IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF NOVEMBER, 2023

BEFORE

THE HON'BLE MR. JUSTICE R.NATARAJ

WRIT PETITION NO.16126 OF 2017 (GM-RES)

BETWEEN:

1. SUDHIR G. ANGUR
S/O GUNDAPPA,
AGED ABOUT 54 YEARS,
CHANCELLOR OF
ALLIANCE BUSINESS SCHOOL COMPANY,
NO.100, 34TH MAIN, 2ND CROSS,
DOLLARS SCHEME, BTM I STAGE,
BANGALORE-560068.

2. MR. PRAKASH BUDOOR
AGED ABOUT 39 YEARS,
DIRECTOR OF
ALLIANCE BUSINESS SCHOOL COMPANY,
NO.100, 34TH MAIN, 2ND CROSS,
DOLLARS SCHEME, BTM I STAGE,
BANGALORE-560068.

3. MR. ABHAY CHEBBI
AGED ABOUT 30 YEARS,
DIRECTOR OF
ALLIANCE BUSINESS SCHOOL COMPANY,
NO.100, 34TH MAIN, 2ND CROSS,
DOLLARS SCHEME, BTM I STAGE,
BANGALORE-560068.

4. MRS. SHAILA CHEBBI GOVIND
AGED ABOUT 53 YEARS
DIRECTOR OF
ALLIANCE BUSINESS SCHOOL COMPANY,

NO.100, 34TH MAIN, 2ND CROSS,
DOLLARS SCHEME, BTM I STAGE,
BANGALORE-560068.

...PETITIONERS

(BY SRI. M.S.SHYAM SUNDAR, SENIOR ADVOCATE FOR
SRI. MANJUNATH, ADVOCATE)

AND:

1. ANEKAL POLICE STATION,
ANEKAL
REPRESENTED BY
THE CIRCLE INSPECTOR OF POLICE,
ANEKAL POLICE STATION,
ANEKAL-565202.

2. DCIB POLICE,
BANGALORE RURAL DISTRICT,
CAMPED AT OFFICE OF SP,
BANGALORE RURAL DISTRICT,
CHANDRIKA HOTEL CIRCLE,
VASANTH NAGAR,
BANGALORE-560002.

3. OFFICE OF DIRECTOR GENERAL OF POLICE,
CID POLICE, SPECIAL DIVISIONS,
CARLTON BHAVAN,
PALACE ROAD,
BANGALORE-560001

4. MR. MADHUKAR ANGUR
S/O GUDDAPPA ANGUR,
AGED 61 YEARS,
RESIDING AT NO.48A, 27TH MAIN,
1ST CROSS, BTM 1ST STAGE,
BANGALORE-560068.

…RESPONDENTS

(BY SRI. RAJATH SUBRAMANYAN, HIGH COURT GOVERNMENT PLEADER FOR RESPONDENT NOS.1 TO 3;
SRI. M. PARTHA, ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF THE CODE OF CRIMINAL PROCEDURE, 1973 PRAYING TO QUASH THE COMPLAINT AND FIR IN CRIME NO.54/2015 OF RESPONDENT ANEKAL POLICE STATION, BANGALORE RURAL DISTRICT (VIDE ANNEXURES-A AND B TO THE WRIT PETITION) REGISTERED AGAINST THE PETITIONERS FOR THE OFFENCES PUNISHABLE UNDER 506, 504, 420 READ WITH 34 OF IPC PENDING ON THE FILE OF THE PRINCIPAL CIVIL JUDGE AND JMFC, ANEKAL BANGALORE RURAL DISTRICT.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDER ON 22.08.2023 AND COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

The petitioners, who were arraigned as accused Nos.1 to 4 in Crime No.54/2015 registered by respondent No.1 for the offences punishable under Section 506, 504, 420 read with Section 34 of IPC, have filed this petition to quash the complaint and First Information Report, which is pending on the file of the Principal Civil Judge and JMFC, Anekal, Bengaluru Rural District. They have also sought for an enquiry into the alleged illegal acts of the police in initiating an investigation by CID after filing a 'C' report by DCIB, Bengaluru Rural District in Crime No.54/2015.

2. The petitioners contend that the respondent No.4 informed the respondent No.1 on 06.03.2015 about the commission of cognizable offences by the petitioners. Based on this, a case in Crime No.54/2015 was registered for the offences mentioned above. The respondent No.4 claimed that the petitioner No.1 had colluded with petitioner No.2 in creating problems at Alliance Business School and coercing and threatening some members of the staff and claiming that he was the sole custodian of the University. He alleged that the petitioner No.2, who was the Finance Head, had been systematically mismanaging the funds and accounts of the company. He alleged that on 20.02.2015, he removed the petitioner No.2 from his job in view of the complaints against him and also irregularities detected by the new Finance Head Mr. Rajendrudu. He alleged that on 01.03.2015, the petitioner No.1 barged into the office and threatened him to sign some blank papers pertaining to the Alliance Business School. When he resisted, the petitioner No.1 tried to manhandle him. He alleged that the petitioner No.1 on a

few occasions in the past, had been threatening him and his staff if he did not sign the blank papers and handover the University to him and that he would not allow him to live peacefully. He also alleged that the petitioner No.1 threatened to harass his wife and children and also ensure that he would meet his end. He alleged that on 02.03.2015, when he went to the office, he came to know through his office staff that some company documents were missing. He claimed that he reported about the missing documents before the meeting of the Board of Directors on 04.03.2015. As per the directions of the Board, a complaint was lodged before the police regarding the missing share certificates, Board resolution, minutes of the meeting, share transfer forms, letterheads etc., He claimed that on 05.03.2015, when he had gone to Company Secretary's Office for a meeting, the petitioner Nos.1 and 2 along with rowdy elements barged into the office of the Company Secretary and threatened him and Mr. Rajendrudu and also manhandled them and abused them in filthy language. He therefore, alleged that the petitioner Nos.1 and 2 were making hectic attempts to take over the reins of the Alliance University. He alleged that petitioner Nos.1 and 2 were trying to bring down the reputation of the University. He accused the petitioner No.4 of colluding with the petitioner Nos.1 and 2 and helping them in their illegal acts. He claimed that petitioner No.4 had threatened him and his wife and directed them to listen to petitioner No.1 else, they would land in trouble. He alleged that petitioner No.4 along with petitioner No.3 were helping petitioner Nos.1 and 2 and extending threats that petitioner No.1 is planning to file complaints before the CBI and also to get complaints lodged through some women on the ground of sexual harassment. He alleged that he came to know that petitioners and others had colluded with each other in depositing amounts in his account as well as in the account of his wife to claim that they have purchased the shares from him and his wife. He alleged that he suspected that the petitioners would forge his signatures to seem as if he had sold the shares to them. He therefore, requested the respondent No.1 to initiate suitable action against the petitioners.

3. Based on this information, the respondent No.1 registered Crime No.54/2015 for the offences mentioned above and took up investigation. The petitioners are before this Court challenging the investigation and also have sought for an enquiry to be conducted by a high ranking officer.

4. The petitioners contend that after the aforesaid case in Crime No.54/2015 was registered, three other complaints were lodged by respondent No.4, his wife and Mr. Krishnamohan Ramineni on 13.04.2015, 20.04.2015 and 21.04.2015 based upon which, Crime Nos.97/2015, 104/2015 and 105/2015 were registered. In all these complaints, it was alleged that the petitioners had taken away the share certificates of the respondent No.4, his wife and prepared documents to seem as if they have resigned from the Alliance Business School. The police had filed three charge-sheets in respect of the aforesaid

offences. However, in respect of Crime No.54/2015, a 'C' report dated 18.11.2015 was filed, a copy of which was served to the respondent No.4. The Trial Court issued notice to the respondent No.4 on the 'C' report. In the meanwhile, a series of writ petitions bearing W.P.Nos.27276-27279/2016, W.P.No.14670/2016, W.P.Nos.18174-18176/2016 and W.P.No.27272-27275/2016 were filed to quash the charge-sheets in Crime Nos.97/2015, 104/2015 and 105/2015. This Court stayed the further proceedings and thereafter, in terms of an order dated 04.10.2016, quashed all the charge-sheets and FIRs.

5. When things stood thus, the Deputy Superintendent of Police, Economic Offence Division, CID, filed an application before the Trial Court on 12.04.2016 seeking permission to investigate the case further. A notice of this application was served on the respondent No.4. The respondent No.4 engaged the services of a counsel, who prayed time to file objections and on

07.06.2016, a memo was filed conceding to the request of the CID to investigate the case further, based upon which, the Trial Court allowed the application permitting CID to investigate the case.

6. The petitioners contend that after the quashing of the charge-sheets in the cases referred above, they were under the impression that the case in Crime No.54/2015 is also closed. However, they came to know through their Company Secretaries that they had received notices from the CID requiring them to appear for investigation in Crime No.54/2015. The petitioners accused the respondent No.1 of aiding the respondent No.4 and his associates. They contended that on 29.09.2016, the respondent No.1 helped the respondent No.4 to enter the Alliance University campus by violating the Court orders. When the petitioners resisted it, the respondent No.4 crashed into the University by breaking the gates and barriers and assaulted many girl students.

Finally, the petitioners were bundled in to the police van and several cases were lodged against them.

7. The learned Senior counsel for the petitioners submitted that when once a 'C' report was filed before the Court, the CID had no business to file an application for investigating the case further. He contended that it is unknown as to who referred the case to CID since CID cannot take up cases for investigation on its own unless referred. He contended that the Trial Court without even sufficient material mechanically passed an order allowing the CID to investigate the case. He contends that the orders passed by this Court in W.P.Nos.19462-19466/2016 and connected cases and W.P.No.53199/2016 and connected cases stand testament to the illegalities committed by the respondent No.1. Further, he contends that since similar charge-sheets were quashed by this Court, the investigation undertaken by the respondent No.3 is highhanded and is liable to be deprecated. Further, he contended that the issue relates to the

administration of the Alliance Business School and the Alliance University. He contends that the respondent Nos.1 to 3 were aware of the fact that the civil court had held that the respondent No.4 had no right either in Alliance Business School or in Alliance University. Despite that, the respondent No.4 was trying to prove something which was already set at naught. He therefore, prays that the impugned investigation in Crime No.54/2015 and the consequent order passed by the Trial Court entrusting the further enquiry to the respondent No.3 be set aside.

8. The learned counsel for respondent No.4 on the other hand submitted that the respondent No.4 held shares in Alliance University and that in order to ensure that the respondent No.4 does not partake in the administration, the petitioners had created documents to seem as if the respondent No.4 and his wife had sold off the shares and had received consideration. He therefore, contends that the acts of the petitioners are in continuation of their constant efforts to ensure that the

respondent No.4 does not attempt to claim any role in the administration of the Alliance Business School and Alliance University. He therefore, submits that the case registered against the petitioners warrants investigation.

9. I have considered the submissions made by the learned Senior counsel for the petitioners as well as the learned counsel for respondent No.4.

10. It is a matter of record that a Co-ordinate Bench of this Court in W.P.Nos.19462-19466/2016 and other connected writ petitions noticed that the respondent No.4 herein had lodged a complaint dated 13.04.2015, wherein he had accused petitioner Nos.3 and 4 herein of uploading their names as Directors of the company on the portal of the Registrar of Companies on the basis of forged share transfer Forms and had falsely claimed that the respondent No.4, wife of respondent No.4 and Mr. Krishnamohan Ramaneni had resigned from the Directorship of the company. Based on this complaint, a case in Crime No.97/2015 was registered. Likewise, the

wife of respondent No.4 claiming to be a Director of the company and shareholder lodged a complaint similar to the one lodged by the respondent No.4 based on which, Crime No.105/2015 was registered. The Co-ordinate Bench of this Court held that,

> *"The extracts of the resolution passed at a Board Meeting of the Directors of Alliance Business School held on 11.02.2016, accepting the resignation of Madhukar Angur and Priyanka B.S. are made availabl.e The same is duly signed by Krishna Mohan Ramaneni.*
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> *As a matter of law and procedure, in circumstances such as are highlighted in these petitions, it is clearly a matter covered under Chapter XIV of the Companies Act, 2013. Section 213 provides for the proper recourse available to a person or persons complaining of fraud, misfeasance or other misconduct committed in the management of the business, towards the company or towards any of its members. It would be a matter falling entirely in the jurisdiction of the National Company Law Tribunal, which shall first investigate the matter and thereafter have the persons who may be found on*

such investigation and enquiry being conducted, to have committed any acts of fraud or other acts of misfeasance or misconduct to be tried before the Special Court constituted to try offences under the Act. Section 213 of the Act, however, is yet to come into force as it has not been notified by the Government of India in terms of sub-section (3) of Section 1 of the 2013 Act.

The corresponding provision under the Companies Act, 1956 is Section 237 thereof. In that, when the necessary adjudication as to the validity or otherwise of statutory forms filed before the ROC are in dispute, the criminal court is hardly vested with the jurisdiction to adjudicate on the same, merely on the allegation of fraud and forgery. On the other hand, Section 237 of the 1956 Act, clearly envisages a situation involving alleged fraud. It would therefore be an exercise in futility to obtain a conviction against the accused without the concerned documents being rendered void or invalid. Hence the complaints above referred filed prior to the petitioners having consented to the statutory forms being declared void by the Registrar of Companies and the complaint or complaints in respect of the subsequent events of the *petitioners resubmitting the statutory forms declaring the directorship of the petitioners and the resignation of the complainant and his wife, are an exercise in futility. The complainant and his wife will necessarily have to take recourse to Section 237 of the 1956 Act. It may eventually result in prosecution under Section 242 thereof. The complaints seeking prosecution for the alleged offences in respect of which a special procedure is provided is thus misconceived and not maintainable.*

In so far as the complaints pertaining to the denial of the status of the complainant, Madhukar Angur, as the Chancellor, Alliance University and his subsequent removal from the said position, while incidentally reiterating the allegations which are the subject matter of the earlier complaints, against the accused - petitioners, is certainly not a subject matter that can be adjudicated before the criminal court."

11. In addition to the above, a suit in O.S.No.5148/2017 was instituted by Alliance Business School before the XLIII Additional City Civil and Sessions Judge, Bangalore (CCH -44) for perpetual injunction to

restrain Mr. Madhukar G. Angur and Mrs. Priyanka B.S. from claiming or representing or posing as the Managing Director or Director or Shareholder of the company. Applications filed for interim injunction were allowed by the Trial Court in terms of the common order dated 21.10.2017, which was challenged before this Court in MFA No.8545/2017 and MFA No.8554/2017. This Court dismissed the aforesaid appeals.

12. In the instant case, respondent No.4 claimed that he is the founder of Alliance Business School and the Chancellor of Alliance University. He alleged that petitioner No.1 herein barged into his office on 01.03.2015 and threatened him to sign some blank papers pertaining to Alliance Business School, which he resisted. He claimed that petitioner No.1 had in the past threatened him and his staff, if the University was not handed over to him. He alleged that on 02.03.2015, he came to know that some documents of the company were missing from the office, which he reported before the Board of Directors, who met

on 04.03.2015 and that based on the directions by the Board, a complaint was lodged regarding the missing share certificates, Board resolutions, minutes of the meeting, share transfer forms, letterheads and other documents. He further alleged that on 05.03.2015, petitioner Nos.1 and 2 and other rowdy elements threatened him and Mr. Rajendrudu, while petitioner Nos.1 and 2 manhandled him. He therefore, alleged that petitioner Nos.1 and 2 were making hectic efforts to take over the regime of the Alliance University and that his sister (petitioner No.4 herein) had colluded with petitioner Nos.1 and 2 and was helping them in their illegal acts. With these and other allegations, the respondent No.4 alleged that petitioner Nos.1 and 2 were trying to snatch away his properties.

13. When the averments of the complaint as stated above is considered, it is nothing but a duplicity of allegations made in the subsequent complaints in Crime Nos.97/2015, 104/2015, 105/2015, 76/2016, 108/2016 and 115/2016, which were all quashed by this Court in

W.P.Nos.19462-19466/2016 and connected writ petitions. In view of the observations made by a Co-ordinate Bench of this Court in W.P.Nos.19462-19466/2016 and connected writ petitions as extracted above, the First Information Report registered against the petitioners in Crime No.54/2015 by respondent No.1 for the offences punishable under Sections 506, 504, 420 read with Section 34 of IPC deserves to be quashed.

14. Consequently, this petition is ***allowed in part.*** The registration of First Information Report in Crime No.54/2015 by respondent No.1 against the petitioners for the offences punishable under Sections 506, 504, 420 read with Section 34 of IPC, pending on the file of the Principal Civil Judge and JMFC, Anekal, Bengaluru Rural District, is quashed.

15. The relief for an enquiry by an appropriate authority into the illegal acts of the police in initiating a CID investigation after filing a 'C' report by DCIB, Bengaluru Rural District, in Crime No.54/2015, is rejected.

16. In view of the quashing of Crime No.54/2015, I.A.No.1/2023 for vacating interim order and I.A.No.2/2023 for amendment stand rejected.

Sd/-
JUDGE

PMR