2026 INSC 1039

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). OF 2026
(Arising out of SLP(Crl.) No(s). 1137 of 2025)

SRI ANUMANDALA RAJESH REDDY ....APPELLANT(S)

VERSUS

STATE OF KARNATAKA AND ANR. ....RESPONDENT(S)

WITH

CRIMINAL APPEAL NO(S). OF 2026
(Arising out of SLP(Crl.) No(s). 1751 of 2025)

CRIMINAL APPEAL NO(S). OF 2026
(Arising out of SLP(Crl.) No(s). 1138 of 2025)

CRIMINAL APPEAL NO(S). OF 2026
(Arising out of SLP(Crl.) No(s). 1139 of 2025)

CRIMINAL APPEAL NO(S). OF 2026
(Arising out of SLP(Crl.) No(s). 4550 of 2025)

J U D G M E N T

Mehta, J.

1. Heard.

2. Leave granted.

3. These five appeals arise from the judgment and final order dated 29th May, 2023 rendered by the High Court of Karnataka at Bengaluru[1] in Criminal Petition No.9349/2022 and connected matters, whereby the High Court allowed the petitions filed by the respondents herein and quashed the proceedings initiated by the appellant-Anumandala Rajesh Reddy[2] pursuant to PCR No.57 of 2022, including the order dated 1st August, 2022 passed by I Additional Civil Judge (Jr.Dn.) and JMFC, Channapatna, Ramanagara District[3] under Section 156(3) of the Code of Criminal Procedure, 1973[4] and the consequential FIR bearing Crime No.73 of 2022 dated 12th August, 2022 insofar as the respondents herein, who were arrayed as Accused No.4 and Accused Nos.8 to 11, are concerned.

4. Since the facts and questions of law involved in all the appeals are common, we have analogously heard the appeals and shall be deciding the same by this common judgment.

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[1] Hereinafter referred to as the “High Court”.
[2] Hereinafter referred to as the “appellant”.
[3] Hereinafter referred to as the “jurisdictional Magistrate.”
[4] For short, ‘CrPC’.

5. Brief outline of the facts relevant for the disposal of these appeals is as follows.

6. The appellant claims to be an entrepreneur and the founder of a healthcare analytics company, which was serving, *inter alia*, multinational corporations and the Andhra Pradesh Police Department. During the period when the appellant was operating a health management course, he came into contact with Dr. Parameshwar C.M., who encouraged the appellant to expand his business to the State of Karnataka. The appellant thereafter invested Rs.30 lakhs and formed a new venture with Smt. Anuradha, wife of Dr. Parameshwar, and another person.

7. In the year 2018, the appellant got associated with M/s. Smiles International, co-owned by Dr. Yuvraj Singh and Smt. Anuradha, and was involved in managing the digital assets of the said enterprise. In the year 2019, the appellant and Dr. Parameshwar co-founded another entity, namely, M/s. Smiles Institute of Gastroenterology (NLP). According to the appellant, the relations between him and Dr. Parameshwar subsequently deteriorated. In January 2020, the appellant claims to have received complaints from members of the hospital staff alleging sexual harassment and abuse by Dr. Parameshwar, following which he confronted him regarding the same. According to the appellant, Dr. Parameshwar thereafter withheld his salary and shares and blocked his access to the company's financial records.

8. The appellant alleges that, being aggrieved by the aforesaid acts, he decided to lodge a cyber-crime complaint against Dr. Parameshwar and one Mr. Subba Rao. However, while he had gone to purchase a pen drive to copy the evidence in his possession, he was apprehended by police officials in civilian dress. His phone and car keys were allegedly snatched, and he was pressurised to disclose the whereabouts of his laptop, which was thereafter seized from his Advocate, Mr. Durairaj. The appellant was then taken to Channapatna East Police Station.

9. The appellant further alleges that, at the police station, the police officials compelled him to unlock his mobile phone, disabled its security features and accessed and deleted data contained therein. He was thereafter informed that he had been arrested in connection with Crime No.102 of 2020, registered on 4th November, 2020 on the complaint of one Waseem

Ali Khan, alleging an outstanding payment of Rs.45 lakhs in relation to M/s. Arogya Mark Limited. The appellant disputes the allegations forming the basis of the said crime. It is also noteworthy that the said case was subsequently transferred for investigation to CID, which submitted a B-Report on 21st December, 2022, concluding, *inter alia*, that the transaction between the complainant and the appellant was civil in nature and that there was lack of evidence regarding the commission of the alleged offences.

10. According to the appellant, although Crime No.102 of 2020 was registered on 4th November, 2020, the police officials had raided his residential premises on 3rd November, 2020. For this purpose, Raja M., then serving as Assistant Sub-Inspector and Assistant Investigator at Channapatna Rural Circle, along with the crime staff, namely, Nagaraju K.R., Shivarajkumar Kumbavara and Praveen G.N., who are the respondents in the connected appeals, was directed to meet the then Superintendent of Police, Ramanagara District, Girish S., IPS. The appellant alleges that Dr. Parameshwar was closely associated with Girish S., IPS, and that the latter was acting at the instance of Dr. Parameshwar.

11. Girish S. allegedly directed the team to locate the appellant in Bengaluru and provided his mobile number for obtaining his call and location details. Pursuant thereto, the police team proceeded to Bengaluru, where Prakash B.K., respondent No.2 in the lead petition, who was serving as Sub-Inspector at Channapatna East Police Station, subsequently joined the team.

12. The appellant further alleges that, during the intervening night of 4th/5th November, 2020, Dr. Parameshwar, Smt. Anuradha, Sub Inspector Prakash B.K. and Dr. Karthik, in collusion with other police officials, came to the place where he was being held and compelled him, under threats and coercion, to execute documents relinquishing his partnership and shares in M/s. Smiles Institute of Gastroenterology (NLP), including a resignation.

13. The appellant was ultimately produced before the Magistrate; remanded to judicial custody and was released on bail on 10th November, 2020 after spending nearly 7 days in prison. He alleges that immediately thereafter he was again arrested in connection with Crime No.103 of 2020 with the intention of harassing and humiliating him. Nevertheless, in that case, he was subsequently granted bail at the police station upon intervention by higher police officials. The appellant further alleges that Sub Inspector Prakash B.K. threatened him with further implication in criminal proceedings if he attempted to complain against the police officials or Dr. Parameshwar. Crime No.103 of 2020 was subsequently quashed by the High Court of Karnataka by order dated 4th April, 2025.

14. The appellant thereafter approached the police authorities raising grievances against the aforesaid illegal and highhanded criminal acts. According to the appellant, the police officials of Ramanagara District refused to register his complaint on account of their alleged association with Dr. Parameshwar. He accordingly forwarded a detailed complaint by e-mail dated 28th December, 2020 to the DCP and marked copies thereof to other departments and officials, including the Human Rights Commission. The appellant further alleges that, upon obtaining a forensic report, he came to know that during the period of his custody, his laptop had been tampered with, important data had been deleted and his digital assets had been transferred in connivance with and on instructions of Dr. Parameshwar.

15. As no action was forthcoming on the complaints made by the appellant directly to the police officials and also through e-mail, the appellant submitted yet another complaint dated 27th November, 2021 to the Director General and Inspector General of Police, against Dr. Parameshwar and the other involved persons, specifically stating that the complaints filed by him earlier had not been acted upon by the jurisdictional police authorities.

16. The appellant thereafter filed a private complaint under Section 200 CrPC, which came to be registered as PCR No. 57 of 2022 before the jurisdictional Magistrate, alleging commission of offences punishable under Sections 211, 220, 417, 420, 506, 342, 347 and 348 read with Section 34 of the Indian Penal Code, 1860[5] and Sections 66B and 66C of the Information Technology Act, 2000[6].

17. The learned Magistrate, *vide* order dated 1st August, 2022, forwarded the same to the

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[5] For short, 'IPC'.
[6] For short, 'IT Act, 2000'.

jurisdictional police station under Section 156(3) CrPC and directed investigation into the said complaint. Pursuant thereto, FIR bearing Crime No. 73 of 2022 came to be registered at Channapatna East Police Station.

18. The respondents herein filed separate petitions under Section 482 CrPC seeking quashing of the order dated 1st August, 2022 passed by the learned Magistrate in PCR No.57 of 2022 under Section 156(3) CrPC and the consequential FIR bearing Crime No.73/2022. The said petitions came to be allowed by the learned Single Judge of the High Court *vide* judgment and final order dated 29th May, 2023, which is assailed in these appeals by special leave.

19. The High Court was of the view that, since the police officials concerned had acted in the discharge of their official duties, their prosecution was impermissible in the absence of the sanction contemplated under Section 197 CrPC. The High Court further held that there was a clear violation of the law laid down by this Court in ***Priyanka Srivastava v. State of Uttar Pradesh***[7] as the

[7] (2015) 6 SCC 287.

complainant had directly approached the Magistrate by way of a private complaint without first approaching the police authorities in the manner contemplated therein. On these grounds, the High Court quashed the proceedings initiated against the private respondents at the instance of the appellant. The specific reasons assigned by the High Court for quashing the FIR and the proceedings are set out hereinbelow:

> "**10.** Having heard the arguments and on perusal of the records, which reveals, there was *inter se* dispute between the partners of the company i.e., respondent No.2, accused Nos.1 to 3 and accused No.5. Subsequently, accused No.5 said to be filed complaint to the Channapatna Police as against respondent No.2-defacto complainant. A case in Crime No.102/2020 was registered in Channapatna Police on 04.11.2020. Accused No.4 is the PSI, and accused Nos.8 to 11 who are the Police Constables under the instruction of the PSI, they apprehended respondent No.2 at Cunningham Road and he was taken to the Channapatna, Police where a investigation was conducted by accused No.4-PSI in respect of Crime No.102/2020. It is alleged by the learned counsel for respondent No.2 that during the custody of respondent No.2, accused Nos.1 to 3 and 5 came to the police station on 04.11.2020, obtained signature on the blank papers and other documents and used the said documents against respondent No.2 and the same was misused by accused No.5 stating that respondent No.2 has resigned from the company. But it was forcefully taken the signature of respondent No.2 in the Police Station when he was in custody. of course, the police might have

obtained the signature of the complainant for the purpose of helping accused No.5 who is the complainant in Crime No.102/2020. However, the investigation was conducted by the PSI-accused No.4 in respect of Crime No.102/2020. Subsequently, respondent No.2 got remanded to the judicial custody and he was released on bail on 10.11.2020. It is submitted by the learned counsel for respondent No.2 that later the investigation was handed over to the CID police, 'B' final report has been filed and it is pending for consideration: However, the petitioner-accused No.4-PSI and accused Nos.8 to 11 are Police Constables have committed the offence during the discharge of their official duty while investigation in Crime No.102/2020. Therefore, the sanction under Section 197 of Cr.P.C. is required to proceed against them for the purpose of any investigation. In this regard, the learned counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court in the case of D.Devaraja stated supra, wherein, the Hon'ble Supreme Court considering the - similar situation has held at paragraph. Nos.74, 75, 76, 77 which are as under:

> “**74.** It is well settled that an application under Section 482 of the Criminal Procedure Code is maintainable to quash proceedings which are ex facie bad for want of sanction, frivolous or in abuse of process of court. If, on the face of the complaint, the act alleged appears to have a reasonable relationship with official duty, where the criminal proceeding is apparently prompted by mala fides and instituted with ulterior motive, power under Section 482 of the Criminal Procedure Code would have to be exercised to quash the proceedings, to prevent abuse of process of court.
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> **75.** There is also no reason to suppose that sanction will be withheld in case of

prosecution, where there is substance in a complaint and in any case if, in süch a case, sanction is refused, the aggrieved complainant can take recourse to law. At the cost of repetition, it is reiterated that the records of the instant case clearly reveal that the complainant alleged of police excesses while the respondent was in custody, in the course of investigation in connection with Crime No. 12/2012. Patently, the complaint pertains to an act. under colour of duty.

76. Significantly, the High Court has by its judgment [***H. Siddappa v. Owais Sabeer Hussain***, 2018 SCC OnLine Kar 3805] and order observed: (H. Siddappa case [H. Siddappa v. Owais Sabeer Hussain, 2018 SCC OnLine Kar 3805], SCC OnLine Kar para 5)

> "5. it is well-recognised principle of law that sanction is a legal requirement which empowers the court to take cognizance so far as the public servant is concerned. If at all the sanction is absolute requirement, if takes cognizance it. becomes illegal, therefore, an order to overcome any illegality the duty of the Magistrate is that even at any subsequent stages if the sanction is raised it is the duty of the Magistrate to consider."

77. In our considered opinion, the High Court clearly erred in law in refusing to exercise its jurisdiction under Section 482 of the Criminal Procedure Code to set aside the order of the Magistrate impugned taking cognizance of the complaint, after having held that it was a recognised principle of law that sanction was a legal requirement which empowers the court to take cognizance. The Court ought to have exercised its power to quash the complaint instead of remitting the appellant to an application under Section 245 of the Criminal Procedure Code to seek discharge."

11. Though the learned counsel for respondent No.2 has contended and relied upon the judgments of the Hon'ble Supreme Court in the case of ***Prem Chand (Paniwala) vs. Union of India (UOI) and Others*** reported in (1981) 1 SCC 639 and in the cases of Chandan Kumar Basu and Rajib Ranjan both stated supra, where the alleged offences in the said case were 468, 420, 120B and those offences were not connected with discharging the official duty. Therefore, those judgments are not applicable to the case on hand.

12. As regards another contention raised by the learned counsel for the petitioner is that there is no compliance of guidelines issued in ***Priyanka Srivastava's*** case, where respondent No.2 has not approached the Police and directly has filed the private complaint. In this regard, respondent counsel produced the copy of the complaint filed before the DG and IGP on 27.11.2021 and contended that he took the complainant to the Police Station, but they refused to lodge the complaint, therefore, he has filed complaint to the Higher officers of the Police Station who is the DGP of the State. Therefore, he has complied the guidelines issued in Priyanka Srivastava's case. Of course, the complainant-respondent No.2 not produced any copy of the complaint filed against the Channapatna Police at Channapatna Police Station: But it is pertinent to note that the complaint is against accused No.4 who is the PSI of Channapatna Police Station and definitely he might have refused. Of course, the complainant could have filed the complaint before the Superintendent of Police as per Section 154(3) of Cr.P.C., but the complaint came to be filed before the DG and IGP.

It is brought to the notice of this Court and as per the 'B' final report and enquiry made by the CID Police, the PSI registered the case on the complaint filed by accused No.5 at the instance of the Superintendent of Police one Girish, at that time, he was S.P. of Ramanagar District. Such being the case, definitely the complaint was filed before the PSI as well as S.P. either under Sections 154(1) or 154(3) of Cr.P.C., they might have refused. Therefore, the complaint came to be filed before the DGP. However, the complainant might have sent the complaint to the Police Station through RPAD either to the Police Station or to the Superintendent of Police, but respondent No.2 has not chosen to send the complaint to the Police as per Section 154(1) or to the Superintendent of Police under Section 154(3) of Cr.P.C., but filed complaint directly to the Magistrate under Section 200 of Cr.P.C and got it referred to the Police under Section 156(3) of Cr.P.C. by filing a complaint to Inspector General and Deputy General of Police. Therefore, there is a clear violation of the guidelines issued by the Hon'ble Supreme Court in Priyanka Srivastava's case. Therefore, on this court, the FIR registered by the Police on the complaint referred by the Magistrate is not sustainable under the law.

13. As regards to the delay in lodging the complaint, of course, he was released on bail on 10.11.2020, but the complaint came to be filed before the Magistrate on 30.03.2022 i.e., more than 12 years. However, in view of the findings above, for non compliance of the guidelines issued in the Priyanka Srivastava's case and not obtained any sanction under Section 197 of Cr.P.C., it is not necessary to consider the delay in lodging the complaint, and also this Court is not required to go into the ingredients of the provisions of the section mentioned in the complaint. Therefore, I am of the view that, in view of the non-compliance of Priyanka Srivastava's case, without sanction, the

> Police cannot investigate the matter and even the Magistrate cannot refer the complaint under Section 156(3) of Cr.P.C. for requirement of sanction. Therefore, the complaint as well as FIR required to be quashed as it is an abuse of process of law."

<u>Submissions on behalf of the appellants: -</u>

20. Learned senior counsel, Shri Nikhil Goel appearing for the appellants, assailed the impugned judgment primarily on the ground that the High Court had erred in its understanding and application of the principles laid down by this Court in ***Priyanka Srivastava*** *(supra).* It was submitted that, although the appellant may not have followed the course contemplated under Section 154 CrPC in the precise manner contemplated therein, he had, in substance, approached the police authorities on several occasions and had made repeated efforts to have his complaint registered and acted upon. It was further submitted that upon being frustrated by the inaction, the appellant had approached higher police authorities, including the Director General and Inspector General of Police, and had also placed on record an affidavit setting out the repeated attempts made by him before the police authorities to get the FIR registered. It was contended that in a case where the allegations themselves were directed against police officials and other persons exercising authority, the appellant could not have been expected to mechanically pursue the same course before the very authorities against whom the grievance was raised. According to learned senior counsel, the High Court clearly erred in holding that the appellant had approached the Magistrate without first making any attempt to invoke the police machinery.

21. Learned senior counsel further submitted that the High Court fell in error in treating the lack of sanction under Section 197 CrPC as a bar even at the stage when the Magistrate had simply directed investigation under Section 156(3) CrPC. It was argued that an order passed under Section 156(3) CrPC is a pre-cognizance step, whereby the Magistrate simply directs the police to register a case and investigate into the allegations. He urged that such an order does not amount to taking cognizance of the offence by any stretch of imagination. Therefore, the requirement of previous sanction under Section 197 CrPC cannot operate as a condition precedent to the registration of an FIR or to the commencement of investigation pursuant to an order under Section 156(3) CrPC. According to learned senior counsel, the question of sanction, if at all attracted, would arise at the stage when the Court would contemplate taking cognizance on the police report submitted under Section 173(2) CrPC (corresponding to Section 193(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023[8]) and not at the pre-cognizance stage of registration of FIR. Consequently, the absence of sanction could not have furnished a ground for quashing the complaint or the FIR at the threshold.

22. Learned senior counsel lastly submitted that the High Court had prematurely brought the proceedings to an end without permitting a proper investigation into the grave and serious allegations made in the complaint filed by the appellant. It was contended that the complaint disclosed allegations of cognizable criminal conduct, including coercion, illegal detention, tampering with digital evidence and misuse of police machinery, which warranted investigation by the competent agency. Reliance was placed upon the judgment of this Court in

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[8] For short, 'BNSS'.

Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra & Ors[9]. to urge that the power to quash criminal proceedings at the threshold is to be exercised with due circumspection and that, where the allegations *prima facie* disclose cognizable offences, the investigation should ordinarily be permitted to proceed in accordance with law.

Submissions on behalf of the respondents: -

23. Learned senior counsel appearing on behalf of the respondents, Shri Gaurav Agarwal, fairly conceded that the requirement of obtaining previous sanction under Section 197 CrPC would arise at the stage of cognizance. However, he supported the impugned judgment of the High Court on the other grounds. Shri Agarwal submitted that the safeguards and guidelines laid down by this Court in ***Priyanka Srivastava*** (*supra*) were required to be given due regard while invoking the jurisdiction of the Magistrate under Section 156(3) CrPC. It was contended that, in the facts of the present case, the appellant had not followed the procedure contemplated therein in its proper form and that the

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[9] (2021) 19 SCC 401

High Court was, therefore, justified in taking such non-compliance into consideration and treating it to be fatal while examining the validity of the proceedings initiated pursuant to the complaint.

Discussion and Analysis

24. It may be stated at the outset that, before the High Court, the petitions were opposed by the State Government through the learned Government Pleader, who submitted that the investigation had remained at a nascent stage since the proceedings were stayed within a month of the registration of the FIR and, consequently, the police had been unable to ascertain the truth in the matter. The State, accordingly, opposed the prayer for quashing of the FIR and submitted that the police ought to be permitted to proceed with the investigation. The stand taken by the State Government before this Court is at variance with its position before the High Court. Here, the State Government has supported the impugned judgment and sought dismissal of the appeals, relying, *inter alia*, upon the B-Final Report submitted in the underlying proceedings and contending that the complainant's remedy would be to pursue the matter by filing a protest petition before the jurisdictional Magistrate.

25. Be that as it may, we have given our thoughtful consideration to the reasoning assigned by the High Court in the impugned judgment and the material available on record. We have also gone through the judgment rendered by this Court in ***Priyanka Srivastava*** *(supra)* and appreciated the submissions advanced by the learned counsel appearing for the parties.

26. We are of the firm opinion that the finding of the High Court that the investigation into the FIR could not continue for want of sanction under Section 197 CrPC [corresponding to Section 218 BNSS] is *per se* erroneous. Section 197(1) CrPC is quoted hereinbelow for sake of ready reference: -

> **"197. Prosecution of Judges and public servants**:–
> **(1)** When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, **<u>no Court shall take cognizance of such offence</u>** except with the previous sanction [save as otherwise provided in the Lokpal and Lokayuktas Act, 2013] –

> (a) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government;
>
> (b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government.
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> [Provided that where the alleged offence was committed by a person referred to in clause (b) during the period while a Proclamation issued under clause (1) of Article 356 of the Constitution was in force in a State, clause (b) will apply as if for the expression "State Government" occurring therein, the expression "Central Government" were substituted.]
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> [Explanation — For the removal of doubts it is hereby declared that no sanction shall be required in case of a public servant accused of any offence alleged to have been committed under Section 166-A, Section 166-B, Section 354, Section 354-A, Section 354-B, Section 354-C, Section 354-D, Section 370, Section 375, Section 376, [Section 376-A, Section 376-AB, Section 376-C, Section 376-D, Section 376-DA, Section 376-DB] or Section 509 of the Indian Penal Code (45 of 1860).]"
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> [Emphasis supplied]

27. A bare perusal of the aforesaid provision, which confers a protective umbrella upon public servants who are alleged to have committed an offence during the discharge of their official duties, makes it clear that the requirement of sanction comes into operation only when the Court is to proceed to take cognizance of the offence. The concept of obtaining sanction under Section 197 CrPC at the stage of registration of an FIR is alien to the scheme of CrPC or BNSS. An order under Section 156(3) CrPC directing registration of an FIR and investigation is a pre-cognizance step and does not amount to taking cognizance of the offence. Consequently, where the Magistrate has, by exercising powers under Section 156(3) CrPC, directed registration of an FIR and to conduct investigation, the absence or otherwise of previous sanction under Section 197 CrPC cannot operate as a bar to such registration and investigation. This aspect was considered by this Court in the case of ***Ashwini Kumar Upadhyay v. Union of India***[10], relevant paragraphs of which are extracted hereinbelow: -

> "**120.** In the present case, the High Court has declined to direct registration of an FIR on the ground that prior sanction under Sections 196 and 197 of CrPC had not been obtained. The High Court has further proceeded on the premise that while exercising jurisdiction under Section 156(3) of CrPC, the Magistrate is deemed to have taken cognizance, and therefore, the

[10] 2026 SCC OnLine SC 741.

requirement of prior sanction becomes a condition precedent.

121. A coordinate Bench of this Court in ***State of Karnataka* v. *Pastor P. Raju*[35], had occasion to consider the stage at which prior sanction becomes necessary under CrPC. The Court categorically held that there is no embargo on the registration of a criminal case, the conduct of investigation by the police, or the submission of a report under Section 173 of CrPC in the absence of prior sanction.**

122. The requirement of sanction, this Court clarified, operates at the stage of taking cognizance by the Court and not at the anterior stage of investigation. In this context, after surveying the earlier precedents on the subject, this Court observed as follows: —

> "**12.** In *Narayandas Bhagwandas Madhavdas* v. *State of W.B.* [1959 SCC OnLine SC 39 : (1960) 1 SCR 93 : AIR 1959 SC 1118 : 1959 Cri LJ 1368] it was held that before it can be said that **any Magistrate has taken cognizance of any offence under Section 190(1)(*a*) of the Criminal Procedure Code, he must not only have applied his mind to the contents of the petition but must have done so for the purpose of proceeding in a particular way as indicated in the subsequent provisions of the Chapter—proceeding under Section 200 and thereafter sending it for inquiry and report under Section 202. It was observed that there is no special charm or any magical formula in the expression "taking cognizance" which merely means judicial application of**

> **<u>the mind of the Magistrate to the facts mentioned in the complaint with a view to taking further action. It was also observed that what Section 190 contemplates is that the Magistrate takes cognizance once he makes himself fully conscious and aware of the allegations made in the complaint and decides to examine or test the validity of the said allegations</u>**. The Court then referred to the three situations enumerated in sub-section (1) of Section 190 upon which a Magistrate could take cognizance. Similar view was expressed in *Kishun Singh* v. *State of Bihar* [(1993) 2 SCC 16 : 1993 SCC (Cri) 470] that when the Magistrate takes notice of the accusations and applies his mind to the allegations made in the complaint or police report or information and on being satisfied that the allegations, if proved, would constitute an offence, decides to initiate judicial proceedings against the alleged offender, he is said to have taken cognizance of the offence. …"

Thus, defining attribute of "taking cognizance" of an offence lies in the application of judicial mind by the Magistrate to the contents of the complaint or police report with a view to proceed in accordance with law, including under Sections 200 or 204 of CrPC. Until such stage is reached, any action undertaken by the Magistrate cannot be construed as taking cognizance of the offence.

123. In *Pastor P. Raju* (supra), the FIR therein had been registered under Section 153B of IPC, and the respondent was arrested and produced before the Magistrate. At the stage of remand under Section 167 of CrPC, the respondent sought quashing of the proceedings on the ground of absence of prior sanction under Section 196(1-A) of CrPC. While delineating the distinction between "taking cognizance" and subsequent procedural stages, including issuance of process, this Court held as follows: —

> "13. It is necessary to mention here that taking cognizance of an offence is not the same thing as issuance of process. Cognizance is taken at the initial stage when the Magistrate applies his judicial mind to the facts mentioned in a complaint or to a police report or upon information received from any other person that an offence has been committed. The issuance of process is at a subsequent stage when after considering the material placed before it the court decides to proceed against the offenders against whom a prima facie case is made out.
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> 14. In the present case neither any complaint had been filed nor any police report had been submitted nor any information had been given by any person other than the police officer before the Magistrate competent to take cognizance of the offence. After the FIR had been lodged and a case had been registered under Section 153-B IPC, the respondent was arrested by the police and thereafter he had been produced before the Magistrate. The Magistrate had merely passed an order remanding him to judicial custody. Section 167 CrPC finds place in Chapter XII which deals with information to the police and their powers to investigate. This section gives the procedure which has to be followed when investigation cannot be completed within twenty-four hours and

requires that whenever any person is arrested and detained in custody and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by Section 57 and there are grounds for believing that the accusation or information is well founded, he shall be forthwith transmitted to the nearest Judicial Magistrate along with a copy of the entries in the diary. Sub-section (2) of Section 167 will show that even a Magistrate who has no jurisdiction to try the case can authorise the detention of the accused. A limited role has to be performed by the Judicial Magistrate to whom the accused has been forwarded viz. to authorise his detention. This is anterior to Section 190 CrPC which confers power upon a Magistrate to take cognizance of an offence. Therefore, an order remanding an accused to judicial custody does not amount to taking cognizance of an offence. In such circumstances Section 196(1-A) CrPC can have no application at all and the High Court clearly erred in quashing the proceedings on the ground that previous sanction of the Central Government or of the State Government or of the District Magistrate had not been obtained. It is important to note that on the view taken by the High Court, no person accused of an offence, which is of the nature which requires previous sanction of a specified authority before taking of cognizance by the court, can ever be arrested nor such an offence can be investigated by the police. The specified authority empowered to grant sanction does so after applying his mind to the material collected during the course of investigation. There is no occasion for grant of sanction soon after the FIR is lodged nor such a power can be exercised before completion of investigation and collection of evidence. Therefore, the whole premise on the basis of which the proceedings have been quashed by the High Court is wholly erroneous in law and is liable to be set aside."

124. A cumulative reading of the principles laid down in *Pastor P. Raju (supra)* and *Sakiri Vasu (supra)* makes the legal position abundantly clear that an order passed by a Magistrate under Section 156(3) of CrPC does not amount to "taking cognizance" of an offence within the meaning of Section 190 of CrPC.

125. In the present case, the appellants, being aggrieved by the inaction of the police authorities in registering an FIR, approached the Magistrate by way of an application under Section 156(3) of CrPC. The bar contained in Sections 196 and 197 of CrPC operates only at the stage of taking cognizance. In other words, it restrains the Magistrate from proceeding under Section 190 and thereafter invoking the procedure under Sections 200 or 204 of CrPC in the absence of prior sanction.

126. The scheme of CrPC does not contemplate any embargo on the direction for registration of an FIR or the conduct of investigation at the pre-cognizance stage. To hold otherwise would amount to introducing a restriction not envisaged by the legislature. The process of criminal law is sequential: information of a cognizable offence must first be received; an FIR must then be registered; investigation must follow; a report under Section 173 of CrPC must thereafter be submitted; and it is only at that

stage that the question of taking cognizance arises.

127. The requirement of sanction is, therefore, a condition precedent only for taking cognizance and not for the registration of an FIR or for the conduct of investigation. Any interpretation that makes the registration of an FIR contingent upon prior sanction would invert this statutory scheme and render the provisions relating to investigation unworkable.

128. In the facts of the present case, the prayer before the Trial Court was limited to seeking a direction to the Station House Officer, Parliament Street Police Station, to register an FIR on the basis of the complaint dated 29th January, 2020. In law, the Magistrate had two options: either to direct investigation under Section 156(3), or to take cognizance under Section 190(1)(a) and proceed in accordance with Chapter XV.

129. The bar under Sections 196 and 197 of CrPC would operate only in respect of the latter course. It could not have been invoked to deny the former. The Trial Court, therefore, fell in error in declining to exercise jurisdiction under Section 156(3) of CrPC on the ground of absence of prior sanction, and the High Court, in affirming such view, has adopted an interpretation which cannot be sustained in law."

[Emphasis supplied]

28. Thus, it is clear that the impugned order, insofar as it extends the benefit of the protective umbrella of sanction to the respondents at the stage of direction for registration of FIR under Section 156(3) CrPC, is *per se* unsustainable in the eyes of law.

29. The second ground on which the High Court proceeded to quash the proceedings was the alleged non-adherence to the guidelines laid down by this Court in ***Priyanka Srivastava*** *(supra)*, and, in this regard, the High Court relied upon the following principles laid down in the said judgment to quash the FIR at the outset: -

> "**28.** Issuing a direction stating "as per the application" to lodge an FIR creates a very unhealthy situation in society and also reflects the erroneous approach of the learned Magistrate. It also encourages unscrupulous and unprincipled litigants, like Respondent 3, namely, Prakash Kumar Bajaj, to take adventurous steps with courts to bring the financial institutions on their knees. As the factual exposition would reveal, Respondent 3 had prosecuted the earlier authorities and after the matter is dealt with by the High Court in a writ petition recording a settlement, he does not withdraw the criminal case and waits for some kind of situation where he can take vengeance as if he is the emperor of all he surveys. It is interesting to note that during the tenure of Appellant 1, who is presently occupying the position of Vice-President, neither was the loan taken, nor was the default made, nor was any action under the Sarfaesi Act taken. However, the action under the Sarfaesi Act was taken on the second time at the instance of the present Appellant 1. We are only stating about the devilish design of Respondent 3 to harass the appellants

with the sole intent to avoid the payment of loan. When a citizen avails a loan from a financial institution, it is his obligation to pay back and not play truant or for that matter play possum. As we have noticed, he has been able to do such adventurous acts as he has the embedded conviction that he will not be taken to task because an application under Section 156(3) CrPC is a simple application to the court for issue of a direction to the investigating agency. We have been apprised that a carbon copy of a document is filed to show the compliance with Section 154(3), indicating it has been sent to the Superintendent of Police concerned.

29. At this stage it is seemly to state that power under Section 156(3) warrants application of judicial mind. A court of law is involved. It is not the police taking steps at the stage of Section 154 of the Code. A litigant at his own whim cannot invoke the authority of the Magistrate. A principled and really grieved citizen with clean hands must have free access to invoke the said power. It protects the citizens but when pervert litigations takes this route to harass their fellow citizens, efforts are to be made to scuttle and curb the same.

30. In our considered opinion, a stage has come in this country where Section 156(3) CrPC applications are to be supported by an affidavit duly sworn by the applicant who seeks the invocation of the jurisdiction of the Magistrate. That apart, in an appropriate case, the learned Magistrate would be well advised to verify the truth and also can verify the veracity of the allegations. This affidavit can make the applicant more responsible. We are compelled to say so as such kind of applications are being filed in a routine manner without taking any responsibility whatsoever only to harass certain persons. That apart, it becomes more disturbing and alarming when one tries to pick up people who are passing orders under a statutory provision which can be challenged under the framework of the said Act or under Article 226 of the Constitution of India. But it cannot be done to take undue advantage in a criminal court as if somebody is determined to settle the scores.

31. **We have already indicated that there has to be prior applications under Sections 154(1) and 154(3) while filing a petition under Section 156(3). Both the aspects should be clearly spelt out in the application and necessary documents to that effect shall be filed. The warrant for giving a direction that an application under Section 156(3) be supported by an affidavit is so that the person making the application should be conscious and also endeavour to see that no false affidavit is made. It is because once an affidavit is found to be false, he will be liable for prosecution in accordance with law. This will deter him to casually invoke the authority of the Magistrate under Section 156(3). That apart, we have already stated that the veracity of the same can also be verified by the learned Magistrate, regard being had to the nature of allegations of the case. We are compelled to say so as a number of cases pertaining to fiscal sphere, matrimonial dispute/family disputes, commercial offences, medical negligence cases, corruption cases and the cases where there is abnormal delay/laches in initiating criminal prosecution, as are illustrated in *Lalita Kumari* [(2014) 2 SCC 1: (2014) 1 SCC (Cri) 524] are being filed. That apart, the learned Magistrate would also be aware of the delay in lodging of the FIR**."

[Emphasis supplied]

30. Suffice it to say that the facts as obtaining in the present case clearly reflect that, before approaching the jurisdictional Magistrate by way of the application under Section 156(3) CrPC, the appellant had repeatedly approached the police authorities with a request to register his complaint. When no action was forthcoming despite his concerted efforts, the appellant addressed a detailed complaint by e-mail dated 28th December, 2020 to the DCP, marking copies thereof to other departments and officials. Even thereafter, when no effective action was forthcoming, the appellant submitted another complaint dated 27th November, 2021 to the Director General and Inspector General of Police. Thus, clearly, the High Court erred in holding that the appellant had approached the jurisdictional Magistrate at the first instance without recourse to the remedies available before the police authorities. Rather, the record discloses that the appellant had approached the police authorities at different levels and, only upon his efforts failing to reap any result, he was compelled to approach the jurisdictional Magistrate, who, upon consideration of the complaint, proceeded to refer the same to the police for investigation under Section 156(3) CrPC.

31. The safeguards enunciated in ***Priyanka Srivastava*** (*supra*) cannot be divorced from the object sought to be achieved by the said decision. The directions therein were intended to ensure that the jurisdiction under Section 156(3) CrPC is not invoked in a routine or mechanical manner and that a complainant does not directly approach the Magistrate without first availing the remedies available before the police authorities. The requirement of prior recourse to the police authorities was thus intended to ensure that the sequence of procedure provided under the Code is adhered to before an aggrieved person can invoke the jurisdiction of the Magistrate under Section 156(3) CrPC. Such safeguards, being intended to prevent abuse of the process of law, cannot be applied as a mere matter of procedural formality divorced from the peculiar circumstances of the case.

32. In the facts and circumstances of the present case, it is evident that the appellant had not straightaway invoked the jurisdiction of the Magistrate. The allegations of the appellant were also against police officials but inspite thereof, he had first approached the jurisdictional police authorities and, upon experiencing stoic silence, thereafter pursued his grievances before higher police authorities, including the DCP and subsequently the Director General and Inspector General of Police. The mere fact that the subsequent representation was addressed to the Director General and Inspector General of Police, rather than specifically to the Superintendent of Police under Section 154(3) CrPC, cannot, in the circumstances of the present case, be treated as affecting the bonafides of the appellant's actions. The grievance of the appellant was directed against police officials of the local police establishment, and the record discloses that he had repeatedly approached the district-level police authorities with his complaint but failed to meet the desired result, *i.e.*, registration of the FIR. To insist, in such circumstances, upon a further representation to an officer in the rank of Superintendent of Police merely as a matter of form, despite the appellant having already pursued the matter before superior police authorities, would be to elevate the form of the safeguard above its underlying purpose.

33. The ratio of ***Priyanka Srivastava*** *(supra)* has to be understood in the light of the mischief which the said decision sought to curb. The law is governed by reason, and a judicial direction intended to prevent abuse of a statutory remedy cannot be applied in a manner which defeats the very purpose for which the safeguard was evolved. Where the complainant has, in substance, approached the police authorities and thereafter pursued the matter before superior police authorities, the inference of a direct and casual invocation of Section 156(3) CrPC, without first giving the police an opportunity to act, would not arise. In the facts and circumstances of the present case, therefore, the object underlying the directions issued by this Court in ***Priyanka Srivastava*** *(supra)*, namely, to ensure that the extraordinary remedy under Section 156(3) CrPC is not invoked without first approaching the police authorities, stood substantially fulfilled.

34. Hence, the view taken by the High Court that the impugned FIR was liable to be quashed for want of sanction under Section 197 CrPC and on the ground that the principles enunciated by this Court in ***Priyanka Srivastava*** (*supra*) had not been followed is, *per se*, unsustainable both in facts and in law.

35. The impugned order does not stand to scrutiny and is hereby set aside. Pursuant to the impugned order passed by the High Court, the Investigating Agency had submitted the Final Report on 20th September, 2023, wherein the proceedings against accused No.4 and accused Nos.8 to 11, *i.e.*, the respondents herein, were recorded closed purely as a consequence to quashing of the proceedings by the High Court. Insofar as the other accused are concerned, the Final Report records that the dispute between the parties was essentially civil in nature and that no evidence was found to substantiate the allegations.

36. As a sequitur to the impugned judgment being set aside, the Final Report shall be reopened and the investigation shall be resumed from the stage at which the Final Report was submitted, in accordance with law.

37. Needless to say, the desirability of seeking sanction shall be kept in mind by the Investigating

Officer in case the offences are found proved, and it is concluded that the acts alleged against the official respondents were done in the discharge of their official duties.

38. The appeals are allowed in these terms.

39. Pending application(s), if any, shall stand disposed of.

……………………….J.
(VIKRAM NATH)

……………………….J.
(SANDEEP MEHTA)

NEW DELHI;
AUGUST 24, 2026.