COMMON ORDER BELOW EXH. 4 & 7 IN RCC NO. 1995/2025

Present application is filed by accused No. 1 to 3 respectively u/s 467, 468 & 197 of CRPC.

02. It is the contention of the accused persons that, in the present matter, a crime was registered against the accused persons on 01.12.2018 under FIR No. 1112/2018, and the charge sheet was filed on 01.09.2025, nearly six years and eight months later. The accused submits that such an extraordinary and unexplained delay vitiates the proceedings and infringes the fundamental right to a speedy investigation and trial under Article 21 of the Constitution. The Court has not yet taken cognizance of the offence, and therefore, the accused contends that the charge sheet should not be entertained due to several legal infirmities.

03. The accused further submits that the charge sheet was required to be filed within the statutory period of 60 to 90 days as per Section 167(2) of the Cr.P.C., but has been filed after an inordinate delay without any justification or condonation, thereby rendering the prosecution unsustainable. Further, since the accused is a Government Servant, prior sanction under Section 197 Cr.P.C. was mandatory before initiating prosecution for acts allegedly committed during the discharge of official duties. No such sanction was obtained, nor is any proposal pending, which makes the charge sheet void ab initio.

04. The accused also submitted that the alleged incident occurred at Khed-Shivapur, which falls outside the territorial jurisdiction of the

present Court, and therefore, the Court lacks authority to take cognizance. Moreover, the investigation and filing of the charge sheet were carried out without necessary permissions or approvals from the competent authority, making the proceedings legally defective. The FIR and the charge sheet do not disclose any cognizable offence, the allegations are vague and motivated, intended merely to harass the accused.

05. It is further submitted that any cognizance taken without considering these legal defects and without proper judicial scrutiny would be illegal and unsustainable. The prolonged and unexplained delay has caused grave prejudice to the accused, violating the right to a speedy trial. The prosecution's deliberate inaction and procedural lapses amount to an abuse of the criminal process. Additionally, the charge sheet itself is incomplete and lacks requisite documents and signatures, rendering it invalid in law. Accordingly, the accused prays to allow the present application and refuse to take cognizance of the charge sheet in Crime No. 1112/2018 by quash the further proceedings.

06. The Learned Assistant Public Prosecutor (Ld. A.P.P.), by virtue of his written and oral submissions, has contended that the allegations leveled against the accused persons are grave and serious in nature. It is further submitted that the Investigating Officer was required to examine and verify several relevant documentary as well as electronic pieces of evidence, which necessitated considerable time for completion of the investigation. Therefore, the delay in filing the charge sheet cannot be construed as a valid ground for the accused to file the present application. Hence, the Ld. A.P.P. has prayed that the present application be rejected.

07. In the present matter, as per the version of the complainant, the alleged offence was committed on 21.11.2018 at about 10:30 a.m., and the complainant lodged a written complaint on 30.11.2018. Pursuant to the said complaint, FIR No. 1112/2018 came to be registered on 01.12.2018 for the offences punishable under Sections 384, 385, 341, and 323 read with Section 34 of the Indian Penal Code. Thereafter, Accused No. 1 was arrested on 13.12.2020, while Accused Nos. 2 and 3 were arrested on 15.12.2020. Upon completion of the investigation, the Investigating Officer filed the charge sheet against the accused persons for the aforesaid offences on 01.09.2025, which came to be registered before this Hon'ble Court on 04.09.2025.

08. It is the contention of the accused persons that there is an unexplained and extraordinary delay of approximately six years and eight months in filing the charge sheet by the Investigating Officer. Such a prolonged delay, according to the accused, is barred by limitation as prescribed under Section 468 of the Code of Criminal Procedure.

09. The first and foremost aspect to be considered in this context is the applicability and interpretation of Section 468 of the Code of Criminal Procedure, which reads as under:

Section 468 – Bar to Taking Cognizance after Lapse of the Period of Limitation

Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub-section (2) after the expiry of the period of limitation.

The period of limitation shall be—

1. Six months, if the offence is punishable with fine only;
2. One year, if the offence is punishable with imprisonment for a term not exceeding one year;
3. Three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe or, as the case may be, the most severe punishment.

10. It is a well-settled proposition of law that, for the purpose of computing the period of limitation under Section 468 of the Code of Criminal Procedure, the *relevant date* is the date of filing of the complaint or the date of institution of prosecution, and not the date on which the Court actually takes cognizance of the offence. The Hon'ble Supreme Court, in the landmark judgment of *Bharat Damodar Kale & Anr. v. State of Andhra Pradesh*, (2003) 8 SCC 559, has unequivocally clarified this legal position, holding that if a complaint or charge sheet is filed within the prescribed period of limitation, the cognizance taken by the Magistrate thereafter would not be barred merely because of the lapse of time in the Court's proceedings.

11. The relevant portion of the judgment is reproduced as under:

"50. The Code imposes an obligation on the aggrieved party to take recourse to appropriate forum within the period provided by law and once he takes such action, it would be wholly unreasonable and inequitable if he is told that his grievance would not be ventilated as the court had not taken an action within the period of limitation. Such interpretation of law, instead of promoting justice would lead to perpetuate injustice and defeat the primary object of procedural law.

51. The matter can be looked at from different angle also. Once it is accepted (and there is no dispute about it) that it is not within the domain of the complainant or prosecuting agency to take cognizance of an offence or to issue process and the only thing the former can do is to file a complaint or initiate proceedings in accordance with law, if that action of initiation of proceedings has been taken within the period of limitation, the complainant is not responsible for any delay on the part of the court or Magistrate in issuing process or taking cognizance of an offence. Now, if he is sought to be penalized because of the omission, default or inaction on the part of the court or Magistrate, the provision of law may have to be tested on the touchstone of Article 14 of the Constitution. It can possibly be urged that such a provision is totally arbitrary, irrational and unreasonable. It is settled law that a court of law would interpret a provision which would help sustaining the validity of law by applying the doctrine of reasonable construction rather than making it vulnerable and unconstitutional by adopting rule of litera legis. Connecting the provision of limitation in Section 468 of the Code with issuing of process or taking of cognizance by the court may make it unsustainable and ultra vires Article 14 of the Constitution.

52. In view of the above, we hold that for the purpose of computing the period of limitation, the relevant date must be considered as the date of filing of complaint or initiating criminal proceedings and not the date of taking cognizance by a Magistrate or issuance of process by a We, therefore, overrule all decisions in which it has been held that the crucial date for computing the period of limitation is taking of cognizance by the Magistrate/court and not of filing of complaint or initiation of criminal proceedings.

53. In the instant case, the complaint was filed within a period of three days from the date of alleged offence. The complaint, therefore, must be held to be filed within the period of limitation even though cognizance was taken by the learned Magistrate after a period of one year. Since the criminal proceedings have been quashed by the High Court, the order deserves to be set aside and is accordingly set aside by directing the Magistrate to proceed with the case and pass an appropriate order in accordance with law, as expeditiously as possible."

12. The Hon'ble Supreme Court, in *Kamatchi v. Lakshmi Narayanan* (Criminal Appeal No. 627 of 2022, arising out of SLP (Crl.) No. 2514 of 2021), has reaffirmed the settled legal position laid down in *Bharat Damodar Kale* (supra). The Court reiterated that when a complaint is filed within the period of limitation prescribed under Section 468 of the Code of Criminal Procedure, the complainant cannot be made to suffer merely because the Court takes cognizance at a later stage. The delay in taking cognizance, if not attributable to the complainant or the prosecuting agency, does not render the complaint time-barred.

The Hon'ble Court observed as under:

> "It is, thus, clear that though Section 468 of the Code mandates that 'cognizance' ought to be taken within the specified period from the commission of offence, by invoking the principles of purposive construction, this Court ruled that a complainant should not be put to prejudice, if for reasons beyond the control of the prosecuting agency or the complainant, the cognizance was taken after the period of limitation. It was observed by the Constitution Bench that if the filing of the complaint or initiation of proceedings was within the prescribed period from the date of commission of an offence, the Court would be entitled to take cognizance even after the prescribed period was over."

13. Upon a comprehensive consideration of the above factual matrix, statutory provisions, and judicial pronouncements, this Court finds that the alleged offence in the present matter was committed on 20.11.2018, the complainant filed his written complaint on 30.11.2018, and the First Information Report (FIR) came to be registered on 01.12.2018. Thus, the initiation of criminal proceedings was undertaken within a short span of ten days from the date of commission of the alleged offence. As such, the institution of prosecution was well within the period of limitation of three years prescribed under Section 468(2)(c) of the Code of Criminal Procedure.

14. It is trite law that the object of Section 468 Cr.P.C. is to bar the courts from taking cognizance of offences where the prosecution is initiated beyond the prescribed period of limitation. However, the bar operates only in respect of delayed initiation of proceedings, and not where the proceedings have already been instituted within the limitation period. The

limitation prescribed under Section 468 Cr.P.C. is meant to prevent the filing of stale or belated complaints and not to penalize a diligent complainant or prosecution for procedural or administrative delays occurring thereafter.

15. Applying the above legal principles to the facts of the present case, it is evident that the complainant had taken timely steps by filing the complaint well within ten days of the alleged occurrence. Hence, the initiation of prosecution cannot, by any stretch of interpretation, be said to be barred by limitation. The subsequent delay of six years and eight months in filing the charge sheet by the Investigating Officer, though inordinate and undesirable, pertains to the stage of investigation and not to the initiation of prosecution.

16. Therefore, this Court is of the considered view that the objection raised by the accused persons, contending that the filing of the charge sheet after six years and eight months renders the proceedings barred by limitation, is misconceived and untenable in law. The initiation of prosecution having been made within the statutory period, the bar under Section 468 Cr.P.C. does not apply. Consequently, the contention of the accused persons is rejected, and the proceedings cannot be quashed merely on the ground of delayed filing of the charge sheet.

17 The accused persons have further contended that, being public servants, no prior sanction from the appropriate authority has been obtained as mandated under Section 197 of the Code of Criminal Procedure. They assert that the alleged acts were purportedly committed in

the course of discharge of their official duties, and therefore, in absence of such prior sanction, the prosecution and the filing of the charge sheet are legally unsustainable.

Section 197 of the Code of Criminal Procedure – Prosecution of Judges and Public Servants

> When any person who is or was a Judge, 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, no Court shall take cognizance of such offence except with the previous sanction—
>
> 1. 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;
> 2. 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.

18. Thus, as per the mandate of Section 197 Cr.P.C., the obtaining of prior sanction from the competent authority is a condition precedent for taking cognizance of an offence alleged to have been committed by a public servant while acting or purporting to act in the discharge of official duties. Failure to obtain such sanction vitiates the very foundation of the prosecution and renders the proceedings void ab initio.

19. From a plain reading of Section 197 of the Code of Criminal Procedure, it is clear that the protection contemplated under this provision extends only to those public servants who are accused of having committed an offence while acting or purporting to act in the discharge of their official duties. The legislative intent behind this provision is to ensure that honest and responsible public officers are not unnecessarily harassed through vexatious prosecutions for acts done in good faith and in the bona fide discharge of their official functions. However, this protection is not absolute, and it does not extend to acts which are manifestly illegal, malicious, or committed for personal gain or extraneous reasons, having no nexus with official duty.

20. In the present matter, as per the record, FIR No. 1112/2018 came to be registered against the accused persons for offences punishable under Sections 384, 385, 341, and 323 read with Section 34 of the Indian Penal Code. The allegations against the accused persons pertain to acts of wrongful restraint, assault, and extortion, offences that are personal in nature and wholly unrelated to any official duty or administrative function. The accused persons have merely asserted that they are government employees but have failed to produce any material or satisfactory explanation to demonstrate that the alleged acts were performed as part of their official duty or in the purported discharge thereof.

21. Further, no evidence has been placed on record to indicate that the alleged acts were carried out under lawful authority, in good faith, or in furtherance of any official direction. On the contrary, the nature of the allegations and the material collected during the course of investigation suggest that the conduct attributed to the accused was entirely beyond the

scope of their official duties. The offences alleged, being grave in nature, cannot by any stretch of reasoning be considered acts done in the course of public service.

22. It is a well-settled principle of law, as enunciated in various judgments of the Hon'ble Supreme Court, including *Prakash Singh Badal v. State of Punjab* [(2007) 1 SCC 1] and *State of Orissa v. Ganesh Chandra Jew* [(2004) 8 SCC 40], that the protection under Section 197 Cr.P.C. applies only when the act complained of is directly and reasonably connected with the discharge of official duty, and not when it is done under the colour of office to commit an offence. When the alleged act has no reasonable nexus with official duty, the bar of Section 197 Cr.P.C. cannot be invoked.

23. Applying the above principles to the present case, it is evident that the acts alleged against the accused persons, involving extortion, assault, and wrongful restraint cannot, under any reasonable interpretation, be considered as part of their official responsibilities. Hence, the contention raised by the accused regarding the absence of prior sanction under Section 197 Cr.P.C. is devoid of merit. The accused persons have failed to establish that they were acting or purporting to act in the discharge of their official duties at the time of the alleged incident.

24. In view of the above discussion and the settled position of law, this Court finds no substance in the objection raised by the accused persons with regard to sanction. Since the alleged acts are not shown to have been performed in the discharge of official duties, the requirement of prior sanction under Section 197 Cr.P.C. does not arise. Accordingly, the

objection raised by the accused is rejected, and this Court finds no merit in the present application, which is hereby dismissed.

25. Further, it is pertinent to note that the alleged crime was committed within the territorial jurisdiction of this Court. The FIR, panchnama, and other material placed on record clearly establish that the place of occurrence falls within the limits of this Court's jurisdiction. Therefore, this Court is legally and territorially competent to take cognizance of the offence and to conduct the trial in accordance with law. Hence, the objection raised by the accused persons regarding lack of jurisdiction is devoid of substance and cannot be sustained.

26. Hence, considering all the above aspects, facts, and legal provisions, this Court is of the considered view that the application filed by the accused persons is devoid of merit and substance. The objections raised on the grounds of limitation, want of sanction, and lack of jurisdiction are unsustainable in law and unsupported by the record and with due respect the citation cited by the accused persons where irrelevant in present fact of the case hence are not discussed. Accordingly, I pass following order.

ORDER

Application Exh. *4* & *7* is rejected.

AL AMOODI ABDUL KHAYYUM

Digitally signed by AL AMOODI ABDUL KHAYYUM
Date: 2025.11.06 18:09:31 +0530

(AL Amoodi A.K.)
Judicial Magistrate First Class,
Pimpri.

Date.06/11/2025