

**IN THE COURT OF THE XXVIII ADDL. CITY CIVIL &
SESSIONS JUDGE
Mayo Hall, Bengaluru, [CCH.NO.29]**

Present: - Sri. Krishnaji Baburao Patil, B.Com.,LL.B.,(Spl.)

Dated: This the 13th day of August 2020

**Crl.Misc.No.25331/2020,
Crl.Misc.No.25332/2020
&
Crl.Misc.No.25314/2020**

Petitioner: Mr. Binish Thomas,
S/o Mr. C.M. Thomas,
Aged about 40 years,
No.5/1, 6th Cross,
Victoria Layout,
Bangalore-560 047.

(Pleader By : Barrot & Barrot)

.. Vs ..

Respondent: The State of Karnataka by
Viveknagar Police Station,
Bengaluru.

(By Public Prosecutor)

COMMON ORDERS

All these Petitioners are filed by the same Petitioner
against the same Respondent Police for the same offence.

2. All these Petitions have been filed by the Petitioner under Section 438 of Cr.P.C., in Crl.Misc.No.25331/2020 the Petitioner has alleged that complaint was given by one Bhasker on 23.3.2020. In Crl.Misc.No.25332/2020 the Petitioner has alleged that complaint was given by one Thangachan on 31.1.2020. In Crl.Misc.No.25314/2020 the Petitioner has alleged that complaint was given by one Petty on 31.1.2020.

3. The Petitioner has alleged that he has paid Rs.50,00,000/- in the month April 2016 to the accused as an advance towards the Medical Seat for his son, Rs.60,00,000/- and Rs.10,00,000/- to the Respondent/Complainant in the above said petition for the same reason. In all the Petitioners he has contended that he has paid amount to the Respondent. The Petitioner has contended that the information was received was given against the Petitioner, who's name not reflects under the FIR. The transaction is of the year 2017 is related to money payment. The offence alleged against the Petitioner does not show prima-facie case against the Petitioner and not punishable

with death or imprisonment for life. The Complainant has not produced any documents apart from complaint in writing. The Complainant Police have caused inordinate delay in not registration of FIR, which not only casts a cloud of suspicion on the credibility of the entire warp and woof of the prosecution story, but also weakens the intention behind the filing of the complaint. There is no material evidence or material on record placed by the IO to show that the Petitioner has conspired or plotted to do away with the alleged offence. The Complainant have concocted statement in order to connect and implicate the Petitioner herein. There is no incriminating evidence in order to constitute an offence under Section 416, 148, 420 of IPC. The Petitioner is suffering from Blood Cancer. He has undertaken further treatment with regard to impairment of infection treatment for Mild Cytopeia - Leucopenia and thrombocytopenia as soon as possible or else it may endanger his life. The Petitioner is a businessmen and aged about 43 years. The Petitioner is permanent resident of the Bengaluru and have deep roots in the society. He has reiterated the contents of decisions

in (1980) 2 SC 565, (2011) 1 SC 694. He further contends that on 5th June 2018 the Respondent along with 5 members trespass into the Complainant office and putting the Complainant fear of death and reputation in the society and forced to sign cheque for Rs.80,00,000/- as full and final settlement with interest and penalty, and Accused forcefully took cheque of SB Account No.2170100033237 of Federal Bank, Vishweshwara Layout, Bangalore, duly signed by the Complainant under force and fear of death. He undertakes to cooperate with the Respondent Police in investigation of the case and even that he would not tamper the prosecution evidence, as all the allegation sustains documentary proof are fair are being of no fault of him. The Petitioner shall make himself available for interrogation by the Respondent as and when required. The Petitioner shall not directly or indirectly make any inducement, threat or promises to any person acquainted with facts of the case. He undertakes to appear before the Court on all the dates of hearing and he will not flee from justice as he has got very good case on merits. He is ready to offer solvent surety to the satisfaction of the court or

entitlement of the bail. He is ready to abide by the conditions imposed by this Court in granting regular bail. Hence, prayed to allow the petitions.

4. For the said application the PP has filed objections contending that the contents of the petition are false, baseless and they are denied in toto. The petitions itself are not maintainable are liable to be rejected. The Petitioner has not mentioned the name of the Complainant, who is going to file the complaint. No FIR registered against the Petitioner. The Petitioner has never approached the Respondent as alleged by the Petitioner in the petitions. The Petitioner has filed two more petitions for the same relief showing different amounts. This shows that petitioner has criminal mind to cheat public after receiving amount for Medical seat in different Medical Colleges. Even though Petitioner has apprehension of arrest under Section 420 of IPC. Section 420 of IPC is non-bailable in nature and punishable with imprisonment upto seven years. Hence, prayed to dismiss the Petitioner.

5. On the basis of the above, the point that arises for my consideration are:-

1) Whether the Petition in Crl.Misc.No.25331/2020 deserves to be allowed?

2) Whether the Petition in Crl.Misc.No.25332/2020 deserves to be allowed?

3) Whether the Petition in Crl.Misc.No.25314/2020 deserves to be allowed?

4) What order?

6. My answer to the above points are :

Point No.1 : In the Negative.

Point No.2 : In the Negative.

Point No.3 : In the Negative.

Point No.4 : As per the final order for the following:-

REASONS

7. **Point No.1 to 3:-** In the present case, no case was registered against the Petitioner. It is true, registration of any FIR against the accused is not necessary for considering the petition under Section 438 of Cr.P.C. Mere apprehension of arrest is sufficient to grant anticipatory bail in the present case. But, he has filed all these three cases claiming and making allegations against the Respondent Police. The Petitioner approached by the Respondent herein for want of a medical seat under Management quota for his son and also paid Rs.50,00,000/- in the month of April 2016 to the accused. He has taken up similar contentions in other two cases, but he has not mentioned from whom he has received that amount for securing medical seat in different colleges. As per the allegations made in Crl.Misc.No.25332/2020, the case was also registered under Section 138 of Negotiable Instrument Act against the present Petitioner. The alleged offence is not committed by the Respondent. But, he has made allegation

against some different person in all the three cases. The alleged transactions is much much prior to filing of the present Petitions, He has made certain allegation against the Complainant, but he has not approached the Jurisdictional Police in respect of the said allegations. On the basis of the vague allegations made by the Petitioner in respect of the Respondent in these Petitions, the Petitioner is not entitled for anticipatory bail. With this observations, I answer Point No.1 to 3 in the Negative.

8. **Point No.4:-** In the result, this Court proceeds to pass the following:-

ORDER

The Petitions filed by the Petitioner in Crl.Misc.No.25331/2020, Crl.Misc.No.25332/2020 and Crl.Misc.No.25314/2020 under Sec.438 Cr.P.C., are hereby dismissed.

The original order is kept in Crl.Misc.No.25331/2020 and the copies are kept in Crl.Misc.No.25332/2020 and Crl.Misc.No.25314/2020.

[Dictated to the Stenographer, thereafter transcribed and typed by the Stenographer and the same was corrected, signed and then pronounced by me in the open Court on this the **13th day of August 2020**].

[Krishnaji Baburao Patil],
XXVIII. Addl. City Civil Judge,
Mayo hall, Bangalore.

Orders pronounced in open court
as under (vide separately):-

ORDER

The Petitions filed by the Petitioner in Crl.Misc.No.25331/2020, Crl.Misc.No.25332/2020 and Crl.Misc.No.25314/2020 under Sec.438 Cr.P.C., are hereby dismissed.

The original order is kept in Crl.Misc.No.25331/2020 and the copies are kept in Crl.Misc.No.25332/2020 and Crl.Misc.No.25314/2020.

[Krishnaji Baburao Patil],
XXVIII. Addl. City Civil Judge,
Mayo hall, Bangalore.

