IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL PETITION NO.6945 OF 2019
C/W
CRIMINAL PETITION NO.1677 OF 2019
CRIMINAL PETITION NO.3769 OF 2019

IN CRL.P NO.6945/2019:

BETWEEN:

1. DRISHYA T.M. @ NITHANYA,
   D/O SRI. MANMATHA,
   AGED ABOUT 30 YEARS.

2. SRI. MANMATHA,
   S/O SRI. T.K. KUSHALAPPA,
   AGED ABOUT 63 YEARS.

3. SMT. DEVAKI,
   W/O SRI. MANMATHA,
   AGED ABOUT 50 YEARS.

   ALL RESIDENTS AT NO.274/3,
   3RD BLOCK, CHIKKANNA LAYOUT,
   OPP: MARKET ROAD,
   KUSHALNAGAR, KODAGU,
   KARNATAKA-571234.

...PETITIONERS

(BY SRI. G.S.VENKAT SUBBARAO, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
   BY SUBRAMANYANAGAR POLICE STATION,
   REPRESENTED BY ITS

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Location: HIGH COURT OF KARNATAKA

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SUB-INSPECTOR OF POLICE,
BENGALURU-560 010.
THROUGH SPP,
HIGH COURT BUILDING,
BANGALORE-560001.

2. PRASHANTH GANGADHAR,
S/O GANGADHAR,
AGED ABOUT 32 YEARS,
R/O NO.221,
"VARSHA APARTMENTS"
FLAT NO.74, 7TH FLOOR,
C.V. RAMAN ROAD,
RMV EXTENSION,
SADASHIVANAGAR,
BENGALURU CITY-560080.

…RESPONDENTS

(BY SRI. MOHAMMED AYUB ALI, ADDL. SPP FOR R1;
SR. M.B. RAVIKUMAR, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.12828/2019 ON THE FILE OF THE COURT OF THE IV ADDL. CMM COURT, NRUPATHUNGA ROAD, BENGALURU CITY, FILED IN PURSUANCE OF CR.NO.17/2019 DATED 19.01.2019 OF SUBRAMANYANAGARA POLICE STATION, BENGALURU, UNDER SECTIONS 406 AND 420 R/W SECTION 34 OF IPC VIDE ANNEXURE-A.

IN CRL.P NO.1677/2019:

BETWEEN:

1. SRI. G. PRASHANTH,
AGED ABOUT 33 YEARS,
S/O SRI. GANGADHAR,
RESIDENT OF THE PERMISES
BEARING NO.221,
"VARSHA APARTMENT"
FLAT NO.704, 7TH FLOOR,
C.V. RAMAN ROAD,
R.M.V. EXTENSION

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SADASHIVA NAGAR,
BENGALURU-560004.

...PETITIONER

(BY SRI. RAGHAVENDRA K., ADVOCATE)

AND:

1. STATE OF KARNATAKA,
   BY THE STATION HOUSE OFFICER,
   KUSHLANAGAR POLICE STATION,
   KODAGU DISTRICT.
   REPRESENTED BY SPP,
   HIGH COURT BUILDING,
   BANGALORE-560001.

2. SMT. T.M. DHRUSHYA,
   AGED ABOUT 29 YEARS
   D/O SRI. T.K. MANMATHA
   RESIDENT OF "SUBALAKSHMI NILAYA"
   NO.2784/3, CHIKKANNA EXTENSION,
   KUSHALNAGAR-571234.
   KODAGU DISTRICT.

...RESPONDENTS

(BY SRI. MOHAMMED AYUB ALI, ADDL. SPP FOR R1;
SRI. G.S. VENKAT SUBBARAO, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE FIR IN CR.NO.13/2019 REGISTERED AT KUSHALNAGAR POLICE STATION, KODAGU DISTRICT, FOR THE OFFENCES WHICH ARE MADE PENAL UNDER SECTIONS 506, 504, 323, 448 AND 376 OF IPC ON THE FILE OF ADDITIONAL CIVIL JUDGE AND J.M.F.C., KUSHALNAGAR.

IN CRL.P NO.3769/2019:

BETWEEN:

1. KUM. DRISHYA T.M. (NITHANYA),
   D/O T.K. MANMATHA,
   AGED ABOUT 29 YEARS,

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R/AT NO.274.3, 3RD BLOCK,
CHIKKANNA LAYOUT,
OPP. MARKET, KUSHALANAGARA,
KODAGU DISTRICT-571234.

...PETITIONER

(BY SRI. G.S. VENKAT SUBBARAO, ADVOCATE)

AND:

1. STATE OF KARNATAKA,
   BY CYBER CRIME POLICE
   BENGALURU CITY.

2. SRI. C. PRASHANTH,
   S/O SRI. GANGADHAR,
   AGED ABOUT 33 YEARS,
   VARSHA APARTMENTS,
   NO.221, FLAT NO.704,
   7TH FLOOR, C.V.RAMAN ROAD,
   R.M.V. EXTENSION,
   SADASHIVANAGAR,
   BENGALURU-560080.

...RESPONDENTS

(BY SRI. MOHAMMED AYUB ALI, ADDL. SPP FOR R1;
SRI. M.B. RAVIKUMAR, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE COMPLAINT/FIR IN CRIME NO.4912/2018 REGISTERED BY CYBER CRIME POLICE STATION, BENGALURU I.E., THE 1ST RESPONDENT POLICE FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 65 AND 66 OF INFORMATION TECHNOLOGY ACT, 2000 ON THE FILE OF THE ADDITIONAL CHIEF METROPOLITAN MAGISTRATE COURT, BENGALURU VIDE ANNEXURES-A AND B.

THESE PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 04.11.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

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CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

CAV ORDER

Heard the learned counsel for the petitioners, the learned Additional SPP appearing for respondent No.1/State and the learned counsel for respondent No.2/complainant is all the petitions.

2. Crl.P.No.6945/2019 is filed praying this Court to quash the entire proceedings in C.C.No.12828/2019, on the file of the Court of IV Additional CMM Court, Bengaluru, filed in pursuance of Crime No.17/2019 dated 19.01.2019 of Subramanyanagara Police Station, Bengaluru, under Sections 406, 420 read with Section 34 of IPC, vide Annexure-A.

3. Crl.P.No.1677/2019 is filed praying this Court to quash the FIR in Crime No.13/2019 registered at Kushalnagar Police Station, Kodagu District, for the offences under Sections 506, 504, 323, 448 and 376 of IPC, on the file of the Additional Civil Judge and JMFC, Kushalnagar.

4. Crl.P.No.3769/2019 is filed praying this Court to quash the complaint/FIR in Crime No.4912/2018 registered by Cyber Crime Police Station, Bengaluru for the offences under

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Sections 65 and 66 of the Information Technology Act, 2000, ('IT Act' for short) on the file of the Additional Chief Metropolitan Magistrate Court, Bengaluru, vide Annexures-A and B.

5. The factual matrix of the case of the complainant in Crl.P.No.3769/2019, invoking the offences under Sections 65 and 66 of the IT Act is that the petitioner and respondent No.2/complainant being known acquaintance with each other had developed a relationship and intimacy. The complainant lodged a complaint dated 24.12.2018 as per Annexure-B against the petitioner for unauthorized access and deletion of his personal data in his Apple mobile phone No.9902060934. It is stated in the complaint that he is doing business i.e. import of coal from China and supplying to various companies in India. It is stated that the petitioner approached him through one common friend stating that she is acting in the movies and she developed friendship with him for the purpose of financial help. Accordingly, he paid more than Rs.13,50,000/- to her Axis bank account. Apart from that, she told that she will assist in his business and she was operating his mobile when he had food along with her and also when he used to visit the

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restroom. When he demanded her to return the money what he had given to her, instead of returning the money, without his permission she was getting data from his mobile and if he talked to his business associates or his family friends she would record the same and forward the same to him. He was shocked to know that how she can get the data from his mobile, in fact he is doing lakhs of rupees business getting the goods from China and she has done the acts from her mobile to his mobile i.e., unauthorized access to his mobile, deletion of his personal data stored in his mobile, deletion of contact details, hampering of important details in his mobile in respect of his business. The petitioner with a fraudulent intention was transferring his mobile data to her some device and used to delete the same and inspite of instructed her to stop the same, instead of stopping transfer of data, she started insisting him to forego Rs.13,50,000/- what he had given to her and then only she will stop deleting the data from his mobile. It is his further allegation that he know one Deepthi Gowda, who is friend of him and recently she has chatted with him i.e., on 21.12.2018. Immediately the petitioner has recorded the conversation and sent to him without his permission. The copy of the said conversation recorded in the Instagram is also produced for

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ready reference. Hence, request was made in the complaint to take action against her. Based on this complaint, case is registered and FIR is registered as per Annexure-A for IT Act offences.

6. The learned counsel for the petitioner would vehemently contend that a frivolous and vexatious complaint is filed invoking the offences under Sections 65 and 66 of the IT Act. The police also committed an error in registering the case. The present complaint is filed afterthought with sole intention of harassing the petitioner in view of earlier complaint lodged by the petitioner. The filing of the complaint is nothing but a sheer abuse of process with an oblique motive to harass the petitioner and provisions of Sections 65 and 66 of the IT Act is applicable to a case of commission of an offence relating to the computer system and since in the instant case no such computer system is involved and hence, the complaint is not maintainable. It is also contended that for the purpose of commission of an offence under Sections 65 and 66 of the IT Act, dishonest intention to cause damage is an essential ingredient and the complaint does not disclose the same. The complaint is filed only with an intention to cover up his

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misdeeds to overcome the offences alleged against him. The financial transaction mentioned in the complaint has got nothing to do with the alleged commission of the offence. It is contended that the petitioner and respondent No.2 were in a relationship and there has been an exchange of certain transactions and the same is taken undue advantage of respondent No.2 to term the same as a loan. The complainant taking undue advantage of the amount repaid by him through his company towards the amount payable to the petitioner has put forth a false theory of borrowal of amount in a sum of Rs.13,50,000/-. The complaint is filed with personal vengeance as the relationship between both of them is strained.

7. Crl.P.No.6945/2019 is filed by the very same petitioner in Crl.P.No.3769/2019 along with other two petitioners i.e., accused Nos.2 and, 3 who are the parents of petitioner No.1 praying this Court to quash the charge-sheet in C.C.No.12828/2019 for the offence punishable under Sections 420, 506 read with Section 34 of IPC and though the complaint is filed earlier for the offence under Section 406 of IPC, the same was not invoked. In the charge-sheet an allegation is made that CW1 came in contact with accused No.1 and accused

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Nos.1 to 3 though received the amount as loan, with an intention to cheat the complainant did not repay the same when the complainant insisted to repay the amount. The complainant transferred the amount from ICICI Bank account, Union Bank account and Axis Bank account, total to the tune of Rs.17,77,022/-. That on 20.03.2018 when CW1 and CW4 went to the house of accused No.1 parking the car in 'J' Block No.1701, accused No.1 took the car key, laptop and documents and when CW1 insisted to return the same, she refused to return the same. Accused Nos.1 to 3 only made the repayment of Rs.2,80,022/- and for balance amount, they refused to pay the amount and when he insisted to repay, they caused the life threat and cheated to the tune of Rs.14,97,000/-. The police based on the complaint investigated the matter and filed the charge-sheet. Hence, the present petition is filed before this Court.

8. The main contention of the learned counsel for the petitioners in this petition is that the alleged incident was taken place is only a theory created by the complainant. The offences alleged to have occurred prior to 20.03.2018 are not mentioned in the complaint dated 24.12.2018 before the Cyber Crime

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Police Station and are mentioned in the complaint dated 19.01.2019. In complaint dated 19.01.2019, respondent No.2 alleges that his laptop was stolen on 20.03.2018. However, no complaint was filed then or allegation made in the subsequent complaint. The complaint was filed after a lapse of 10 months alleging the offences under Sections 406, 420 read with Section 34 of IPC filed before the LVI Additional City Civil and Sessions Judge, Bangalore, alleging theft of laptop data and this allegation was not mentioned in his complaint to the Cyber Crime police station dated 24.12.2018. This shows at the outset that the complaint dated 19.01.2019 is vexatious and liable to be dismissed. The learned counsel would contend that respondent No.2 has filed two similar cases on the same incident producing the same bank statement, dated 19.01.2019. The respondent No.2 has alleged that he has filed two similar cases on a single bank statement, wherein he has alleged in the former that respondent No.2 has transferred a sum of Rs.14,97,000/- in Crime No.17/2019. In the latter, respondent No.2 has alleged that he has transferred a sum of Rs.13,50,000/- in Crime No.4912/2018 on the very same bank statement alleging transfer of money to the Axis bank account of petitioner No.1 in the very same period. The complaints are

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barred under the principle of double jeopardy under Article 20(2) of the Constitution of India and Section 300 of Cr.P.C.

9. The learned counsel would vehemently contend that the financial transaction mentioned in the complaint has got nothing to do with the alleged commission of the offence. The petitioner No.1 and respondent No.2 were in a relationship and respondent No.2 demanded that he use the petitioner No.1's credit card for his hotel bookings, travel, restaurants, etc. The respondent No.2 used to pay the amounts used from the credit card from the company account owned by respondent No.2 namely, Headwin Exim Pvt. Ltd. and the personal account of respondent No.2's company. The respondent No.2 taking undue advantage of the amount repaid by him through his company towards the amount payable to petitioner No.1 has put forth a false theory of borrowed amount in a sum of Rs.13,50,000/-. That on 30.11.2018, respondent No.2 physically and mentally harassed petitioner No.1 and therefore, petitioner No.1 and her father filed two separate complaints about the same seeking for protection. The complaints were numbered as NCR Nos.136/2018 and 137/2018 before the Kushalnagar Police Station. As a counterblast to these complaints filed by

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petitioner No.1, respondent No.2 has filed the above said two false complaints dated 19.01.2019 and 24.12.2018. In both the complaints, one dated 19.01.2019 and the other complaint dated 24.12.2018, no date, time and place of offence is mentioned with regard to any of the allegations or incidents. The respondent No.2 with an ulterior motive to wreck vengeance against the petitioners as against the complaints of the petitioners has filed false complaints and FIR is registered and in one case charge-sheet is filed and frivolous allegations are made and the essential ingredients to constitute an offence under Sections 406, 420 read with Section 34 of IPC is missing. The complaint dated 19.01.2019 was lodged before the Subramanyanagar Police Station, Bengaluru, which has no jurisdiction. Hence, with personal grudge the complaint is filed. Hence, prayed this Court to quash the same.

10. The learned counsel for the petitioners in support of his arguments relies upon the judgment of the Apex Court in the case of **INDER CHAND BAGRI v. JAGADISH PRASAD BAGRI AND ANOTHER** reported in **2025 SCC OnLine SC 2529** and brought to the notice of this Court paragraph No.17 wherein Sections 406 and 420 of IPC are extracted. The

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learned counsel also brought to the notice of this Court paragraph No.23 wherein detailed discussion was made particularly referring to the judgment of the Apex Court in the case of **DELHI RACE CLUB (1940) LIMITED v. STATE OF UTTAR PRADESH** reported in **(2024) 10 SCC 690,** wherein it is observed that there is a distinction between criminal breach of trust and cheating. For cheating, criminal intention is necessary at the time of making false or misleading representation i.e. since inception. In criminal breach of trust, mere proof of entrustment is sufficient. Thus, in case of criminal breach of trust, the offender is lawfully entrusted with the property, and he dishonestly misappropriated the same. Whereas, in case of cheating, the offender fraudulently or dishonestly induces a person by deceiving him to deliver a property. In such a situation, both offences cannot co-exist simultaneously. The learned counsel also brought to the notice of this Court paragraph No.28 wherein the Apex Court referred to the judgment in the case of **VISHAL NOBLE SINGH v. STATE OF UTTAR PRADESH** reported in **(2024) 14 SCC 112** wherein it was observed that in recent years the machinery of criminal justice is being misused by certain persons for their vested interests and for achieving their oblique motives and

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agenda. Courts have therefore to be vigilant against such tendencies and ensure that acts of omission and commission having an adverse impact on the fabric of our society must be nipped in the bud.

11. The learned counsel also relies upon the judgment of the Apex Court in the case of **RAMESH RAJAGOPAL v. DEVI POLYMERS PRIVATE LIMITED** reported in **(2016) 6 SCC 310** and brought to the notice of this Court paragraph No.19 wherein it is held that, as regards the commission of offences under the IT Act, 2000, the allegations are that the appellant had, with fraudulent and dishonest intention on the website of Devi Consultancy Services i.e. www.devidcs.com that the former is a sister concern of Devi Polymers. Further, that this amounts to creating false electronic record. In view of the finding above, we find that no offence is made out under Section 66 of the IT Act, read with Section 43. The appellant was a Director of Devi Polymers and nothing is brought on record to show that he did not have any authority to access the computer system or the computer network of the company. That apart, there is nothing on record to show the commission of offence under Section 65 of the IT Act, since the allegation is

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not that any computer source code has been concealed, destroyed or altered. In the case on hand, the only allegation is that making use of the mobile of the complainant, petitioner No.1 transferred the data and deleted certain information and hence, it will not attract the offences under Sections 65 and 66 of the IT Act.

12. The learned counsel in support of his arguments relies upon the judgment of the Apex Court in the case of **BINOD KUMAR AND OTHERS v. STATE OF BIHAR AND ANOTHER** reported in **(2014) 10 SCC 663**, wherein it is discussed with regard to the quashment of complaint – civil liability cannot be converted to criminal liability and the same amounts to abuse of process of Court. In the case on hand, the allegation made in the complaint is that petitioner No.1 had parted with money as a loan. When such being the case, the question of invoking Section 420 of IPC does not arise.

13. The learned counsel also relies upon the judgment of the Apex Court in the case of **PARAMJEET BATRA v. STATE OF UTTARAKHAND AND OTHERS** reported in **(2013) 11 SCC 673** and contend that when a dispute is of civil nature, matters to be considered and weighed by the High Court

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exercising the power under Section 482 of Cr.P.C. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court.

14. The learned counsel also relies upon the judgment of the Apex Court in the case of **INDER MOHAN GOSWAMI AND ANOTHER v. STATE OF UTTARANCHAL AND OTHERS** reported in **(2007) 12 SCC 1,** wherein the Apex Court discussed with regard to exercising of inherent power under Section 482 of Cr.P.C. With regard to duty and approach of High Court while exercising said power it is held that the same has to be exercised sparingly, carefully and with great caution. No hard and fast rule can be laid down for exercise of extraordinary jurisdiction under Section 482 of Cr.P.C.

15. The learned counsel also relies upon the judgment of the Apex Court in the case of **ANAND KUMAR MOHATTA AND ANOTHER v. STATE (NCT OF DELHI), DEPARTMENT OF HOME AND ANOTHER** reported in **(2019) 11 SCC 706,** wherein it is held that when a civil dispute is converted into criminal case to harass the accused, the Court can exercise power to quash criminal proceedings.

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16. In Crl.P.No.3769/2019 the learned counsel for the petitioner in support of his arguments relies upon the judgment of the Apex Court in the case of **NEEHARIKA INFRASTRUCTURE PVT. LTD. v. STATE OF MAHARASHTRA AND OTHERS** reported in **(2021) 19 SCC 401,** wherein the Apex Court discussed scope of Section 482 of Cr.P.C. as well as Article 226 of the Constitution of India and held that in considering whether to pass such exceptional orders, High Court must apply the very same parameters which are required to be considered while quashing the proceedings in exercise of powers under Section 482 of Cr.P.C. in exercise of its inherent jurisdiction, which parameters are very well settled. This is to be contrasted with situation where such orders are purported to be passed while declining to quash the criminal proceedings, which is wholly impermissible. Law extensively surveyed and summarised while exercising powers under Article 226 of the Constitution of India. The learned counsel also brought to the notice of this Court paragraph No.10.6, wherein it is referred to the case of **SANAPAREDDY MAHEEDHAR SESHAGIRI v. STATE OF A.P.** reported in **(2007) 13 SCC 165**, wherein it is held that if the allegations contained in FIR or complaint disclose commission of some crime, then the High Court must

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keep its hands off and allow the investigating agency to complete the investigation without any fetter and also refrain from passing order which may impede the trial. The High Court must also refrain from making imaginary journey in the realm of possible harassment which may be caused to the petitioner on account of investigation of FIR or complaint. In paragraph No.10.7 the Apex Court discussed the judgment in the case of **STATE OF MAHARASHTRA v. ARUN GULAB GAWALI** reported in **(2010) 9 SCC 701,** wherein it is held that the provisions of Articles 226, 227 of the Constitution of India and Section 482 of Cr.P.C. are a device to advance justice and not to frustrate it. The power of judicial review is discretionary, however, it must be exercised to prevent the miscarriage of justice and for correcting some grave errors and to ensure that stream of administration of justice remains clean and pure. However, there are no limits or power of the Court, but the more the power, the more due care and caution is to be exercised in invoking these powers.

17. The learned counsel also brought to the notice of this Court paragraph Nos.12.8 and 12.9 wherein discussion was made with regard to the judgment in the case of **UNION OF**

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INDIA v. PRAKASH P. HINDUJA reported in **(2003) 6 SCC 195** so also in the case of **P. CHIDAMBARAM v. DIRECTORATE OF ENFORCEMENT** reported in **(2019) 9 SCC 24**. The learned counsel also brought to the notice of this Court conclusion in paragraph Nos.33.1, wherein discussion was made with regard to Chapter XIV of the Code as well as rarest of rare cases while exercising the power under Section 482 of Cr.P.C.

18. Per contra, the learned counsel for respondent No.2/complainant in Crl.P.Nos.6945/2019 would vehemently contend that the police have already investigated the matter and filed the charge-sheet based on Annexure-B and the offence is only invoked for Sections 420 and 506 of IPC though earlier complaint is filed for Section 406 of IPC also. The learned counsel would contend that there is a prima facie case against the petitioners and there is no dispute that money was transferred. The learned counsel would contend that CW1 to CW7 are witnesses who speak about the transaction between both of them and same requires the trial.

19. The learned counsel also relies upon the judgment of the Apex Court passed in SLP (Criminal) No.11151/2025 in

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the case of **ROCKY v. STATE OF TELANGANA AND ANOTHER,** wherein the Apex Court held that materials collected during investigation, including the statements of four witnesses, fully support the respondent No.2's allegations and disclose a prima facie case against the appellant. The defence put forth by the appellant are matters to be examined during trial and this Court may not interfere at the pre-trial stage. The learned counsel would contend that the police have already investigated the matter and filed the charge-sheet in Crl.P.No.6945/2019 and it is a matter of trial.

20. The learned counsel for respondent No.2/complainant in Crl.P.No.3769/2019 would vehemently contend that the petitioner has sought for quashing of FIR and complaint is filed on 24.12.2018, wherein Sections 65 and 66 of IT Act is invoked. The learned counsel would contend that specific allegations are made against the petitioner that she committed the theft of laptop and committed the offence of transferring the information from the mobile and it requires investigation. The learned counsel would contend that in view of specific accusation made in the FIR, it requires investigation.

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21. In Crl.P.No.1677/2019, the petitioner has prayed the Court to quash the FIR registered against him for the offences under Sections 506, 504, 323, 448, 376 of IPC in Crime No.13/2019, wherein accusation is made that on 04.12.2018 and prior to that date, the petitioner wrongfully entered the house of the complainant and committed rape on her and also assaulted her parents and abused in a filthy language and caused life threat and continuous assault and harassment was made and hence, complaint was filed. The matter is under investigation.

22. The learned counsel for the petitioner in Crl.P.No.1677/2019 would vehemently contend that during the year 2017, the petitioner had to participate as a substitute in a meeting that was held at Hotel Sangrilla, in connection with selection of models for exhibition of the products of "Strawberry". One of the candidate who had come for selection as a model for "Strawberry" was respondent No.2. It was at that time, the petitioner came to know about respondent No.2. The respondent No.2 thereafter came to Goa for a photo shoot-out. The petitioner, who was asked by the organizers to be present in Goa, did participate along with their other

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representatives in the shoot-out conducted in Goa. The respondent No.2 could not be accepted after the photo shoot-out by the authorities of Strawberry as the one to advertise their products. However, respondent No.2 was able to gain the friendship and association of the petitioner which compensated her the loss sustained by her in the photo shoot-out. The friendship and the association of respondent No.2 with the petitioner began to groom day by day and ultimately resulted in they making up their mind and coming out with the proposal to marry.

23. The petitioner and respondent No.2, then began to have a live-in-relationship. The petitioner secured a rented house in the Brigade Gateway Apartment on a rental of Rs.55,000/- and upon paying an advance amount of Rs.5,50,000/- to the owner of the flat for living in the company of respondent No.2. The payments were made by the petitioner towards the advance amount and also monthly rentals by way of transfer of the amount from his account to the account of respondent No.2 since the lease agreement was executed by the owner of the flat in the name of respondent No.2. The petitioner and respondent No.2, thereafter, brought to the

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notice of their respective parents that they are in love with each other and that they have been having a live-in-relationship and that they intend to marry. The parents of the petitioner and respondent No.2 gave their consent for the marriage of the petitioner with respondent No.2. Accordingly, on 24.02.2018, betrothal function was held at Kushalnagar in the house of respondent No.2. After the betrothal function, the petitioner and respondent No.2 continued to have a live-in-relationship while staying in the rented flat which came to be taken on lease by the petitioner in the name of respondent No.2. To his utter shock and surprise, the petitioner came to know that respondent No.2 was having a relationship with a person Kiran and she having also given birth to a child in that relationship. The petitioner was also able to lay his hands upon certain photographs of respondent No.2 with the said Kiran and the child she has given birth to. The respondent No.2 did not give any satisfactory answer and instead of regretting for her past, became adamant and left the house where she was making a live-in-relationship with the petitioner. The petitioner having realised from the conduct of respondent No.2 that the exhibition of love by her towards him was only a pretence and that she was so doing only to extricate huge amounts from him

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as and when it was becoming necessary for her and that she would certainly ditch him at any moment and walk out of the live-in-relationship, filed a complaint. The relationship was strained after November 2018 and in December complaint was filed and started giving complaint against each other in the month of February 2019. It is stated that a case was also filed invoking Section 376 of IPC against him and the same is an afterthought and the one that is filed to extricate herself and her parents from the action brought against them by the petitioner and to compel the petitioner to enter into terms with them. Hence, prayed this Court to quash the same.

24. The learned counsel for the petitioner in support of his arguments relies upon the judgment of the Apex Court in the case of **PRAMOD KUMAR NAVRATNA v. STATE OF CHHATTISGARH AND OTHERS** reported in **(2026) 6 SCC 629** and brought to the notice of this Court paragraph Nos.23 to 31, wherein an observation is made that the Courts have to be extremely careful and cautious in identifying the genuine cases filed under Section 376(2)(n) IPC by identifying the essential ingredients to constitute the said offence i.e. there should be a promise of marriage made by the accused solely

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with a view to obtain consent for sexual relations and without having any intent of fulfilling said promise from the very beginning, and that such false promise of marriage had a direct bearing on the prosecutrix giving her consent for sexual relations. In this judgment the Apex Court also referred to the decision in the case of **MAHESH DAMU KHARE v. STATE OF MAHARASHTRA** reported in **(2024) 11 SCC 398.** In paragraph No.29 discussion was made with regard to the judgment in the case of **STATE OF HARYANA v. BHAJAN LAL** reported in **1992 Supp (1) SCC 335**.

25. The learned counsel also relies upon the judgment of the Apex Court in the case of **PRASHANT v. STATE OF NCT OF DELHI** reported in **(2025) 5 SCC 764** and brought to the notice of this Court paragraph Nos.20 and 21, wherein discussion was made with regard to the consensual relationship between the parties and promise of marriage. The ingredients of criminal intimidation is also clarified and the scope of FIR and charge-sheet is also discussed.

26. The learned counsel also relies upon the judgment of the Apex Court in the case of **Mahesh Damu Khare** (supra) with regard to consent given under false promise of marriage –

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effect and necessary requirements for conviction in such case. The learned counsel also brought to the notice of this Court with regard to quashing of proceedings - cases where the High Court, to prevent the abuse of process of any Court or otherwise to secure the ends of justice can quash the criminal proceedings.

27. The learned counsel also relies upon the judgment of the Apex Court in the case of **DR. DHRUVARAM MURLIDHAR SONAR v. STATE OF MAHARASHTRA AND OTHERS** reported in **(2019) 18 SCC 191** and brought to the notice of this Court paragraph Nos.18, 19, 21, 22, 23, 24, 25 and 26. In the said judgment it is discussed with regard to rape or consensual sex and conscious decision of victim to be involved in sexual relationship with the accused without pressure or a misconception on part of accused and relationship not involving passive submission of victim.

28. The learned counsel also relies upon the judgment of the Apex Court in the case of **RAJNISH SINGH ALIAS SONI v. STATE OF UTTAR PRADESH AND ANOTHER** reported in **(2025) 4 SCC 197** and brought to the notice of this Court paragraph Nos.20, 21, 22, 23, 24, 27, 29, 39, 40

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and 43. In the said judgment it is discussed with regard to quashing of proceedings – plea as to vitiation of consent under misconception of fact and continued sexual relationship for 16 years indicating absence of proof as to forcible intercourse and false promise of marriage, as factors. It is held that it is difficult to swallow that the complainant, a well-qualified major girl, was subjected to forcible sexual intercourse by an outsider in her own house where her parents were present and still, they did not get a whiff about the incident. Thus, the complainant's allegation seems to be a well-orchestrated story and nothing beyond that.

29. The learned counsel also relies upon the judgment in the case of **PRAMOD SURYABHAN PAWAR v. STATE OF MAHARASHTRA AND ANOTHER** reported in **(2019) 9 SCC 608** and brought to the notice of this Court paragraph Nos.16 and 24, wherein discussion was made with regard to the meaning of consent with respect to Section 375 of IPC. Individual who makes a reasoned choice to act after evaluating various alternative actions (or inaction) as well as various possible consequences flowing from such action or inaction, consents to such action.

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30. The learned counsel also relies upon the judgment of the Apex Court in the case of **STATE OF HARYANA AND OTHERS v. BHAJAN LAL AND OTHERS** reported in **1992 Supp (1) SCC 335** and brought to the notice of this Court paragraph No.102 that the complaint is filed with personal grudge to wreck vengeance.

31. The learned counsel also relied upon the judgment of the Apex Court in the case of **NAIM AHAMED v. STATE (NCT OF DELHI)** reported in **(2023) 15 SCC 385** and brought to the notice of this Court paragraphs Nos.17, 18, 21 and 22. The Apex Court also discussed with regard to invoking of Section 375 of IPC clauses secondly, thirdly, fourthly, fifthly and consensual sexual relationship whether prosecutrix gave her consent under the misconception of fact under Section 90, so as to hold the appellant guilty of having committed rape within meaning of Section 375 of IPC. As per prosecution, appellant lured the prosecutirx, a married woman having three children to have sexual relationship with him by giving her a false promise that he would marry her. However, he committed breach of the alleged promise after she delivered a child from

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the appellant and, thus, the consent obtained by him was under misconception of fact. The same was discussed in detail.

32. The learned counsel also relies upon the judgment of this Court passed in Criminal Petition No.1225/2025 c/w Criminal Petition No.2826/2025 dated 19.01.2026, wherein it is discussed that the principle is reaffirmed in **SHAMBU KHARWAR v. STATE OF UTTAR PRADESH** reported in **(2022) SCC OnLine SC 1032** where the Apex Court interdicted the criminal process at the threshold holding that the relationship between the parties was purely consensual and accordingly quashed the crime as well as the charge sheet. So also discussion was made with regard to the judgment in the case of **Naim Ahamed** (supra).

33. Per contra, the learned counsel for respondent No.2/complainant in his arguments would vehemently contend that the delay in registering the case is not a ground when the serious offence is attributed and also consent cannot be attributed and photographs are very clear that the complainant was assaulted and subjected to sexual act and hence, the same requires investigation. The learned counsel would contend that the FIR cannot be quashed and the principles laid down in

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judgments relied upon by the learned counsel for the petitioner are not applicable to the case on hand.

34. The learned Additional SPP appearing for respondent No.1/State would submit that already investigation is conducted in one case and charge-sheet is filed and statement of witnesses are also recorded and in other two matters, FIR is registered and yet to investigate the matter and hence, prays this Court to dismiss the petitions.

35. Having heard the learned counsel for the respective parties, there are case and counter case between both the parties. Having taken note of the same, the points that would arise for the consideration of this Court are:

(i) Whether the petitioners have made out a case in Crl.P.No.6945/2019 to quash the charge-sheet for the offence punishable under Sections 420 and 506 of IPC and whether it requires interference of this Court invoking Section 482 of Cr.P.C.

(ii) Whether the petitioner has made out a case in Crl.P.No.3769/2019 to quash the FIR in Crime No.4912/2018 for the offence punishable under Section 65 and 66 of the IT Act?

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(iii) Whether the petitioner has made out a case in Crl.P.No.1677/2019 to invoke Section 482 of Cr.P.C. for quashing the FIR registered in Crime No.13/2019 for the offences punishable under Sections 506, 504 323, 448 and 376 of IPC?

Point No.(i):

36. Having heard the learned counsel for the respective parties, at the first instance when a complaint was filed in Crime No.17/2019, FIR was registered for the offences punishable under Sections 406, 420 read with Section 34 of IPC. Having perused the complaint, an allegation is made that the petitioners had parted with the money of Rs.14,97,000/- as loan and only with an intention to cheat the complainant, the loan was availed. The pleadings made by the petitioner himself in Crl.P.No.1677/2019 is very clear that they came in contact with each other for the first time at Sangrilla Hotel and thereafter at Goa in a photo shoot-out program and thereafter, they developed the friendship and started to live in a live-in-relationship. It is also pleaded that he only took the premises on a rental basis by making payment of Rs.55,000/- as rent and paid the amount of Rs.5,50,000/- as advance. It is pleaded that later he came to know about her relationship with one

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Kiran and thereafter, dispute had arisen between them. With regard to parting of money, it is stated that when she came to know that he is doing business she also wanted to join and assist him in the business. Having taken note of the material available on record, it is clear that earlier her father and herself also had lodged the complaint on 04.12.2018 itself and acknowledgment was given. Hence, it is clear that both of them were in a live-in-relationship and admittedly, betrothal function was also taken place between them. Father had also lodged the complaint and also victim had also lodged the complaint. But police have not taken any action. This complaint was given belatedly on 24.12.2018. Hence, it is very clear that when the relationship was strained between both of them, complaint was given making an allegation that he had paid the amount as loan. When such being the case, the invoking of Section 420 of IPC does not arise and the allegation of causing of threat is also an improvement.

37. It is alleged in the complaint that on 20.03.2018 when she was staying at Brigade Gateway 'J' Block, 18th floor, he had kept the laptop which has a software of riverbed WAN optimization software worth lakhs of rupees in his car and when

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he visited her apartment and that time she had stolen the said laptop with the aforesaid software on the aforesaid date. It is very clear that when the amount was demanded, difference was arisen between them. At the inception of the transaction there was no any intention of cheating and hence, there cannot be any proceedings for the offence under Sections 420 and also Section 506 of IPC and this complaint is filed afterthought. The police, no doubt, investigated the matter and filed the charge-sheet. When the ingredients of offence under Section 420 of IPC will not attract, the question of facing the criminal case does not arise. No doubt, the principles laid down in the judgments is also very clear with regard to exercising the power under Section 482 of Cr.P.C. while quashing the FIR as well as the charge-sheet, if the complaint is filed afterthought the Court can exercise the power. Admittedly, both of them were living in a live-in-relationship and hence, there cannot be any criminal prosecution for the offence under Sections 420 and 506 of IPC. Hence, I answer the point in the affirmative.

Point No.(ii):

38. The FIR is filed invoking Sections 65 and 66 of the IT Act for the complaint dated 24.12.2018. The allegation made

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in the complaint is that instead of returning the money, the petitioner started unauthorized access to his mobile. Both of them were living together from February 2018 onwards taking the premises on rent is not in dispute. It is pleaded that he only took the premises on rent and both of them were in a live-in-relationship. Both of them were discussing with regard to the business associates and family friends and when both of them were living together, using the mobile of each other will not attract Sections 65 and 66 of the IT Act. To attract Sections 65 and 66 of the IT Act there must be a dishonest and fraudulent intention. The complaint was given earlier on 04.12.2018 and the same was not taken by the police and instead of issued the NCR and both father and also she had given the complaint and afterthought only this complaint was filed. When such being the case, when both of them were in a relationship with each other and discussing with each other with regard to the business is concerned, there cannot be any criminal prosecution for making use of the mobile. No doubt, the law is also very clear that while quashing the FIR, the Court has to only look into the contents of the complaint. But in the case on hand, it has to be noted that both of them were in a live-in-relationship and there cannot be any dishonest intention in using of mobile and having

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taken note of the same, there cannot be any criminal prosecution and only with an intention to wreck vengeance, the complaint is filed as held by the Apex Court in the case of **Bajan Lal** (supra) in view of strained relationship. Hence, it is a fit case to quash the proceedings. Accordingly, I answer the point in the affirmative.

Point No.(iii):

39. Having considered the factual aspects of the case and the allegations made against each other, it is very clear that both of them came in contact with each other and relationship was developed. Subsequently, they brought to the notice of the family and the engagement was also taken place with the consent of the family. When differences were arisen between both of them, the engagement was broken. Even before the engagement also both of them were living together and took the separate premises and were having consensual sexual act. It is also important to note that both of them were earlier married and the allegation made by the petitioner is also that she is having a child with one Kiran. This Court in the judgment passed in Criminal Petition No.1225/2025 c/w Criminal Petition No.2826/2025 has discussed that the principle

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is reaffirmed in **Sambhu Kharwar** case (supra) where the Apex Court interdicted the criminal process at the threshold holding that the relationship between the parties was purely consensual and accordingly quashed the crime as well as the charge-sheet. Having taken note of factual aspects of the case, they had sexual relationship and hence, there cannot be invoking of Section 376 of IPC and other allied offences. Having considered the factual aspects of the case, it is only after the relationship was strained between both of them, allegations were made against each other and the same is only to wreak vengeance as discussed in the judgment of **Bhajan Lal** case (supra). The principles laid down in the judgments relied upon by the learned counsel for the petitioner comes to the aid of the petitioner that there was a live-in-relationship between them and mere breakup of a relationship between a consenting parties cannot result in the initiation of criminal proceedings as held in paragraph No.27 of the judgment of **Pramod Kumar Navratna.** Hence, there cannot be any criminal prosecution against the petitioner in view of live-in-relationship and both of them know the consequences and hence, it is a fit case to exercise the powers under Section 482 of Cr.P.C. to quash the proceedings. Hence, I answer the point accordingly.

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40. In view of the discussions made above, I pass the following:

ORDER

(i) The petitions are allowed.

(ii) The proceedings initiated against the petitioners in C.C.No.12828/2019 is quashed in Crl.P.No.6945/2019.

(iii) The proceedings initiated against the petitioner in Crime No.13/2019 is quashed in Crl.P.No.1677/2019.

(iv) The proceedings initiated against the petitioner in Crime No.4912/2018 is quashed in Crl.P.No.3769/2019.

Sd/-
(H.P.SANDESH)
JUDGE

MD

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