2026:KER:27895

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

FRIDAY, THE 27TH DAY OF MARCH 2026 / 6TH CHAITHRA, 1948

CRL.A NO. 1822 OF 2024

AGAINST THE ORDER DATED 08.05.2015 IN M.C. 2/2014 IN OPMV NO.1701 OF 2007 OF MOTOR ACCIDENT CLAIMS TRIBUNAL ,PERUMBAVOOR

APPELLANT/RESPONDENT:

RAJI JOSHI ALIAS REJI JOSHI,
AGED 45 YEARS,
W/O. JOSHI, PUTHENKUDY HOUSE, OKKAL KARA,
OKKAL P.O , ERNAKULAM DISTRICT, PIN - 683550.

BY ADV SRI.R.SURENDRAN

RESPONDENT/:

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031.

SENIOR PUBLIC PROSECUTOR SRI RENJIT GEORGE.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 05.03.2026, THE COURT ON 27.03.2026 DELIVERED THE FOLLOWING:

"C.R"

A. BADHARUDEEN, J.

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Crl.Appeal No.1822 of 2024

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Dated this the 27th day of March, 2026

J U D G M E N T

This appeal has been filed under Section 380 of Bharatiya Nagarik Suraksha Sanhita, 2023 (`BNSS' for short hereafter) challenging the order dated 08.05.2015 in M.C.No.2/2014 arising out of O.P(MV) No.1701/2007 on the files of the Motor Accident Claims Tribunal (`MACT' for short hereafter), Perumbavoor. The respondent herein is the State of Kerala.

2. Heard the learned counsel for the appellant/respondent as well as the learned Public Prosecutor in detail. Perused the order impugned as well as the relevant documents, including the decisions placed by the learned counsel for the appellant.

3. On the facts of this case, the appellant herein is the 1st respondent in O.P(MV).No.1701/2007 on the files of the MACT,

Perumbavoor. M.C.No.2/2014 was *suo motu* registered by the Tribunal when it found that Ext.B2 driving licence produced by the appellant herein before the court on receipt of I.A.No.3505/2009 in OP(MV).No.1701/2007 was fake and forged and it was detected when the insurer filed a petition to cause production of the driving licence particulars and its production. It was found by the Tribunal that Ext.B2 driving licence bearing No.7361/1998 was actually issued from Assistant Licensing Authority, Meenambakkam in favour of one Raghavendra B Sirsi and not in favour of the appellant. In the M.C.No.2/2014, while forwarding the order to the JFCM, Perumbavoor, which led to registration of C.C.No.923/2015 pending before the JFCM-I, Perumbavoor, the Tribunal observed in paragraphs 10 to 14 as under:

> *"10. So the only possible conclusion is that the respondent/R1 had offered Ext:B2 which is a falsely created document for using the same in evidence before this forum to avoid the legal consequences against her, that are likely to follow on it being revealed that she was not having a licence to drive the kinetic honda at the time of the accident.*
>
> *11. The contention of respondent/R1 that the entries in the records maintained at the office of the licensing authority could be a mistaken entry cannot be accepted, owing to the presumption u/s*

114(e) of the Evidence Act given to official records. It is also contended by the respondent /R1 that she had been handed over the licence by the driving school authorities who had given her lessons in driving.

12. How far the said version of respondent/R1 is true is a matter to be decided by the competent authority, after investigation in the matter. However the fact remains that the respondent/RI had offered a document which prima facie appears to be a fabricate record, and is not relating to the vehicle driven by her. As stated above no objections are raised by the respondent/R1 to the version of the Licensing authority who is stated to have issued the Ext:B1 licence to her, that no such licence is issued to her in the licence number shown in Ext:BL

13. So the only conclusion is that a document which appears to be bogus had been produced by respondent/R1 stating to be issued to her by the Licencing authority which is seen denied by the said authority as per the Ext:B2 letter, to be used in the proceedings as OP(MV) 1701/07 so as to bring out that she was having the licence to drive the offending vehicle at the time of the accident, as an attempt to avoid the recovery right against her.

14. So the only course now open to this forum is to forward this order to the Judicial First Class Magistrate Perumbavoor requesting appropriate action against the respondent/R1 in OP(MV)1701/07 under the relevant provisions of Chapter XI of the Indian Penal Code, which provides penalty for fabricating false evidence."

4. The prime contention raised by the learned counsel for

the appellant is based on the Constitution Bench decision reported in [AIR 2005 SC 2119], ***Iqbal Singh Marwah v. Meenakshi etc***., with reference to paragraph 18 of the judgment. In paragraph 18, the Apex Court observed as under:

> *"18. In view of the language used in Section 340 Cr.P.C. the Court is not bound to make a complaint regarding commission of an offence referred to in Section 195(1)(b), as the Section is conditioned by the words "Court is of opinion that it is expedient in the interest of justice." This shows that such a course will be adopted only if the interest of justice requires and not in every case. Before filing of the complaint, the Court may hold a preliminary enquiry and record a finding to the effect that it is expedient in the interests of justice that enquiry should be made into any of the offences referred to in Section 195(i)(b). This expediency will normally be judged by the Court by weighing not the magnitude of injury suffered by the person affected by such forgery or forged document, but having regard to the effect or impact, such commission of offence has upon administration of justice. It is possible that such forged document or forgery may cause a very serious or substantial injury to a person in the sense that it may deprive him of a very valuable property or status or the like, but such document may be just a piece of evidence produced or given in evidence in Court, where voluminous evidence may have been adduced and the effect of such piece of evidence on the broad concept of administration of justice may be minimal. In such circumstances, the Court may not consider it expedient in the*

interest of justice to make a complaint. The broad view of clause (b) (ii), as canvassed by learned counsel for the appellants, would render the victim of such forgery or forged document remedyless. Any interpretation which leads to a situation where a victim of a crime is rendered remedyless, has to be discarded."

5. Apart from the said decision, the learned counsel for the appellant relied on a 3 Judge Bench decision of the Apex Court reported in [2002(1) SCC 253 : AIR 2002 SC 236], ***Pritish v. State of Maharashtra and Others***, where the Apex Court observed as under:

"19. We therefore agree with the impugned judgment that the appellant cannot complain that he was not heard during the preliminary inquiry conducted by the Reference Court under Section 340 of the Code. In the result we dismiss this appeal."

6. According to the learned counsel for the appellant, on scrutiny of the order impugned, the learned Tribunal failed to form an opinion that "it is expedient in the interest of justice' to lodge a complaint against the appellant herein and, therefore, the order impugned is against the ratio laid down by the Apex Court in the decision in ***Pritish v. State of Maharashtra and Others'*** case (*supra)*.

7. For the above reasons, the learned counsel for the appellant sought interference of the order impugned.

8. Per contra, the learned Public Prosecutor supported the order while conceding that even though the specific words 'it is expedient in the interest of justice' were not used in the order, in *toto*, the said finding can still be gathered from the order, and therefore no interference with the order is necessary.

9. In the decision in ***Iqbal Singh Marwah v. Meenakshi etc**.'s case* (*supra*) the Constitution Bench considered a case where a forged Will was produced before the court while the other side moved an application under Section 340 of the Code of Criminal Procedure (`Cr.P.C' for short) requesting the court to file a criminal complaint to prosecute appellant No.1 therein, who produced the document. The Apex Court considered the conflict of opinions between 2 decisions of the Apex Court rendered by a 3 Judge Bench reported in [(1996) 3 SCC 533], ***Surjit Singh v. Balbir Singh*** and [(1998) 2 SCC 493], ***Sachida Nand Singh v. State of Bihar*** regarding interpretation of Section 195(1)(b)(i) and (ii) of Cr.P.C.

10. In this connection, it is relevant to refer Section 340 of Cr.P.C which reads as under:

*"340. **Procedure in cases mentioned in section 195.***

(1) When, upon an application made to it in this behalf or otherwise, any Court is of opinion that it is expedient in the interests of Justice that an inquiry should be made into any offence referred to in clause (b) of sub-section (1) of section 195, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary,---

(a) record a finding to that effect;

(b) make a complaint thereof in writing;

(c) send it to a Magistrate of the first class having jurisdiction;

(d) take sufficient security for the appearance of the accused before such Magistrate, or if the alleged offence is non-bailable and the Court thinks it necessary so to do, send the accused in custody to such Magistrate; and

(e) bind over any person to appear and give evidence before such Magistrate.

(2) The power conferred on a Court by sub-section (1) in respect of an offence may, in any case where that Court has neither made a complaint under sub-section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the Court to which such former Court is subordinate within the meaning of sub-section (4) of section 195.

(3) A complaint made under this section shall be signed,--

(a) where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;

[(b) in any other case, by the presiding officer of the Court or by such officer of the Court as the Court may authorise in writing in this behalf.]

(4) In this section, "Court" has the same meaning as in section 195."

11. In this connection, paragraphs 19 to 21, 23, 24 to 26 of the decision in ***Iqbal Singh Marwah v. Meenakshi etc****.'s case* (*supra*) are relevant and the same are extracted hereunder:

"19. There is another consideration which has to be kept in mind. Sub- section (1) of Section 340 Cr.P.C. contemplates holding of a preliminary enquiry. Normally, a direction for filing of a complaint is not made during the pendency of the proceeding before the Court and this is done at the stage when the proceeding is concluded and the final judgment is rendered. Section 341 provides for an appeal against an order directing filing of the complaint. The hearing and ultimate decision of the appeal is bound to take time. Section 343(2) confers a discretion upon a Court trying the complaint to adjourn the hearing of the case if it is brought to its notice that an appeal is pending against the decision arrived at in the judicial proceeding out of which the matter has arisen. In view of these provisions, the complaint case may not proceed at all for decades specially in matters arising out of civil suits where decisions are challenged in successive appellate for a which are time consuming. It is also to be noticed that there is no provision of appeal against an order passed under Section 343(2), whereby hearing of the case is adjourned until the decision of the appeal. These provisions show that, in reality, the procedure prescribed for filing a complaint by the Court is such that it may not fructify in the actual trial of the offender for an unusually long period. Delay in prosecution of a guilty person comes to his advantage as witnesses become reluctant to give evidence and the evidence gets lost. This important consideration dissuades us from accepting the broad interpretation sought to be placed upon clause (b)(ii).

20. An enlarged interpretation to Section 195(1)(b)(ii), whereby the bar created by the said provision would also operate where after commission of an act of forgery the document is

subsequently produced in Court, is capable of great misuse. As pointed out in Sachida Nand Singh, after preparing a forged document or committing an act of forgery, a person may manage to get a proceeding instituted in any civil, criminal or revenue court, either by himself or through someone set up by him and simply file the document in the said proceeding. He would thus be protected from prosecution, either at the instance of a private party or the police until the Court, where the document has been filed, itself chooses to file a complaint. The litigation may be a prolonged one due to which the actual trial of such a person may be delayed indefinitely. Such an interpretation would he highly detrimental to the interest of society at large.

21. Judicial notice can be taken of the fact that the Courts are normally reluctant to direct filing of a criminal complaint and such a course is rarely adopted. It will not be fair and proper to give an interpretation which leads to a situation where a person alleged to have committed an offence of the type enumerated in clause (b)(ii) is either not placed for trial on account of non-filing of a complaint or if a complaint is filed, the same does not come to its logical end. Judging from such an angle will be in consonance with the principle that an unworkable or impracticable result should be avoided. In Statutory Interpretation by Francis Bennion (Third ed.) para 313, the principle has been stated in the following manner :

> *"The court seeks to avoid a construction of an enactment that produces an unworkable or impracticable result, since this is unlikely to have been intended by Parliament. Sometimes however, there are overriding reasons for*

applying such a construction, for example where it appears that Parliament really intended it or the literal meaning is too strong."

The learned author has referred to Sheffield City Council v. Yorkshire Water Services Ltd. (1991) 1 WLR 58, where it was held as under :

"Parliament is taken not to intend the carrying out of its enactments to be unworkable or impracticable, so the court will be slow to find in favour of a construction that leads to these consequences. This follows the path taken by judges in developing the common law. '... the common law of England has not always developed on strictly logical lines, and where the logic leads down a path that is beset with practical difficulties the courts have not been frightened to turn aside and seek the pragmatic solution that will best serve the needs of society."

In S.J. Grange Ltd. v. Customs and Excise Commissioners (1979) 2 All ER 91, while interpreting a provision in the Finance Act, 1972, Lord Denning observed that if the literal construction leads to impracticable results, it would be necessary to do little adjustment so as to make the section workable. Therefore, in order that a victim of a crime of forgery, namely, the person aggrieved is able to exercise his right conferred by law to initiate prosecution of the offender, it is necessary to place a restrictive interpretation on clause (b)(ii).

23. That apart, the section which we are required to interpret is not a penal provision but is part of a procedural law, namely, Code of Criminal Procedure which elaborately gives the

procedure for trial of criminal cases. The provision only creates a bar against taking cognizance of an offence in certain specified situations except upon complaint by Court. A penal statute is one upon which an action for penalties can be brought by a public officer or by a person aggrieved and a penal act in its wider sense includes every statute creating an offence against the State, whatever is the character of the penalty for the offence. The principle that a penal statute should be strictly construed, as projected by the learned counsel for the appellants can, therefore, have no application here.

24. Coming to the last contention that an effort should be made to avoid conflict of findings between the civil and criminal Courts, it is necessary to point out that the standard of proof required in the two proceedings are entirely different. Civil cases are decided on the basis of preponderance of evidence while in a criminal case the entire burden lies on the prosecution and proof beyond reasonable doubt has to be given. There is neither any statutory provision nor any legal principle that the findings recorded in one proceeding may be treated as final or binding in the other, as both the cases have to be decided on the basis of the evidence adduced therein. While examining a similar contention in an appeal against an order directing filing of a complaint under Section 476 of old Code, the following observations made by a Constitution Bench in M.S. Sheriff v. State of Madras AIR[1954]1SCR1144 give a complete answer to the problem posed :

> *"(15) As between the civil and the criminal proceedings we are of the opinion that the criminal matters should be given precedence. There is some difference of opinion in the High Courts of India on this point. No hard and fast rule can be*

laid down but we do not consider that the possibility of conflicting decisions in the civil and criminal Courts is a relevant consideration. The law envisages such an eventuality when it expressly refrains from making the decision of one Court binding on the other, or even relevant, except for certain limited purposes, such as sentence or damages. The only relevant consideration here is the likelihood of embarrassment.

(16) Another factor which weighs with us is that a civil suit often drags on for years and it is undesirable that a criminal prosecution should wait till everybody concerned has forgotten all about the crime. The public interests demand that criminal justice should be swift and sure; that the guilty should be punished while the events are still fresh in the public mind and that the innocent should be absolved as early as is consistent with a fair and impartial trial. Another reason is that it is undesirable to let things slide till memories have grown too dim to trust.

This, however, is not a hard and fast rule. Special considerations obtaining in any particular case might make some other course more expedient and just. For example, the civil case or the other criminal proceeding may be so near its end as to make it inexpedient to stay it in order to give precedence to a prosecution ordered under S. 476. But in this case we are of the view that the civil suits should be stayed till the criminal proceedings have finished."

25. In view of the discussion made above, we are of the opinion that ***Sachida Nand Singh*** *has been correctly decided and the*

view taken therein is the correct view. Section 195(1)(b)(ii) Cr.P.C. would be attracted only when the offences enumerated in the said provision have been committed with respect to a document after it has been produced or given in evidence in a proceeding in any Court i.e. during the time when the document was in custodia legis.

26. In the present case, the will has been produced in the Court subsequently. It is nobody's case that any offence as enumerated in Section 195(b)(ii) was committed in respect to the said will after it had been produced or filed in the Court of District Judge. Therefore, the bar created by Section 195(1)(b)(ii) Cr.P.C. would not come into play and there is no embargo on the power of the Court to take cognizance of the offence on the basis of the complaint filed by the respondents. The view taken by the learned Additional Sessions Judge and the High Court is perfectly correct and calls for no interference."

Thus in ***Iqbal Singh Marwah v. Meenakshi etc****.'s case* (*supra*), the Apex Court affirmed the view taken by the Apex Court in ***Sachida Nand Singh v. State of Bihar'****s case* (*supra***)** and held that Section 195(1)(b)(ii) of Cr.P.C would be attracted only when the offences enumerated in the said provision have been committed with respect to a document after it has been produced or given in evidence in a proceedings in any court with *custodia legis*.

12. In the instant case, the driving licence alleged to be forged was produced before the court, and thus the forgery of the same

was not committed when the document was in the custody of the court. In the decision reported in [2023 KHC OnLine 7196 : 2023(9) SCC 539 : 2023 SCC OnLine SC 973 : AIR OnLine 2023 SC 1262], ***Ashok Gulabrao Bondre v. Vilas Madhukarrao Deshmukh***, the Apex Court considered a question when it considered a complaint filed by the complainant against the accused therein, alleging commission of offences punishable under Sections 191, 192, 196, 463, 464, 465, 467, 470 and 471 r/w Section 34 of the IPC, on the allegation that one of the accused therein had prepared false and forged documents, namely, personal recognizance bond and surety bond in criminal case. But the complaint was dismissed by the learned Magistrate. When the said order was challenged before the Additional Sessions Judge, the Additional Sessions Judge took the view that the Magistrate should conduct an enquiry under Section 340 of Cr.P.C in the said case. The said finding was confirmed by the High Court also. In the said case, the question considered by the Apex Court was whether the embargo under Section 195 of Cr.P.C would be applicable when the allegation that the documents which are sought to be used as evidence were already fabricated and forged prior to filing of evidence. Notifying

the said decision, the Apex Court, after referring ***Surjit Singh v. Balbir Singh***'s case (*supra*) and ***Sachida Nand Singh v. State of Bihar'***s *case* (*supra*)**,** held that the bar contained in Section 195(1)(b)(ii) of Cr.P.C is not applicable to a case where forgery of the document was committed before the document was produced in a court, i.e during the time when the document is *custodia legis*. In another decision reported in [2024 KHC OnLine 8379 : 2024 LiveLaw (SC) 717], ***Arockiasamy v. State of Tamil Nadu***, the Apex Court took the view that there is no embargo under Section 195(1)(b)(ii) to examine the criminal allegation of forgery of documents filed in Court, when such forgery is committed before its production in Court. In the said case, the allegation was that the accused therein fraudulently had obtained stamp paper and prepared an unregistered sale agreement. Thereafter the suit was filed by the accused seeking certain reliefs and in the suit the forged document was filed. Thus the allegation would not show that the documents were forged when the matter was *sub-judice* before the court and it was held therein that the bar under Section 195(1)(b)(ii) would not attract.

13. The facts of the case in the decision reported in [2025

KHC OnLine 6715 : 2025 INSC 1009 : 2025 SCC OnLine SC 1753 : 2025 KLT OnLine 2815], ***Devendra Kumar v. State of NCT, Delhi*** is as under:

> *"A process server employed in the District Court was allegedly abused, detained, and humiliated by the petitioner, then a police officer, when he attempted to serve court summons and warrants at a police station, leading to a complaint being filed through the Administrative Civil Judge under S.195 CrPC, upon which the Chief Metropolitan Magistrate directed registration of an FIR under S.186 and S.341 IPC; this order was upheld by the Sessions Court and later affirmed by the High Court on the ground that prima facie obstruction of a public servant was disclosed. The question that arose for consideration was whether the registration of an FIR and investigation under S.156(3) CrPC for offences under S.186 IPC was valid in view of the bar under S.195 CrPC and whether the acts complained of constituted obstruction within the meaning of S.186 IPC and whether the Magistrate erred in directing police investigation under S.156(3) when a complaint under S.195 CrPC was filed, instead of directly taking cognizance and issuing process under S.204 Cr.P.C."*

14. In ***Devendra Kumar v. State of NCT, Delhi***'s case (*supra*), the Apex Court held that, *asking the police to investigate the complaint under Section 156(3) is a very serious error and the Chief*

Metropolitan Magistrate should have straightaway taken cognizance upon the complaint and issued process under Section 204 as there was no need to involve the police in a complaint lodged by a Civil Judge for offences punishable under Sections 186 and 341 of IPC.

15. It is not in dispute that in cases where proceedings under Section 340 of the Cr.P.C would apply, the court has to record a finding that `it is expedient in the interest of justice to initiate proceedings against the delinquent'. Here, on a perusal of the records, it could be seen that, pursuant to the complaint filed by the Sheristadar, Motor Accident Claims Tribunal, Perumbavoor, before the Judicial First Class Magistrate Court-I, Perumbavoor, based on the impugned order, the learned Magistrate took cognizance alleging commission of an offence punishable under Section 193 of IPC by the accused and when the case was about to be taken up for trial, this Criminal Appeal has been filed and further proceedings got stayed. On perusal of paragraphs 13 and 14 of the impugned order, which are extracted above, the Tribunal narrated the reasons for passing the order.

16. Coming back, when the offences enumerated in Section

195 of Cr.P.C or under Section 215 of BNSS are committed before production of the documents before the court, Section 195(1)(b)(ii) of Cr.P.C or Section 215(1)(b)(ii) of BNSS would not apply. At the same time, some of the offences enumerated therein if committed after the production of the document in court or in the course of tendering the same in evidence or such a document is tendered in evidence before the court, then Section 195(1)(b)(ii) of Cr.P.C or Section 215(1)(b)(ii) of BNSS would apply, necessitating proceedings under Section 340 of Cr.P.C or under Section 379 of BNSS.

17. Here, on receiving the complaint given by the Sheristadar of M.A.C.T, Perumbavoor, based on the impugned order passed by the Tribunal, the learned Magistrate took cognizance of the offence under Section 193 of IPC and it has been provided that, *whoever intentionally gives false evidence in any of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and whoever intentionally gives or fabricates false evidence*

in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

18. Here as could be discernible from the impugned order, the forged licence was tendered in evidence and marked as Ext.B2. If so, in this case the bar under Section 195 of the Cr.P.C would attract for registering a case by the police and the court should opt for the procedure contemplated under Section 340 of Cr.P.C and thus the Tribunal rightly stepped into it. When a forged driving licence is tendered in evidence, the offence under Section 193 of IPC, ie., intentionally giving false evidence in a judicial proceedings, would occur and the same is punishable. Such an offence to be proceeded under Section 340 of Cr.P.C or under Section 379 of BNSS. In the instant case, even though the impugned order doesn't specifically refer the words that "it is expedient in the interest of justice that an enquiry should be made into any of the offences referred to in Section 195(1)(b)(ii) of Cr.P.C", the impugned order in *toto* would satisfy the said requirement. If so, the challenge against the impugned order is found to be meritless and is

liable to be dismissed.

19. In the result, this appeal fails and is dismissed with direction to the Judicial First Class Magistrate Court-I, Perumbavoor, to proceed with trial of the case.

20. The interim order shall stand vacated.

Registry is directed to forward a copy of this judgment to the jurisdictional court for compliance and further steps.

Sd/-

A. BADHARUDEEN, JUDGE

rtr/

APPENDIX OF CRL.A NO. 1822 OF 2024

APPELLANT'S ANNEXURES

Annexure A1	**TRUE COPY OF THE SUMMONS DATED 24-5-2016 ISSUED TO THE ACCUSED IN C.C NO.923 OF 2015 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE-1, PERUMBAVOOR.**
Annexure A2	**TRUE CERTIFIED COPY OF THE ORDER DATED 10-9-2024 IN CRL.M.C NO.7329 OF 2017 OF THIS COURT.**