

**Reserved on :05.02.2026**  
**Pronounced on : 25.03.2026**

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25<sup>TH</sup> DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.1008 OF 2025

C/W

CRIMINAL PETITION No.1022 OF 2025

**IN CRIMINAL PETITION No.1008 OF 2025**

**BETWEEN:**

M/S. MAHI ENTERPRISES  
REPRESENTED BY ITS PROPRIETOR,  
MR.PARIKH BHAVIK,  
S/O MR. LALITH BHAI,  
AGED ABOUT 23 YEARS,  
R/O NO.9, RAVINIKETAN SOCIETY,  
LAST BUS STOP, MEGHANI NAGAR,  
AHMEDABAD CITY CIVIL HOSPITAL,  
GUJARAT – 380 016.

... PETITIONER

(BY SRI BHARATH KUMAR V., ADVOCATE)

**AND:**

1 . STATE BY  
CENTRAL CEN POLICE STATION,

CENTRAL DIVISION,  
BENGALURU.  
REPRESENTED BY  
STATE PUBLIC PROSECUTOR,  
HON'BLE HIGH COURT OF KARNATKA,  
DR.AMBEDKAR VEEDHI,  
BENGALURU – 560 001.

2 . M/S.CHANDRU AND CO.,  
REPRESENTED BY MR. HEMANTH SHEKHAR  
NO. 12/4, NEHRU NAGAR,  
RAILWAY PARALLEL ROAD,  
NEAR SHESHADRIPURAM CIRCLE,  
BENGALURU – 20.

... RESPONDENTS

(BY SRI K.NAGESHWARAPPA, HCGP FOR R-1;  
SRI K.B.K.SWAMY, ADVOCATE FOR R-2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO 1.QUASH THE ORDER DATED 18.05.2022 PASSED BY THE HON'BLE I A.C.M.M BENGALURU IN MATTER BEARING CR.NO.413/2021 (CURRENTLY RE-NUMBERED AS MATTER BEARING C.C.NO.27075/2023) (ANNEXURE-A); 2.QUASH / SET ASIDE THE ORDER DATED 11.11.2024 PASSED BY THE HON'BLE LXVI ADDL.CITY CIVIL AND SESSIONS JUDGE BENGALURU CITY (CCH 67) IN MATTER BEARING CRL.RP.NO.475/2022; 3.DIRECT THE RESPONDENT NO.1 POLICE TO DE-FREEZE THE FOLLOWING ACCOUNT OF THE PETITIONER.

| Account Holder name | Name of the Bank | Account Number   | Amount            |
|---------------------|------------------|------------------|-------------------|
| Mahi Enterprises    | IDBI Bank        | 0009102000081360 | Rs. 1,12,15,884/- |

**IN CRIMINAL PETITION No.1022 OF 2025**

**BETWEEN:**

M/S. MAHI ENTERPRISES  
REPRESENTED BY ITS PROPRIETOR,  
MR. PARIKH BHAVIK,  
S/O MR. LALITH BHAI,  
AGED ABOUT 23 YEARS,  
R/O NO.9, RAVINIKETAN SOCIETY,  
LAST BUS STOP, MEGHANI NAGAR  
AHMEDABAD CITY CIVIL HOSPITAL,  
GUJARAT - 380 016.

... PETITIONER

(BY SRI BHARATH KUMAR V., ADVOCATE)

**AND:**

1 . STATE BY  
CENTRAL CEN CRIME POLICE STATION,  
CENTRAL DIVISION,  
BENGALURU  
REPRESENTED BY  
STATE PUBLIC PROSECUTOR,  
HON'BLE HIGH COURT OF KARNATAKA  
DR.AMBEDKAR VEEDHI,  
BENGALURU – 560 001.

2 . M/S.CHANDRU AND CO.,  
REPRESENTED BY  
MR. HEMANTH SHEKHAR  
NO.12/4, NEHRU NAGAR  
RAILY PARALLEL ROAD,  
NEAR SHESHADRIPURAM CIRCLE,  
BENGALURU – 20.

... RESPONDENTS

(BY SRI K.NAGESHWARAPPA, HCGP FOR R-1;

SRI K.B.K.SWAMY, ADVOCATE FOR R-2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO 1.SET ASIDE THE ORDER DATED 27.09.2021 PASSED BY THE HON'BLE I A.C.M.M BENGALURU IN MATTER BEARING CR.NO.413/2021 (CURRENTLY RE-NUMBERED AS MATTER BEARING C.C.NO.27075/2023 (ANNEXURE-A); 2.SET ASIDE THE ORDER DATED 11.11.2024 PASSED BY THE HON'BLE LXVI ADDL.CITY CIVIL AND SESSIONS JUDGE BENGALURU CITY (CCH 67) IN MATTER BEARING CRL.RP.NO.34/2024 (ANNEXURE-B).

THESE CRIMINAL PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 05.02.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

**CAV ORDER**

These petitions are preferred by a common petitioner - accused No.2 in Crime No.413/2021, calling in question the orders dated 27.09.2021 and 18.05.2022, both passed by the I Additional Chief Metropolitan Magistrate, Bengaluru, on two applications, both filed under Sections 451 and 457 of the Cr.P.C. in Crime No.413/2021, one preferred by the petitioner herein and another by respondent No.2 – complainant. The application preferred by the complainant seeking interim custody of the seized amount in P.F.No.14/2021 of ₹1,12,15,884/- lying in the account of the

petitioner in M/s.IDBI Bank comes to be allowed on certain conditions in terms of the order dated 27.09.2021 and the application preferred by the petitioner seeking defreezement of his account held in M/s.IDBI Bank, C.G.Road Branch, Ahmedabad, comes to be rejected by the concerned Court in terms of the order dated 18.05.2022. These two orders are challenged before the concerned Revisional Court in Crl.R.P.Nos.34/2024 and 475/2022 respectively, both of which comes to be dismissed by affirming the order of the concerned Court in terms of its orders, both dated 11.11.2024.

2. Heard Sri Bharath Kumar V., learned counsel for petitioner, Sri K. Nageshwarappa, learned High Court Government Pleader for respondent No.1 and Sri K.B.K.Swamy, learned counsel for respondent No.2.

3. For the sake of convenience, facts obtaining in Crl.P.No.1022/2025, which are similar in companion petition on the question in the *lis* involved, would be narrated.

4. Facts in brief, germane, are as follows:

A complaint comes to be registered on 26.08.2021 by respondent No.2 – complainant before respondent No.1 - police station alleging that he was contacted by one Rato Gibson Jude, who claimed to be representing M/s.Centric Pharmaceutical Limited through an electronic mail on 19.07.2021 and that M/s.Centric Pharmaceutical Limited is based in United Kingdom and is interested in procuring Bio Champacalin Fluid, which is one of the pharmaceutical products available in India. On the same day, by another electronic mail, the said person – Rato Gibson Jude claimed that the said pharmaceutical products needed by the Company were available with the supplier in India - one M/s.Sagar Enterprises - Accused No.1. The said person has also claimed that if the complainant procures the product at a price of U.S.D. 4,000 per litre from M/s. Sagar Enterprises, the same could be sold by respondent No.2 - complainant at U.S.D. 8,500 per litre to M/s.Centric Pharmaceutical Limited. The business proposal rang the bells of accused No.1 and respondent No.2 - complainant. Communications between the three galore seeking to purchase said products at an agreed quantity on receipt of 100% payment.

Respondent No.2 - complainant procured a sample of 1 litre from accused No.1 by making a payment of ₹3,00,000/- into the bank account of accused No.1. Disputes arose with regard to payment or payment of amount into the hands of accused Nos.1 and 2. The complainant is said to have parted the entire material but, received no money. Therefore, the complaint comes to be registered on 26.08.2021, against unknown persons, on account of payment being made and no material being received. The said complaint becomes a crime in Crime No.413/2021, for offences punishable under Sections 419 and 420 of the IPC read with Section 66D of the Information Technology Act, 2000. The police then debit freeze the account of the petitioner in terms of the order of the Magistrate on the requisition application so filed by the jurisdictional Police under Section 102 of the Cr.P.C. and consequently ₹1,12,15,884/- lying in the account of the petitioner stood frozen. The police after conducting investigation file a charge sheet in C.C.No.27075/2023 for the afore-quoted offences, arraigning the petitioner as accused No.2.

5. Respondent No.2 – complainant prefers an application under Sections 451 and 457 of the Cr.P.C. seeking release of the aforesaid amount from the bank account of the petitioner maintained in M/s.IDBI Bank, in favour of respondent No.2 as an interim custody. On consideration of the application preferred by respondent No.2, the concerned Court allows the application and directs release of the aforesaid amount into the interim custody of respondent No.2 on certain conditions, by order dated 27.09.2021. Another application from the petitioner springs before the concerned Court under Sections 451 and 457 of the Cr.P.C., seeking a direction for defreezement of the current account of the petitioner and to allow him to access the account for his business activities. The concerned Court rejects the application of the petitioner by its order dated 18.05.2022. Being aggrieved by the said orders passed by the concerned Court on the applications filed under Sections 451 and 457 of the Cr.P.C., the petitioner prefers revision petitions before the Court of Session in Crl.R.P.Nos.34/2024 and 475/2022 respectively. The Court of Session in terms of the orders dated 11.11.2024, dismisses the petitions by affirming the orders passed by the concerned Court.

Challenging both these orders in two separate petitions, which was concerning two separate applications, the petitioner - accused No.2 is before this Court.

6. Sri Bharath Kumar V., learned counsel for the petitioner would vehemently contend that transactions between the petitioner and respondent No.2 is only to the tune of ₹30/- lakhs or even ₹40/- lakhs, which would not mean that entire amount of ₹1,12,15,884/- should be frozen and transferred to the complainant's account. He would submit that petitioner was not completely heard before passing the said orders. Therefore, the orders that are passed are in violation of the principles of natural justice.

7. *Per contra*, Sri K.B.K.Swamy, learned counsel appearing for respondent No.2 - complainant would refute the submissions contending that both the concerned Courts have concurrently held that accused Nos.1 and 2 together have received the amount from the hands of the complainant and when the transaction has gone wrong, it was the bounden duty of the petitioner to return the money to the complainant. Therefore, the concerned Courts have

answered the applications on merit. This court in exercise of its jurisdiction under Section 482 of the Cr.P.C. should not in any way interfere and undo what the two Courts have done.

8. I have given my anxious consideration to the submissions made by the learned counsel for the respective parties and have perused the material on record.

9. The afore-narrated facts are all a matter of record. The transactions between the parties begin by an electronic mail communication initially on 05.08.2021. The e-mail trail between the parties read as follows:

"On Thursday, 5 August, 2021, 10:52:58 am IST, Sagar Enterprises<info@sagarenterpriseshb.com>

Kindly send payment receipt.

hemanth shekar <hemanth ec2007@yahoo.co.in> wrote:

Good Morning Madam,

Please send us the proforma invoice for 40 Liters ASAP. Please mention that 50% advance to be paid now and balance 50% within 30 days from the date of delivery.

Once the proforma invoice is received, we will transfer the money and confirm. Accordingly please arrange to ship the material by today itself.

Can you please share the GST certificate for this entity? Also please share us the recently filed GSTR return!!

Most importantly, please share the invoice copy for the 1 Liter sample shipment that was sent 2 weeks back!!

Thanks.

**Regards,  
Mr. Hemanthshekar  
Partner: Chandru and Co.  
Bangalore, India. PIN : 560 010."**

XXXX

On Thursday, 5 August, 2021, 11:46:37 am IST, hemanth shekar <hemanth\_ec2007@yahoo.co.in> wrote:

Good Morning Madam,

**Payment of 57 Lacs has been made today. Please see below transaction reference details:**

Please dispatch this order of 40 Liters today itself and confirm. Share the tracking #. This is bit urgent.

Product should be shipped in 1 Liter containers (40 Nos) without any additional labeling apart from the product name "Bio Champacalin Fluid".

|             |                                                                                                             |                        |             |              |
|-------------|-------------------------------------------------------------------------------------------------------------|------------------------|-------------|--------------|
| 05 Aug 2021 | FT - Dr - 50200057147553 -<br>SAGAR ENTERPRISES                                                             | 0000000000085          | 05 Aug 2021 | 3,000,000.00 |
| 05 Aug 2021 | RTGS Dr-DBSS0IN0868-<br>SAGAR ENETERPRISES-<br>NETBANK, MUM-<br>HDFCR52021080556987478-<br>perfroma invoice | HDFCR52021080556987478 | 05 Aug 2021 | 2,700,000.00 |

**Regards,  
Mr. Hemanthshekar  
Partner: Chandru and Co.**

**Bangalore, India. PIN: 560010.  
Mob: +91 99000 77688**

Xxxx

On Friday, August 6, 2021, 12:23 PM, Sagar Enterprises  
<info@sagarenterprisesb.com> wrote:

We are arranging your order.

hemanth shekar <hemanth\_ec2007@yahoo.co.in> wrote:

Hello Madam,

Please confirm if the product is shipped and share the tracking  
#. Thanks.

**Regards,  
Mr. Hemanthshekar  
Partner: Chandru and Co.  
Bangalore, India. PIN: 560 010.  
Mob: +91 99000 77688**

xxxxxx

On Tue, Aug 10, 2021 hemanth shekar  
<hemanth\_ec2007@yahoo.co.in> wrote:

Madam,

**We are arranging for the balance payment of INR 57  
Lakhs for the balance 20 Liters by 4 PM today.**

Please ask your team to be ready with the shipment of balance  
20 Liters by today itself.

Please use express courier for the same. We need this very  
URGENTLY!!

Please don't miss this time. Also we asked for 1 Liter container  
but you have shipped 4 cans of 5 Liters each. Please service the  
order based on our requirement!!

Regards,

Mr. Hemanthshekar  
Partner: Chandru and Co.  
Bangalore, India. PIN : 560 010.  
Mob: +91 99000 77688

From. Sagar Enterprises (sagarenterprises055@gmail.com)  
To: hemanth\_ec2007@yahoo.co.in  
Date: Tuesday, 10 August, 2021, 12:02 pm-IST

The Lab Director said that what was dispatched is 20 liters and due huge debts that are unpaid by some customers, they were unable to dispatch a total 40 liters. They have suggested you pay the balance for 20 liters to enable them dispatch the remaining 20 liters.

Please confirm the date and time for payment and we shall provide you with account details to deposit to enable them dispatch the remaining 20 liters. Thanks for your understanding.

hemanth shekar <hemanth\_ec2007@yahoo.co.in> wrote:

Hello madam,

Please update the status of the shipment we are in urgent basis as we need to order 560 liters more immediately

So please don't delay the order  
Reply us the mail immediately

Sent from Yahoo Mail for iPhone

Xxxxx

From. Sagar Enterprises (sagarenterprises055@gmail.com)  
To: hemanth\_ec2007@yahoo.co.in  
Date: Tuesday, 10 August, 2021, 03:40 pm IST

**ADHERE STRICTLY TO PAYMENT INSTRUCTION.**

**PAYMENT INSTRUCTIONS. KINDLY MAKE THE PAYMENT AS INSTRUCTED.**

SAGAR ENTERPRISES  
 DBS BANK  
 868210061612  
 IFSC: dbss0in0868  
 BRANCH: NEW MUMBAI  
 PAN-FZAPP9536A  
 GST: 27FZAPP9536A1Z9  
 AMOUNT: 30,00,000/- INR  
 =====

**MAHI ENTERPRISE**  
**IDBI BANK**  
**AC: 0009102000081360**  
**IFSC: IBKL0000009**  
**PAN: AQPPS1841D**  
**BRANCH: CG ROAD**

**GST: 24AQPPS1841D1ZS**

**AMOUNT: 27,00,000/-INR."**

The transaction goes wrong. A complaint comes to be registered against certain accused persons - accused Nos.1 and 2, pursuant to which, a crime comes to be registered in Crime No.413/2021. The police after investigation file a charge sheet in C.C.No.27075/2023 against the accused. In the interregnum, a requisition is made by the Investigating Officer to the Manager of the IDBI Bank, Branch at C.G.Road, Ahmedabad, to freeze the account of the petitioner. The order of the concerned Court dated 01.09.2021, on the requisition reads as follows:

"1-9-2021

PI Central CEN PS has filed requisition praying this court to obtain permission to seize the amount lying in the bank account of accused.

Said requisition is herewith put up for orders.

The I.O. has filed present requisition seeking to permit him to seize the amount of Rs.1,12,15,884/- freezed by him, bearing No.0009102000081360 of IDBI Bank, C.G. road, Gujrat branch belonging to Mahi Enterprises. It is alleged that the aforesaid accused of this case illegally gained money by transferring an amount of Rs.1.17 crores from complainant assuring to supply particular fluid and thereby he has cheated complainant. It is further alleged that in order to conceal the illegally gained money, the above amount is transferred to various bank accounts including the above bank. Hence, it is prayed to allow the requisition.

**Satisfied with grounds that the alleged amount is part and parcel of amount transferred by complainant and if same is not ordered to be seized, it may hamper the investigation of the case. Further I.O. may be permitted to seize the said amount by strictly following the provisions of Sec.102 of Cr.P.C. Hence, following is:**

#### **ORDER**

**The requisition filed by I.O. dated 31-8-2021 is allowed. The I.O. is permitted to seize the aforesaid amount of Rs.1,12,15,884/-, bearing account No.0009102000081360 of IDBI Bank, C.G. road, Gujrat branch belonging to Mahi Enterprise, by strictly complying provisions of Sec. 102 of Cr.P.C.**

Sd/-  
01/09/2021  
I ACMM, Bengaluru."

10. Two applications are filed, one by the complainant and another by M/s. Mahi Enterprises - the petitioner herein. The application filed by the complainant under Sections 451 and 457 of the Cr.P.C. seeking interim custody of the amount seized by the Investigating Officer, reads as follows:

**"APPLICATION UNDER SECTION 451 & 457 OF THE  
CODE OF CRIMINAL PROCEDURE**

The petitioner in the above case most respectfully submits as follows:

1. It is submitted that, the petitioner herein has filed a complaint before the Central CEN crime PS on 26-08-2021 against the accused persons then, the complainant police have registered the FIR in their crime No-413/2021 for the offence punishable under sections 66(D) of the IT Act 2008 and section 419, 420 of IPC regarding the cheating of **Rs.1,17,00,000/-** to the petitioner.

2. It is submitted that, the brief facts of the case is that, the Petitioner herein is running a company by name, Chandru and Company and he has got the business deal from one M/s. Sagar Enterprises represented by one Mrs.R.Sagar and company situated at Guwahati and M/s Centric Pharmaceutical Limited having its Head Quarters at United Kingdom and had discussions with the Petitioner herein through mail, phone and skype and later on 19-07-2021 one Mr. Rato Gibson Jude reaches the Petitioner over phone and told him that, he is in requirement of

an Indian Exporter, who can export Indian Products (Herbal Extracts) named 'BIO CHAMPACALIN FLUID' to M/s. Centric Pharmaceuticals Limited at United Kingdom, who can supply the product at USD 4000/ Liter and the said Centric Pharmaceuticals Limited at United Kingdom, will buy it at USD 8500 and the difference /profit amount will be shared equally.

3. It is submitted that, as such the representative of said person, one Mr. Christopher, CEO of M/s. Centric Pharmaceuticals has told the Petitioner to arrange one Liter of Fluid by 24<sup>th</sup> July 2020 and his International representative will meet him in India and check the quality etc. On enquiry with M/S. Sagar Enterprises, they have stated that, they can supply the required quantity with 100% advance. As such got 1 liter and contacted the above said Mr. Christopher through mail and he replied that, International representative to India will meet him. Then on confirmation by M/s Sagar Enterprises, the Petitioner has sent Rs. 3,00,000/- to Sagar Enterprises. Later one Indian representative Rayphilips told the Petitioner that, he cannot come to Bangalore due to some reason and he told the Petitioner to bring 1 liter fluid to Delhi, and he can get it checked there. Then the Petitioner met him in a hotel at Delhi and he got a sample and gave an amount of USD 500 and left the place saying that, he will check within an hour or two and went away and later he came back and told that, there the labs are not functioning properly and same has to be checked in Mumbai and he told the Petitioner to leave for Bangalore and he only will check the same in Mumbai and on successful he will inform the Petitioner etc., Later he has assured about the continuous supply agreement. Later as per the request of the Petitioner, M/S. Sagar Enterprises issued a Proforma invoice for 40 liters and told him to pay a money. A such an amount of Rs.1,14,00,000/- has been deposited to the bank account of M/s. Sagar Enterprises. On 13-08-2021, when the Petitioner asked M/s. Sagar Enterprises about the availability of Stock Inspection, they told that, company will only allow stock inspection of 80-100 liters and not 40 liters. Then the Petitioner asked M/s. Sagar Enterprises to return the money as they are willing to return the product as same can be returned within 7 days from purchase without any with full money back guaranteed. Then the M/s.Sagar Enterprises also not responded and not returned the money and the said Christopher's phone

also switched off and Rayphilip's phone also switched off. No response from anybody. In fact it relevant to mention that, the above said M/s. Sagar Enterprises has 'contravened to the agreed terms between the Petitioner and it and in fact on 05-08-2021 an amount of Rs. 30,00,000/- and Rs.27,00,000/- have been paid on two occasion, totally Rs. 57,00,000/-, On 10-08-2021 an amount of Rs. 27,00,000/- and 30,00,000/- has also paid. As such totally 1,14,00,000/- has been paid by the Petitioner. In fact the said amount was for 40 liters, but on opening the product sent by M/s. Sagar Enterprises, it is noticed that, there is only 20 liters contrary to the agreed terms of 50% advance. On questioning the same with M/s. Sagar Enterprises, they told that, recently they have suffered loss due to short payments so they have sent only the quantity equal to the price paid. In fact same is contrary to the agreed terms. On continuous approach, the M/s. Sagar Enterprises informed the Petitioner that, they will make refund the said amount of Rs.1,14,00,000/- shortly by 23-08-2021, but not refunded. As such on trying to call them, again the phones are switched off, but for the mail, they have replied that, they will refund the said amount of Rs.1,14,00,000/- on 07-09-2021, but till date no payment has been made. In view of the above said act of cheating by M/s. Sagar Enterprises through online and thereby cheated the Petitioner to the tune of Rs.1,14,00,000/- as mentioned below.

| S.No | Payment date | Payment amount | Transferee bank | Reference No.              |
|------|--------------|----------------|-----------------|----------------------------|
| 1    | 05.08.2021   | 30,00,000/-    | HDFC Bank       | 000000000085               |
| 2    | 05.08.2021   | 25,00,000/-    | DBS Bank        | HDFCR520210<br>80556987478 |
| 3    | 10.08.2021   | 27,00,000/-    | IDBI Bank       | 000000000086               |
| 4    | 10.08.2021   | 30,00,000/-    | DBS Bank        | HDFCR520210<br>81058056288 |
|      | Total        | 1,14,00,000/-  |                 |                            |

4. It is submitted that, In fact, all the above said amount has been transferred to the respective bank accounts shown above as per the instructions and directions given by the M/s. Sagar Enterprises. In fact, the Petitioner is having the bank statement to show the above facts. In fact on 04-08-2021 at 01.34.43 p.m

p.m, M/s. Sagar Enterprises have sent an e-mail to the petitioner herein by attaching the proforma invoice and also the retails of the 3 bank accounts wherein the Petitioner has to make the payment. Then the on same day at 03:24 another mail has been sent to the Petitioner for making payment to the bank accounts given by them. In fact the complainant has already sent the amount of Rs. 57,00,000/- to the bank account of the M/s. Sagar Enterprises only. Hence, the Petitioner herein has specifically replied that, **"As we would get invoice from one entity, we want to transfer money to one bank account only pertaining to that entity".** Again on same day, at 3:24, M/s. Sagar Enterprises has sent a mail by giving two bank accounts belonging to M/s. Sagar Enterprises only. Later also regarding business transactions and supply of fluid, there were several e-mail communications have been taken place. As such on 10-08-2021 at 03:40 p.m, the above said M/s. Sagar Enterprises have sent an e-mail stating that, the amount to be paid to DBS Bank Account of M/s. Sagar Enterprises to the tune of Rs. 30,00,000/-, and IDBI Bank account of MAHI ENTERPRISE to the tune of Rs. 27,00,000/-. It is also mentioned in the said mail that, the payment instructions to be strictly adhered. In other words, it is mentioned that, **"ADHERE STRICTLY TO PAYMENT INSTRUCTION"**. Hence in view of the same, having no option in order to continue the deal, the Petitioner herein has sent the amount to the said account i.e., MAHI ENTERPRISE.

5. It is submitted that, in fact now by filing a memo, the Investigating Officer has added the names of the accused persons in the above case, i.e., **A1) Sagar Enterprises, A2) Ray Pilip A3) Mahi Enterprises**. The above said M/s. Sagar Enterprises has instructed the Petitioner to deposit the amount to the above said MAHI ENTERPRISE, it is nothing but the conspiracy between M/s. Sagar Enterprises and MAHI ENTERPRISE. Hence the quantity of the amount deposited to a particular account is immaterial in view of the fact that, the proceeds of the crime has been distributed between the accounts maintained by the above said M/s. Sagar Enterprises and Mahi Enterprises. By considering the said aspects, the Investigating officer has seized the said amount. Hence the Petitioner herein is entitled to the release of the above said amount in his favour.

6. It is submitted that, it is the specific case of the Petitioner that, in view of the above said business transactions, the above said M/s. Sagar Enterprises has committed cheating on the Petitioner and thereby Petitioner has suffered severe loss. Later during the investigation, the concerned investigating officer has found that the amount concerned to the above offence is lying in the bank account and as such, the investigating officer has filed a requisition on 01.09.2021 before this Hon'ble Court requesting and prayed to give permission to seize the amount lying in the bank account of the accused. **This Hon'ble Court has considered the case on record and passed an order on: 01.09.2021 itself permitting the concerned investigating officer to seize the aforesaid amount of Rs, 1,12,15,884/- of IDBI Bank, C.G.Road, Gujarat Branch belonging to Mahi Enterprises.**

7. It is submitted that, after passing the order by this Hon'ble Court, the concerned Investigating Officer has seized the said amount and after seizing the said amount he had filed one more requisition seeking permission to deposit the seized amount to the account of this Hon'ble Court i.e., C.M.M Court vide D.D. No.086305 in CRCD along with PF No.14/21. Later, this Hon'ble Court was pleased to hear the matter and after hearing this Hon'ble Court was pleased to pass an order by permitting the investigating officer to deposit the said D.D. amount in CRCD and directed the office to accept the same. Now, the above said amount of Rs.1,12,15,884/- is lying in the account of this Hon'ble Court as stated supra.

8. It is submitted that, as stated supra, the concerned investigating officer has seized the amount from the accused company and said amount is belonging to the Petitioner herein. The concerned investigating officer is also mentioned in his report before this Hon'ble Court that, the above said amount is pertaining to the Petitioner herein i.e., transacted amount as stated in the complaint. Hence, there is no legal embargo for this Hon'ble Court to release the above said amount in favour of the Petitioner herein.

9. It is submitted that, the above said M/s. Sagar Enterprises has received the amount from the Petitioner

herein, to the account of itself and to the account of one M/s Mahi Enterprises, who is also hand in glove with the M/s. Sagar Enterprises. The instructions given by M/s. Sagar Enterprises to the Petitioner herein, directing the Petitioner to deposit the amount to the above account to M/s Mahi Enterprises itself shows that, M/s. Sagar Enterprises has received the above said amount of Rs.1,14,00,000/- from the Petitioner herein through M/s.Mahi Enterprises illegal and hence the said amount may be released in favour of the Petitioner herein.

10. It is submitted that, the petitioner is very much in need of the above said amount lying in the accounts of the accused which amount actually belongs to the petitioner. The above said amount is very much necessary for the petitioner herein to do his day today business transactions. It will not serve any useful purpose if it is idle.

11. It is submitted that, the petitioner is the absolute owner for an amount of Rs.1,12,15,884/- as stated supra and petitioner is the complainant before the police regarding cheating of the said amount by the accused persons. In fact there is no any counter/ rival claim from anybody regarding the above said amount and hence, petitioner is entitled for the possession of the same. Moreover there are no any other rival claims for the said amount.

12. It is submitted that, the petitioner is ready to execute the necessary Bond and undertakes to abide by all the conditions that may be imposed by this Hon'ble court in the event of allowing this application.

Wherefore, the Petitioner in the above case most respectfully prays that, this Hon'ble Court be pleased to pass an interim order to release the amount of Rs.1,12,15,884/- (Rupees One Crore Twelve lakhs Fifteen Thousand Eight Hundred and Eighty Four only) which is subjected by the Petitioner police in the P.F. No.14/2021 in the above case, which is deposited by the investigating officer to the account of this Hon'ble Court (CMM Court) vide D.D. No.086305 in CRCD, as per the order passed by

**this Hon'ble Court on 01.09.2021, in favour of the Petitioner herein, pending disposal of the above case to meet the justice and equity.**

Petitioner's bank Account details:

CHANDRU & Co.  
HDFC Bank  
A/c. No. 50200033196201  
IFSC Code: HDFC0001373  
Branch: Rajajinagar  
Bengaluru-560010"

The concerned Court issues notice even to the present petitioner and thereafter, passes the following order:

"The application filed by the petitioner M/s. Chandru & Co. under Sec.451 and 457 of Cr.P.C. dated 09-09-2021 is hereby allowed.

**The amount of Rs.1,12,15,844/-seized by I.O.as per P.F.No.14/2021 and deposited before this Court under CR.C.D. No.3669 dated 04.09.2021, shall be released to interim custody of petitioner on execution of Indemnity Bond for Rs.1,12,15,884/-with two local sureties for likesum, undertaking to satisfy future rival claims if any.**

**Condition:**

**1. Petitioner shall deposit aforesaid amount of Rs.1,12,15,884/- before this Court as and when directed to do so, if any rival claim is filed in future."**

Thereafter, the petitioner files an application seeking for a direction for defreezement of the account and to afford access to

the account for performance of his business activities, which reads as follows:

- "1. The complainant police have registered a crime in Cr. No.413/2021 against the accused for the offences punishable under Section 66(d) of Information Technology Act, read with Section 419 and 420 of Indian Penal Code based on the complaint lodged by one Hemanth Shekhar.
2. It is a case of the informant that they are engaged in the business running under the name and style M/s Chandru and company. Further it is the case of the complainant that they received a business offer through email for exporting an Indian product BIO CHAMPACALIN FLUID to UK. Upon receiving the mail, the complainant contacted them and the business deal was to procure the fluid from the Indian company i.e., M/s Sagar Enterprises and export the same to Centric Pharma situated in U.K. In this context, it is further alleged in the complaint that in relation to the above said business transaction, a sum of Rs.3,00,000/- was transferred on 22.07.2021 to said M/s Sagar Enterprises as an advance for purchasing one liter of sample fluid Later on 05.08.2021 Rs.30,00,000/- was transferred to HDFC Bank belonged to M/s Sagar Enterprises and Rs.27,00,000/- was transferred to DBS Bank, and on 10.08.2021 Rs.27,00,000/- was transferred to the current account of the applicant - Mahi Enterprises with IDBI Bank CG Road branch, Amdavad.
3. Further the complainant alleges in the complaint that after transferring the amount of **Rs.1.17 crores**, M/s Sagar Enterprises have cheated the complainant by failing to supply the said oil.
4. The complainant police based on the above said complaint started investigation. During the course of investigation, the complainant police have seized certain bank accounts mentioned in the complaint amongst others, the complainant police have frozen the bank accounts

pertaining to the applicant as detailed below and arrayed him as accused No. 3 in the above crime:

| Account Holder Name | Name of the Bank | Account Number   | IFSC Code   | Amount        |
|---------------------|------------------|------------------|-------------|---------------|
| Mahi Enterprises    | IDBI Bank        | 0009102000081360 | IBKL0000009 | 1,12,15,884/- |

5. The applicant submits that he is engaged in the business of trading of goods under the name and style of 'Mahi Enterprises', a sole proprietorship concern carrying on his business of trading in agricultural commodities and related activities at Celler/B/3, Kalapurnam Comp. 20/21, Severnt Society, CG Road, Navrangpura, Amdavad - 380 009. The copy of the Proprietorship Certificate issued by the Amdavad Municipal Corporation (Shops and Establishment Department) vide Registration No.PII/MNM/2900022/000269798 is produced herewith as **Document No.1.**
6. The applicant has been engaged in this business of trading of agricultural commodity goods for the past several years having a good reputation in his business circle and society. The applicant is adutiful and law-abiding citizen engaged in his lawful business activities and duly complying with all applicable laws and also ensuring due compliance with all tax liabilities in respect of his business transactions. The copy of the Pan Card, the copy of the Aadhaar Card is produced herewith as **Document No.2 & 3,** respectively.
7. The applicant's business activities include supply of goods procured by him to his customers in Amdavad as well to his customers in other states. The applicant submits that there are no averments against the applicant in either the complainant's statement or the FIR for having involved with M/s Sagar Enterprises. Further, the Applicant has absolutely no connection or business transactions with the said M/s Sagar Enterprises.

8. For the purposes of his lawful business transactions, the applicant has been using and operating a current account with IDBI Bank, C G Road Branch, Amdavad, Gujarat bearing A/c No. 0009102000081360.
9. **The applicant received a letter from his banker stating that there was a communication received by the applicant's bank from the Cyber Crime Police Station Bengaluru regarding registration of Crime No.413/2021 against the applicant and also direction of this Hon'ble Court i.e., I ACMM Court Bengaluru in the said proceedings directing freezing relation to transactions pertaining to M/s Sagar Enterprises. Aggrieved by the directions of this Hon'ble Court, the applicant is filing the present application.**
10. **The applicant submits that he has not involved in any fraudulent transaction with any of the accused in the present proceedings. The complainant police at the time of investigation have arrayed him as accused No.3 in the above case and proceeded to freeze the current account pertaining to the applicant i.e., accused No.03 and seized the amount of Rs.1,12,15,884/- vide PF No.14/2021 which belongs to the accused No.3**
11. **The applicant submits that he is unaware of the business transaction held between the complainant and M/s Sagar Enterprises. The complainant police without freezing the Bank Account pertaining to M/s Sagar Enterprises has straight away proceeded to freeze the current account pertaining to the applicant and deposited the amount of Rs.1,12,15,884/- before this Hon'ble Court.**
12. The applicant/accused No.3 submits that he has not illegally gained money by transferring an amount of **Rs.1.17 crores** from complainant.
13. The applicant/accused no.3 submits that he has not assured the complainant to supply any particular fluid nor directed the complainant to deposit the money in the name

of the applicant. Thereby he has not cheated the complainant in any manner or played any fraud.

14. The complaint does not disclose any involvement of the applicant with the accused M/s Sagar Enterprises or other parties who are arrayed as the accused.
- 15. The applicant submits that the complainant police without intimating the same to the applicant has filed an application and obtained the order for freezing of the abovementioned bank account of the applicant, which has caused great hardship to the applicant; and the applicant also suffered huge losses as he has not been able to carry on his business without being able to access the funds in his bank account.**
16. The applicant submits that the applicant undertakes to abide by any condition that may imposed by this Hon'ble court.
17. The applicant submits that the applicant undertakes to execute an indemnity bond for a sum of **Rs.1,12,15,884/-** to the satisfaction of this Hon'ble Court.
18. The applicant undertakes to give surety to the satisfaction of this Hon'ble court.
19. The applicant shall not tamper with the bank accounts belonging to the applicant and agrees to be bound by any future order of this Hon'ble Court in this regard.

### **PRAYER**

**Wherefore the Applicant most respectfully prays that this Hon'ble court be pleased to direct the complainant police to de-freeze the account pertaining to the applicant and release the amount of Rs.1,12,15,884/- as mentioned in the current account bearing No.0009102000081360 which is held in IDBI Bank CG Road Branch, Amdavad, Gujarat and permit the Applicant to carry on his business activities, in the interest of justice and equity."**

The order of the concerned Court on the afore-quoted application of the petitioner reads as follows:

**"REASONS**

10. **Point No.1**: The complainant police have initially registered the present case against unknown accused persons for offences punishable under sections 419, 420 of I.P.C. and under sections 66(D) of Information Technology Act 2000, on specific allegation that firm of complainant received a call from an unknown person and induced to purchase BIO CHAMPACALIN FLUID from one M/s. Sagar enterprises and to resell said fluid to it, which would fetch them huge profits. Thereafter, complainant contacted M/s. Sagar enterprises and transferred Rs.1,17,00,000/- through its bank account held in HDFC Bank, DBS Bank and IDBI Bank. Thereafter, the said firm delivered fake fluid and thereby cheated the complainant firm.

11. Thereafter it shows that I.O. has immediately got frozen the account of so called accused, i.e., present petitioner in which the aforesaid illegally gained amount was transferred by accused i.e., in the account of Mahi Enterprises bearing No.0009102000081360 held in IDBI Bank, CG Road Branch, Gujarat. It further shows that as per order dated 01.09.2021, I.O. has seized the above amount and later got deposited it in CRCD of this Court under CRCD No.3669 on 04.09.2021.

12. It further shows that as per the application filed by defacto complainant dated 9.9.2021, this court has released aforesaid amount of Rs.1,12,15,884/- in favour of said complainant on condition to deposit the same before this court as and when directed to do so.

13. Now, the petitioner/accused No.3 by name Bhavik Lalith Bhai Parikh has come up with present application seeking to defreeze aforesaid account and to release entire frozen amount in his favour. Counsel for said petitioner has vehemently argued that as per the case of the complainant himself only Rs.27 lakhs was transferred to the account of petitioner and in spite of it, he has got transferred aforesaid huge amount of

Rs. 1.12 crores, which is hard earned money of this petitioner. She has further argued that absolutely, there is no nexus between present and called Sagar petitioner/accused No.3 is entitled for Enterprises. Hence, the petitioner defreezing of above account for smooth administration of business and also entitled for refund of amount seized from his account. In support of arguments, said Counsel has relied on copy of Certificate issued by Amdabad Municipal Corporation in favour of the petitioner under Shops & Establishment Act and copy of PAN card and Aadhaar Card.

14. On the other hand LC for defacto complainant vehemently argued that aforesaid Petitioner/accused No.3 in collusion with Sagar Enterprises has cheated the complainant by hatching. a conspiracy and the very transfer of part amount of Rs.27 Lakhs to the account of present petitioner itself is a strong ground to show his involvement in above offence.

**15. Further on perusal of objections of learned Sr.APP and report of I.O, it shows that the present petitioner/accused No.3 has not appeared before I.O. despite issuance of repeated notices nor he has put forth any documents to show his accumulation of aforesaid huge amount by lawful means by producing accounts of his firm. It further shows that he has not co-operated with investigation and all these aspect raises doubt regarding his claim towards aforesaid freezed amount. Moreover, though counsel for the petitioner argued the email address discloses GST number of the petitioner firm, counsel for the complainant has produced memo with online copy of GST status, wherein the GST number of petitioner shown in email of the complainant is shown as invalid. These all aspect raises doubt with regard to conduct of the petitioner and it is difficult to believe that he has approached the court with clear hands. If at all the aforesaid account is defreezed and if above amount is released to the custody of petitioner, there are chances that the petitioner may repeat similar offence and he may flee away for ever with aforesaid amount, which would result in irreparable loss and injury to defacto complainant. Moreover, filing of requisition by Habibganj PS, Bhopal is also ground to believe that the aforesaid account of the petitioner is involved in some other cases**

**and several persons have been subjected to fraudulent transactions in similar manner. These all aspect does not entitle the petitioner for release of his aforesaid account at this stage of investigation much less for release of amount of Rs.1,12,15,884/-, which is already given to interim custody of defacto complainant. Hence, the application filed by the petitioner/accused No.3 deserves to be rejected. Hence, point No.1 is answered in the Negative.**

16. **Point No.2**: For the reasons stated and findings given on point No.1 following is :-

### **ORDER**

**The application filed by petitioner by name M/s Mahi Enterprises, represented by its Proprietor Bhavik Lalith Bhai Parikh under Sec.451 and 457 of Cr.P.C. dated 8.11.2021 is hereby rejected."**

These two afore-quoted orders are called in question by the petitioner before the revisional Court in Crl.R.P.Nos.34/2024 and 475/2022 respectively. The revisional Court by its orders dated 11.11.2024, rejects both the petitions filed by the petitioner and affirmed the orders passed by the concerned Court. It directs release of the amount in favour of the complainant with certain conditions. The orders passed in Crl.P.Nos.34/2024 reads as follows:

### **"REASONS**

9. **POINT NO.1:-** The petitioner has filed application under Section 5 of the Limitation Act to condone the delay of 849 days in filing the revision petition. In support of his application the petitioner has sworn to an affidavit wherein it is stated that he had preferred revision petition No.475/2022, but had not specifically assailed the order dated 27/09/2021 passed by the I ACMM, Bengaluru. In order to ensure the best interest of justice and to iron out any procedural hurdles, if any he has preferred the petition separately assailing the order dated 27/09/2021. The delay in filing petition is neither intentional nor deliberate. Therefore, prayed to allow the application.

10. The Hon'ble Apex Court in catena of cases has held that "sufficient cause should be given liberal construction so as to advance substantial justice when there is no inaction, no negligence or want of bonafide imputable to the appellant. The object of the Limitation Act is not to destroy and take away the rights of the parties. This being its objective, provisions to condone the delay has always been interpreted with a liberal touch."

11. On perusal of the above aspect I find no malafide intention on the part of the appellant for the delay in preferring the appeal. However in order to meet the ends of justice it is just and proper to condone the delay as sought for. However, inconvenienced caused to the respondent may be met with by imposing cost on the appellant. Under the circumstances the situation of the appellant is worthy of protection under section 5 of Limitation Act, in view of her illness. Therefore point No.1 is answered in the ***Affirmative.***

12. **POINT No.2:** The petitioner has filed this revision petition challenging the order dated 27/09/2021 in Crime No.413/2013 (C.C.No.27075/2023) on the file of I ACMM, Bengaluru passed on application under Section 451 and 457 of Cr.P.C by the defacto complainant.

13. The counsel for respondent No.2 has vehemently argued regarding the maintainability of the revision petition before this Court. He has categorically stated that since the application is made for interim custody of the amount before the trial Court, the revision petition is not maintainable. Though I

find some force in the arguments advanced by the counsel for respondent, it is to be noted that the counsel for petitioner has relied upon a ruling reported in **Criminal Revision Petition 100268/2023 in the case of Mustafa vs State of Karnataka** wherein the Hon'ble High Court of Karnataka relying upon various judgments that when the revision petition is decided against the petitioner, he has got a right to prefer revision petition against that order which cannot be construed as an interlocutory order for the purpose of Section 397 of Cr.P.C. In view of the finding in the above said judgment, it is to be considered that the revision petition of this nature is not maintainable.

14. The petitioner has challenged the order of the learned Magistrate in allowing the application filed by the defacto complainant under Section 451 and 457 of Cr.P.C for release of the amount seized by the police to the tune of Rs.1,12,15,884/- under PF No.14/21 of CEN Police Station. The contention of the petitioner is that the defacto complainant transferred a sum of Rs.27,00,000/- in favour of the petitioner company. The rest of the amount seized by the police is the hard earned money of the petitioner and therefore the learned Magistrate ought not to have rejected the application filed by the petitioner. Though I find some force in the arguments advanced by the counsel for petitioner, it is to be noted that the available materials on record indicates that the petitioner is none other than the associate of the accused No.1 who entered into agreement with the defacto complainant and to whom the amount was transferred from the defacto complainant.

**15. I have perused the materials placed before the Court wherein it indicates that on the basis of the request of Sagar Enterprises along with whom the defacto complainant had transaction, the amount was transferred to the account of Mahi Enterprises. The email communication to that effect placed on record clearly indicates the said fact. Apart from the above the objections filed by the learned Public Prosecutor indicates that the case came to be registered against the petitioner by Bhopal Police in connection with similar offence. Therefore, it has to be ascertained whether the petitioner is jointly operating with Sagar Enterprises. This can be**

ascertained only after a full fledged trial. At this stage the available material on record indicates that the defacto complainant has transferred the amount to the account of Sagar Enterprises and Mahi Enterprises. Therefore the fact that the amount which is deposited in the account of the petitioner being proceeds of the crime cannot be ruled out. Further same can be ascertained after a full fledged trial. It is also not in dispute that the complainant has lost a sum of Rs.1,17,00,000/- by transferring it to the account of the petitioner and Sagar Enterprises. Since there is every possibility that the amount deposited in the account of the petitioner being proceeds of the crime, I find no fault in the order of the learned Magistrate in releasing the amount seized under PF No.14/2021 in favour of the defacto complainant who actually lost the amount due to the fraudulent act of the Sagar Enterprises as well as the petitioner.

16. The learned counsel for the petitioner has vehemently argued that before freeing of account and deposits of the amount standing in his account before the trial Court and prior to release of the same to the defacto complainant, notice has not been issued to the petitioner.

17. I have gone through the materials produced by the petitioner himself before the Court which indicates that CEN Police, Central Division have issued notice under Section 41(a) of Cr.P.C to the proprietor of M/s. Mahi Enterprises on 14/9/2021, 23/9/2021, 25/9/2021, but the petitioner has not responded to the said notice issued by the IO. When the petitioner has not responded to the notice issued to him by the IO, he is estopped from taking a plea that notice was not issued to him before release of the amount in favour of the defacto complainant. In support of his contention the counsel for petitioner has relied upon a judgment passed by the Hon'ble High Court of Karnataka in **WP No.2865/2022 (GM-RES) in the case of Sri. Rahul Chari and another vs State of Karnataka and others**, wherein the order of the learned Magistrate in releasing the amount to the complainant was set aside.

18. I have gone through the findings given in the said judgment wherein it indicates that in the said case the petitioner was not an accused. He was not aware of the registration of the case. Without he being the accused his account was freezed and amount was released in favour of the defacto complainant.

19. In the said case, the petitioner was only an account holder and not an accused. Under the said circumstances the Hon'ble High Court passed an order to issue notice to the account holder and set aside the order of the learned Magistrate. The relevant portion of the judgment of the Hon'ble High Court is extracted below:

*"This Court is coming across scores and scores of cases where the account is frozen, defrozen and the amount that the complainant is due from a suspect or an accused is transferred to the account of the complainant from the account of third parties which action is contrary to all cannons of law".*

But unlike the said case in this case the account does not belong to third party, but account belong to the petitioner and the said amount was ordered to be released in favour of the defacto complainant. Under these circumstances, the ruling relied upon by the learned counsel for petitioner is not applicable to the facts and circumstances of this case.

20. The learned counsel for respondent No.2 has argued to the effect that the order passed by the learned Magistrate is proper. He has argued that the petitioner is none other than the accused in this case. Under these circumstances the order passed by the learned Magistrate is just and proper. In support of his contention, the learned counsel for respondent No.2 has relied upon judgment reported in **ILR 1984 Karnataka 923 in the case of Mangharam and sons vs. R.C.Morzaria and another** wherein it is held that :

*"In a case like this where the person from whom the property is seized also claims the custody of that property, two things are required to be considered. Normally the person from whom the*

*property is seized is entitled to the custody of the same (with or without conditions) but he will not be entrusted with the property if there is prima facie material on record showing that he has committed some offence re: the same. In such an event, the claim, if any, of the other person, or the complainant as in this case, may be considered. While examining the rival claims the question as to who was in lawful possession firstly, at the time of seizure and secondly, earlier that is to say, earlier to the event which gave cause to that seizure, is very important. If no prima facie case for any offence is made out against the person from whom the property is seized he can be presumed to have been in lawful possession of the same as the time of seizure and may be entrusted with it."*

21. The learned counsel for respondent has relied upon the following rulings:

- i) 2004 SCC Online Bom 1101 in case of Pirappa Mahadeo Birajdar vs. M/s. Arti Co. & others.
- ii) 2020 SCC Online MP 4592 in case of Aruni Sahgal vs. State of Madhya Pradesh.
- iii) Crl.M.C No.2622 of 2014 (D) in case of Jaison vs. State of Kerala and another.

The above citations relied by the counsel for respondent No.2 is passed by other High Courts. They have got persuasive value. But the counsel for the petitioner has relied upon a judgment of the Hon'ble High Court in Criminal Revision Petition No.100268/2023 dated 18/07/2023, wherein relying upon various judgments Hon'ble High Court observed that the revision petition against the order under Section 451 of Cr.P.C is maintainable. Therefore, the rulings relied upon by the counsel for respondent cannot be taken into consideration.

**22. I have perused the orders passed by the learned Magistrate wherein it is stated that the petitioner who is accused No.3 has not appeared before the IO despite**

issuance repeated notices nor he has put-forth any documents to show his accumulation of aforesaid huge amount by lawful means by producing amounts of his firm. It further shows that he has not co-operated with investigation and all these aspects raises doubt regarding his claim towards aforesaid freezed amount. The learned Magistrate also held that the online copy of GST status, wherein the GST number of petitioner shown in email of the complainant is shown as invalid. He has also discussed regarding the involvement of the petitioner in this case. Considering all the above aspects the learned Magistrate has rightly rejected the application filed by the petitioner and I find no ground to interfere with the orders passed by the learned Magistrate.

23. On perusal of the materials placed before the Court and orders passed by the learned Magistrate there is nothing on record to come to a conclusion that correctness, legality or propriety of the findings recorded by the trial Court suffers from all the infirmities. It is to be noted that the amount was released to the interim custody of the defacto complainant. There are all the opportunities for the petitioner to put forward his claim during the conclusion of the trial. Therefore I find no reason to interfere with the finding of the learned trial Court. Therefore, the point No.2 is answered in the negative.

24. **Point No.3:-** In the result I proceed to pass the following:-

### **ORDER**

The petition filed by the petitioners under Section 397(3) of Code of Criminal Procedure Code is hereby dismissed with cost."

The order passed in Crl.R.P.No.475/2022 reads as follows:

"... .."

### **REASONS**

10. **POINT NO.1** :- The petitioner has filed this revision petition challenging the order dated 18/05/2022 in Crime No.413/2013 on the file of I ACMM, Bengaluru passed on application under Section 451 and 457 of Cr.P.C by petitioner/accused No.3.

11. The counsel for respondent No.2 has vehemently argued regarding the maintainability of the revision petition before this Court. He has categorically stated that since the application is made for interim custody of the amount before the trial Court, the revision petition is not maintainable. Though I find some force in the arguments advanced by the counsel for respondent, it is to be noted that the counsel for petitioner has relied upon a ruling reported in **Criminal Revision Petition 100268/2023 in the case of Mustafa vs State of Karnataka** wherein the Hon'ble High Court of Karnataka relying upon various judgments held that when the revision petition is decided against the petitioner, he has got a right to prefer revision petition against that order which cannot be construed as an interlocutory order for the purpose of Section 397 of Cr.P.C. In view of the finding in the above said judgment, it is to be considered that the revision petition of this nature is maintainable.

12. The petitioner has challenged the order of the learned Magistrate in dismissing the application filed by him under Section 451 and 457 of Cr.P.C for release of the amount seized by the police to the tune of Rs. 1,12,15,884/- under PF No.14/21 of CEN Police Station. The contention of the petitioner is that the defacto complainant transferred a sum of Rs.27,00,000/- in favour of the petitioner company. The rest of the amount seized by the police is the hard earned money of the petitioner and therefore the learned Magistrate ought not to have rejected the application filed by the petitioner. Though I find some force in the arguments advanced by the counsel for petitioner, it is to be noted that the available materials on record indicates that the petitioner is none other than the associate of the accused No.1 who entered into agreement with the defacto complainant and to whom the amount was transferred from the defacto complainant.

**13. I have perused the materials placed before the Court wherein it indicates that on the basis of the request of Sagar Enterprises along with whom the defacto complainant had transaction, the amount was transferred to the account of Mahi Enterprises. The email communication to that effect placed on record clearly indicates the said fact. Apart from the above the objections filed by the learned Public Prosecutor indicates that the case came to be registered against the petitioner by Bhopal Police in connection with similar offence. Therefore, it has to be ascertained whether the petitioner is jointly operating with Sagar Enterprises. This can be ascertained only after a full fledged trial. At this stage the available material on record indicates that the defacto complainant has transferred the amount to the account of Sagar Enterprises and Mahi Enterprises. Therefore the fact that the amount which is deposited in the account of the petitioner being proceeds of the crime cannot be ruled out. Further same can be ascertained after a full fledged trial. It is also not in dispute that the complainant has lost a sum of Rs.1,17,00,000/- by transferring it to the account of the petitioner and Sagar Enterprises. Since there is every possibility that the amount deposited in the account of the petitioner being proceeds of the crime, I find no fault in the order of the learned Magistrate in releasing the amount seized under PF No.14/2021 in favour of the defacto complainant who actually lost the amount due to the fraudulent act of the Sagar Enterprises well as the petitioner.**

14. The counsel for petitioner has also advanced his arguments that the account of the petitioner is freezed by the bank on the request of the concerned police and no purpose would be served by freezing the account. He is transacting his business through the said account and he requires the said account for day today transaction and therefore sought to de-freeze the said account and also challenged the order of learned Magistrate in dismissing the said application. It is not in dispute that the defacto complainant has transferred the amount to the account of the petitioner. When the documents are available in proof of the same, it is not forthcoming and not explained as to

why a situation arose to defraud the defacto complainant on the part of the petitioner.

: 15. Apart from the above there are also materials to show that the petitioner is involved in similar offences and the Bhopal police are in search of the petitioner and they have also sought for freezing of the account of the petitioner. Under these circumstances if an order of de-freezing the account of the petitioner is passed, definitely there are chances of the petitioner committing similar offence and there are also chances of destroying of material, evidence. Further it may also come in the way of proper investigation of this case as well as case registered by Bhopal Police. Under these circumstances the reason assigned by the learned Magistrate dismissing the application filed for de-freezing the account of the petitioner does not suffer from any infirmity.

16. The learned counsel for the petitioner has vehemently argued that before freeing of account and deposits of the amount standing in his account before the trial Court and prior to release of the same to the defacto complainant, notice has not been issued to the petitioner.

**17. I have gone through the materials produced by the petitioner himself before the Court which indicates that CEN Police, Central Division have issued notice under Section 41(a) of Cr.P.C to the proprietor of M/s. Mahi Enterprises on 14/9/2021, 23/9/2021, 25/9/2021, but the petitioner has not responded to the said notice issued by the IO. When the petitioner has not responded to the notice issued to him by the IO, he is estopped from taking a plea that notice was not issued to him before release of the amount in favour of the defacto complainant.** In support of his contention the counsel for petitioner has relied upon a judgment passed by the Hon'ble High Court of Karnataka in **WP No.2865/2022 (GM-RES) in the case of Sri. Rahul Chari and another vs State of Karnataka and others**, wherein the order of the learned Magistrate in releasing the amount to the complainant was set aside.

18. I have gone through the findings given in the said judgment wherein it indicates that in the said case the petitioner was not an accused. He was not aware of the registration of the

case. Without he being the accused his account was freezed and amount was released in favour of the defacto complainant.

19. In the said case, the petitioner was only an account holder and not an accused. Under the said circumstances the Hon'ble High Court passed an order to issue notice to the account holder and set aside the order of the learned Magistrate. The relevant portion of the judgment of the Hon'ble High Court is extracted

"This Court is coming across scores and scores of cases where the account is frozen, defrozen and the amount that the complainant is due from a suspect or an accused is transferred to the account of the complainant from the account of third parties which action is contrary to all cannons of law".

But unlike the said case in this case the account does not belong to third party, but account belong to the petitioner and the said amount was ordered to be released in favour of the defacto complainant. Under these circumstances, the ruling relied upon by the learned counsel for petitioner is not applicable to the facts and circumstances of this case.

20. The learned counsel for respondent No.2 has argued to the effect that the order passed by the learned Magistrate is proper. He has argued that the petitioner is none other than the accused in this case. Under these circumstances the order passed by the learned Magistrate is just and proper. In support of his contention, the learned counsel for respondent No.2 has relied upon judgment reported in **ILR 1984 Karnataka 923 in the case of Mangharam and sons vs. R.C.Morzaria and another** wherein it is held that :

"In a case like this where the person from whom the property is seized also claims the custody of that property, two things are required to be considered. Normally the person from whom the property is seized is entitled to the custody of the same (with or without conditions) but he will not be entrusted with the property if there is prima facie material on record showing that he has committed some offence re: the same. In such an event, the claim, if any, of the other person, or the complainant as in this case, may be

considered. While examining the rival claims the question as to who was in lawful possession firstly. at the time of seizure and secondly, earlier that is to say, earlier to the event which gave cause to that seizure, is very important. If no prima facie case for any offence is made out against the person from whom the property is seized he can be presumed to have been in lawful possession of the same as the time of seizure and may be entrusted with it."

**21. I have perused the orders passed by the learned Magistrate wherein it is stated that the petitioner who is accused No.3 has not appeared before the IO despite issuance of repeated notices nor he has put-forth any documents to show his accumulation of aforesaid huge amount by lawful means by producing amounts of his firm. It further shows that he has not co-operated with investigation and all these aspects raises doubt regarding his claim towards aforesaid freezed amount. The learned Magistrate also held that the online copy of GST status, wherein the GST number of petitioner shown in email of the complainant is shown as invalid. He has also discussed regarding the involvement of the petitioner in this case. Considering all the above aspects the learned Magistrate has rightly rejected the application filed by the petitioner and I find no ground to interfere with the orders passed by the learned Magistrate.**

**22. On perusal of the materials placed before the Court and orders passed by the learned Magistrate there is nothing on record to come to a conclusion that correctness, legality or propriety of the findings recorded by the trial Court suffers from all the infirmities. It is to be noted that the amount was released to the interim custody of the defacto complainant. There are all the opportunities for the petitioner to put forward his claim during the conclusion of the trial. Therefore I find no reason to interfere with the finding of the learned trial Court. Therefore, the point No. 1 is answered in the negative.**

23. **Point No.2:-** In the result I proceed to pass the following:-

**ORDER**

**The petition filed by the petitioners under Section 397(3), of Code of Criminal Procedure Code is hereby dismissed with cost."**

*(Emphasis added at each instance)*

A perusal at the orders passed by the concerned Court and that of the revisional Court would clearly indicate that the concerned Court traversing through the entire transactions between the parties right from the email trail between them that begins from 10.08.2021 and with regard to the transfer of amount or the transportation of material from the hands of the petitioner - accused No.2 and in turn to accused No.1 and has rightly directed to release the amount in favour of the complainant.

11. It is apposite to quote the judgment of the Apex Court in the case of **BIR SINGH v. MUKESH KUMAR**<sup>1</sup>, wherein it is held as follows:

".... ....

**15.** The appellate court affirmed the aforesaid factual findings. The trial court and the appellate court arrived at the specific concurrent factual finding that the cheque had

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<sup>1</sup> (2019) 4 SCC 197

admittedly been signed by the respondent-accused. The trial court and the appellate court rejected the plea of the respondent-accused that the appellant complainant had misused a blank signed cheque made over by the respondent-accused to the appellant complainant for deposit of income tax, in view of the admission of the respondent-accused that taxes were paid in cash for which the appellant complainant used to take payment from the respondent in cash.

**16. It is well settled that in exercise of revisional jurisdiction under Section 482 of the Criminal Procedure Code, the High Court does not, in the absence of perversity, upset concurrent factual findings. It is not for the Revisional Court to re-analyse and re-interpret the evidence on record.**

**17. As held by this Court in *Southern Sales & Services v. Sauermilch Design and Handels GmbH* [*Southern Sales & Services v. Sauermilch Design and Handels GmbH*, (2008) 14 SCC 457] , it is a well-established principle of law that the Revisional Court will not interfere even if a wrong order is passed by a court having jurisdiction, in the absence of a jurisdictional error. The answer to the first question is therefore, in the negative.”**

(Emphasis supplied)

The Apex Court in terms of the afore-quoted judgment holds that the High Courts are not the Revisional Courts to re-analyse and re-interpret the evidence on record and upset the concurrent findings rendered by the trial Courts. In that light, no fault can be found at the hands of the concerned Courts, as the concerned Courts have imposed certain conditions that in the event of the

complainant losing the case, he shall re-deposit the entire amount before the concerned Court. In the light of such prediction and respondent No.2 - complainant *prima facie*, who has lost the aforesaid amount and more, with the ploy of accused Nos.1 and 2 and he proving that he is entitled to the said amount, there is no warrant of interference with the orders which are rendered on cogent reasons.

12. Finding no merit in these petitions, the petitions stand **rejected**.

**Sd/-  
(M.NAGAPRASANNA)  
JUDGE**

nvj  
CT:MJ/SS