



**IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH**

DATED THIS THE 14TH DAY OF SEPTEMBER, 2023

BEFORE

THE HON'BLE MR JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 100659 OF 2023

BETWEEN:

RAJESH S/O YALLAPPA TOTAGANTI,
AGE. 53 YEARS, OCC. BUSINESS,
R/O. NEAR THE HOUSE OF
SHRI. B.N.MADIVALAR ADV.
MARUTI NAGAR, RANEBENNUR,
DIST. HAVERI-581115.

... PETITIONER

(BY SRI. R.H. ANGADI & SMT. POOJA SAVADATTI, ADVOCATES)

AND:

1. STATE OF KARNATAKA
(RANEBENNUR TOWN POLICE STATION
R/BY SPP. HIGH COURT, DHARWAD-580011).
2. MANJAPPA ADOPTED S/O. MARDIEPPA KAMBLI,
AGE. 43 YEARS, OCC. AGRICULTURE,
R/O. SAALAGERI ONI, KURUBAGERI,
TQ. RANEBENNUR, DIST. HAVERI-581115.

... RESPONDENTS

(BY SRI. V.S. KALASURMATH, HCGP FOR R1;
R2 IS SERVED)

THIS CRIMINAL PETITION IS FILED U/SEC. 482 OF CR.P.C. SEEKING TO ALLOW THE PETITION AND QUASH THE ENTIRE CRIMINAL PROCEEDINGS PENDING AGAINST THE PRESENT PETITIONER/ACCUSED NO.2 IN C.C.NO. 804/2022, AND ORDER OF COGNIZANCE DATED 20.09.2022 PASSED BY ADDL. CIVIL JUDGE AND II ADDL. JMFC COURT, RANEBENNUR FOR THE OFFENCE PUNISHABLE U/S 420, 465, 467, 468, 471, 474 A/W 34 OF IPC AS AGAINST PETITIONER WHO IS ARRAYED AS A-2 BY ALLOWING THIS PETITION.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, THE COURT MADE THE FOLLOWING:





ORDER

1. The petitioner is before this Court calling in question the proceedings in C.C. No.804/2022. The petitioner is the accused No.2 in the said proceedings.

2. Heard the learned counsel Smt. Pooja Savadatti appearing for petitioner and the learned HCGP Shri V.S. Kalasurmata appearing for respondent No.1.

3. Facts in brief, germane are as follows:

The 2nd respondent is the complainant. The 2nd respondent seeks to register a private complaint on 07.10.2015 against three accused. The petitioner is accused No.2. The learned Magistrate refers the private complaint for its investigation under Section 156(3) of the Cr.P.C., which then becomes a crime in Crime No.168/2015 registered for the offences punishable under Sections 420, 465, 467, 468, 471, 474 read with Section 34 of the IPC. The Police after investigation file a charge sheet against the petitioner. Filing of the charge sheet and the concerned



Court taking cognizance of the offences is what drives the petitioner to this Court in the subject petition.

4. Learned counsel Smt. Pooja Savadatti appearing for the petitioner taking this Court through the documents appended to the petition would seek to demonstrate that all the allegations of the complainant is against accused No.1 as the complainant and accused No.1 are relatives. The petitioner-accused No.2 is neither the beneficiary of any alleged fraud nor is a person who has purchased the property on the strength of the alleged GPA. She would submit that the petitioner is only an attesting witness. All the allegations are against accused No.1 and nothing against accused No.2. Therefore, she would seek quashment of the entire proceedings against the petitioner – accused No.2.

5. Learned HCGP would refute the submissions of the learned counsel for the petitioner seeking to contend that the Police after investigation have filed charge sheet. Since the Police have filed a charge sheet, it is for the



petitioner to come out clean in the trial, that would be conducted pursuant to the charge sheet so filed by the Police. He would seek dismissal of the entire petition.

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

7. The afore-narrated facts are not in dispute. The private complaint is registered by the 2nd respondent alleging forgery of a GPA and its benefit being taken by accused No.1. The averment in the complaint is that accused Nos.1 to 3 are friends and they are known to the complainant as well. While accused No.1 gets all the benefits, accused Nos.2 and 3 have been in active support of acts of accused No.1. The benefit of the forgery is the sale deed. The sale deed is also appended to the petition. A perusal at the sale deed would indicate that the petitioner is an attesting witness to the sale deed. Except this allegation of the petitioner acting as an attesting witness



and a friend of accused No.1, there is no other allegation against the petitioner that would touch upon any of the ingredients of the alleged offences.

8. In the teeth of the aforesaid facts and the allegations, it becomes necessary to notice what the police had to say in the product of investigation i.e., the charge sheet. The summary of the charge sheet, as obtaining in column No.17, reads as follows:

"17. ಕೇಸಿನ ಸಂಕ್ಷಿಪ್ತ ವಿವರ (ಅವಶ್ಯಕ ವಿದ್ಯಲ್ಲಿ ಪ್ರತ್ಯಕ ಹಾಳೆ ಲಗತ್ತಿಸಿ)

ಈ ದೋಷಾರೋಪಣ ಪತ್ರ ಕಾಲಂ ನಂಬರ:12 ರಲ್ಲಿ ನಮೂದ ಮಾಡಿದ 01 ನೇ ಆರೋಪಿತನು ಫಿಯಾರ್ದಿ ಮಂಜಪ್ಪ ಕಂಬಳಿ ಈತನ ಅಕ್ಕನ ಗಂಡನಿದ್ದು. ಸದರಿ ಆರೋಪಿತನು 02 ಮತ್ತು 03 ನೇ ಆರೋಪಿತರನ್ನು ಮಿಲಾಪಿ ಮಾಡಿಕೊಂಡು ಫಿಯಾರ್ದಿಗೆ ಸಂಭಂದಿಸಿದ ರಾಣೇಬೆನ್ನೂರ ಗ್ರಾಮ ಹಕ್ಕಿಯ ಸರ್ವೆ ನಂಬರ: 287 ಹಿಸ್ಸಾ 1ಅ/1 ನೇದ್ದರ ಪೈಕಿ 01 ಎಕರೆ 06 ಗುಂಟೆ 08 ಆಣಿ ಕ್ಷೇತ್ರ, ಮತ್ತು ಸರ್ವೆ ನಂಬರ: 275/1+2+3+ 445464748 ರ ಫ್ಲಾಟ್ ನಂಬರ:14 ಕ್ಷೇತ್ರ 34x24 ನೇ ಆಸ್ತಿಗಳನ್ನು ತನ್ನ ಹೆಸರಿಗೆ ಪಡೆಯ ಉದ್ದೇಶದಿಂದ ಚಾ.ಸಾ.ನಂ:17 ನೇದ್ದವರ ಬ್ಯಾಂಕಿನಿಂದ ಬೇಕೆಂಬ ಉದ್ದೇಶದಿಂದ 20:12/02/2015 dod a-go Road: IN-Ko10806636655712N Se ಖರೀದಿಸಿ, ದಿನಾಂಕ:16/02/2015 ರಂದು ಇ-ಸ್ಕಾಂಪ್ ದಲ್ಲಿ ರಾಣೇಬೆನ್ನೂರ ಗ್ರಾಮ ಹಕ್ಕಿಯ ಸರ್ವೆ ನಂಬರ:287 ಹಿಸ್ಸಾ 18/1 ನೇದ್ದರ ಪೈಕಿ 01 ಎಕರೆ 06 ಗುಂಟೆ 08 ಆಣಿ ಕ್ಷೇತ್ರ, ಮತ್ತು ಸರ್ವೆ ನಂಬರ: 276/1+2+3+4+5+5+7+8: ರ ಫ್ಲಾಟ್ ನಂಬರ:14 ಕ್ಷೇತ್ರ 34x24 ನೇ ಆಸ್ತಿಗಳನ್ನು ಖರೀದಿ ಹಾಗೂ ಹಸ್ತಾಂತರ ಮಾಡಲು ಅಧಿಕಾರ ಪತ್ರವನ್ನು ಫಿಯಾರ್ದಿ ಮಂಜಪ್ಪ ಕಂಬಳಿ: ಇವರು 01 ಸೇ ಆರೋಪಿತರಿಗೆ ಬರೆಯಿಸಿ ಹೊರುತ್ತಾರೆ ಎನ್ನುವಂತೆ ನೋವಲ್ಲದ ಒಟ್ಟು ಮೊಕ್ತಿಯಾರ ಪತ್ರವನ್ನು ಸೃಷ್ಟಿಸಿಕೊಂಡು, ತಾನು ಸೃಷ್ಟಿಸಿಕೊಂಡ ಒಟ್ಟು ಮೊಕ್ತಿಯಾರ ಪತ್ರಕ್ಕೆ ನೋಟರಿಯವರಾದ ಚಾ.ಸಾ.12 ನೇದ್ದವರ ಮುಂದೆಯೂ ಸಹ



ಮೋಸತನದಿಂದ ನೋಟರಿ ಮಾಡಿಸಿ, ರಾಣೀಬೆನ್ನೂರ ಶಹರ ಪೊಲೀಸರ ಠಾಣೆ ವ್ಯಾಪ್ತಿಗೆ ಒಳಪಡುವ ರಾಣೀಬೆನ್ನೂರ ಉಪನೋಂದಣಾಧಿಕಾರಿಗಳ ಕಾರ್ಯಾಲಯದಲ್ಲಿ ದಿನಾಂಕ: 20/05/2015 ರಂದು 01 ನೇ ಆರೋಪಿತನು 02 ಮತ್ತು 03 ನೇ ಆರೋಪಿತರೊಂದಿಗೆ ಹಾಜರಾಗಿ, ದೋಷಾರೋಪಣ ಪತ್ರ ಕಾಲಂ ನಂಬರ:11 ರ ಆ.ನಂ:02 ರಲ್ಲಿ ನಮೂದಿಸಿದ ಒಟ್ಟು ಮೊಕ್ತಿಯಾರ ಪತ್ರವನ್ನು ಫಿಯಾದಿ ಮಂಜಪ್ಪ ಕಂಬಳಿ ಇವರೇ ಬರೆಸಿಕೊಟ್ಟ ಒಟ್ಟು ಮೊಕ್ತಿಯಾರ ಪತ್ರ ಅಂತಾ ಉಪ ನೋಂದಣಾಧಿಕಾರಿಗಳಿಗೆ ಸುಳ್ಳು ಹೇಳಿ ನಂಚಿಕೆ ಬರುವಂತೆ ಮಾಡಿ, ತಾನೇ ಸೃಷ್ಟಿಸಿಕೊಂಡ ನೈಜವಲ್ಲದ (ಸೊಟ್ಟು) ಒಟ್ಟು ಮೊಕ್ತಿಯಾರ ಪತ್ರವನ್ನು ನೈಜ ಒಟ್ಟುಮೊಕ್ತಿಯಾರ ಪತ್ರ ಅಂತಾ ಸರಕಾರಿ ಅಧಿಕಾರಿಗಳಾದ ಚಾ.ಸಾ.13 ನೇ ದವರಾದ ರಾಣೀಬೆನ್ನೂರ ಉಪನೋಂದಣಾಧಿಕಾರಿಗಳಿಗೆ ಸಲ್ಲಿಸಿ ವಿದ್ಯಾದಿಯ ಹೆಸರಿನಲ್ಲರುವ ರಾಣೀಬೆನ್ನೂರ ಗ್ರಾಮ ಹದ್ದಿಯ ಸರ್ವೆ ನಂಬರ: 287 ಹಿಸಾ, 14/1 ನೇದ್ದರ ಪೈಕಿ 01 ಎಕರೆ 06 ಗುಂಟೆ 08 ಆಣೆ ಕ್ಷೇತ್ರ, ಮತ್ತು ಸರ್ವೆ ನಂಬರ: 276/1+2+3+ 4+ 5+ 6+ 748 ರ ಫ್ಲಾಟ್ ನಂಬರ: 14 ಕ್ಷೇತ್ರ 34X24 ನೇ ಆಸ್ತಿಗಳನ್ನು ಆರೋಪಿ ನಂಬರ:01 ನೇ ದವನು ತನ್ನ ಹೆಸರಿಗೆ ನೊಂದಣಿ ಮಾಡಿಸಿಕೊಂಡು ಆಸಿಯನ್ನು ಪಡೆಯಲು ಪ್ರಯತ್ನಿಸಿದ್ದಲ್ಲದೇ, 01 ನೇ ಆರೋಪಿತನು ಪಿರಾದಿಯ ಆಸ್ತಿಗಳನ್ನು ತನ್ನ ಹೆಸರಿಗೆ ನೊಂದಾಯಿಸಿಕೊಳ್ಳುವ ಕಾಲಕ್ಕೆ 03 ಆರೋಪಿತರು ಸಹ - 01 ನೇ ಆರೋಪಿತನೊಂದಿಗೆ ಹಾಜರಿದ್ದು ಒಟ್ಟು ಮುಕ್ತಿಯಾರ್ ಪತ್ರದಲ್ಲಿ ಸಾಕ್ಷಿದಾರರು ಅಂತಾ ಹಾಗೂ ರಾಣೀಬೆನ್ನೂರ ಉಪ ನೋಂದಣಾಧಿಕಾರಿಗಳ ಮುಂದೆ ಗುರುತಿಸುವವರು ಅಂತಾ ಮತ್ತು ಸಾಕ್ಷಿದಾರರು ಅಂತಾ ಖರೀದಿ ಪತ್ರದಲ್ಲಿ ಸಹಿ ಮಾಡಿ 01 ನೇ ಆರೋಪಿತನು ಅಪರಾಧ ಮಾಡಲು ಸಹಕರಿಸಿದ ಅಪರಾಧ.

ಕಲಂ 420, 465, 467, 468, 471, 474 ಸಹ ಕಲಂ 34 ಐಪಿಸಿ"

9. A perusal at the summary of the charge sheet would also indicate what is narrated hereinabove i.e., the fact that the petitioner being a friend and an attesting witness to the sale deed. It is therefore necessary to consider whether an attesting witness to a sale deed can be hauled up in the web of crime, notwithstanding the fact that



the petitioner is not the beneficiary of any of the alleged fraud played by accused No.1.

10. The issue whether an attesting witness can be dragged into the web of crime need not detain this Court for long or delve deep into the matter. The Ape Court in the case of **M. Srikanth Vs. State of Telangana and another** reported in **2019(10) SCC 373**, wherein it is held as follows:

"18. Let us consider the case of the complainant on its face value without going into the truthfulness or otherwise thereof. It is the case of the complainant that the property originally belonged to her grandmother. After her death, it devolved upon her father, Afzaluddin Hassan and after his death on 28.05.1996, it devolved upon accused No. 1 and his three sisters, namely, Karima Siddiqua, Saleha Asmatunnisa and Sadika Khairunnisa. Their father had entered into a development agreement with M/s Banjara Construction Company Pvt. Ltd., however, the same was cancelled during his lifetime. After the death of their father on 28.05.1996, accused No. 3 tried to trespass into the property for which, on the basis of her complaint a crime was registered. That the said M/s Banjara Construction Company Pvt. Ltd. had executed some document alleging assignment of its rights in favour of M/s NRI Housing Company Pvt. Ltd. of which accused No. 3, Abid Rasool Khan was the Managing Director. In respect of the same action, Crime No. 177/1996 had been registered at the instance of the complainant. With respect to the



said transaction, two original suits were already filed, one by the complainant and another by her sisters.

19. It is further the case of the complainant, that accused No.1 created a will in Urdu purported to be executed by her grandmother bequeathing the property in favour of her parents, namely, Afzaluddin Hassan and Liaquathunnisa Begum for their lifetime and vesting the remainder to accused No. 1. The said will is created on a nonjudicial stamp paper of Nizamat Jung and has been allegedly executed on 02.04.1950. According to the complainant, accused No. 1, her brother, had created another forged and fabricated document styled as deed of confirmation (Hiba Bil Musha) dated 08.03.1990 confirming the oral gift to accused No. 1 and also recording handing over of physical possession. It is her case, that on the basis of these fabricated documents, accused No. 1, posing himself to be an absolute owner of the property, executed a lease deed in favour of accused No. 4 (the appellant herein in one of the appeals) on 01.12.2008. It is further the case of the complainant, that thereafter accused No. 4 executed a sublease in favour of accused No. 5 HPCL represented by accused Nos. 6 and 9 within a period of two months i.e. on 30.01.2009 and that accused Nos. 7 and 8 are the attesting witnesses. That is all the case of the complainant.

20. The complaint filed by respondent No. 2 runs into 26 pages and 26 paragraphs. As already discussed hereinabove, it reveals a disputed property claim based on inheritance between the complainant, her sisters and her brother, accused No. 1. A perusal of the complaint would further reveal, that the complainant also disputes with regard to the area of the property including the



manner of its devolution upon the parents of the complainant and her competing interest with that of her siblings. There is not even a whisper in the complaint that the present appellant, i.e., accused No. 4 was fully aware that accused No. 1 was not the sole beneficiary by inheritance and that the property had devolved upon the complainant and her sisters. Also there is nothing to show that knowing this he has collusively entered into the lease agreement with accused No. 1, by creating a false and fabricated will. Though, there is a mention with regard to conspiracy, but there is not even a suggestion with regard to manner of such conspiracy.”

11. The said judgment of the Apex Court in the case of **M.Srikanth** (Supra) is also followed by a learned single Judge of the High Court of Chattisgarh in the case of **Nishanth Agarwal and another Vs. State of Chhattisgarh, Through the Superintendent of Police Batouli and another** reported in (2021) SCC OnLine CHH 436 wherein the Court has held as follows:

“14. Thereafter, finally the Collector directed to lodge FIR by holding as under:—

15. On the basis of the aforesaid order/direction passed by the Collector, Sarguja, the above-stated offences have been registered against the petitioners and they are being prosecuted for the offences as noticed herein-above. It is the case of the prosecution that the petitioners have attested the two sale deeds as witnesses and as such, the aforesaid offences have rightly been registered



against them along with the sellers and the purchaser of the subject sale deeds.

16. *At this stage, it would be appropriate to notice Section 3 of the Transfer of Property Act, 1882 which defines the word "attested", which states as under:—*

"attested", in relation to an instrument, means and shall be deemed always to have meant attested by two or more witnesses each of whom has seen the executant sign or affix his mark to the instrument, or has seen some other person sign the instrument in the presence and by the direction of the executant, or has received from the executant a personal acknowledgement of his signature or mark, or of the signature of such other person, and each of whom has signed the instrument in the presence of the executant; but it shall not be necessary that more than one of such witnesses shall have been present at the same time, and no particular form of attestation shall be necessary;"

17. A careful reading of the aforesaid definition of the word "attested" would show that the essential conditions of a valid attestation under Section 3 of the Transfer of Property Act are: (i) two or more witnesses have seen the executant sign the instrument or have received from him a personal acknowledgement of his signature; (ii) with a view to attest or to bear witness to this fact each of them has signed the instrument in the presence of the executant.

18. It is essential that the witness should have put his signature animo attestandi, that is, for the purpose of attesting that he has seen the executant sign or has received from him a personal acknowledgement of his signature.



19. The Supreme Court in the matter of *M.L. Abdul Jabbar Sahib v. M.V. Venkata Sastri & Sons* while considering the definition of the word "attested" as provided under Section 3 of the Transfer of Property Act has held that to attest is to bear witness to a fact and if a person puts his signature on the document for some other purpose, e.g. to certify that he is a scribe or an identifier or a registering officer, he is not an attesting witness.

20. In the matter of *Banga Chandra (supra)*, the Privy Council has held that attestation by itself would neither create estoppel nor imply consent. It proves no more than that the signature of an executing party has been attached to a document in the presence of a witness.

21. Similarly, in the matter of *Pandurang Krishnaji (supra)*, it has been held by the Privy Council that attestation of a deed by itself estops a man from denying nothing whatsoever expecting that he has witnessed the execution of the deed. It conveys, neither directly nor by implication, any knowledge of the contents of the document and it ought not to be put forward alone for the purpose of establishing that a man consented to the transaction which the document effects.

22. The Lahore High Court in the matter of *L. Suraj Bhan v. Hafiz Abdul Khaliq* has held that recitals in a deed do not bind the attesting witnesses, for, an attestation pure and simple is not enough to fix, the attestator with a knowledge of the contents of the deed.

23. Likewise, in the matter of *Surjeet Singh v. State of U.P.* the Allahabad High Court has held that recitals in a deed do not bind the attesting witnesses and thereafter quashed the proceedings against the attesting witnesses. Similar is the decision rendered by that High Court in the matter of *Suraya Bali v. State of U.P.*



24. *In the matter of M. Srikanth v. State of A.P. the Telangana High Court quashed the prosecution of the petitioners therein (A-7 and A-8) who were attestors of the lease deed relying upon the decision of the Supreme Court in the matter of M.L. Abdul Jabbar Sahib (supra) by holding as under:—*

"8. So far as A.7 & A.8 concerned they are mere attestors of the lease deeds or sub lease deeds of the year 2008 & 2009 executed by A.1 in favour of A.4 and in turn by A.4 in favour of A.5. It is their contention of they have no knowledge of the contents and they have no knowledge of the transactions of source of title of A.1 and claim with reference to will dated 02.04.1950 and deed of confirmation dated 08.03.1990. The law is fairly settled at least from the 3 Judge expression of the Apex Court in M.L. Abdul Jabbar Sahib (supra) that attestation no way fixing attesting witness with knowledge of contents of the document or implying consent for contents of of documents, unless it is established by any independent evidence that to the signature was attached the express condition that it was intended to convey something more than mere witnessing to the execution or attestation. The attestation mainly to mean executing, signing or affixing in the presence of 2 or more witnesses each of whom has seen the executant signing and vice versa and not necessarily more than one of such witness shall present and no particular form of attestation is necessary. From the private complaint averments so far as A.7 and A.8 concerned, there is nothing specifically mentioned of their



active role either in committing any offence of cheating or forgery or forgery for purpose of cheating or using as genuine a forged document or the like. Having regard to the above, even on the face value of complaint averments, there is no any offence made out against A.7 & A.8 therefrom of mere attestation in view of the settled position of law, for nothing to presume any knowledge of them to the contents of the documents leave apart from no duty cast upon them to verify genuineness of source of title of executant of the document for their attesting.

a). Thus, the proceedings of crime No. 311 of 2010 in so far as A.7 & A.8 are liable to be quashed and accordingly, quashed by allowing the Crl.P. No. 6047 of 2013.

b). Though it is the contention of A.9 that he is also placed in same position from attestation of the sub lease dated 30.01.2009, it requires further discussion in considering any further role of A.9., so also of A.6 being the employees of the entity-A.5, for the sub lease is in favour of A.5 executed by A.4 the lessee from A.1."

25. The decision rendered by the Telangana High Court in the matter of M. Srikanth (supra) was taken to the Supreme Court by accused No. 4 against whom the proceeding was not quashed. The Supreme Court took up the matter of M. Srikanth v. State of Telangana and quashed the proceeding against accused



No. 4 also and upheld the order quashing the proceeding against the attesting witnesses in paragraphs 27 and 28, which state as under:—

"27. Insofar as the criminal appeals arising out of the special leave petitions filed by the original complainant is concerned, we absolutely find no merit in the appeals. The learned single Judge has rightly found that there was no material to proceed against accused No. 5 - HPCL and its officers accused Nos. 6 and 9 as also accused Nos. 7 and 8, who have been roped in, only because they were the attesting witnesses. The learned single Judge has rightly exercised his jurisdiction under Section 482 of the Cr.P.C.

28. Insofar as original accused No. 4 is concerned, we have no hesitation to hold, that his case is covered by categories (1) and (3) carved out by this Court in the case of Bhajan Lal (supra). As already discussed hereinabove, even if the allegations in the complaint are taken on its face value, there is no material to proceed further against accused No. 4. We are of the considered view, that continuation of criminal proceedings against accused No. 4, M. Srikanth, would amount to nothing else but an abuse of process of law. As such, his appeal deserves to be allowed."



12. The High Court of Chattisgarh has followed the judgment of the Apex Court in the case of ***M.Srikanth (supra)*** and an earlier judgment in the case of ***M.L.Abdul Jabbar Sahib Vs. M.V. Venkata Sastri & Sons and others*** reported in ***1969(1) SCC 573***. The Apex Court and the High Court of Chattisgarh have elucidated the fact that an attesting witness cannot be hauled into the web of crime, if there is no other allegation except that he is an attesting witness. In the case at hand as well, a perusal at the complaint or the summary of the charge sheet (*supra*), would indicate no other allegation except the fact that the petitioner was a friend of accused No.1 and an attesting witness to the sale deed. The sale deed is alleged to be the subject of fraud. Therefore, the submission of the learned counsel for the petitioner would merit acceptance and outweigh the submissions made by the learned HCGP for the State.

13. In the teeth of the aforesaid facts, if further proceedings are permitted to continue, it would become an



abuse of the process of the law and result in miscarriage of justice.

14. For the aforesaid reasons, the following:

ORDER

- (i) The petition is allowed.
- (ii) The proceedings in C.C. No.804/2022 before the concerned Court stands quashed qua the petitioner.
- (iii) It is made clear that the observations made in the course of the order are only for the purpose of consideration of the case of the petitioner under Section 482 of Cr.P.C. and the same shall not bind or influence the proceedings against the other accused pending before the concerned Court.

Sd/-
JUDGE