

Arvind M A Vs. M/s. Srimaya Builders And Developers

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Court : Karnataka

Decided On : Apr-25-2024

Judge : Sachin Shankar Magadum

Appeal No. : CRL.P 3355/2021

Appellant : Arvind M A

Respondent : M/s. Srimaya Builders And Developers

Judgement :

R1IN THE HIGH COURT OF KARNATAKA AT BENGALURU DATED THIS THE25H DAY OF APRIL, 2024 BEFORE THE HONBLE MR. JUSTICE SACHIN SHANKAR MAGADUM CRIMINAL PETITION No.5135 OF2021C/W CRIMINAL PETITION No.3355 OF 2021 CRIMINAL PETITION No.7089 OF 2021 CRIMINAL PETITION No.9044 OF 2021 IN CRIMINAL PETITION No.5135/2021 BETWEEN:

1. . SMT. ANITHA R ALVA W/O SRI. D RAVINDRA ALVA AGED ABOUT63YEARS350 13TH CROSS, 3RD BLOCK BEL LAYOUT, VIDYARANYAPURA BENGALURU-560 097 2 . ARVIND M A S/O ANNAJI GOWDA AGED ABOUT39YEARS MANAGER-ST NO.212161 PUR-IG-STORE MMF R/AT BHARATH ELECTRONICS LTD JALAHALLI BENGALURU-560 063 3 . B BYREGOWDA AGED ABOUT72YEARS R/A BHAIRAV NILAYA NO.31, 3RD MAIN ROAD2CHAMUNDIYESWARI LAYOUT DODDABOMMA SANDRA BENGALURU-560 097 4 . KUMARA SELVAN P AGED ABOUT53YEARS

ASSISTANT MANAGER-208163 CS/T/ AND BS R/AT BHARATH ELECTRONICS LTD JALAHALLI BENGALURU-560 063 5 . GOPINATH B S AGED ABOUT50YEARS ST NO.209337 R/AT BHARATH ELECTRONICS LTD JALAHALLI BENGALURU-560 063 6 . SMT. GEETHA Y R W/O LOKESH AGED ABOUT42YEARS ST NO.2124899 R/AT BHARATH ELECTRONICS LTD JALAHALLI BENGALURU-560 063 7 . SANJEEV KUMAR S/O V RAIBHAGI AGED ABOUT49YEARS ST NO.209337/MASK CENTRE R/SC COMPONENTS R/AT BHARATH ELECTRONICS LTD JALAHALLI BENGALURU-560 063 8 . AMRUTHRAJ K M AGED ABOUT55YEARS3R/AT BHARATH ELECTRONICS LTD JALAHALLI BENGALURU-560 063 9 . YELLAPPA DYAMANNAVAR AGED ABOUT39YEARS ST NO.212499 R/AT BHARATH ELECTRONICS LTD JALAHALLI BENGALURU-560 063 10 . RAGHU M N AGED ABOUT40YEARS ST NO.212355-TS/MCE R/AT BHARATH ELECTRONICS LTD JALAHALLI BENGALURU-560 063 11 . B RAMESH S/O BYRALINGAIAH AGED ABOUT51YEARS SRI BYRAVESHWARA ENTERPRISES R/AT KRUTHIKA NILAYA SITE NO.1 AND2SRI HARSHA NAGARA NO.8, KASABA HOBLI NELAMANGALA BENGALURU RURAL DISTRICT-562 123 12 . NAGENDRA S/O CHANDRASHEKAR AGED ABOUT41YEARS R/AT BAIRAVESHWARA ENTERPRISES NO.12/1 5TH C CROSS SHARADHAMBANAGARA4JALAHALLI BANGALORE-560 013 ...PETITIONERS (BY SRI. DIWAKAR .K, SENIOR ADVOCATE FOR SRI. ABHISHEK .K, ADVOCATE) AND:

1. . STATE OF KARNATAKA TAVARAKARA POLICE STATION REPRESENTED BY STATE PUBLIC PROSECUTOR HIGH COURT BENGALURU-560 001 2 . MADEGOWDA S/O G.H. KRISHNAMURTHY AGED ABOUT50YEARS R/AT GANAPATHIHALLI TAVAREKERE HOBLI BANGALORE CITY-562 130 .RESPONDENTS (BY SRI. M.R. PATIL, HCGP FOR R1; SRI. S.R. NAGARAJ, ADVOCATE FOR R2) THIS CRIMINAL PETITION IS FILED U/S482OF CR.P.C PRAYING TO QUASH THE FURTHER PROCEEDINGS AGAINST THE PETITIONERS REGISTERED BY THE TAVAREKERE POLICE FOR THE OFFENCE P/U/S.120-B, 255, 420, 464, 465, 467, 468, 471 OF IPC IN C.C.NO.53/2021 PENDING BEFORE THE II ADDITIONAL CIVIL JUDGE AND JMFC MAGADI RAMANAGARA. 5 IN CRIMINAL PETITION No.3355/2021 BETWEEN:

1. . ARVIND M A S/O ANNAJI GOWDA, AGED ABOUT 39 YEARS MANAGER-ST-
No.212161 PUR-IG-STORE MMF R/AT BHARATH ELECTRONICS LTD
JALAHALLI BENGALURU-560 063 2 . KUMARA SELVAN AGED
ABOUT 53 YEARS ASSISTANT MANAGER-208 163 CS/T/ AND B S R/AT
BHARATH ELECTRONICS LTD JALAHALLI BENGALURU-560 063 3 .
GOPINATH B S AGED ABOUT 50 YEARS ST. No.209337 R/AT BHARATH
ELECTRONICS LTD JALAHALLI BENGALURU-560 063 4 . SANJEEV KUMAR
S/O. V RAIBHAGI AGED ABOUT 49 YEARS ST. No.209337 / MASK CENTER
R/SC COMPONENTS R/AT BHARATH ELECTRONICS LTD JALAHALLI
BENGALURU-560 063 6 5 . AMRITHRAJ K M AGED ABOUT 55 YEARS R/AT
BHARATH ELECTRONICS LTD JALAHALLI BENGALURU-560 063 6 . SMT.
GEETHA Y R W/O LOKESH AGED ABOUT 42 YEARS ST. No.2124899 R/AT
BHARATH ELECTRONICS LTD JALAHALLI BENGALURU-560 063 7 . RAGHU
M N AGED ABOUT 40 YEARS ST.No.212355-TS/MCE R/AT BHARATH
ELECTRONICS LTD JALAHALLI BENGALURU-560 063 8 . YELLAPPA
DYAMANNAVAR AGED ABOUT 39 YEARS ST.No.212499 R/AT BHARATH
ELECTRONICS LTD JALAHALLI BENGALURU-560 063 9 . B. BYREGOWDA
AGED ABOUT 72 YEARS R/AT BHAIKAV NILAYA No.31, 3RD MAIN ROAD
CHAMUNDIYESWARI LAYOUT DODDABOMMA SANDRA BENGALURU-560
097 10 . SMT. ANITHA R ALVA W/O SRI. D. RAVINDRA ALVA 7 AGED
ABOUT 63 YEARS No.350, 13TH CROSS 3D BLOCK, BEL LAYOUT
VIDYARANYAPURA BENGALURU-560 097 11 . B. RAMESH S/O
BYRALINGAI AH AGED ABOUT 51 YEARS SRI. BYRAVESHWARA
ENTERPRISES R/AT KRUTHIKA NILAYA SITE No.1 AND 2 SRI. HARSHA
NAGARA KASABA HOBLI NELAMANGALA BENGALURU RURAL DISTRICT
....PETITIONERS (BY SRI. DIWAKAR .K, SENIOR ADVOCATE FOR SRI.
ABHISHEK .K, ADVOCATE) AND: M/S. SRIMAYA BUILDERS AND
DEVELOPERS REPRESENTED BY ITS MANAGING PARTNER SRI. T P
GANGADHAR No.3, OPPOSITE TO BBMP HESARAGHATTA MAIN ROAD
BAGALGUNTE, BENGALURU-560 073 .RESPONDENT (BY SRI. M.R.
RAJGOPAL, SENIOR ADVOCATE FOR SRI. H.N. BASAVARAJU, ADVOCATE)
THIS CRIMINAL PETITION IS FILED U/S 482 OF CR.P.C PRAYING TO SET
ASIDE THE

ORDER

IN THE CRIMINAL REVISION PETITION NO.33/2020 DATED 29.03.2021 PASSED BY III ADDL. DISTRICT AND SESSIONS JUDGE AT RAMANAGARA AT ANNEXURE-E AND CONFIRM THE DISMISSAL OF THE COMPLAINT IN PCR NO.128/2019 PASSED BY II ADDL. CIVIL JUDGE AND JMFC AT MAGADI DATE 21.09.2020 AT ANNEXURE-C. IN CRIMINAL PETITION No.7089/2021 BETWEEN: MR. A T KRISHNAPPA S/O MR. VENKATARAMAIAH AGED ABOUT 51 YEARS R/AT NO.42, SAPTHAGIRI NIVASA 3D A CROSS, 8TH MAIN BHUVANESHWARINAGAR BANGALORE-560 057 ALSO AT: SARADAMBA NAGAR JALAHALLI BENGALURU-560 013PETITIONER (BY SRI. KESHAVA MURTHY .B, ADVOCATE) AND:

1. . STATE OF KARNATAKA SHO, TAVAREKERE POLICE STATION MAGADI CIRCLE, RAMANAGARA DISTRICT REP. BY SPP HIGH COURT OF KARNATAKA BANGALORE-560 001 2 . MR. MADEGOWDA S/O MR. G H KRISHNA MURTHY AGED ABOUT 50 YEARS R/AT GANAPATHIHALLI TAVAREKERE HOBLI BANGALORE SOUTH TALUK 93 . MR. NARENDRA BABU M R POLICE SUB-INSPECTOR TAVAREKERE POLICE STATION RAMANAGARA DISTRICT-562 130 .RESPONDENTS (BY SRI. M.R. PATIL, HCGP FOR R1; SRI. S.R. NAGARAJA, ADVOCATE FOR R2; SRI. SUDHA .D, ADVOCATE FOR R3) THIS CRIMINAL PETITION IS FILED U/S 482 OF CR.P.C PRAYING TO QUASH THE CHARGE SHEET FILED AGAINST THE PETITIONER HEREIN FOR THE ALLEGED OFFENCE P/U/S.120(B), 255, 420, 464, 465, 467, 468 AND 471 OF IPC FILED BY THE TAVAREKERE P.S., PENDING ON THE FILE OF THE II ADDITIONAL CIVIL JUDGE AND JMFC COURT, MAGADI, RAMANAGARA DISTRICT IN C.C.NO.53/2021. IN CRIMINAL PETITION No.9044/2021 BETWEEN: M/S SRIMAYA BUILDERS AND DEVELOPERS A PARTNERSHIP FIRM REPRESENTED BY ITS MANAGING PARTNER SRI. T P GANGADHAR HAVING ITS OFFICE AT No.3 OPP: TO BBMP OFFICE HESARAGHATTA MAIN ROAD BAGALAGUNTE BENGALURU-560 073.PETITIONER (BY SRI. M.R. RAJGOPAL, SENIOR ADVOCATE FOR SRI. H.N. BASAVARAJU, ADVOCATE) 10 AND:

1. . ARVIND M A S/O ANNAJI GOWDA AGED ABOUT39YEARS MANAGER-ST-NO.212161 PUR-IG-STORE MMF BHARAT ELECTORNIS LTD JALAHALLI BENGALURU-560 063 2 . KUMARA SELVAN P FATHERS NAME NOT KNOWN TO PETITIONER AGED ABOUT53YEARS ASSISTANT MANAGER-208 163 CS/T AND BS BHARAT ELECTORNICS LTD JALAHALLI BENGALURU-560 063 3 . GOPINATHAN B S FATHERS NAME NOT KNOWN TO PETITIONER AGED ABOUT50YEARS ST-NO.209337 BHARATH ELECTORNICS LTD JALAHALLI BENGALURU-560 063 4 . SANJEEVA KUMAR S/O V RAIBHAGI AGED ABOUT49YEARS ST-NO.209337/ MASK CENTER R/SC COMPONENTS BHARAT ELECTORNOICS LTD JALAHALLI BENGALURU-560 063 5 . AMRITHRAJ K M FATHERS NAME NOT KNOWN TO PETITIONER11AGED ABOUT55YEARS BHARAT ELECTORNOICS LTD JALAHALLI BENGALURU-560 063 6 . GEETHA Y R W/O LOKESH AGED ABOUT42YEARS ST-NO.2124899 BHARAT ELECTORNOICS LTD JALAHALLI BENGALURU-560 063 7 . RAGHU M N FATHERS NAME NOT KNOWN TO PETITIONER AGED ABOUT40YEARS ST-No.212355-TS/MCE BHARAT ELECTRONICS LTD JALAHALLI BENGALURU-560 063 8 . YELLAPPA DYAMANNAVAR FATHERS NAME NOT KNOWN TO PETITIONER AGED ABOUT39YEARS ST-No.212499 BHARAT ELECTRONICS LTD JALAHALLI BENGALURU-560 063 9 . B BYREGOWDA FATHERS NAME NOT KNOWN TO PETITIONER AGED ABOUT72YEARS R/A BHAIRAV NILAYA, No.31 3RD MAIN ROAD CHAMUNDESHWARI LAYOUT DODDABOMMASANDRA BENGALURU-560 097 12 10 . ANITHA R ALVA W/O D RAVINDRA ALVA AGED ABOUT63YEARS R/A NO350 13TH CROSS3D BLOCK, BEL LAYOUT VIDYARANYAPURA BENGALURU-560 097. 11 . B RAMEESH S/O BYRALINGAIAH AGED ABOUT51YEARS SRI BYRAVESHWARA ENTERPRISES R/AT KRUTHIKA NILAYA SITE NOS. 1 AND2 SRI HARSHA NAGARA KASABA HOBLI, NELAMANGALA BENGALURU RURAL DIST-562 123 .RESPONDENTS (BY SRI. DIWAKAR .K, SENIOR ADVOCATE FOR SRI. ABHISHEK .K, ADVOCATE FOR R1 TO R4) THIS CRIMINAL PETITION IS FILED U/S482OF CR.P.C PRAYING TO QUASH THE

ORDER

DATED0704.2021 PASSED BY THE LEARNED III ADDL.DISTRICT AND SESSIONS JUDGE, RAMANAGARA IN CRL.RP.NO.33/2020 IN SO FAR AS IT

RELATES TO REMANDING THE MATTER TO THE TRIAL COURT FOR A FRESH CONSIDERATION ALONG WITH THE CERTAIN DIRECTIONS ARE CONCERNED AS PER ANNEXURE-C AND ETC. THESE PETITIONS HAVING BEEN HEARD AND RESERVED FOR

ORDER

S ON 23.04.2024, COMING ON FOR PRONOUNCEMENT OF

ORDER

THIS DAY, THE COURT MADE THE FOLLOWING:

13.

ORDER

These four criminal petitions pertain to the proceedings pending in PCR.128/2019 and C.C.No.53/2021 pending on the file of the III Additional District and Sessions Judge, Ramnagar, for the offence punishable under Sections 120(B), 255, 420, 464, 465, 467, 468, 471 of IPC.

2. Facts leading to the cases are as under: The Bharat Electronics Employees Co-Operative House Building Society (for short referred to as Housing Society) entered into a memorandum of understanding (M.O.U.) with M/s. Srimaya Builders & Developers, a partnership firm on 9.10.2009 (hereinafter referred to as Complainant). The complainant/developer claims that in terms of the memorandum of understanding, the complainant procured agricultural lands, converted the same for residential purpose and developed the lands to be 14 utilized for full-fledged residential houses to enable the Housing Society to distribute the sites in favour of its primary members.

3. Therefore, the genesis of these disputes lie in the MOU dated 9.10.2009 between the complainant and the Society. Allegations of delays, breaches and legal disputes have arisen leading to legal notices, arbitrations and criminal complaints. The complainant alleges that Housing Society having allowed the complainant to invest money have come up with an anti dated MOU dated 29.12.2018 entered with one Byraveshwara Enterprises. The complainant

therefore alleges that the Directors of the Housing Society in connivance with Byraveshwara Enterprises with a malafide intention to cause wrongful loss have not only kept the complainant under dark, but have tried to scuttle the MOU dated 9.10.2009 by creating an E- stamp paper in which the time was tampered with and 15 the same was utilized to prepare the alleged MOU dated 29.12.2018.

4. The complainant filed a private complaint under Section 200 of Cr.P.C. in PCR.128/2019 on the file of Principal Civil Judge and JMFC at Magadi, for offences punishable under Sections 191, 192, 193, 196, 209, 406, 418, 420, 465, 466, 468, 471, 474 read with Section 120(B) and 34 of IPC. This complaint is filed on 7.8.2019.

5. The District Registrar under whose jurisdiction this E-stamp paper is generated lodged a police complaint which led to registration of crime in FIR No.91/2019 for the offences punishable under Sections 420, 468, 471 read with Section 34 of IPC at Jalahalli Police Station. This crime is registered on 13.9.2019. A second police complaint is lodged by one Madegowda and a crime is registered in Crime 16 No.428/2020 with Tavarekere Police Station for offence punishable under Section 120(B), 255, 420, 465, 464, 467, 468, 471 of IPC.

6. Before I proceed to deal with the matter on hand, the particulars of all the three cases are culled out: SL Case No.Complainant Accused Progress in case No.1. PCR No.Srimaya A1- Aravinda M A Filed on 07.08.2019 under Section 200 C.rPC1282019 Builders A2-Kumara Selvan P 21.09.2020- PCR dismissed A3-Gopinath B S CrI.R.P.No.33/20 filed against dismissal A4- Sanjeev Kumar 07.04.2021- CrI.R.P.No.33/20 allowed and A5- Amritraj K M PCR remanded back. A6- Geeta Y R CrI.R.P No.9044/21 filed by complainant A7- Raghu M N against remand portion of order A8- Yellappa Dyamannavar CrI.P No.3355/21 filed by accused against A9- B Byregowda order dt.07.04.2021. A10- Anitha R Alva Pending on file of II Addl. Civil Judge and A11- B Ramesh JMFC, Magadi 2. Cr. No.Bharathi, A1- Anitha Filed on 13.09.2019 under Section 91/2019 District A2- Ramesh 420,468,471 r/w 34 IPC registered at Registrar Jalahalli Police Station B report filed Protest petition filed against B report 26.10.2021- Protest Petition allowed and B report set aside. Pending on file of 39th ACMM, Bengaluru 3.

Cr.No.Madegowda A1- Anitha R Alva (A10 in PCR) Filed on 19.01.2020 under Section 120(B), 428/2020 A2- Aravinda M A (A1 in PCR) 255,420,465,464,467, 468,471 IPC registered (CC A3- B Byregowda (A9 in PCR) at Tavarekare Police Station No.53/21) A4- Kumara Selvan P (A2 in PCR) 05.01.2021- Charge-sheet filed. A5- Gopinath B S (A3 in PCR) Committed to District and Sessions A6- Geeta Y R (A6 in PCR) Judge,Ramanagar vide order dt. 25.10.2021. 17 A7- Sanjeev Kumar (A4 in PCR) Crl.P No.5135/21 filed by A1-A12 u/s 482 A8- Amritraj K M (A5 in PCR) C.r PC A9- Yellappa Dyamannavar (A8 in Crl.P No.7089/21 filed by A13 u/s 482 Cr PC PCR) Pending on file of Prl. Civil Judge and JMFC, A10- Raghu M N (A7 in PCR) Magadi. A11- B Ramesh (A11 in PCR) A12- Nagendra A13- Krishnappa A T A14- Janardhan 7. On examining the chart culled out supra, it is clearly evident that the learned Magistrate dismissed the complaint filed in PCR.No.128/2019 for lack of evidence to proceed against the accused. It is borne out from records that the ongoing investigation pursuant to registration of Cr.No.428/2020 was not brought to the notice of the Magistrate where the private complaint was pending consideration. Learned District Judge however allowed the revision petition filed by complainant in Crl.R.P.33/2020 and the private complaint is now again restored on file. In the interregnum, the investigating Officer has filed the charge sheet in Cr.No.428/2020 on 5.1.2021. The learned Magistrate having taken cognizance of Section 18 420 indicated in the charge sheet material has passed a committal order on 25.10.2021 and C.C.No.53/2021(Cr.No.428/2020) is now pending consideration before the District and Sessions Judge, Ramnagar.

8. In view of the remand order passed by the District Judge in Crl.R.P.No.33/2020, the Magistrate in P.C.R.No.128/2019 has to reassess the prima-facie materials and also needs to take cognizance of detailed charge sheet submitted by police in Cr.No.428/2020.

9. Having regard to the peculiar facts on hand and bearing in mind the complexity involved in the case on hand, this Court has to examine the applicability of Section 210 of Cr.P.C. Before this Court proceeds further, I deem it fit to extract Section 210 of Cr.P.C., which reads as under:

19. 210. Procedure to be followed when there is a complaint case and police investigation in respect of the same offence.-(1) When in a case instituted otherwise than on a police report (hereinafter referred to as a complaint case), it is made to appear to the Magistrate, during the course of the inquiry or trial held by him, that an investigation by the police is in progress in relation to the offence which is the subject-matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such inquiry or trial and call for a report on the matter from the police officer conducting the investigation. (2) If a report is made by the investigating police officer under section 173 and on such report cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report. (3) If the police report does not relate to any accused in the complaint case or if the Magistrate does not take cognizance of any offence on the police report, he shall proceed with the inquiry or trial, which was stayed by him, in accordance with the provisions of this Code.

10. Section 210 of Cr.P.C. delineates the procedure to be followed when a complainants case under Section 200 of Cr.P.C. and police investigation culminating in a charge sheet are pending concurrently. In the present matter, a private 20 complaint in PCR.No.128/2019 is under consideration before II Additional Civil Judge and JMFC, Magadi, while a police investigation has led to filing of a charge sheet in Cr.No.428/2020 for the offences punishable under Section 120(B), 255, 420, 465, 464, 467, 468, 471 of IPC. The Principle Civil Judge and JMFC, Magadi, having taken cognizance of the offences indicated in the charge sheet has passed a committal order.

11. Given the charge sheets indication of an offence under section 420 of IPC and its relation to a police case, the Magistrate cannot proceed with the private complaint in solidarity. However, the private complaint does not encompass all the accused named in the charge sheet. The Court has to examine the prima facie materials in the charge sheet before taking cognizance of the remaining accused mentioned only in the charge sheet. The private 21 complaint however, will not lose its identity, as Section 210 Cr.P.C provides only for a joint trial of cases

arising out of a private complaint and police investigation and not an amalgamation of proceedings. This court has undertaken a comprehensive examination of the complex legal scenario that has arisen for consideration from concurrent private complaint proceedings and police investigation, both relating to the same occurrence. Section 210 Cr.P.C provides a legal framework governing the situation where there is a complaint case and police investigation leading to a charge sheet for the same offence. This Court is therefore called upon to examine whether a joint trial will expedite the resolution of the dispute, reduce the burden on the judicial system and ensure timely justice to the aggrieved parties. Since the case on hand warrants consolidation of proceedings in private complaint (PCR22128/2019) and police case (C.C532021), this Court is of the view that it is the District and Sessions Judge before whom the police case is seized pursuant to the committal order, has to undertake comprehensive examination of the private complaint as well as the police case.

12. This Court is of the view that the private complaint has to be transferred to the District Court, where the charge sheet filed in connection with Cr.No.428/2020 indicates an offence under Section 420 of IPC. which is central to the police case. The District Registrar, Bengaluru Urban and Deputy Inspector General Registrar are cited as witnesses (C.Ws.17 and 20 respectively) in the charge sheet submitted in C.C.No.53/2021. It is in this background, this Court is of the view that the Magistrate overseeing the private complaint is precluded from independently proceeding with the private complaint.

13. Empowered by Section 407 read with Section 482 of Cr.P.C., this Court possesses the authority to transfer the proceedings pending in private complaint to ensure fair and impartial enquiry, particularly when faced with unusual legal complexities. Given the filing of charge sheet in Cr.No.428/2020 and the pending nature of the private complaint in PCR.No.128/2019, it becomes imperative to consolidate these proceedings for a joint trial. This consolidation will not only streamline the launching of criminal action against the accused but also facilitate a coherent and unified examination of the allegations and the evidence and thereby safeguarding the rights and interest of all the parties involved. This Court is compelled to invoke Section 407 read with Section 482 of Cr.P.C. having regard to

overlapping nature of 24 private complaint and police investigation both rooted in the same incident, raises intricate questions regarding jurisdiction, procedure and protection of legal rights. Section 210 of Cr.P.C. therefore, provides a statutory frame work to address situations where there are parallel legal proceedings arising from the same set of facts. The above said provision recognizes the potential for multiple Courts to be seized of the same matter and therefore, Section 210 of Cr.P.C. seeks to harmonize these proceedings to prevent duplication and conflicting judgments.

14. The transfer of the private complaint is also inevitable in the present case on hand. The accused cannot be subjected to two independent criminal prosecutions at two different Courts. One of the paramount considerations in any criminal proceedings is the protection of the accuseds rights and guarantee of fair trial. A joint trial in the present scenario will 25 ensure the compliance of principle of Autrefois Acquit and Autrefois convict which is embodied in Article 20(2) of the Constitution of India and Section 300 Cr.P.C. In order for Section 300 of Cr.P.C to be attracted, there are 3 essential criteria that must be present. Firstly, a person must have been tried by a competent court for the same offence or offence arising out of the same set of facts. Secondly the trail must have resulted in his acquittal or conviction, and lastly, the acquittal or conviction must still be in force. In the present case, the private complaint and the police case are based on the same set of facts and incidents. If the proceedings are allowed to moved forward independently, it will inevitably lead to the creation of a bar under Section 300 Cr.P.C, against one of the proceedings. By consolidating the proceedings and ensuring a joint trial, this court seeks to balance the interest of all parties involved, 26 safeguarding the rights of the accused while facilitating a comprehensive examination of the allegations.

15. It is for the foregoing reasons, I am not inclined to accede to the arguments advanced by the Senior Counsel appearing on behalf of accused 1 to 12 and the counsel appearing for accused No.13/developer. Learned Senior Counsels contention that accused have to be subjected to criminal prosecution in Cr.No.91/2019 is not supported by any precedents. The learned Senior Counsels stand taken in the petitions filed by the accused only gives an impression that

accused intend to choose a particular proceedings. Admittedly in Cr.No.91/2019, a B report is filed which led to filing of a protest petition. The protest petition is allowed vide Order dated 26.10.2021 and the B report is set aside. The contention of the Senior Counsel that the private 27 complaint pending in PCR.No.128/2019 and the proceedings in CC.No.53/2021 are not maintainable and are liable to be quashed under Section 482 of Cr.P.C. cannot be acceded to. This Court reiterates the necessity of consolidating the private complaint proceedings pending in PCR.No.128/2019 with C.C.No.53/2021 pending before District and Sessions Judge, Ramnagar, to ensure judicial efficiency, avoid conflicting judgments and facilitate a coherent legal process. This Court emphasizes the paramount importance of upholding the principles of natural justice. As stated supra, in all 21 witnesses are cited. Among these cited witnesses C.Ws.17 and 20 are crucial and important witnesses.

16. The complainants petition filed in Criminal Petition No.9044/2021 assailing the remand order passed by the III Additional District and Sessions 28 Judge, Ramanagar, in Crl.R.P.No.33/2020 does not survive for consideration in the light of the findings recorded supra. Similarly, Cr.P.No.3355/2021 filed by accused assailing the very same remand order passed by the District and Sessions Judge, Ramnagar in Crl.R.P.No.33/2020 also does not survive for consideration. Similarly, Crime No.91/2019 registered on a complaint filed by the District Registrar does not survive for consideration. Criminal Petition No.5135/2021 and Criminal Petition No.7089/2021 filed by the accused 1 to 12 and accused No.13 respectively also cannot be entertained in the light of the findings recorded supra. There is sufficient prima facie material which is indicated in the charge sheet. This Court is not inclined to grant any indulgence under Section 482 of Cr.P.C. and therefore, these petitions are also liable to be dismissed. 29

17. Given the complexities and the potential for conflicting judgments, this Court proceeds to pass the following:

ORDER

(i) The criminal petitions are hereby dismissed. (ii) The proceedings pending in PCR.No.128/2019 pending on the file of the II Additional Civil Judge and JMFC, at

Magadi, pursuant to remand order passed by the III Additional District and Sessions Judge, Ramanagaram, in CrI.R.P.No.33/2020 stand transferred to the District and Sessions Judge, Ramanagar, where C.C.No.53/2021 is already pending to avoid conflicting decisions and ensure uniformity in adjudications. (iii) There shall be joint trial of the accused in both the police charge sheet and private complaint. 30 (iv) The District and Sessions Judge, Ramnagar, is hereby directed to examine the material presented in the private complaint along side the police case, ensuring fair treatment to all parties involved. Sd/- JUDGE *alb/-

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