Branch Manager vs State of Karnataka

Branch Manager vs State of Karnataka

SooperKanoon Citation : sooperkanoon.com/1650884

Court : Karnataka

Decided On : Feb-24-2025

Judge : S.R.Krishna Kumar

Appeal No. : CRL.P/1078/2025

Appellant : Branch Manager

Respondent : State of Karnataka

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF FEBRUARY, 2025 BEFORE THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR CRIMINAL PETITION NO.1078 OF 2025 BETWEEN: BRANCH MANAGER MANAPPURAM FINANCE LIMITED, NO.31, 2ND BLOCK, RAJAINAGAR, BENGALURU. REP. BY ITS AUTHORIZED SIGNATORY MR. SALIM P.M. PETITIONER (BY SRI. SIJI MALAYIL, ADVOCATE) AND:

1. STATE OF KARNATAKA RAJAJINAGAR POLICE STATION, REP. BY THE S.P.P., HIGH COURT BUILDING, BENGALURU - 560 001.

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ARUNKUMAR M S   2.   T.D. UMESHLocation: HIGH

KARNATAKA SAHAKAR SANGHAGALA UPA NIBANDHAKARA KACHERI, UTTARA VALAYA, BENGALURU. RESPONDENTS (BY SRI. THEJESH P., HCGP) THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CODE OF CRIMINAL PROCEDURE (U/S 528 OF BNNS), PRAYING TO QUASH THE F.I.R. IN CRIME NO.179/2012 REGISTERED BY -2- RAJAJINAGAR POLICE STATION AGAINST THE PETITIONER HEREIN, WHO IS ARRAIGNED AS ACCUSED NO.1 FOR THE ALLEGED OFFENCES PUNISHABLE UNDER SECTIONS 3 AND 4 OF THE KARNATAKA PROHIBITION OF CHARGING EXORBITANT INTEREST ACT, 2004 AND SECTIONS 5 AND 38 OF KARNATAKA MONEY LENDERS ACT, 1961, PENDING ON THE FILE OF IX ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, NRUPATUNGA ROAD, BENGALURU CITY. THIS PETITION COMING ON FOR ORDERS, THIS DAY,

ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

In this petition, the petitioner seeks following relief: "Quash the F.I.R. in Crime No.179/2012 registered by the Rajajinagar Police Station, Bengaluru against the petitioner, who is arrayed as Accused No.1 for the alleged offences punishable under Sections 3 and 4 of the Karnataka Prohibition of Charging Exorbitant Interest Act, 2004 and Sections 5 and 38 of the Karnataka Money Lenders Act, 1961 pending on the file of the 9th Addl. CMM Court, Nrupatunga Road, Bengaluru City in the interest of justice."

2. Heard learned counsel for the petitioner and learned High Court Government Pleader for respondents and perused the material on record.

3. A perusal of the material on record will indicate that the

petitioner is charged with the offences punishable under Sections 3 and 4 of the Karnataka Prohibition of Charging -3- Exorbitant Interest Act, 2004 as well as Sections 5 and 38 of the Karnataka Money Lenders Act, 1961.

4. In an identical circumstances, in the case of the petitioner herein in Writ Petition No.18597 of 2012 and

connected petitions, the co-ordinate Bench of this Court has held

as under: "W.P.No.18597/2012 BETWEEN:

> M/S. MANAPPURAM FINANCE LTD., FORMERLY KNOWN AS M/S. MANAPPURAM GENERAL FINANCE & LEASING LTD., REGIONAL OFFICE AT NO.9 2ND FLOOR, 3RD CROSS ANNIPURA MAIN ROAD SUDHAMANAGAR, K.H. ROAD BANGALORE-560027 REPTD. BY ITS REGIONAL MANAGER (OPERATIONS) AUTHORIZED SIGNATORY SRI CHANDRA SEKHARA K.S. ...PETITIONER (BY SRI B RAVISHANKAR, ADV.) AND:

1. THE STATE OF KARNATAKA BY ITS CHIEF SECRETARY VIDHANA SOUDHA BANGALORE - 560 001.

2. THE SECRETARY DEPARTMENT OF CO-OPERATIVE SOCIETY (MONEY LENDING) M.S. BUILDING, BANGALORE -560 001.

3. THE REGISTRAR OF CO-OPERATIVE SOCIETY/ -4- MONEY LENDERS NO 1, ALIASKAR ROAD BANGALORE - 560052.

4. THE DEPUTY REGISTRAR OF MONEY LENDERS CENTRAL DIVISION NO.146, 8TH CROSS, 3RD MAIN MARGOSA ROAD BANGALORE - 560 003.

5. THE ASSISTANT REGISTRAR OF MONEY LENDERS CENTRAL DIVISION NO.146, 8TH CROSS, 3RD MAIN MARGOSA ROAD BANGALORE-560 003.

6. DIRECTOR GENERAL OF POLICE POLICE HEAD QUARTERS NRUPATHUNGA ROAD BANGALORE - 560001.

7. THE RESERVE BANK OF INDIA

CENTRAL OFFICE, COB, FORT MUMBAI, BY ITS GOVERNOR. RESPONDENTS (BY SRI M VINOD KUMAR, AGA FOR R1-R6 SMT. RASHMI SUBRAMANYA, ADV. FOR R7) THIS WRIT PETITION IS FILED UNDER ARTICLES 226

AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DECLARE THAT CHAPTER IIIB OF THE RESERVE BANK OF INDIA ACT OCCUPY THE FIELD WITH REGARD TO CONTROL, PENAL ACTION ETC., AGAINST THE PETITIONER COMPANY, AND THAT THE PROVISIONS OF CHAPTER IIIB OF THE R.B.I. ACT SHALL HAVE OVERRIDING EFFECT ON THE STATE LAWS, NAMELY THE KARNATAKA MONEY LENDERS ACT, 1961 AND KARNATAKA PROHIBITION OF CHARGING EXORBITANT INTEREST ACT 2004, OR IN THE ALTERNATIVE DECLARE THAT THE "KARNATAKA PROHIBITION OF CHARGING EXORBITANT INTEREST ACT, 2004" AND "KARNATAKA MONEY LENDER ACT 1961" IS NOT APPLICABLE TO THE PETITIONER.

-5- W.P.No.47108/2011 BETWEEN: SHRIRAM TRANSPORT FINANCE CO. LTD., HAVING ITS REGIONAL OFFICE AT 29/A, K H ROAD BANGALORE-27 REPTD. BY ITS ASSISTANT MANAGER/ GPA HOLDER SRI MADHUSHEHAN MANVI ...PETITIONER (BY SRI JAYAKUMAR S PATIL, SR. COUNSEL A/W SRI DEVIPRASAD SHETTY, ADV.) AND:

1. THE STATE OF KARNATAKA BY ITS SECRETARY DEPARTMENT OF CO-OPERATION (MONEY LENDING) BANGALORE.

2. THE REGISTRAR OF GENERAL OF MONEY-LENDERS ALIASKAR ROAD BANGALORE-52.

3. THE DEPUTY REGISTRAR & MONEY LENDERS CENTRAL DIVISION NO.146, 8TH CROSS, 3RD MAIN MARGOSA ROAD, BANGALORE-3.

4. THE ASSISTANT REGISTRAR & MONEY LENDERS CENTRAL DIVISION NO.146, 8TH CROSS, 3RD MAIN MARGOSA ROAD, BANGALORE-3.

5. THE SUB INSPECTOR & POLICE (LAW & ORDER) WILSON GARDEN POLICE STATION BANGALORE.

6. THE RESERVE BANK OF INDIA CENTRAL OFFICE, COB -6- FORT MUMBAI BY ITS GOVERNOR.

7. A.S.T. ARASU AGED ABOUT 61 YEARS S/O. SRI A.M. SEEYALAM No.35/B,2ND CROSS 60 FT ROAD MAHAGANAPATHI NAGAR RAJAJINAGAR BANGALORE.

8. R. KRISHNAN AGED ABOUT 60 YEARS S/O. SRI D RAMEGOWDA No.82, II MAIN EESHWARINAGAR BSK III STAGE BANGALORE

9. K.B. GOPALAKRISHAN AGED ABOUT 40 YEARS S/O. SRI BOMMALINGAIAH CHIKKABIDARAKALLU REDDY KATTE ROAD NAGASANDRA POST BANGALORE.

10. B.K. PUTTASWAMY AGED ABOUT 53 YEARS S/O. SRI KULLEGOWDA No.108/1, I MAIN 2ND CROSS, RISHIKESH NAGAR HOSAKEREHALLI BSK III STAGE BANGALORE. RESPONDENTS (BY SRI. M. VINOD KUMAR, AGA FOR R1-R5 SMT. RASHMI SUBRAMANYA FOR R-6 RESPONDENTS 7 TO 10 IMPLEADED V/O DT. 25.01.2012. SMT. LAKSHMI S HOLLA, ADV. FOR R7-10) THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DECLARE THAT THE PROVISIONS OF "KARNATAKA MONEY -7-

LENDERS ACT 1961" & THE PROVISIONS OF "KARNATAKA PROHIBITION OF CHARGING EXORBITANT INTEREST ACT 2004" AS BEING NOT APPLICABLE TO THE NBFC THAT IS THE PETITIONER REGISTERED UNDER CHA.IIIB OF THE RBI ACT AND ETC. W.P.NO.3208/2012 BETWEEN: CHOLAMANDALAM

INVESTMENT & FINANCE CO LTD HAVING ITS OFFICE AT NO. 28/1, KENSINGTON ROAD, OPP. GURUDWARA, NEAR ALSOOR LAKE, BANGALORE- 560 042 REP. BY ITS CONSTITUTED ATTORNEY SRI NAVEEN N D. ...PETITIONER (BY SRI JAYAKUMAR S PATIL, SR. COUNSEL A/W SRI DAYANAND S PATIL, ADV.) AND:

1. THE STATE OF KARNATAKA BY ITS SECRETARY DEPARTMENT OF CO-OPERATION (MONEY- LENDING) VIDHANA SOUDHA BANGALORE- 560001.

2. THE REGISTRAR GENERAL OF MONEY-LENDERS NO.1, ALIASKAR ROAD BANGALORE- 560052.

3. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (LEGAL SECTOR) OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES NO.1, ALIASKAR ROAD BANGALORE- 560052.

4. THE ASSISTANT REGISTRAR OF MONEY-LENDERS -8- OFFICE OF THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES & MONEY LENDERS TUMAKUR SUB-DIVISION NEAR TOWN HALL CIRCLE GANDHINAGAR TUMAKUR- 572101.

5. THE RESERVE BANK OF INDIA

CENTRAL OFFICE, COB FORT. MUMBAI BY ITS GOVERNOR. RESPONDENTS (BY SRI M VINOD KUMAR, AGA FOR R1-R4 SMT. RASHMI SUBRAMANYA, ADV. FOR R5) THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DECLARE THAT THE PROVISIONS OF THE "KARNATAKA MONEY LENDERS ACT, 1961" AND THE "KARNATAKA PROHIBITION OF CHARGING EXORBITANT INTEREST ACT, 2004" AS BEING NOT APPLICABLE TO THE PETITIONER WHICH IS AN NBFC, REGISTERED UNDER CHAPTER III-B OF THE RBI ACT AND ETC. W.P.NO.7508/2012 BETWEEN: INDIA INFOLINE FINANCE LIMITED (FORMERLY KNOWN AS INDIA INFOLINE INVESTMENT SERVICES LIMITED) A COMPANY INCORPORATED UNDER THE PROVISIONS OF THE COMPANIES ACT, 1956 HAVING ITS REGISTERED

OFFICE AT INDIA INFOLINE HOUSE SUN INFOTECH PARK ROAD NO.16, PLOT NO, B -23 MIDC THANE INDUSTRIAL ESTATE WAGLE ESTATE, THANE-400604. ALSO HAVING IT REGIONAL OFFICE AT NO.31/9, KRIMSON SQUARE HOSUR ROAD, ABOVE VISHAL MART BANGALORE -9- REP. BY ITS AREA OPERATING OFFICER MR. KIRAN M. ...PETITIONER (BY SRI RAGHURAM CADAMBI, ADV.) AND:

1. STATE OF KARNATAKA REPT. BY ITS FINANCE SECRETARY VIDHANA SOUDHA DR. AMBEDKAR VEEDHI BANGALORE-560001.

2. THE ASSISTANT REGISTRAR OFFICE OF THE ASSISTANT REGISTRAR BANGALORE NORTH DIVISION NO.146, THIRD MAIN ROAD 8TH CROSS, MARGOSA ROAD MALLESHWARAM BANGALORE-560003.

3. REGISTRAR OF MONEY-LENDERS BANGALORE NORTH, KARNATAKA NO.1, ALI ASKER ROAD BANGALORE-560052.

4. JOINT REGISTRAR CO-OPERATION DEPARTMENT (LEGAL CELL) NO.1, ALI ASKER ROAD BANGALORE-560052.

5. RESERVE BANK OF INDIA

HAVING ITS OFFICE AT NRUPATHUNGA ROAD BANGALORE-560001. RESPONDENTS (BY SMT. RASHMI PATEL, HCGP FOR R1-R4 SMT. RASHMI SUBRAMANYA, ADV. FOR R5) THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DECLARE THAT THE ACTIONS OF THE R2 TO R4 IN SEEKING TO BRING THE PETITIONER UNDER THE PROVISIONS OF THE KARNATAKA MONEY LENDERS ACT 1961 & THE KARNATAKA PROHIBITION OF CHARGING EXORBITANT INTEREST ACT 2004, ARE ILLEGAL, - 10 - UNCONSTITUTIONAL & VIOLATIVE OF THE RESERVE BANK OF INDIA ACT 1934 AND ETC. W.P.No.10835/2012 BETWEEN: FED BANK FINANCIAL SERVICES LIMITED HAVING ITS CORPORATE OFFICE AT C-6 5TH FLOOR, C WING, LAXMI TOWERS BANDRA KURLA COMPLEX BANDRA (EAST), MUMBAI-400051. HAVING ITS BRANCH AT 1ST BLOCK FIRST FLOOR, DOOR

NO.259 10TH CROSS, 1ST N BLOCK RAJAJI NAGAR, BANGALORE-560010 REP. BY ITS STATE HEAD- SALES SRI SANAL CH. ...PETITIONER (BY SRI SHASHI KIRAN SHETTY, SR.COUNSEL A/W SMT. LATHA SHETTY, ADV.) AND:

1. STATE OF KARNATAKA REPRESENTED BY ITS CHIEF SECRETARY VIDHANA SOUDHA BANGALORE-560001.

2. REGISTRAR OF MONEY LENDERS CHIT AND CO- OPERATION NORTH ZONE NO.146, 3RD MAIN MARGOSA ROAD, 8TH CROSS MALLESHWARAM BANGALORE-560003.

3. THE SECRETARY

CO-OPERATIVE SOCIETY DEPARTMENT VIKAS SOUDHA BANGALORE. RESPONDENTS (BY SMT. RASHMI PATEL, HCGP FOR R1-R3) - 11 - THIS WRIT PETITION IS FILED UNDER ARTICLES 226

AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DECLARING THAT THE PETITIONER COMPANY IS SOLELY GOVERNED BY RESERVE BANK OF INDIA; DECLARE THAT KARNATAKA MONEY LANDERS ACT 1961, KARNATAKA PAWN BROKERS ACT, 1961, KARNATAKA PROHIBITION OF CHARGING EXORBITANT INTEREST ACT 2004 IS NOT APPLICATION TO THE PETITIONER COMPANY AND ETC.

W.P.No.11891/2012 BETWEEN: M/S. SKS MICRO FINANCE LTD., A COMPANY INCORPORATED UNDER THE INDIAN COMPANIES ACT HAVING ITS REGISTERED OFFICE AT ASHOKA RAGHUPATHI CHAMBERS D.NO.1-10-60 TO 62 OPP: SHOPPERS STOP BEGUMPET, HYDERABAD-500 016. AND ITS OFFICE AT R.O.NO.C121 OPP. SBI 3RD CROSS EAST OF NGEF, KASTURI NAGAR BANGALORE-560 043 REP. BY ITS STATE HEAD AWANISH KUMAT. NEW ADDRESS: 3RD FLOOR, MY HOME TYCOON BLOCK-A, 6-3-1192 KUNDANBAGH BEGUMPET HYDERABAD-500016 ANDRA PRADESH. ...PETITIONER (BY SRI SANTHOSH, ADV.) AND:

1. STATE OF KARNATAKA REP. BY ITS SECRETARY TO THE DEPARTMENT OF CO-OPERATION M S BUILDING, BANGALORE-560 001. - 12 -

2. THE SPECIAL OFFICER AND JOINT SECRETARY GOVERNMENT OF KARNATAKA DEPARTMENT OF CO-OPERATION M S BUIDLING BANGALORE-560001.

3. THE REGISTRAR OF CO-OPERATIVE SOCIETIES NO.1, ALIASKAR BANGALORE-560 052.

4. THE DEPUTY REGISTRAR

OF CO-OPERATIVE SOCIETIES TUMUKR DISTRICT TUMKUR. RESPONDENTS (BY SMT. RASHMI PATEL, HCGP FOR R1-R4) THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO

QUASH THE IMPUGNED ORDERS, NAMELY THE ORDER

PASSED BY THE R2 DATED 05.01.2012, AS PER ANN-A & THE

ORDER PASSED BY THE R4, DATED 30.03.2012, AS PER

ANN-B. W.P.No.15215/2012 BETWEEN: M/S. RELIANCE CAPITAL LIMITED REGISTERED OFFICE AT H-BLOCK FIRST FLOOR, DHIRUBHAI AMBANI KNOWLEDGE CITY KOPERKHIARANE NAVI MUMBAI-400710. HAVING ITS REGIONAL OFFICE AT NO.37, BRAHMANANDA COURT 3RD FLOOR, LALBAGH ROAD BANGALORE REPT. BY ITS BRANCH COLLECTION MANAGER MR.HARISH. ...PETITIONER (BY SMT. K.B.SREEDEVI, ADV.) - 13 - AND:

1. THE STATE OF KARNATAKA REPRESENTED BY ITS SECRETARY DEPARTMENT OF CO-OPERATION MULTISTORIED BUILDING DR. AMBEDKAR VEEDHI BANGALORE-560001.

2. THE ASSISTANT REGISTRAR OF MONEY

LENDING CENTRAL ZONE CIRCLE NO.146, 8TH CROSS MARGOOSA ROAD MALLESHWARAM BANGALORE-560003. RESPONDENTS (BY SMT. A.R. SHARADAMBA, AGA FOR R1 & R2) THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE SHOW CAUSE NOTICE DATED 17.04.2012 AT ANNX-J ISSUED BY THE R2 AND ALL OTHER PROCEEDINGS PURSUANT THERETO AND DECLARE THAT THE PROVISIONS OF THE KARNATAKA MONEY LENDING AND PAWN BROKERS ACT 1961 IS NOT APPLICABLE TO THE PETITIONER COMPANY. W.P.NO.18932/2012 BETWEEN: MUTHOOT FINANCE LTD., HAVING ITS OFFICE AT 84/3, HENNUR MAIN ROAD, ST.THOMAS TOWN POST, LINGARAJAPURAM BANGALORE- 560084 REPRESENTED BY ITS REGIONAL MANAGER MR. ASHOK KUMAR AGED ABOUT 64 YEARS. ...PETITIONER (BY SRI SHASHI KIRAN SHETTY, SR.COUNSEL A/W SMT. LATHA SHETTY, ADV.) - 14 - AND:

1. STATE OF KARNATAKA REPT. BY ITS CHIEF SECRETARY VIDHANA SOUDHA BANGALORE 560001.

2. FINANCE DEPARTMENT AND TAXES VIDHANA SOUDHA BANGALORE REPT. BY ITS SECRETARY.

3. CO-OPERATIVE SOCIETY DEPARTMENT VIKAS SOUDHA BANGALORE REPT. BY ITS SECRETARY.

4. REGISTRAR OF MONEY LENDERS BANGALORE URBAN DISTRICT BANGALORE- 3. RESPONDENTS (BY SMT. A.R.SHARADAMBA, AGA FOR R1-R4) THIS WRIT PETITION IS FILED UNDER ARTICLES 226

AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DECLARE THAT THE PETITIONER COMPANY IS SOLELY GOVERNED BY RESERVE BANK OF INDIA; DECLARE THAT KARNATAKA PROHIBITION OF CHARGING EXORBITANT INTEREST ACT 2004 IS NOT APPLICABLE TO THE PETITIONER COMPANY. W.P.NO.11658/2015 BETWEEN:

1. KOSAMMATTAM FINANCE LTD., HAVING ITS REGISTERED OFFICE AT MKC BUILDING KOTTAYAM - 1, KERALA REPT. BY ITS MANAGING DIRECTOR.

2. KOSAMMATTAM FINANCE LTD.,

NEAR INDIAN ACADEMY COLLEGE HENNUR CROSS, BENGALURU REPRESENTED BY ITS - 15 - REGIONAL MANAGER SRI K KUMARASWAMY S/O LATE K KEMPE GOWDA AGED ABOUT 61 YEARS. ...PETITIONERS (BY SRI. SHIVARUDRAPPA SHETKAR, ADV.) AND:

1. THE STATE OF KARNATAKA BY ITS SECRETARY DEPARTMENT OF CO-OPERATION (MONEY-LENDING) BANGALORE- 560052.

2. THE REGISTRAR GENERAL OF MONEY-LENDERS ALIASKAR ROAD BANGALORE- 560052.

3. THE DEPUTY REGISTRAR & MONEY-LENDERS SOUTH DIVISION GMC BANK BUILDING PAMPAMAHAKAVI ROAD CHAMARAJPETE BANGALORE-18.

4. THE ASSISTANT REGISTRAR & MONEY-LENDERS SOUTH DIVISION GMC BANK BUILDING PAMPAMAHAKAVI ROAD CHAMARAJPETE BANGALORE-18.

5. THE RESERVE BANK OF INDIA

CENTRAL OFFICE, COB, FORT MUMBAI -400005 BY ITS GOVERNOR. RESPONDENTS (BY SMT A.R.SHARADAMBA, AGA FOR R1-R4 R5 ARE SERVED) THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, PRAYING TO DECLARE - 16 - THAT THE PROVISIONS OF 'KARNATAKA PROHIBITION OF CHARGING EXORBITANT INTEREST ACT, 2004 AS BEING NOT APPLICABLE TO THE NBFC THAT IS THE PETITIONER REGISTERED UNDER CHAPTER III B OF THE RBI ACT. AND ETC. THESE PETITIONS COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:-

COMMON ORDER

Heard Sri Jayakumar S. Patil and Sri Shashi Kiran Shetty, learned Senior Counsels along with Sri B. Ravishankar, Sri Deviprasad Shetty, Sri Dayanand S. Patil, Sri S.R. Hegde, Sri C.K. Nandakumar, Sri M.S. Varadarajan, Sri Jai M. Patil, Sri Shivarudrappa Shetkar, learned counsels for the petitioners, Sri M. Vinod Kumar, learned Additional Government Advocate for respondents 1 to 6, Smt Rashmi Subramanya, learned counsel for the 7th respondent. Perused the writ petitions papers.

2. It is submitted that in all these writ petitions,

petitioners/Non-Banking Financial Companies (for short the NBFCs) registered under the Reserve Bank of India Act, 1934, (for short the RBI Act) and regulated by RBI are before this Court praying for a declaration to declare that the State Enactments i.e., the Karnataka Prohibition of Charging Exorbitant Interest Act, 2004 (for short the 2004 Act), and the Karnataka Money-Lenders Act, 1961 (for short the 1961 Act), are not applicable to the petitioners and also to quash the consequential orders.

3. Learned Senior Counsels Sri.Jayakumar S. Patil and Sri.

Shashi Kiran Shetty on behalf of the petitioners contend that both the State enactments under challenge in these petitions are against the legislative competence of the State Government. Since the petitioners NBFCs are registered and functioning under - 17 -

the RBI Act, falls under the ambit of 1956 Act. Further, it is submitted that Reserve Bank of India is the regulatory body for the petitioners NBFCs and the State Acts such as Karnataka MoneyLenders Act, 1961 and Karnataka Prohibition of Charging Exorbitant Interest Act, 2004 are State enactments under Entry 30 of List-II of Schedule VII of the Constitution of India, are not applicable to petitioners. The petitioners are covered by the 1956 Act enacted by the Parliament under Entry 43 of List-I of Schedule VII. Provisions of 1956 Act has made it clear that it would have overriding effect in respect of any inconsistencies therewith contained in any other law.

4. Learned Senior Counsel would submit that the question of

law raised in these writ petitions were the subject matter of Civil Appeal No.5233/2012 [Nedumpilli Finance Company Limited V/s. State of Kerala and Others] before the Hon'ble Apex Court. The Hon'ble Apex Court was examining the question as to whether Non-Banking Financial Companies regulated by Reserve Bank of India in terms of the provisions of Chapter III-B of RBI Act, can also be regulated by the State Governments such as Kerala Money Lenders Act, 1958 and Gujarat Money Lenders Act, 2011. While answering the said question, the Hon'ble Apex Court has made it clear that the State Enactments would have no application to NBFCs, which are registered under the 1934 Act. It is further submitted that both the above State Acts, which are under challenge are enacted by the State Government in exercise of their powers under Entry 30 of List-II of Schedule VII of Constitution of India. It is submitted that State has no power to regulate the functions of NBFCs which are registered under the Reserve Bank of India Act. Therefore, they pray to declare both the Acts under challenge as not applicable to the petitioners NBFCs.

5. On hearing the learned Senior Counsel for the petitioners

as well as learned counsel for the respondents, I am of the view, that question raised in the present writ petitions is covered by the principles and decision of the Hon'ble Apex Court in the above stated C.A.No.5233/2012. As stated above, the question before the Hon'ble Apex Court was whether NBFCs regulated by the Reserve Bank of India can also be regulated by State enactments. While answering the above said question, the Hon'ble Apex Court at paragraphs 6.11, 8, 8.4 and 11, has held as follows:

> 6.11 The above scheme of Chapter III-B of the RBI Act shows that the power of intervention available for the RBI over NBFCs, is from the cradle to the grave. In other words, no NBFC can carry on business

without being registered under the Act and a NBFC which takes birth with the registration under the Act is liable to be wound up at the instance of the RBI. The entire life of a NBFC from the womb to the tomb is also regulated and monitored by RBI.

8. As indicated by the Constitution Bench in Deep

Chand (supra), a law may be valid when made, but a shadow may be cast on it by supervening constitutional inconsistency or supervening existing statutory inconsistency. Assuming that the Kerala Act was valid in its application to NBFCs when it was made, on the ground that the business of money lending is traceable to Entry 30 of List II, it has to give way for the parliamentary enactment. The moment the Parliament stepped in to codify the law relating to registration and regulation of NBFCs, by inserting certain provisions in Chapter III-B of the RBI Act, the same would cast a shadow on the applicability (even assuming it is applicable) of the provisions of the Kerala Act to NBFCs registered under the RBI Act and regulated by RBI.

8.4 In UCO Bank and Another vs. Dipak Debbarma and Others8, a sale Notification issued under the Securitisation Act was challenged on the ground that it constituted an infraction of Tripura Land Revenue and Land Reforms Act, 1960. This Court found that the Securitisation Act is traceable to Entry-45 of List-I

and the Tripura Act is traceable to Entries 18 and 45 of the State List. After referring to the Constitution Bench decision in State of West Bengal and Others vs. Committee for Protection of Democratic Rights, West Bengal and Others9 and other decisions, this Court held that the Securitisation Act, being a Parliamentary legislation is the dominant legislation. To come to the said conclusion, this Court referred to the non-obstante clause in Article 246(1).

> 11 In view of the above, we are of the considered opinion that the Kerala Act and Gujarat Act will have no application to NBFCs registered under the RBI Act and regulated by RBI. Therefore, all the appeals filed by NBFCs against the judgment of the Kerala High Court are allowed. Likewise the appeals filed by the State of Gujarat against the judgment of the Gujarat High Court are dismissed.

6. Following the dictum of the Hon'ble Apex Court in NEDUMPILLI FINANCE COMPANY LIMITED (supra), writ petitions are allowed and it is declared that State Enactments i.e.,

Karnataka Money-Lenders Act, 1961 and the Karnataka Prohibition of Charging Exorbitant Interest Act, 2004, are not applicable to the petitioners/NBFCs registered under the 1934 Act and regulated by Reserve Bank of India. Accordingly,

(i) In W.P.No.18597/2012 - Annexure-G bearing No.DRBC/ML/DOORU/44/2011-12 dated 08.05.2012 and Annexure-H letter bearing No.NML/YMC/258/2011-12 dated 11.05.2012;

(ii) In W.P.No.47108/2011 - Annexure-F bearing No.DRB- C/ML/DOORU/20/2011-12 dated 29.09.2011 and the entire proceedings in Crime No.0272/2011 including the FIR Annexure-G dated 28.11.2011;

(iii) In W.P.No.3208/2012 - Order Annexure-G bearing No.AR-32/LEVADEVI/CR.94/2011-12 dated 21.01.2012 and Annexure-H letter bearing No.NML/YMC/ /2011-12 dated 21.01.2012;

(iv) In W.P.No.7508/2012 - Order Annexure-L bearing No.NML/YMC/128/2011-12 dated 29.10.2011 and - 20 - Annexure-H letter bearing No.NML/YMC/109/2011-12 dated 29.09.2011;

(v) In W.P.No.11891/2012 - Order Annexure-A bearing No.C0 10 CML 2010 dated 05.01.2012 and letter Annexure-B bearing No.DRT:LEVADEV/SKSMICRO:CR178/201-12 dated 30.03.2012;

(vi) In W.P.No.15215/2012 - Order Annexure-J bearing No.ARB-45(C)/ML/PB/ITARE/ 682/ 2011-12 dated 17.04.2012;

(vii) IN W.P.No.11658/2015 - Order Annexure-F bearing No.DRB-S/NML/P.N./04/2014-15 dated 17.11.2014, are quashed."

5. A perusal of material on record will indicate that the

petitioner herein is identically and similarly situated to the petitioners in the aforesaid petitions in which, the Co-ordinate Bench of this Court, quashed the impugned proceedings, and consequently by applying / invoking the doctrine of parity, I am of the considered opinion that the impugned proceedings against the petitioner herein deserves to be quashed..

6. In the result, I pass the following:

ORDER

1) Criminal Petition is allowed; 2) The impugned F.I.R. in Crime No.179/2012 registered by the Rajajinagar Police Station, Bengaluru against the petitioner for the offences punishable under Sections 3 and 4 of the - 21 - Karnataka Prohibition of Charging Exorbitant Interest Act, 2004 and Sections 5 and 38 of the Karnataka Money Lenders Act, 1961 pending on the file of the IX Additional Chief Metropolitan Magistrate, Nrupatunga Road, Bengaluru City is hereby quashed. Sd/- (S.R. KRISHNA KUMAR) JUDGE ARK List No.: 1 Sl No.: 111