20.06.2012 has not so far been challenged and thereby, the findings therein have become final......also referred Sections 31 r/w 33 of the MACS Act and by law No.24 and Sections 406&420 IPC in seeking to vacate the interim stay supra in force from its extending time to time.

2.(i).(g). One Rajkumar K.N.P.M., Retired S.O. of the High Court cum member of the Society, filed petition in **Crl.P.M.P.No.4817 of 2015**, to implead him as R5 to the quash Petition No.11995 of 2014, for his also seeking to dismiss the quash petition, with counter affidavit of him, saying in nutshell, save the averments already covered by counter affidavit of R3&4 supra, that even after enquiry report dt.20.06.2002 communicated to the Society on 12.09.2002 the convening of the General Body meeting dt.23.09.2002 and the consequential decisions taken are contrary to law in the By-laws-(24) and Sections 29-31 of the MACS Act, the authorities are entitled to take actions as per law for the omissions and commissions by the accused for the offences committed in emblazing funds of the Society of about 2.5 crores and under Section 34 of the MACS Act and under Sections 406&420 IPC etc., and even order in W.A. No.1366 of 2012 supports the same, but for direction of single Judge not contemplated and thereby fresh report in registering crime No.68 of 2013 is not a bar after first one in Crime No. 286 of 2012, the Contractor Veeraiah also has given representation to the Co-op. Officials in this regard and for questioning said Venkata Reddy, he not only bet him by holding his collar and also cause bet through his men and dragged him through steps of administrative building from 4th flour to ground flour and when he reported to the Asst. Commandant, High Court, Venkata Reddy simply tendered his written unconditional apology-(enclosed to the petition with bank statements of said Venkata Reddy and Contractor Veeraiah) and Venkata Reddy therefrom even escaped action, later there is with no change in him.

2.(i).(h). Thus, this Criminal Petition No.11995 of 2014 with interim stay of investigation in force and with vacate stay petition filed by R3&4 in Crl.P.M.P.No.14791 of 2014 and also Crl.P.M.P.No.4817 of 2015, to implead Rajkumar as R5 to the quash petition are pending in respect of **Cr.No.68 of 2013 of Charminar Police Station, dated 25.02.2013-(since transferred to CCS and renumbered as Cr.No.232 of 2014), Hyderabad**.

2.(ii).(a). **The quash petition Crl.P.No.2213 of 2015** is filed against the State rep. by Public Prosecutor and the defacto complainant Sri N.Purshottam Reddy, by two accused-viz., 1.P.Venkat Reddy(A1 of all the crimes) and 2.N. Chandra Sekhar(A2) of **Cr.No.71 of 2013, dt.04.03.2013**-(321 of 2014 supra), registered for the offences punishable under Sections 120-B, 500 & 506 r/w.34 IPC on the private complaint, dt.15.02.2013, of said Purshottam Reddy-member cum Ex.Office bearer(Secretary) of the Managing Committee of the Society-(Asst.Section Officer, High Court),(A.38 of Cr.No.286 of 2012 pertains to a single cheque payment to Contractor for electrical substation), on referred by the learned Magistrate concerned for registering the crime and for investigation under Section 156(2) of Cr.P.C., against 6 persons-including the two quash petitioners-A1&2, who are members and acted as office bearers of the Adhoc or elected Managing Committee of the Society-as Secretary & president of the Society. The A3-5 are officers of the Cooperative Department-Viz; A.3-Smt. Kiranmayee, Joint/Additional Registrar(DCM), A.4-Raji Reddy-(D.C.O-cum-enquiry Officer and A.5-Vijaya Bhasker Goud- the Divisional Cooperative Officer. The A6-G.Nariman Sharma-(Petitioner in quash petition No.4280 of 2015 referred below) is also member of the Society-(Asst. Section Officer, High Court).

2.(ii).(b). The private complaint dated 15.02.2013 referred and registered on 04.03.2013 as the Cr.No.71 (231 of 2014), after disposal of W.A.No.1366 of 2012 dated 06.12.2012, for the offences supra under investigation was mainly based on the averments that, as per the Board of Directors resolution,dt.08.04.2010, A2-N.Chandra Sekhar-president and K.V.S.Murthy-Treasurer were authorised to operate the Bank accounts of the Society and same was also informed to the Bank Manager with specimen signatures of them and they were operating the bank account accordingly, that as per the Board of Directors meeting dt.28.02.2011 decision taken to conduct elections for 3 Directors in March, 2011, however saying for want of quorum, President not fixed any date for elections and as per By-laws existing Board of Directors incurred disqualification for continuing and thereby Complainant-(N. Purshottam Reddy) handed over records to the DCO on 11.03.2011 and while so, in connivance with A3, A2 issued two dates for meeting without clear 7 days time and passed resolutions and conducted elections without even records and self styled election officer not appointed by board, issued notification and conducted elections, without even supply of voters list to him, even several letters sent for conducting fresh elections DCO-A3 passed order in favour of A1&2, that latter the illegally elected managing committee could manage to get records and conduct Annual General Body meeting on 09.04.2011, though audited accounts are to be produced as per By-laws, same are not produced for approval that incurs disqualification to the Board, that Complainant therefrom filed O.P. No.102 of 2011 before the Co-op. Tribunal and from that time, A1-3 conspired to took revenge against the Complainant and with influence of A3, A1&2 passed resolution against the Complainant on 01.04.2011, that on 15.04.2011 under supervision of A1&2, as per agenda-3 of executive meeting, without notice to other members including Complainant, without any discussion of the subjects or arriving findings to incorporate, in the minutes book signed by A2 as if president and attested by A1 as secretary, without showing persons who presided over the meeting and managed to pass a resolution as if the Complainant-ex-secretary, issued a cheque to the Contractor Veeraiah for Rs.9,20,000/-without notice to Board and without reasons and proof, for erecting electricity sub-station, that A4 as Enquiry Officer colluded with A1-3 in giving a wrong finding by mud-slinging to recover from the Complainant in the report dt.20.06.2012, though bank statement of the Contractor shows he encashed the amount of the cheque and also paid to workers out of it and not anyway benefited by the Complainant, that A5-D.L.C.O. attended as observer of the meeting and Complainant gave letter to A5, dt.22.09.2012 stating said cheque was signed by President and Treasurer and not by him and he is not concerned with the cheque, but A5 without enquiry with Contractor even, in his report stated at Item-7(21) as if the Complainant admitted in his letter; that A6 in collusion with A1&3 also made false statement to defame the Complainant, that A1 stated in the General Body meeting of the matter be referred to committee of elders to be constituted, the Complainant even lodged report with police, they did not take action and hence the complaint.

2.(iii). The **quash petition Crl.P.No.4280 of 2015**, is filed by above referred A.6-G.Nariman Sharma of **Crime No.71 of 2013** against same respondents 1&2 supra.

2.(iv).(a). The **quash petition Crl.P.No.2215 of 2015** is also filed against the State rep. by Public Prosecutor and the defacto complainant Sri N.Purshottam Reddy, by two accused-viz., 1.P.Venkat Reddy(A1 of all the crimes) and 2.N. Chandra Sekhar(A2) of **Cr.No.78 of 2013, dt.11.03.2013**-(226 of 2014 supra), registered for the offences punishable under Sections 120-B, 406, 500 & 506 r/w.34 IPC on the private complaint, dt.05.03.2013, of said Purshottam Reddy-member cum Ex.Office bearer(Secretary) of the Managing Committee of the Society-(Asst.Section Officer, High Court),(A.38 of Cr.No.286 of 2012 pertains to a single cheque payment to Contractor for electrical substation), on referred by the learned Magistrate concerned for registering the crime and for investigation under Section 156(2) of Cr.P.C., against 5 persons-including the two quash petitioners-A1&2, who are members and acted as office bearers of the Adhoc or elected Managing Committee of the Society-as Secretary & president of the Society. The A3-5 are officers of the Cooperative Department-Viz; A.3-Smt. Kiranmayee, Joint/Additional Registrar(DCM), A.4-Raji

Reddy-(D.C.O-cum-enquiry Officer and A.5-Srinivasa Rao-the Divisional Cooperative Officer-defacto-Complainant in Cr.Nos.286 of 2012 & 68 of 2013 referred supra.

2.(iv).(b). It was mainly based on the private complaint averments that, even the Society registered and Adhoc committee appointed for only six months, later A3 failed to enquire as to why elections not conducted and not taken steps to appoint another Adhoc committee and A3&4 connived with A1&2 and but for issued notice to produce records, cheque books and accounts, not taken further steps which facilitated the misappropriation of funds of the Society of Rs.90,00,000/-by A.1, the A4 who enquired and submitted report dt.20.06.2002 and based on it, A3 addressed the Society on 13.09.2002, to convene G.B. Meeting, A3 handed over records to the Society, from which A1&2 misappropriated further Rs.1,70,00,000/-(1.7 crores) and A4 having enquired about size of the plots not as per specification, failed to mention in the enquiry report as a collusive outcome, the bank statements of A1 and of the Contractor disclose the misappropriation and the Contractor also addressed letter to A3-5, dt.24.08.2002, same not reflected in the enquiry report of A4 which is outcome of their conspiracy and there were defamatory and threatening words towards the Complainant from accused and hence to refer the complaint to police for investigation.

2.(v).(a). The quash petition Crl.P.No.2214 of 2015 is also filed against the State rep. by Public Prosecutor and the defacto complainant Sri N.Purshottam Reddy, by one of the two accused-viz., P. Venkat Reddy (1^{st} accused in all crimes) A1 herein with other accused-P.Veeraiah(Contractor) of **the Crime No.266 of 2012 dated 03.10.2012**-(225 of 2014 supra), registered for the offences punishable under Sections 420,406,409 and 120-B r/w 34 IPC on the private complaint, dt.17.09.2012, of said Purshottam Reddy-member cum Ex.Office bearer(Secretary) of the Managing Committee of the Society-(Asst.Section Officer, High Court),(A.38 of Cr.No.286 of 2012 pertains to a single cheque payment to Contractor for electrical substation), on referred by the learned Magistrate concerned for registering the crime and for investigation under Section 156(2) of Cr.P.C., against the two accused supra-including the quash petitioners-A1, who is member and acted as office bearer of the Adhoc or elected Managing Committee of the Society-as Secretary & president of the Society.

2.(v).(b). The private complaint averments save to avoid repetition of the facts covered by the earlier complaints and in nutshell that there is a collusion between the A.1 and A.2 in showing false expenditure by diluting Society member strength and by misappropriating and embezzling the amounts by the A.1 by taking from A.2 out of the amounts paid as a bribe for the works entrusted covered by several amounts under cheques which is nothing but cheating, criminal breach of trust and misappropriation.

2.(vi).(a). So far as the quash petitions contentions in Crl.P.Nos. 2215, 2014, 2213 and 4280 of 2015 (outcome of the private complaint of Purshottam Reddy) supra which are almost same in saying it is false implication and the defacto Complainant was expelled from the Society and aggrieved by it, he preferred O.P.No.115 of 2011(one of the pending 6 O.Ps) before the Co-operative Tribunal and the same was ended in dismissal for default and even restoration application filed, same is still pending and further the allegations in the private complaint referred to police in registering the crime relates to affairs of the Society and decision taken in general body meeting that is covered by enquiry report of the enquiry conducted by A.4 M.Raji Reddy-Divisional Co-operative Officer under Section 29 of the MACS Act, which is a statutory enquiry into the affairs of the Society and there could be nothing to say any conspiracy in saying the defacto-Complainant misused the 9.80 lakhs for alleged spending on the site through Contractor and the resolution passed by the general body of the Society was under provisions of the Act, it does not amount to publication even the same was referred in the enquiry report for the findings by the Enquiry Officer respectively to invoke section 499 and 500 of I.P.C. and there are no any other offences under Sections 506 or 120-B IPC to attract, that the report dated 20.06.2012 submitted by the Enquiry Officer to the Cooperative department was placed before the general body under the MACS Act and the general body when ratified, aggrieved by it the defacto Complainant also filed O.P.No.22 of 2013 before the Cooperative Tribunal and the same is still pending, that the criminal prosecution is unsustainable for the alleged defamation or criminal intimidation with the weaving story and is liable to be quashed thereby.

3. From the above, heard the Counsel for quash petitioners respectively and the State rep. by Public Prosecutor and also the defacto complainant or other implead patties to the quash petitions and perused the material. The Crl.P.M.P.Nos.4817 of 2015 is allowed and Sri Rajkumar K.N.P.M., employee of the High Court-cum-

member of the Society to impleaded as co-respondent-R5 to the quash petition No.11995 of 2014 and his implead petition averments are taken as counter to the quash petition.

4. Now the points arise for consideration in deciding the 5 quash petitions are:

i). *Whether, the proceedings under investigation of the Cr.No.68 of 2013 of Charminar Police Station, dated 25.02.2013-(since transferred to CCS and renumbered as Cr.No.232 of 2014), Hyderabad, unsustainable more particularly from Crime No.286 of 2012, earlier registered pursuant to the direction in the order in W.P.M.P.No.37324 of 2012 to consider the initiation of the criminal proceedings, for that part of the order in so directing was set aside in the W.A.M.P.No.2939 of 2012 dt.26.10.2012, including all consequential proceedings and all steps taken and the Apex Court finally in the W.A.No.1366 of 2012 dt.06.12.2012, not admitted SLP by order of 05.04.2013 by not chosen to interfere and if not whether no offences under sections 406 or 409, 420, 120-B and 34 IPC made out as claimed in the quash petition No.11995 of 2015 of the 9 out of the 25 accused?*

ii). Whether, there is a legal bar for the police registered the crime Nos.71 of 2013, 78 of 2013 and 266 of 2012 of Charminar Police Station-renumbered as Cr.Nos.231, 226 and 225 of 2014 by the CCS, DD, Hyderabad, pursuant to the order u/sec.156(3) Cr.P.C, of the learned Magistrate, on the three private complaints of Sri N. Purshottam Reddy-who is the defacto-Complainant, for the offences punishable under Sections 500 & 506 of I.P.C. by virtue of Section 199 &155 of the Cr.P.C. and the respective crime proceedings in respect of the quash petitioners are to be quashed and if not whether no offences under any of the other sections 406 or 409, 420, 120-B and 34 IPC made out as claimed by the quash petitioners in Crl.P.Nos.2213, 2214, 2215 and 4280 of 2015 out of the respective accused of the crimes?

iii). To what result?

Point-i.

5. The APHCMACHSL is registered under the A.P. MACS Act, 1995. All the beneficiaries admitted as members are the employees of the High Court and the Society formed is for the benefit of the members and is governed by provisions of the MACS Act, 1995. In relation to the allegations of criminal breach of trust, misappropriation and cheating and several illegalities and irregularities committed by the Managing Committee of the Society, there was an enquiry ordered and an enquiry officer by name

P.Raji Reddy was appointed under Section 29 of the MACS Act and he submitted a detailed report on 20.06.2012 having found the Managing Committee of the Society committed several omissions and commissions and illegalities which are in 28 counts including improper accounting and financial misfeasance under Section 31 of the MACS Act. The District Cooperative Officer issued notice to the President of the Society by enclosing copy of the enquiry report, with a direction to place the same before the General Body Meeting of the Society within 30 days and initiated an action for rectification of defects or illegalities and irregularities on 28 counts. The Society in the agenda placed 7 items relates to its business but for item No.7 taken for discussion and further action on the enquiry report supra for which notice given to the Managing Committee and the other items are purely business of Society. It is aggrieved thereby for the Managing Committee of the Society in serious cloud and from the enquiry report at best to call for general body meeting and place the report for discussion and then to take decision only to rectify the defects and not entitled to take decisions by adding in the agenda, other business of the society, one of the retired employees of the High Court A. Venkat Rami Reddy, being member of the Society filed the W.P.No.29232 of 2013 for writ of mandamus declaring action of the officials of the cooperative department in issuing proceedings dated 12.09.2012 directing the Society to conduct meeting etc., as arbitrary, despite adverse remarks against them to function as Board of Directors further and to direct the District Cooperative officer and other officials of the Registrar of Cooperative Societies, A.P. not to permit the Society Managing Committee to conduct Annual General Body meeting that was scheduled to be held on 23.09.2012 pending disposal of the W.P. The interim order passed therefrom by the learned single judge of this Court pending disposal of the main W.P. on 18.09.2012 in W.P.M.P.No.37324 of 2012 reads that

> *"In my opinion, most urgent and important aspect in the agenda is discussion for taking further action on the inquiry report by the general body. As the managing committee itself is under serious cloud, it is appropriate that general body may discuss item Nos 1 to 6 in the agenda and no final decision thereon shall be taken. The general body is, however, permitted to take appropriate decision on discussion only with respect to item No.7 in the agenda.*
>
> *In Telangana Non-Gazetted Officers and other Vs. S.V.Prasad in C.C.No.919 of 2011, this Court held that completion of action on the enquiry report is not sine qua non for initiation of Criminal prosecution and both these proceedings are independent of each other.*

While, no conclusive opinion can be expressed on the various findings rendered by the inquiry officer in his report, this Court, however, feels it appropriate that having regard to the commissions and omissions pointed out by the inquiry officer in his report on large scale basis, respondent No.2 shall consider initiation of criminal proceedings against those who are found responsible for the commissions and omissions as pointed by the Inquiry officer in his report under Section 31 of the Act."

5(i) Pending the Appeal, in the W.A.M.P.No.2939 of 2012 on 26.10.2012 interim suspension was granted to the extent of direction of the Hon'ble Single Judge for initiation of criminal proceedings and granted stay of further proceedings of Cr.No.286/2012 of Charminar police station, (registered pursuant to the report based on the interim direction supra) pending further orders. At the final hearing of the W.A. No.1366 of 2012 (with W.A.M.P.No.2939 of 2012), the Division Bench by order Dated 06.12.2012 observed that the learned Single Judge was pleased to decide the matter and held that a perusal of the record shows the Society committed commissions and omissions on as many as 28 counts including improper accounting and financial misfeasance and further directed the District Co-operative Officer to consider initiation of criminal proceedings against those who were found responsible for the commissions and omissions as pointed out by the enquiry officer in his report under Section 31 of the MACS Act.- -- - - - -. *Our attention has been drawn by the learned senior counsel appearing in supporting of the appeal, we find on our enquiry, that it is not in dispute that the meeting was held in terms of the notice issued and excepting agenda No.7, all other agendas were discussed, in the matter and the general body also took decisions in the matter. It is further submitted by the learned Senior Counsel that while under the provisions of the MACS Act, 1955, the remedies have been specifically prescribed, whether the Court can issue a writ of mandamus, overriding the rights of the authority, under the Act, by directing to deal with the matter by initiation of criminal proceedings on an interim application filed by the writ petitioner. It was an endeavour on the part of the learned senior counsel appearing on behalf of the writ petitioner contra that the 2nd respondent (District Cooperative Officer) has already initiated criminal proceedings in the matter and it is not necessary to pass any further orders in the matter- - - - -. In these circumstances, we do not, at this stage, accept the contention of Sri C.V.Mohan Reddy, learned senior counsel appearing on behalf of R-1/writ petitioner and* *according to us, the Court cannot pass any mandatory order directing the officials to take or initiate proceedings against the persons found responsible for commission and omissions, although under the provisions of the Act itself there are measures provided entirely within the domain of the authority under the Act to take steps, in the matter and it is their right to decide what steps they would avail concerning the allegations of commissions and omissions or any other violations on the part of the parties. We further keep it on record that an appeal was filed before us, being L.P.A.No.10 of 2012, by the Telangana Non-Gazetted Mutually Aided Cooperative Housing Society Limited, against an order passed by the learned single Judge, in C.A.No.426 of 2012 in C.C.No.919 of 2011 dated 27.07.2012 and this Division Bench, after hearing the parties, was pleased to allow the appeal by setting aside the order passed by the learned Single Judge, after noticing the facts in the order and relying upon a decision of the Supreme Court in* ***Union of India Vs. Subedar Devassy P.V. and others.*** *Reliance upon the order in C.C.No.919 of 2011, as stated in the impugned order, also cannot, therefore, be sustained.*

In view of that, we set aside the order so passed by the learned Single Judge directing the 2nd respondent to consider initiation of criminal proceedings and if any steps have been taken pursuant to such directions given by the said Court and in our opinion, all consequential proceedings and all steps taken stand set aside since we are setting aside of that part of the order.

In the result, the appeal which has been filed before us is allowed to that extent. So far as the Writ Petition, being W.P.No.29232 of 2012 is concerned, in our opinion, since already the meeting has been held, there remains nothing in the writ Petition and accordingly, there will be no order on the writ petition and the same will stand dismissed by virtue of the order so passed by us in this appeal. As a sequel the miscellaneous petitions, if any, stand closed. In the circumstances, there shall be no order as to costs.

5(ii). In fact the writ petitioner supra aggrieved by the Writ Appeal order supra filed SLP before the Apex Court and before admission the SLP was ended in dismissal, vide order dated 05.04.2013 in petition for SLP No.11391 of 2013 saying "Heard learned counsel for the petitioner and perused the relevant material. We do not find any legal and valid ground for interference".

Consequent to the Writ Appeal order, the Cr.No.286 of 2012 proceedings lost its efficacy and enforceability as the very order of the single judge for registering the crime was set aside in the Writ Appeal.

5(iii). However, it is necessary to mention with reference to the above factual background that as per the report of the enquiry officer more particularly at para-13, page-27 onwards out of the report running in 35 pages with several enclosures, that:

"13. The Society incurred crores of rupees without following either procedures or norms which resulted in huge loss to the Society funds which are nothing but members' funds. The Society should have taken guidance and necessary assistance from the employees of P.W.D, especially R & B Department and Irrigation Department who are well versed with procedure and rules in executing works. So that, the above irregularities should have been avoided. The measurement books though submitted by the Society is not in technical format. The original ground levels of the road drawings are not incorporated, proposed road levels are not mentioned and formation levels of road not mentioned. On verification of the record submitted contractor was paid from 17.01.2011 to 28.02.2011, Rs.30,69,050/-, whereas letter of acceptance of contract given to contractor on 19.01.2011 with rate stated at supra, the Society without observing the work done by the contractor and without any approval of the managing committee or review of the work by the managing committee, paid above amounts within span of 40 days. It is nothing but suspicious, if it is advance payment, what is the necessity of payment in advance such huge amounts- - - - -.

5(iv). At this stage, it is further to say as factual background from enquiry report page Nos.12, 4 to 7 that, the Society came into existence in the year 2003 and registered on 29.07.2003 by support with 15 persons styled as promoters and the District Cooperative Officer appointed an Adhoc Committee with its existence only for 60 days vide Rc.No.3211 of 2003HSG MACS, dated 29.07.2003, with a specific directions for conducting election to it, meantime (Section 23 of the MACS Act).

5(v). As per the enquiry report page-7 the first adhoc committee consists of 1) P.Jaya Chandra Reddy Adhoc Committee Chairman,

2) M.Sreenivasa Rao, Adhoc Member, 3) Bala Venkata Reddy, Member and Ex-

President, 4) Panna Krishna, Member, 5) Anjaiah, Member, 6) G.Shankaraiah, Member, 7) J.P.Virupaksha Reddy, Member, 8) Suda Venkateshwara Rao, Member, 9) Vijayakumar Shetty, Member, from 29.07.2003 to 28.03.2007 and on its letter, the Committee constituted from 29.03.2007 and continued till 05.02.2010 consisting of Bala Venkat Reddy, Meraj Mahammad Sayeed, P.Jaya Chandra Reddy, S.Venkateshwara Rao, J.P.Virupaksha Reddy, N.Satish Verma, Baburao Verma, A.Pratima, and P.Venkata Reddy as President, Vice President, Secretary, Treasurer and 5 Directors respectively from the election and the subsequent committee from 06.02.2010 to 28.03.2010 consists of K.Satya Kumari, Chairman and V.Savitramma, P.Gowrishankar, P. Harikrishna Reddy, N.Chandrasekhar, G.S.Sharma, P.Vinod Kumar, D.Usha, Shamsheer Ali, as Directors from 29.03.2010 to 25.03.2011; N.Chandrasekhar, D.Yadaiah, N.Purushotham Reddy, K.V.S.N.Murthy, as President, Vice-President, Secretary and Chairman by names V. Hanumantha Reddy, D.Narsinga Rao, Shamsheer Ali, M.Nageshwara Rao, and G. Devender, from 26.03.2011 to 25.03.2012, the President, Vice President, Secretary and Treasurer respectively of N.Chandrasekhar, D.Yadaiah, P.Venkata Reddy, K.V.S.N.Murthy, besides 5 Directors V.Hanumantha Reddy, Shamsheer Ali, Y.K.Vardhan Reddy, and M.Nageshwara Rao and D.Narsinga Rao, from 26.03.2012 to 26.03.2013 and N. Chandra Sekhar was the President and D.Yadaiah, vice President and P.Venkata Reddy, Secretary and K.V.S.N.Murthy Treasurer and 5 Directors are Shamsheer Ali, P.Naga Rao, Mahammad Mahaboob Sharief, M.Muralidhar and D.Narsinga Rao. The by-law No.16 of the Managing Committee of the Society speaks for three years consisting of 9 members to be elected and as per the by-law No.17 every year 3 directors shall retire and for which first election of the Directors are different that they are to be elected at once and their terms are staggered by drawl of lots specifying different terms one year, two years and three years and the Adhoc Committee has not conducted elections on or before 28.09.2003 and not elected Managing Committee, there is no minute book available till elections conducted by election officer-cum-Assistant Registrar, who was appointed by the Managing Committee as Election Officer by resolutions allegedly dated 05.02.2007 and 17.02.2007 however, by those dates, there was no Managing Committee in existence to pass said resolutions and the Managing committee elected on 29.03.2007 through Election Officer K.Nagarjuna, Assistant Registrar (continued upto 06.02.2010) when the Adhoc Board appointed by General Body of the Society, on that day the District Cooperative Officer for breach of the by-law

No.17 supra and Section 23(2) of the Act in Rc.No.1932 of 2009-MACS dated 22.01.2010 disqualified the elected Board of Directors, dated 24.03.2007 for not conducting of elections before the expiry of the terms of outgoing Directors as a result they are disqualified and being ineligible to continue as per Section 21(6a) of the MACS Act. As a result Adhoc Committee appointed Election Officer who conducted the elections to the Board of Directors and staggered their term of office subsequently in the year 2011 on 26.03.2011, three Board of Directors were elected again on 26.03.2012. The Board shall meet frequently at least in three months once and General Body shall meet at least once in a year as per by –laws Nos. 19 and 14. There are only minutes of the General Body from 29.03.2007 and as per Section 26 of the MACS Act and by-law No.44 that books of accounts to be maintained by the Society, the annual returns to be filed within 30 days of Annual General Body meeting and according to Section 27, the accounts should be audited and after receipt of audit certificate, accounts are to be placed before General Body for information and approval and even accounts were audited by Chartered Accountant but audit reports were not placed before General Body and the Society not submitting annual returns to the Registrar, the Society submitted minutes book only from 29.03.2007 and not from 29.07.2003 and cash book maintained only from 2005-06 to 2008-09, 2010-11 to 2011-12 to say there is improper functioning and receipts of amounts not even submitted to the Enquiry Officer and cash book properly not even maintained and membership receipt not in prescribed format and failed to submit annual returns to say the Society functioning at the behest of some of the members only. The Committee which were elected before 05.02.2010 failed to conduct audit and only committee elected on 29.03.2010 taken steps to conduct audit for the years 2003 to 2010 and filed annual returns for all the years on 23.12.2010.

5(vi). The Society amended its by-law No.2 on 28.06.2007 showing its objects to provide houses to the members who are not having any houses, among the eligible members of the Society as per the service seniority in High Court as per G.O.Ms. No.6331, dated 17.11.1992 those having no house or house plots, shall be allotted and preference shall be given to employees who are retired early. G.O.Ms. No. 461, dated 18.03.2003 also speaks to allot such employee who is not having own plots or house or a share in house plot in undivided family in the area of the portion of the house building Society, same is binding on the Society and as per the Government orders in G.O.Ms. No.633 list of selected employees shall be handed over to the

Deputy Secretary, GAD, who has in consultation with the Additional Registrar of Cooperative Societies finalise eligible employees to admit as members of the Society, the by-laws of Society thereby not in consonance with the G.Os. supra and there should be Application Issue Register, before admitting any member as per priority of seniority and after scrutiny of the applications only to the eligible members as per the seniority membership to be given to admit and the Society not even maintained Application Register and Admission Register also not properly maintained. There were 1101 employees became members in the year 2006 without showing who admitted them and which Managing Committee finalised them for no Application Register to say Society miserably failed to adhere to the G.Os. supra. There are no affidavits and undertakings by the applicants in the prescribed format. There is also ambiguity between share capital and admission fee amount from so called audit reports of 2006-07 and the cash book shows as if there are 1101+15 instead of 1101, total 1119 whereas audit report of 2006-07 show 1112+8=1120 by 2010-11 without increasing share capital correspondingly. The irregularities therefrom found that the Adhoc Committee failed to conduct elections within 60 days after 29.07.2003 till election officer Nagarjuna was appointed by Managing Committee resolutions of 5/17/2-11 and elected the Managing Committee on 29.03.2007 without continued till 06.02.2010 when Adhoc Committee appointed from the order of the Deputy Cooperative Officer, dated 22.01.2010 disqualifying the earlier committee for not conducting elections before expiry of time of outgoing Directors on its letter Adhoc Committee appointed the then Registrar(Administration) as Election Officer who issued notification on 15.03.2010 and the elected Board constituted on 29.03.2010 supra. Later when three Directors of Board were elected in March, 2011 and March, 2012 respectively. The second irregularity mentioned is Managing Committee existed upto 2007 failed to get its accounts audited under Section 27 of the Act and the accounts of the Society for the years 2003-04 were audited only on 15.10.2010 by the elected committee on March 2010 and the 3rd Irregularity is ten months back maintained of the Society from March, 2007, cashbook from 2005-06, 2008-09 and 2010-12 and no cash book of years 2003 to 2005 and 2009 to 2010 submitted before the Enquiry Officer. Further Membership Register not maintained receipts not issued Application Register not maintained and the Society functions contrary G.Os. and by-laws. The 4th irregularity is Managing Committee failed to file annual returns with Registrar of Societies as per Section 34 of the Act. It is only on 23.12.2010 the Society submitted annual returns to the Registrar for the years 2003-2004 to 2009-10 and the Committee elected on 29.03.2010 as only taken steps to conduct audit of accounts of the Society doing violation of the by-law. The 5th irregularity is the Managing Committee violated conditions of G.O.Ms.No.633 regarding eligibility criteria for selection of employees with no house or plot and on seniority basis. The 6th Irregularity is pointed out in Irregularity No.4 of non-submission of annual returns earlier and 7th irregularity is the Managing Committee existing as on in the year 2007 failed to hand over expenditure vouchers worth Rs.4,83,826/- for the period 2005-06 to 2009 to 2010 referred supra and vouchers are submitted only for the years 2010-11 and 2011-12 and cash book not returned for 2003-04 and 2004-05 and also 2009-10. The 9th irregularity is as per the bank statements, the Society, undertook heavy expenditure of 54.17 lakhs during 10-11 they observing procedure and rules and 10th irregularity is Society failed to produce lands estimates, Measurement Books records and bills for civil works undertaken by it as well as the Contractor and approval of Managing Committee not shown for verification and on verification on records shows the amounts paid to the Contractor only during 17.01.2011 to 28.01.2011 as by cheque Nos.077952, 077953, 077955, 077956 and 077957 respectively dated 25.01.2011 January,2011, February, 2011 all to total of Rs.30,69,050/- whereas, the letter of acceptance of contract given to the Director on 19.11.2011 with roads(referred supra). The Society without observing the work done by the Contractor and without approval of Managing Committee or Review of work by the Managing Committee paid the said amount within a span of 40 days and if there is no even any interest for payment of such huge amount much less as any amount towards advance for works. N. Purshottam Reddy issued cheque to the Contractor for Rs.9,80,000/- No.077957 dated 28.02.2011). the original cheque amount to the Contractor for electricity sub station for only Rs.80,000/- however same is converted into Rs.9,80,000/- in illegal and fraudulent manner by him who is Ex-Secretary(Secretary No.29-03.2010 to 25.03.2011) and the payment of said amount of 9.8lakhs is not available by any resolution for reasons better known nothing in the resolution convened by the President and the Managing Committee on 04.03.2011. The cheque was shown encashed in fact on 07.03.2011(issued on 28.02.2011) and said N. Purshottam Reddy was Secretary by then.

5(vii). The above first enquiry report under Section 29 of the Act was submitted by Sri M. Raji Reddy Divisional Cooperative Officer –cum-Enquiry Officer on 20.06.2012.

5(viii). There is second enquiry report also under Section 29 of the Act submitted by Pendli Harini the then Deputy Registrar of the Cooperative Societies-cum-Enquiry Officer which is running in 25 pages as per the enquiry ordered into the working and official condition of the Society and the period from 20.06.2012 till date by proceedings in Rc.No.11864 of 2008-HR4, dated 05.09.2013, based on elections against the functioning of the Society in Andhra Jyothi Daily on the three days 19.12.2012, 25.06.2013 and 26.06.2013 in relation to official misappropriation under the guise of said Gachibowli site development and office bearers many of them even not members of the Society and P.Venkat Reddy Ex-President with his domination runs the activities of the Society out of and the major issues in the enquiry covered as eligibility and expulsion of the members, bearers of the General Body tampering of securities, forgery and development of the Gachibowli site of 39 acres and out of the 5 issues so far as the eligibility of the members concerned, the Enquiry report speaks that said P. Venkat Reddy was expelled by special General Body Meeting dated 18.08.2007 for indulging in into Society activities, for a period of 5 years till August,2012 and even before expiry of the term he represented the Society on 30.04.2010 for restoration of his membership and thereby his membership was restored on 30.10.2010 in the Annual General Body meeting and in the March, 2011 he was contested as one of the Directors and was elected and became a secretary(from 26.03.2011 to 25.03.2012) and he was elected as President. while so, on 18.08.2012 and in the Annual General Body Meeting conducted later on 10.09.2012 as agenda No.9(f) regarding restoration of his membership, there was a discussion and the general body approved, confirmed and ratified for restoration of his original membership of the Secretary in fact even in the first election of the Managing Committee members conducted in March, 2007, he is one of the elected Directors w.e.f. 29.03.2007). As per by-law No.3 clause ii(c) of the Society, the person expelled from membership for 5 years, for not elapsed to revoke expulsion or to restore membership to get any eligibility to become a member of the Society again, as per by-law No.13 general body is ultimate authority for no provision in the by-law before expiry of the period to restore and his membership by setting aside expulsion before expiry of the period and thereby his re-admission itself is contrary to by-laws of the Society and he could acquire no eligibility for his election in March, 2011-12 respectively before the expiry of the expulsion period of 5 years.

5(ix). Coming to the Annual General Body meeting to the expulsion of members P.Vinod Kumar, N.Satish Varma, G.Anil Kumar, D.Santhosh Kumar, M.V.Subbaiah and Smt. Manikyamba filed cases in the High Court, against the irregularities of the Society which they noticed, that they were expelled without any proper notice or opportunity and their membership fee is not even returned to them and the amounts paid by them after allotment of plots to them is still with the Society, even there is no provision in the by-laws to forfeit the amounts paid by them for the plots allotted to them thereby the members are still considered to be members of the Society for the reasons for expulsion in the extraordinary general body meeting dated 09.03.2013 covered by agenda No.8 is for mere filing petitions with the Co-operative-cum-Inspecting authorities against the Society and doing alleged non-sense activities and the agenda speaks as if the amounts paid by these members are forfeited without any further notice. The principles of natural justice required to be followed before such expulsion even by invoking by-law No.13(n), that too, after calling for explanation from each of the members in writing and by placing before general body for the general body to take a decision if at all to terminate the membership by giving back the membership amount fees paid by them through cheques and until its return there is no expulsion technically and the expelled members supra represented before the Enquiry Officer stating their membership fee is not even returned to them so they are still members of the Society for the resolution is not followed.

5(x). It is observed that 8 members were admitted into the Society on 30.11.2010 by names M.Bhavani Shankar(Section Officer), D.Ramachandra Murthy(Section Officer), D.Vittal Reddy(Assistant(deleted as per GBM), Smt. K.Shanta Kumari(Attender), P.Lingaiah(Attender), Dasari Gopi(Attender), Ch.Balasubramanyam(Attender) and Y.Ravindra Kumar(Attender). They were admitted into the Society by the then President N.Chandra Sekhar, without basis for no even excess plots by them to the new members to admit for such a pick and choose and without any circular issued by the Management of admissions to Society.

5(xi). Coming to the bearers of general body as per by-law No.13, it got limitations as the Society shall follow guidelines stipulated in the by-laws and MACS Act and the General Body contained or ratified lapses which ultimately it has effected of nullifying findings of the enquiry report and it cannot ratify decisions not specifically mentioned in the by-laws and the Annual General Body conducted on 23.09.2012, Extraordinary General Body conducted on 09.03.2013 and Annual General Body conducted on 28.09.2013 and not according to guidelines to the Acts and by-laws of which the Annual General Body dated 23.09.2012 speaks said P. Vijay Bhasker Goud(DLCO) Golconda, Present as observer and some of the items in agenda were submission of affidavit on Non Judicial stamp paper and maintenance of records of registers, issuance of share certificates to members and issuing of receipts to members, development of site at Gachibowli and appointment of Contractor, payments made to advocates and expenditure to conduct General Body of passed unanimously, against the orders of the W.P.M.P.No.37324 of 2012 in W.P.No.29232 of 2012 dated 18.09.2012 wherein it is observed that the Managing Committee itself is under serious cloud and It is appropriate that General Body may discuss items 1 to 6 in the agenda and no final decision thereon shall be taken and the General Body is, however, permitted to take appropriate decision on discussion only with respect to item No.7 in the agenda. However, till date affidavits are not obtained from members, registers not maintained, share certificate not issued and receipts not issued there is no office to the Society, enquiry is done in the main association hall located in the High Court cellar. Even Section 8 of the MACS Act every Society shall display its full name, registration number and address of the registered office that is not done any way.

5(xii). Coming to the Extra General Body dated 05.03.2013 in view of the orders of the High Court dated 05.03.2013, in W.A. Nos. 260 to 263 of 2013, Extraordinary General Body called on to distribute plots to all existing members by lottery under the supervision of three advocates Viz; D.V. Seetharama Murthy, Sarasani Satyam Reddy and Sri C. Ramachandra Raju, for direction from the Court that only this issue can be taken up. But however in addition to the only agenda of distribution of plots to members, certain other items were taken and ratified in the meeting dated 09.03.2013 which include no confidence motion against Ex-President and three Directors and expulsion of P.Vinod Kumar and 4 others, that Collection of development charges, restoration of membership of P. Venkat Reddy, payments made to advocates, salaries paid to Society employees Sri B. Nagabhushanam (Security Guard) G. Madhusudhan Reddy (site Manager) and K.V.S. Murthy (supervisor/treasurer) by violation of the High Court direction in taking up other matters and the amounts paid to the advocates of 2 lakhs (M.V. Durga Prasad of Rs.60,000/-, N. Vijay of Rs.25,000/- P. Amarender Reddy of Rs.40,000/-Sharad Sanghi of Rs.1.55lakhs total of Rs.4,80,000/-and also salaries paid to the employees of Rs.2,17,500/-) were ratified in the general body.

5(xiii). The members of the Society are even ignorant of the so called appointment of staff with no proof for such appointment and every month Rs.40,000/- is paid towards the salaries to the three employees in cash and taking signatures on vouchers and there are no full vouchers for the payments and the cash payments is assigning reasons as if the three employees have no bank accounts though without bank account no Adhar copy issued, no gas connection can be obtained even to believe and even all the issues taken up in the General Body, the lottery of plots are not taken according to the directions of the High Court by violation of the order and even in the list of members who were allotted plots through lottery is not pasted in the minutes book and the list is not signed by three member committee. Coming to the Annual General Body on 28.09.2013 approved the accounts of the Society from 01.04.2013 till date including payment of Rs.12,37,050/-. The removal of Sri N. Chandra Sekhar and Sri D. Narsing through no-confidence motion also ratified. The expulsion of P.Vinod Kumar and 4 others again ratified in the General Body without proper procedure for their removal and again and again the expulsion of the 5 members taken up in general body and ratified even they were not repaid partnership fees to say technically they were not removed and the General Body conducting Extra-ordinary General Body meeting expenditure is shown surprisingly of Rs.40,000/- for conducting it and the General Body minutes print outs not pasted in the minutes book given to the Inquiry Officer, but given separately in a bunch and minutes book does not contain any of the papers pertaining to General Body and even signatures of members attended the meeting not given to say there is no valid General Body meeting.

5(xiv). Further coming to forgery of signatures which is one of the major allegations against Sri P. Venkat Reddy-Ex-Secretary-cum-President supra, the resolution of the Board of Directors were written by him and signed by him in the name of other

Board Members confirmed by N. Chandrasekhar Ex-President of the Society. For example in the Board meeting dated 18.01.2013 the signature of K.N.S. Murthy, treasurer signature is not tallying with the signature therein to say it is forged and same is confirmed by Ex-President N. Chandra Sekhar as forged. Said N. Chandra Sekhar was given a set of questions and his replies show a notice issued by then Secretary-P. Venkat Reddy on 04.02.2013 enclosed by Chandrasekhar which called for explanation from N. Chandra Sekhar for filing frivolous petitions and Writ Petitions against the Society on 18.01.2013, the letter addressed to Society by Board of Directors requesting him to take action against the President (N. Chandra Sekhar) for not attending to jobs assigned to him and not cooperating with the Secretary P. Venkat Reddy and the very signatures in this letter are doubtful, the resolution passed on 30.01.2013 is based on the authorization given by General Body dated 23.01.2013. N. Chandra Sekhar in his reply to the Enquiry Officer submitted that said P. Venkat Reddy is creating fear and terror among members by threatening that their membership will be removed if they act against him. On 27.12.2013 at 7.36 A.M., the Enquiry Officer made a call to cell phone (9908473900) of N. Chandrasekhar and call was recorded by her with voice recorder software and the conversation enclosed in C.D. is annexed to the enquiry report and in the conversation said N. Chandrasekhar revealed certain issues like distribution of money of Rs.5,000/- and above by P. Venkat Reddy during elections, drawing of amounts according to their whims and fancies, the ignorance and forgery of signatures in the Board resolutions by P. Venkat Reddy, allotment of development of work to the Contractor P. Veeraiah, said N. Chandra Sekhar confessed that only 70% of payments to the Contractor are genuine and remaining 30% are doubtful and he revealed money issues and General Body and ratifications by members so called signing are of bogus and these things display monopoly in the acts of P. Venkat Reddy. Further, said P. Venkat Reddy as a Secretary of the Society during September, 2011 to March, 2012 drawn self-cheques bearing Nos. 077967,077970,077962, 077987,077990 and 200476 for total of Rs.4,34,000/- and the Contractor Veeraiah paid commission to the said Secretary(P. Venkat Reddy) and others by cheques through his account No.62081111046 Viz; to P. Venkat Reddy by cheque No.358182 drawn on 27.08.2011 for Rs.1,00,000/- to the account No.52005842458 and another cheque No.358189 drawn on 16.09.2011 for Rs.10,000/-, to P. Swaroop W/o P. Venkat Reddy by cheque No.358183 drawn on 29.08.2011 for Rs.1,40,000/- to the account No.52005842458, to M.V. Ramana by cheque No.358188 dated 06.09.2011 for Rs.60,000/- to the account No.52005836012 and self-cheques drawn by N. Chandrasekhar as President 13 in number total of Rs.18,01,900/- during January, 2010 to December, 2011.

5(xv). Coming to the 5th point of development of site area of the 39 acres of Kancha, Gachibowli of Serlingampalli Mandal of Ranga Reddy district, entrusted to the Contractor Veeraiah who is unregistered at the time of development agreement between the Society and Contractor dated 25.01.2011, he is also uneducated and the agreement mentions total area of 39 acres tenders called in Andhra Bhoomi Telugu Daily Newspaper on 31.12.2010 agreement signed only by the then Secretary (P. Venkat Reddy) and the Contractor (Veeraiah) and there is no signature of the President or any witnesses to the agreement, there is no Measurement Books which formed part of the development of works performed by the Contractor, no record maintained by the Contractor of the work done and no information as to how much rock is removed from the site, a video recording at the site area where the Contractor has discussed in detail the work done in the site, shows what the Contractor stated of he filled huge gaps as deep as 20ft. Height and removed check dams at the site and there is a bore well stated drilled thrice outcome of his negligence. The satellite images covered from the year 2006 to date generated by Google company downloaded from the Google earth and print screen images even captured to show the valid audio images downloaded that revealed no check dams at the site at the given point of time, there are no depths more than 20feet deep. The work done at the site is only formation of roads and clearance of small jungle area. The statement of Contractor Veeraiah recorded in video form shows in his deposition confessing the crucial points of his illiteracy and becoming victim and witness of Sri P. Venkat Reddy's scam, he stated of the total expenditure incurred in the civil works of site development nearly Rs.30 to 40% has been given back to P. Venkat Reddy in the form of cheques in the name of P. Prameela, D. Naveen Reddy, A. Jagan Mohan Reddy and cash payments to K.V.R. Murthy, Madhu Sudhan and J.V. Ram Mohan, friends of P. Venkat Reddy and also stated personal bank account at Moinabad State Bank of Hyderabad, the cash withdrawals made immediately by said

P.Veeraiah and given to P. Venkat Reddy. The secret audio recordings which even done by Veeraiah also produced which show clearly the brutality and heights of evilness of said P. Venkat Reddy. Said P. Venkat Reddy taking advantage of illiteracy of P. Veeraiah, Contractor, utilised the hard earned money of all classes of employees of High Court and the conversations between Venkat Reddy and Veeraiah shows the heights of corruption, fraud and shamelessness of said P. Venkat Reddy, Ex-President of the Society. The above words are even deficient to describe him as held from 28 audio files given by the Contractor Veeraiah, in diverting Society's money into the bags of P. Venkat Reddy. The Annual General Body meeting held on 23.09.2012 the Contractor Veeraiah's appointment without registration ratified in agenda 7 (15) page 7 of the minutes of the meeting saying *"There was no specific provision in the by-law or act to entrust the work to a registered firm, the Society seeing the past experience and the quality of the works performed earlier by the Contractor, the Society entrusted the works"*. It shows unanimous resolution. It shows nearly 2.5crores misappropriated in civil works only.

5(xvi). The questionnaire given to said P. Venkat Reddy, Devender and N. Chandra Sekhar regarding complaints received against them, they stated regarding expulsion of the 5 persons supra is the grievance of them for asking various questions to Venkat Reddy through and the removal is not properly done as discussed supra. The allegations published in newspapers against P. Venkat Reddy concerned, there are 52 representations from the High Court employees received on 16.12.2013, many requested to come on other day for enquiry as they have no knowledge thereby, on 17.12.2013 he was at the Service Association Hall of the cellar of the High Court for enquiry, she went there received various representations more than 33 from various cadres of the High Court employees of the Society, some revealed that they do not know the address of the Society office and the car of P. Venkat Reddy itself is the office according to them, allotment letters were not received by majority of the members though they paid the amounts and even M/s Haripreeth Printers were paid an amount of Rs.39,000/- for printing, allotment of letters according to Board Minutes of 10.04.2013 and share certificates are not issued by Society, major irregularities are committed by P. Venkat Reddy including, the development activities and many oral representations were also received from female members of the Society, retired members of the Society who are afraid of giving complaints on paper by fearing termination like in the case of Manikyamba, Vinod Kumar and others and the Enquiry Officer prepared questionnaire and circulated about 500 copies to the members, the replies given by almost all members which reveals that P. Venkat Reddy has written one of the questionnaires in his handwriting and took copy of it and got it circulated to members and took their signatures and presented to the Enquiry Officer and the questionnaire sent to the said P. Venkat Reddy Ex-president and Devender-Ex. President, and their replies were also obtained and during the enquiry Devender stated that he was attending the works given by

P.Venkat Reddy like attender to Venkat Reddy and their replies to the questionnaire shows they have taken shelter and protection from the innocence of the members in the form of ratification in General Body. It is therefrom the findings given are in the second enquiry report more particularly against the said P. Venkat Reddy besides Devender, N. Chandra Sekhar and Contractor Veeraiah.

5(xvii). In the background of the facts supra and from the enclosures to the enquiry report including statement of Veeraiah (Contractor) showing of their become victims in the hands of P. Venkat Reddy including himself and he was even fearing to the phone call of

P. Venkat Reddy to answer and how he was lured and looted by P. Venkat Reddy including by taking his signatures on blank papers and he expressed danger to his life in the hands of P. Venkat Reddy before the Enquiry Officer and he stated that even in the enquiry by the Andhra Jyothi news channel, he disclosed most of the facts including life threat in the hands of P. Venkat Reddy to him.

5(xviii). The Registrar of MACS, Joint Registrar/DCO of Hyderabad as petitioner under Section 31 and 33 of the MACS Act, filed petition before the Co-operative Tribunal against the Society represented by Sri P. Venkat Reddy who is Assistant Registrar of the High Court and 26 others with a prayer to pass appropriate orders on the irregularities committed by the Ex-Managing Committee of the Society and present and past Managing committees mentioned in the enquiry reports and for recovery of amounts which is pending O.P.No.22 of 2013. The list of the respondents given including P. Venkat Reddy as Director and Secretary(R.14) and N. Chandra Sekhar as President(R.15) and G. Devender as Director(R.23) and

N. Purushotham Reddy, Secretary(R.17) among others.

5(xix). It is in that factual background, the above Crimes 68 of 2013 (232 of 2014 of CCS), 71 of 2013, 78 of 2013 and 266 of 2012 of Charminar Police Station (231,226 and 225 of 2014 of CCS, Hyderabad) is pending.

5(xx). The Adhoc Committee consists of P.Venkat Reddy (A.1) Secretary, N.Chandrasekhar (A.2) President of Cr.No.68 of 2013 (232 of 2014 of CCS, Hyderabad and Cr.No.68 supra is subject matter of quash petition No.11995 of 2014) among others. There was no election conducted by the Adhoc Committee by violation of Sec.23 of the MACS Act. It shows as per the enquiry report also of the Adhoc Committee admitted 1112 employees along class-IV and others as members whereas the land allotted of 39 acres in Sy.No.25 part of Kancha, Gachibowli by the Government is only for 600 N.G.O's that to be the members and however the Adhoc Committee admitted even those among ineligible like 50 drivers, 47 Record Assistants, 335 attenders and other class IV employees and collected huge amounts. It is also the sum and substance of the complaint in Cr.No.266/2012 of Charminar Police Station (quash petition No.2214/2015 of CCS (Cr.No.225 of 2014) para-4 of F.I.R. in saying said Venkata Reddy among other adhoc members by pretending before those ineligible employees also collected huge amounts as if land will be allotted to them also, and misappropriated under that guise of allotment of land without even showing the funds of the Society to other members of the Society and acted contrary to the by-laws of the Society and misappropriated the huge funds by causing loss to the Society including by colluded with a Contractor by name P.Veeraiah for the works as if spent for development of the site etc., by creating false records and false estimates showing false expenditure by misappropriation and manipulation. The enquiry report also speaks that the Managing committee failed to file annual returns to the Registrar, every year even as required by Section 34 of the MACS Act, from the years 2003 to 2007 and also failed to hand over expenditure vouchers worth of Rs.48,826/- for a period of 2005-06 to 2009-10 without even arranging for audit of the accounts and as per the bank statements, the Society incurred during the year 2010-11 without observing the procedure and rules of the Societies Act, heavy expenditure of Rs.54.17lakhs and also failed to produce plans and estimates and Measurement Books records and bills for the civil works undertaken by it as well as Contractor and approval of management committee also not shown from which enquiry was conducted for the failure to comply.

5(xxi). Initially, Cr.No.286 of 2012 registered by Police Station Charminar Pursuant to the direction of the Court by the Hon'ble Single Judge in W.P.M.P.No.37324 of 2012 in the W.P.No.29232 of 2012 and same was set aside in W.A.No.1366 of 2012 as discussed supra. It is subsequently again on the report of the Joint Registrar-

District Cooperative Officer one G.Sreenivasa Rao (Accused of Cr.No.78 of 2013=226 of 2014) dated 25.02.2013, the Cr.No.68 of 2013 for the offense under Section 406 and 420 of I.P.C. registered by Charminar Police Station. The report describes filing of the fresh complaint after order in W.A.No.1366 of 2012 dated 06.12.2012 supra(since earlier F.I.R.No.286 of 2012 dated 18.10.2012) set aside as per the directions of the Hon'ble Single judge) in finding fault as such direction and not on other merits of quash FIR. The report reads the Registrar of MACS, by proceedings dated 22.02.2012 and 25.02.2012 ordered enquiry under Section 29(2) of the MACS Act into the affairs of the APHCEMHCSL and appointed District Cooperative Officer(M.Raji Reddy) as Enquiry Officer, to enquire into functioning and violations of the provisions of the MACS Act with special reference to the issues or allegations covering from date of registration 29 of 2003 of the Society viz; failed to conduct election by Adhoc Managing Committee, as per Section 23(1) of MACS Act, management existed upto 2007 failed to arrange to get its accounts audited as per Section 27 of the Act. As per the Act, Society should maintain certain accounts and records and the Managing committee of the Society failed to discharge their duties specified under Section 23 of the Act and by-law No.44 of the Managing Committee of the Society, failed to file annual returns with Registrar as per Section 34 of Act, the Managing Committee violated terms and conditions of G.O.Ms.No.633, dated 17.11.1992, annual returns under Section 34 of the Act to be submitted every year to the Registrar are not furnished from 2003-2007 and Managing Committee failed to hand over expenditure vouchers worth Rs.4,83,826/-from 2005-2006 to 2009-2010. Without expenditure vouchers, proper cash book and other books of accounts, the Managing Committee arranged for audit accounts for the year 2003 and 2010 and as can be seen from bank statements of the Society even expenditure of Rs.54,17,000/- during 2010-11 without observing liabilities of the Society and Procedure and Rules in vogue and the Society failed to produce the balance and estimate measurement book, reports and bills for civil works undertaken by it as well as the Contractor and approval of the Managing Committee not shown for verification. The Enquiry Officer conducted and completed enquiry and submitted a detailed report to the Registrar of MACS, with reference the W.P. and W.P.M.P. order from which Cr.No.286 of 2012 is registered, in W.A.No. 1366 of 2012 which preferred against the orders in W.P.M.P.No.37324 of 2012, the said direction was set aside besides the FIR registered consequent to it with observation that it is within the domain of the authority under the Act to take steps in the matter and it is their right to decide what steps they would avail concerning the allegations of commissions and omissions of any other violations on the part of the parties. Hence, fresh complaint against Ex-Secretary and present Managing Committee members of the Society under Section 38(2),(3),(4) of the MACS Act and by-laws made therein and relevant sections of IPC saying the complaint is based on the findings in the enquiry report submitted by District Cooperative Officer under Section 29 of the MACS Act. It describes the irregularities in detail from the enquiry report extracted and named Managing Committee members with designations totalling 25 in number and enclosed the enquiry report as basis, the Charminar police therefrom registered Cr.No.68 of 2013 on 25.02.2013, having received report supra on 22.02.2013 by made G.D. entry and after legal information for the action. The said FIR in Cr.No.68 of 2013 of Charminar Police Station since transferred to CCS and renumbered as Cr.No.232 of 2014 for the offences under Section 406 and 420 of IPC is impugned by the 9 petitioners among the 25 accused who are A.14,16,18 to 21, 23 to 25 against the State and the District Cooperative Officer as respondents 1 and 2 seeking to quash the said F.I.R.

5(xxii). Thus, the contention therefrom of the 2nd respondent-(DCO) without taking decision as per the order of the Division Bench that he has to take a decision on commissions and omissions with regard to the nature of steps that are to be taken under the Act, mechanically filed another complaint with 1st respondent–police containing the same allegations as were made in Cr.No.286 of 2012 dated 18.10.2012, which is registered as Cr.No.68 of 2013 dated 25.02.2013 is untenable. Even from observations in the Writ Appeal No.1366 of 2012, it is the right of the authority to decide what steps they would avail.......the authorities are always at liberty to proceed against the petitioners and others for the commissions and omissions under the provisions of the MACS Act.....for the offences under Section 38 MACS Act and of IPC..... The observations in the Judgement of the Division Bench of this Court are thus nowhere helpful to the quash petitioners. It is for the reason Cr.No.68 of 2013 dated 25.02.2013 is registered from the report as a subsequent event to the disposal of the Writ Appeal No.1366 of 2012 on 06.12.2012 setting aside interim order in W.P.No.29232 of 2012, dated 18.09.2012 and the consequential proceedings of Cr.No.286 of 2013 dated 18.10.2012 registered from the report pursuant to the writ petition interim order. Once the appeal order itself is clear of the authorities can decide the recourse they can adopt within their right, what is find fault is direction of the Court and not registration of the Crime muchless on merits of any offence not made out, the second F.I.R is not a bar including from the settled law in ***Upkar Singh V. Ved Prakash*** explaining the earlier expression in ***T.T.Antony V. State of Kerala***. It is not in the eye of law a second F.I.R but for an F.I.R for earlier one quashed on technicality by giving liberty to proceed and once the authorities decided from the accusations referred supra making out a case under the MACS Act and I.P.C for the offences committed, the Crime No.68 of 2013, dt.25.02.2013 registered on the report of even self-same complainant of quashed Crime No.286 of 2012 not a bar even on perusal of the both the FIRs show one and the same allegations except that the earlier was made pursuant to the directions in W.P.No.29232 of 2012,dated 18.09.2012 and the latter after disposal of the W.A.No.1366 of 2012, so far as the 28 counts of allegations in FIR No.68 of 2013, dt.25.02.2013. As per the By-law-(24) and Sections 29-31 of the MACS Act, the authorities are entitled to take actions as per law for the omissions and commissions by the accused for the offences committed in emblazing funds of the Society of about 2.5 crores and under Section 34 of the MACS Act and under Sections 406&420 IPC etc., and even order in W.A. No.1366 of 2012 supports the same. The mere fact that already 2nd respondent filed O.P.No.22 of 2013 under Section 31 read with 33(1) of the APMACS Act before the Co-operative Tribunal, Hyderabad is also not a bar to the criminal prosecution under Cr.P.C for the penal offences under I.P.C and the MACS Act, for no bar either under Section 300 Cr.P.C or under Article 20(2) of the Constitution of India or even from Section 26 of the General Clauses Act muchless even under the MACS Act. The mere fact that any General Body Meeting was conducted on 23.09.2012 and the allegations under the complaint on the 28 counts were ratified by the General Body except on count/allegation 21 pertaining to N.Purshotham Reddy for which he already filed O.P.No.22 of 2013 and when all the allegations of commissions and omissions were explained in the General Body meeting by taken all the facts and circumstances into considerations not even a ground as a bar to the filing a report and registering the crime No.68 of 2013 and investigating into it to file final report according to law.

5(xxiii). Even coming to the contention of in the quash petition, pursuant to the prayer of interim stay of the crime proceedings, interim stay was granted on 23-09-2014 of investigation of the Crime No.68 of 2013, referring to the order/direction of the High Court in the W.P.M.P.No.37324 of 2012(in W.P.No.29232 of 2012), order/direction of the High Court in the W.A.M.P.No.2939 of 2012(in W.A.No.1366 of 2012), setting aside the direction in the order in W.P.M.P.No.37324 of 2012, and same requires to be confirmed is also untenable as same is outcome of misguidance and misreading of said orders together and non-leading of the enquiry report discussed supra which clearly makes out the offences, before making any such observation but for influencing by the submission. Therefore, there is no justification for continuing the interim stay in force from its extending time to time restraining the police officials and Co-operative dept. Officials from discharging their duties.

Point-ii.

6(i). It is necessary to mention in this context that among the 25 accused of the crime including in relation to the six quash petitioners, the main perpetrator of the crime is P.Venkat Reddy and so far as the other accused concerned, from reading of the report of the 2nd respondent/Srinivasa Rao, Joint Registrar-cum-District Cooperative Officer specific allegations regarding the complicity of all the accused not mentioned with reference to the enquiry report but for enclosed the enquiry report. Thereby, the dismissal of the quash petition no way prejudice any of their rights nor influence the investigating officer to say any complicity against any but for to investigate from the material on record and the same is without prejudice to the right in the evidence of police filing final report and any cognizance taken by the Court to impugn afresh and but for that it is premature to make any expression once they are office bearers of the executive committee during the relevant period of the misfeasance.

6(ii). Coming to point No.ii, in fact, on perusal of the private complaints referred for the police investigation show the accusation is mainly against the A.1 Venkat Reddy in all the crimes and A.2 Chandra Sekhar with Venkat Reddy in the two crimes and against Contractor Veeraiah also with Venkat Reddy in one Crime and the allegations against them are substantiating from a reading of the two enquiry reports. However, coming to the allegation against A-6 of Crime No.71 of 2013 by name Nariman Sarma, about so called false statement during enquiry proceedings, it is not shown the enquiry proceedings conducted by the D.C.O under the MACS Act is within the Court under Section 195(3) Cr.P.C. for any bar. Further, there is no any specific allegation to substantiate so called enquiry report contains allegations against the Purshottam Reddy are made to defame by the co-operative officials A.3 to A.5 respectively of the two crimes Cr.Nos.71 & 78 of 2013 of Charminar Police Station-renumbered as Cr.Nos.231 & 226 of 2014 by the CCS, DD, Hyderabad, but for basing on the facts arrived from enquiry incorporated in the enquiry report that said Purshottam Reddy-being member cum Ex.Office bearer (Secretary) of the Managing Committee of the Society-(Asst.Section Officer, High Court), arrayed as A.38 of Cr.No.286 of 2012 pertains to a single cheque payment to Contractor for electrical substation covered by Item-21 of the report and there is resolution and same is even subject matter of the proceedings impugning before the co-operative tribunal by the defacto-Complainant-Purshottam Reddy. However, so far as the offences under Section 500 and 506 I.P.C concerned, in the two out of the three private complaints, all referred to Police for investigation, there is a bar under Section 199 Cr.P.C., for the Magistrate to refer private complaint for police investigation and for police to register a crime and investigate. As Section 199 Cr.P.C speaks no Court shall take cognizance for the offence of defamation under the chapter XXI of I.P.C. except upon complaint made by the aggrieved, on perusal shows the learned Magistrate while referring the complaints including for the offences under Section 500 of I.P.C. did not apply the judicial mind but for referred mechanically for the offence under Section 500 Cr.P.C. along with other offences. The learned Magistrate if found, there are any allegations by recording the sworn statement if any by proceeding under Section 200 read with 202 of Cr.P.C. to take cognizance, but could not have referred for police registering crime and investigation by ignoring the bar. There is nothing to say any criminal intimidation to attract the offence under Section 506 of IPC muchless criminal conspiracy, but for between said Venkat Reddy or Chandra Sekhar or Contractor Veeraiah. Further, the offences under Sections 500 and 506 I.P.C. are non cognizable. Further, as per the expression of the Apex Court in ***Tilak Nagar Industries Vs. State of A.P.,*** even complaint referred by Court, the bar under Section 155(2) Cr.P.C. applies. Therefore, the offences under Sections 500 and 506 I.P.C. shall go out from the crimes registered for such penal provisions not sustainable against any of the accused for no any factual foundation apart from the legal bar and the procedural irregularities supra. So far as the A.6 of Cr.No.71 of 2013(231 of 2014 of CCS) concerned, the so called statement of him before the Enquiry Officer as false concerned, once the accusation under Section 500 IPC won't survive as referred supra and there is nothing under Section 506 IPC as referred supra and there is no other offence like

120-B or 34 IPC to survive, apart from the fact that as per section 195 Cr.P.C. there is a bar to book for perjury or false statement if on oath in the course of enquiry proceedings concerned, for proceeding on crime registered by police. So far as Venkat Reddy, Chandra Sekhar and Contractor Veeraiah concerned, there are prima facie accusations for the three private complaints referred and the crimes registered for the offences under Sections 406, 409 and 420 read with 120-B/34 IPC and Section 38 MACS Act read with bye-law No.24 also and for that accusation, when there are basic allegations with substance, there is nothing to quash in so far as said penal sections concerned in the three crimes, outcome of the private complaint of said Purshottam Reddy viz., in Cr.Nos.71 of 2013, 78 of 2013 and 266 of 2012 of Charminar Police Station-renumbered as Cr.Nos.231, 226 and 225 of 2014 by the CCS, DD, Hyderabad, besides Cr.No.68 of 2013(Cr.No.232 of 2014 of CCS), discussed in point No.i supra. The said Contractor Veeraiah in fact issued an affidavit dated 14.08.2014, to the Commissioner of Cooperative Societies stating that he did contract work entrusted to him and he is being illiterate and innocent, the then President/(Secretary) P. Venkat Reddy committed several illegalities, that by the end of January, 2011 he started the works and whatever the amounts paid allegedly for it taken back by said P. Venkat Reddy either by cheques obtained in the name of his or his father-in-law as if loans or by cash and also taken away the cheque book of him with Karnataka bank and retained with him and he was being threatened with dire consequences, if he discloses about the illegal acts and even he recorded the phone conversation with P. Venkat Reddy with the help of daughter and the same is also submitted to the enquiry officer and to Chandrasekhar, the then President of the Society and other members of the Society were also informed about the threats from P. Venkat Reddy and his obtaining blank signed papers from him and they did not heed and because of fear from P. Venkat Reddy, he could not dare to initiate any further action; while taking away the moneys from him by P. Venkat Reddy, Venkat Reddy was saying that he provides sufficient contract works to him including for construction of houses and lured him to part with the amounts to him once 7 lakhs paid and 7 lakhs taken back and 5 lakhs paid and three lakhs taken back and 10 lakhs paid and 5 lakhs taken back out of it respectively and even without payments, he was making him to work by engaging coolies and he created fake bills and false accounts and cheated him.

6(iii). Even coming to the contention of the learned counsel for the quash petitioners that unless the departmental enquiry proceedings are finalised from the enquiry report, the proceedings cannot be sustained for prosecution apart from the other remedy under the Cooperative Societies Act provided besides under the MACS Act, is also untenable. In fact, the cloud is cleared in this regard by the Division Bench of this Court in **Garimella Subbarao Vs. State of Andhra Pradesh** in Crl.P.No.4911 of 2009 dated 26.03.2013 in answering a reference on maintainability of prosecution for criminal breach of trust or misappropriation pending finalisation of surcharge proceedings from enquiry report or without initiation of surcharge proceedings therefrom and finding thereunder, in resolving the conflicting expressions by the Division Bench. No doubt under the Co-operative Societies Act, with reference to Section 50 audit report or 51 enquiry report or 52/53 inspection of report or Section 60 surcharge proceedings, it is laid down that initiation of surcharge proceedings is distinct and different from criminal prosecution either under IPC or under the Co-operative Societies Act or under both; since it is the statutory duty of the police to conduct investigation and file final report under Section 173 of Cr.P.C. once allegations as to the crime brought to their notice in cognizable offence and there is nothing to wait till the fixing of liability under surcharge proceedings and mere non-institution of prosecution under the provisions of the societies Act, not even a bar to the maintainability of the prosecution for the I.P.C. offences and for that conclusion of even without fixing liability of a person in a surcharge proceeding, from any audit or inspection or enquiry report, as the case may be, the prosecution can go on for the offence of breach of trust or misappropriation or cheating or forgery for the purpose of cheating or using as genuine a forged document with any joint liability. It is laid down that prosecution for the offence under the special law as well as general law of IPC even can be maintained in one proceedings and fixing of liability in a surcharge proceedings is not a condition precedent to set the criminal law in motion or to proceed with investigation and trial of the offences even after fixing no liability under the surcharge proceedings; the prosecution under IPC offences subject to factual foundation can sustain and once it is shown ingredients for the offences under general law or special law are one and the same and once faced the trial for special law offences or general law of PC offences even not for both, again cannot be tried under the special law or general law because of bar under Section 300 of Cr.P.C.; unless it is shown the ingredients for general law or special law are different and distinct for no impediment to proceed with the case under general law of IPC and of the special law for penal consequences by maintaining prosecution.

6(iv). The decision of **K.Ashoka Vs. M.L.Chandrasekhar** rendered by the Apex Court holds that unless it is shown all the allegations made in the complaint petition even if taken by face value and accepted in entirety does not disclose commission of cognizable offences, the proceedings to quash the F.I.R. cannot be invoked under Section 482 of Cr.P.C. It was also observed that even a complaint filed by any Director of Society against the office bearers of the Society for the alleged offence or even some of the Directors of the Society shown privy not impleaded that also not a ground in seeking to quash those that of prima facie shown liable facing the accusation. Further another single judge expression of this Court later in ***Crl.P.No.2879 of 2013 dated 28.08.2014*** held with reference to section 38 of the MACS Act and for the offence under Section 409,420,468 and 471 of IPC in Cr.No.161 of 2009 of Station House officer, Begum Bazar, registered against the chairman of the Society referring to the expression of **Garimella Subbarao** supra **and the order in W.P. No.14702 of 2010 of Telangana N.G.Os. union case** referred by the learned Single Judge and the interim order passed for registering Crime by police with a direction to set aside by the Division Bench in W.A.No.1366 of 2012 and with reference to the enquiry report therein held that the grounds urged for quashing not tenable when the complaint/ final report disclosed prima facie material for the offences alleged, thereby it is a fit case and the matter requires thorough investigation by directing the police to follow section 41 Cr.P.C. regarding arrest of quash petitioner as per the protection thereunder by law by repelling the contention of without surcharge proceedings initiated and finding given on the enquiry report against the Society and its Executive Committee, the prosecution under the MACS Act or under IPC offence unsustainable in saying such a contention is untenable for the prosecution is sustainable. Thus, there are no grounds to quash the criminal proceedings in all the crimes but for in the three crimes, outcome of private complaints for the offences under Section 500 and 506 I.P.C.

6(v). Further, as per the expression of the Apex Court in ***S.P.Gupta V. Ashutosh Gupta*** where there are positive assertions in the complaint/report about the role of the accused persons, the truth or otherwise or any explanation of mistaken outcome only needs to be decided in answering the charge made and it no way requires interference under Section 482 Cr.P.C. for quashing the criminal complaint for the crimes registered under Section 420 read with 120-B I.P.C.

POINT No.iii:-

7. Accordingly and in the result,

a) The **Crl.P.M.P.Nos.4817 of 2015 is allowed** and Sri Rajkumar K.N.P.M., employee of the High Court-cum-member of the Society is impleaded as co-respondent-R5 to the quash petition No.11995 of 2014.

b) The **Crl.P.No.11995 of 2014,** impugning the proceedings under investigation of the Cr.No.68 of 2013 of Charminar Police Station, dated 25.02.2013-(since transferred to CCS and renumbered as Cr.No.232 of 2014), Hyderabad), **is dismissed in toto** for prima facie accusations to investigate and same not a bar either *from Crime No.286 of 2012* lost its efficacy by virtue of the orders in *W.A.M.P.No.2939 of 2012 dt.26.10.2012 and final orders in W.A.No.1366 of 2012, dated 06.12.2012 setting aside that part of the direction in the order in W.P.M.P.No.37324 of 2012, dated 18.09.2012 to consider the initiation of the criminal proceedings, and the consequential proceedings pursuant to that direction viz., Crime No.286 of 2012, for* the Cr.No.68 of 2013 of Charminar Police Station, dated 25.02.2013 is registered as a subsequent consequence of the earlier quashing of Crime No.286 of 2012 and same not a bar; so also from any pendency of the proceedings of the co-operative Tribunal not finalised under the MACS Act pursuant to the enquiry report or for no bar to the IPC offences even from any of the provisions of the MACS Act to register the crime and investigate and to file final report under the MACS Act and IPC for the offences.

(c) Consequently, the interim stay of investigation of Crime No.68 of 2013 granted by this Court (another bench) in force by extension from time to time stand vacated and the **Crl.P.M.P.No.14791 of 2014 in Crl.P.No.11995 of 2014 is closed** for no more orders required thereunder.

(d) The **Crl.P.No.2214 of 2015 is dismissed** in toto for no grounds to quash the criminal proceedings from prima facie material to the accusations to investigate.

(e) The **Crl.P.No.4280 of 2015 is allowed** by quashing the proceedings under investigation of the crime Nos.71 of 2013 of Charminar Police Station-renumbered as Cr.Nos.231 of 2014 by the CCS, DD, Hyderabad, pursuant to the order u/sec.156(3) Cr.P.C, of the learned Magistrate, on the private complaint of Sri N. Purshottam Reddy-who is the defacto-Complainant, for the offences punishable under Sections 500 & 506 of I.P.C. by virtue of Section 199 &155 of the Cr.P.C. in so far as the petitioner (A-6) concerned with the accusation of he gave a statement during enquiry falsely to defame the defacto-complainant. Needless to say of no offence even made out against the three officers of the Co-operative Department in relation to the said offences, who are not parties to the quash petitions to say further.

(f) The **Crl.P.No.No.2213 of 2015 in so far as A-1 and A-2, who are the petitioners is disposed of by allowing in part** by quashing the proceedings under investigation of the crime Nos.71 of 2013 of Charminar Police Station-renumbered as Cr.Nos.231 of 2014 by the CCS, DD, Hyderabad, pursuant to the order u/sec.156(3) Cr.P.C, of the learned Magistrate, on the private complaint of Sri N. Purshottam Reddy-who is the defacto-Complainant, only in respect of the offences punishable under Sections 500 & 506 of I.P.C. by virtue of Section 199 &155 of the Cr.P.C. and however, in so far as the other allegations in the report that constitutes other offences under I.P.C viz., Sections 465, 468, 469 and 471 I.P.C and Section 420 and 406/409 I.P.C, requires investigation, thereby the petition is disposed of to that extent without quashing the F.I.R proceedings.

(g) The **Crl.P.No.2215 of 2015 in so far as A-1 and A-2, who are the petitioners is also disposed of by quashing** the proceedings under investigation of the crime No.78 of 2013 of Charminar Police Station-renumbered as Cr.No.226 of 2014 by the CCS, DD, Hyderabad, pursuant to the order u/sec.156(3) Cr.P.C, of the learned Magistrate, on the private complaint of Sri N. Purshottam Reddy-who is the defacto-Complainant, by allowing in so far as the offences punishable under Sections 500 & 506 of I.P.C. concerned by virtue of Section 199 &155 of the Cr.P.C. and dismissed in relation to the other offences since require investigation;

(h) It is made clear that any of the observations will no way influence the mind of the investigating officer concerned in investigating the crimes to the extent the above four crimes are not quashed, so also for adding or deleting any penal sections subject to availability of any material during investigation that comes out, to make or not to make any accusation and to file final report; and

(i) It is further made clear that so far as Crime Nos.71/2013, 78/2013 and 226/2014 supra concerned which are outcome of three private complaints of N.Purushottam Reddy, the police who are investigating shall consolidate the three crimes as a single crime for all offences to read the subsequent crimes as statements under Section 161 Cr.P.C to include all offences to the extent not quashed and those are applicable.

(j) It is further made clear that save those who obtained bail, the others among the accused persons arrest is suspended, pending investigation and after police final report, if any and taking of cognizance by the learned Magistrate concerned, further remedies left open.

(k) It is made clear that the suspension of arrest no way disentitle any interrogation by calling for their appearance for the purpose of investigation of these crimes only.

(l) Consequently, miscellaneous petitions if any pending in all the criminal petitions shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt. 17.11.2015

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