

# Prof K S Rangappa vs State Of Karnataka on 29 November, 2016

**Author: Anand Byrareddy**

**Bench: Anand Byrareddy**

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IN THE HIGH COURT OF KARNATAKA AT  
BENGALURU

DATED THIS THE 29TH DAY OF NOVEMBER 2016

BEFORE

THE HONOURABLE MR. JUSTICE ANAND BYRAREDDY

CRIMINAL PETITION No.6480 OF 2016

CONNECTED WITH

CRIMINAL PETITION No.6595 OF 2016

CRIMINAL PETITION No.6640 OF 2016

CRIMINAL PETITION No.6773 OF 2016

CRIMINAL PETITION No.7471 of 2016

IN CRL.P.No.6480/2016

BETWEEN:

Prof. K.S.Rangappa,  
Aged about 62 years,  
Son of Late Subbegowda,  
Residing at Door No.227/9,  
Bogadi 2nd State,  
Mysore - 570 026.

...PETITIONER

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(By Shri B.V.Acharya, Senior Advocate for  
Shri Subramanya R., Advocate)

AND:

1. State of Karnataka,  
Represented by  
Jayalakshmipuram Police Station,  
Mysore City 570 001,  
Through its  
Public Prosecutor.
2. Dr. A. Khadar Phasha,  
Son of Late Ahmad Hussain,  
Aged about 50 years,  
Government Official Gazzeted  
Financial Officer,  
KSOU,  
Manasagangotri,  
Mysuru City 570 006.

...RESPONDENTS

(By Shri Chetan Desai, Government Pleader for Respondent  
No.1;  
Shri M.B.Naragund, Senior Advocate for Smt. Sona Vakkund,  
Advocate for Respondent No.2)

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This Criminal Petition is filed under Section 482 code of  
Criminal Procedure, 1973, praying to quash the complaint dated  
19.8.2016 pending on the file of Additional Civil Judge  
(Sr.Dn.) and Chief Judicial Magistrate, JLB Road, Mysore and  
quash the FIR in Crime No.42/2016 registered by the  
respondent No.1 Jayalakshmipuram Police Station , Mysuru for  
the offence punishable under Sections 406, 409 and 149 of IPC  
as against the petitioner.

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IN CRL.P.No.6595/2016

BETWEEN:

Prof. M.G.Krishnan,  
Son of Late M. Gooligowda,  
Age: 64 years,  
Occupation: Retired Vice Chancellor,  
K.R.S.Main Road,  
V.V.Mohalla,  
Mysore - 570 002.

...PETITIONER

(By Shri H.S.Chandramouli, Advocate)

AND:

1. The State of Karnataka,  
By Jayalakshmipuram Police Station,  
Mysuru.  
Represented by  
The State Public Prosecutor,  
High Court of Karnataka,  
Annex Building,  
Bengaluru 560 001.
2. Agency  
Dr. A. Khadar Phasha,  
Son of Late Ahmad Hussain,  
Aged about 50 years,  
Finance Officer,  
KSOU,  
Manasagangotri,  
Mysuru City 570 006.

...RESPONDENTS

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(By Shri Chetan Desai, Government Pleader for Respondent  
No.1;  
Shri M.B.Naragund, Senior Advocate for Smt. Sona Vakkund,  
Advocate for Respondent No.2)

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This Criminal Petition is filed under Section 482 code of  
Criminal Procedure, 1973, praying to quash the FIR in Crime  
No.42/2016 on the file of respondent No.1/Jayalakshmipuram  
Police Station, Mysuru, registered for the offences punishable  
under Sections 406, 409 read with 149 of IPC (now pending on  
the file of Additional Civil Judge (Sr.Dn.) and Chief Judicial  
Magistrate, JLB Road, Mysore City) in so far as petitioner is  
concerned.

IN CRL.P.No.6640/2016

BETWEEN:

1. Pro. T.D.Dave Gowda,  
Son of Dave Gowda,  
Aged about 63 years,  
Dean, Study Center,  
KSOU Mysore City,  
Mysore - 570 026.

Residing Address:

Prof. T.D.Dave Gowda,  
Son of Dave Gowda,

Aged about 63 years,  
Pudavana Road,  
4th Cross, 4th Stage,  
T.K.Layout,  
Mysore - 570 026.

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2. Dr. Ramanatham Naidu,  
Son of Seetharamaiah,  
Aged about 50 years,  
Chariman, Department of  
Telagu, KSOU,  
Manasagangotri Mysore City,  
Karnataka 570 026.

3. Pro. B.S.Vishwanath,  
Son of Sannanaika,  
Aged about 58 years,  
Chairman of Biochemistry,  
Residing at No.163,  
6th Main, "A" Block,  
3rd Stage, Vijaya Nagara,  
Mysore - 570 026.

...PETITIONERS

(By Shri B.V.Acharya, Senior Advocate for Shri Raju C.N.,  
Advocate)

AND:

1. State by Jayalakshmipuram Police,  
Mysore,  
Represented by  
State Public Prosecutor,  
High Court of Karnataka,  
Bangalore - 560 001.
2. Dr. A. Khadar Phasha,  
Son of Late Ahmad Hussain,  
Aged about 50 years,  
Government Official Gazzeted  
Finance Officer,

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KSOU,  
Manasagangotri,  
Mysore City,

Mysore- 570 006.

...RESPONDENTS

(By Shri Chetan Desai, Government Pleader for Respondent No.1;

Shri M.B.Naragund, Senior Advocate for Smt. Sona Vakkund, Advocate for Respondent No.2)

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This Criminal Petition is filed under Section 482 code of Criminal Procedure, 1973, praying to quash the complaint dated 19.8.2016 pending on the file of Additional Civil Judge (Sr.Dn.) and Chief Judicial Magistrate, JLB Road, Mysore City and quash the FIR in Crime No.42/2016 registered by the respondent No.1 - Jayalakshmipuram Police Station , Mysore City, for the offence punishable under Sections 406, 409 and 149 of IPC pursuant thereto as against the petitioners.

IN CRL.P.No.6773/2016

BETWEEN:

Prof. P.S.Naik,  
Son of Shankar Naik,  
Aged about 61 years,  
Residing at Sonali Nivas,  
No.1-873/5,  
Venkatesh Nagar,  
Near Deshmukh Apartment,  
Gulbarga - 585 102.

...PETITIONER

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(By Shri Ashok Haranahalli, Senior Advocate for  
Shri Subramanya R., Advocate)

AND:

1. State of Karnataka,  
Represented by  
Jayalakshmipuram Police Station,  
Mysore City - 570 001.  
Through its  
Public Prosecutor.
2. Dr. A. Khadar Pasha,  
Son of Late Ahmad Hussain,  
Aged about 50 years,  
Government Official  
Gazzeted Financial Officer,  
KSOU, Manasagangotri,

Mysuru City - 570 006.

...RESPONDENTS

(By Shri Chetan Desai, Government Pleader for Respondent No.1;

Shri M.B.Naragund, Senior Advocate for Smt. Sona Vakkund, Advocate for Respondent No.2)

This Criminal Petition is filed under Section 482 code of Criminal Procedure, 1973, praying to quash the complaint dated 19.8.2016 pending on the file of Additional Civil Judge (Sr.Dn.) and Chief Judicial Magistrate, JLB Road, Mysore City and quash the FIR in Crime No.42/2016 registered by the respondent No.1 - Jayalakshmipuram Police Station , Mysore City, vide Document No.1, Additional Civil Judge, and Chief Judicial Magistrate Court, JLB Road, Mysore city offences punishable under Sections 406, 409 and 149 of IPC as against the petitioner.

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IN CRL.P.No.7471/2016

BETWEEN:

Dr. V.N.Kamalesh,  
Son of Late A.J.Nagaraja,  
Aged about 46 years,  
Residing at No.25,  
Harshitha Farm House,  
Vasanthapura Main Road,  
Bengaluru - 560 061.

...PETITIONER

(By Shri Y.R.Sadashivareddy, Senior Advocate for  
Shri J.T.Gireesha, Advocate)

AND:

1. State of Karnataka  
Represented by Jayalakshmipuram  
Police Station,  
Mysore 570 012,  
Represented by  
State Public Prosecutor,  
High Court of Karnataka,  
Bangalore -560 001.
2. Dr. A. Khadar Phasha,  
Son of Late Ahmad Hussain,  
Aged about 50 years,  
Government Official Gazzeted

Finance Officer,  
KSOU,

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Manasagangotri,  
Mysore City- 570 006.

...RESPONDENTS

(By Shri Chetan Desai, Government Pleader for Respondent  
No.1;  
Shri M.B.Naragund, Senior Advocate for Smt. Sona Vakkund,  
Advocate for Respondent No.2)

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This Criminal Petition is filed under Section 482 code of Criminal Procedure, 1973, praying to quash the complaint dated 19.8.2016 pending on the file of Additional Civil Judge (Sr.Dn.) and Chief Judicial Magistrate, JLB Road, Mysore City and quash the FIR in Crime No.42/2016 registered by the respondent No.1 - Jayalakshmipuram Police Station , Mysore City, for the offence punishable under Sections 406, 409 and 149 of IPC.

These petitions having been heard and reserved on 4.11.2016 and coming on for pronouncement of orders this day, the Court delivered the following:-

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#### ORDER

These petitions are heard and disposed of by this common order.

Criminal Petition no.6480/2016 The petitioner in the above petition was said to be appointed as the Vice Chancellor of the Karnataka State Open University, Mysore (KSOU) by the Governor of Karnataka and was in office between the period 11-12-2009 and 10-1-2013. From 11-1-2013, he is said to have been appointed as the Vice Chancellor of the University of Mysore.

It is stated that a disgruntled officer of KSOU, who had been dismissed from service on findings against him at an enquiry relating to tampering of marks cards during the year 2010, namely, Quenean Ahmed, carried a grudge against the petitioner and hence is said to have embarked on a vilification campaign, particularly against the petitioner and is said to have made innumerable representations and complaints making false and frivolous allegations. One such representation is said to have been forwarded by the Chancellor, the Governor of Karnataka to the Vice Chancellor,

KSOU, with a direction to look into the same and to take appropriate action.

As regards the issue relating to allegations of tampering of marks cards, the Vice Chancellor is said to have constituted a fact finding Committee consisting of five members. The said Committee had concluded that the computerized marks cards carried errors on account of a technical fault attributable to the Information Technology Department. And it was the above said Quenean Ahmed, who was said to be the main person responsible for the discrepancy. The report having been placed before the Board of Management of the University, the matter was closed.

However, the said Quenean Ahmed is said to have continued to make complaints and the matter was ultimately said to have been placed before the Chancellor, who is said to have considered the entire record and had opined that there was no substance in the allegations. Without reference to the Order so passed by the then Chancellor, by a further order dated 1-10-2013, the succeeding Chancellor in office, is said to have constituted a One-man Fact Finding Committee, chaired by Justice K. Bhakthavatsala (Retired), who was required to address 9 items of reference. A report was said to have been submitted in due course by the said One-man Committee, to the Chancellor. The Chancellor, in turn, is said to have directed that an inquiry be conducted in terms of the findings in the report. He is also said to have directed that an audit be conducted by the Office of the Additional Director, Mysore Division. An audit report was said to have been submitted on 5-4-2016.

Based on the above said audit report, on the instructions of the Chancellor, directions were said to have been issued by a letter dated 22-7-2016 to the Registrar, KSOU, in view of the disclosure of a prima facie illegality found at point no.3 & no. 4 enumerated in the audit report, to take necessary steps for recovery and prosecution of the concerned persons named in the report. The Registrar, in turn, is said to have sought clarification on point no.3, as the audit report did not disclose that there was any irregularity and no loss had occasioned as the money which was to be paid to a third party by the University was already withheld.

When the matter was pending, awaiting clarification from the Chancellor's office, the second respondent herein, the Finance Officer of the University, is said to have enclosed the audit report to a letter addressed to the jurisdictional police with a request to examine the audit report and take suitable action against the named persons. The police are said to have registered an First Information Report (FIR) in case bearing Crime no.42/2016, dated 20-8-2016 for offences punishable under Sections 406, 409 & 149 of the Indian Penal Code, 1860 (Hereinafter referred to as the 'IPC', for brevity), against the petitioner and others and the petitioner is said to be arraigned as accused no.1.

It is this which is under challenge in the first of the petitions.

Criminal Petition no. 6640/2016 The three petitioners in this petition are arraigned as accused no.2, 3 and 4, respectively, in the very criminal case that is instituted against the petitioner in the first of these petitions, Crl.P 6480/2016. Petitioner no.1 was said to be the erstwhile Chairman of the Department of Political Science, KSOU. He is now said to be retired. Petitioner no.2 is said to be the Head of the Department of Telugu, KSOU and Petitioner no. 3 is said to be the Chairman of the



Department of Chemistry.

They have filed the petition questioning the basis of the FIR registered against them, as it is urged that none of the averments in the complaint constitute the ingredients to point to the commission of any offence by the petitioners. Criminal Petition no.6595/2016 The petitioner herein is said to have been appointed as the Vice Chancellor, KSOU and had served in that capacity between the period 31-1-2013 and 31-1-2016. He is arraigned as Accused no.6, in the very case registered against the other petitioners referred to hereinabove. And hence the present petition.

Criminal Petition no.6773/2016 The petitioner is said to be the Registrar of the KSOU and was appointed to the post as on 20-8-2013. It is stated that the initial direction by the Chancellor to take steps to recover monies and to prosecute the concerned, in terms of point no.3 & 4 of the Audit report referred to hereinabove was addressed to the petitioner. Since it was found that the findings in the audit report did not warrant an enquiry, the petitioner is said to have sought clarification. It was at this point of time, that the Financial Officer of the University had taken the initiative of filing a so called FIR, on the basis of which, the petitioner is named as Accused no.1 in the criminal case that has been initiated.

It is that which is under challenge in the present petition. Criminal Petition no.7471/2016 The petitioner herein is arraigned as Accused no.5 in the above said criminal case. He is said to have been working as the Director of Information Technology & Computer Science, KSOU, on deputation during the period 11-1-2011 and 10-1-2013. As it is contended that there is no basis for the allegations against the petitioner, the present petition is filed.

2. It is contended by the learned Senior Advocate, Shri B.V.Acharya, appearing for the learned counsel for the petitioner in CrI.P 6480/2016 and in CrI.P 6640/2016, that the proceedings initiated are without basis. In that, the facts and circumstances would not disclose any irregularity or illegality committed by the petitioners. On the other hand, the slip shod manner in which the proceedings have been foisted on the petitioners cannot be sustained in the light of the following infirmities.

It is pointed out that in terms of Section 154(1) of the Code of Criminal Procedure, 1973 (Hereinafter referred to as the 'CrPC', for brevity) that if information given to a police officer relates to the commission of a cognizable offence, then it is mandatory for him to register the offence by entering the substance of the information in the prescribed form. If such information did not disclose a cognizable offence, but indicated the necessity for an inquiry, a preliminary enquiry may be conducted only to ascertain whether a cognizable offence is disclosed or not. And if satisfied that there is a prima facie case for investigation, proceed to register the FIR. However, in the present case on hand, the complaint did not disclose any information relating to the commission of a cognizable offence alleged against the petitioner and hence the registration of the FIR is liable to be quashed. In that, there is no complaint lodged by respondent no.2 to the police. It is a covering letter sent along with the extract of an Audit report and a list of names of the officials of the University, who were working during the period 2011-2013. Apart from forwarding the same, there were no specific allegations against any person let alone the petitioners, hence the police could not have

mechanically registered the FIR, in the absence of specific allegations forming a complaint. And hence seeks that the proceedings be quashed.

Even assuming that the police had been able to deduce for themselves that the Audit report related to 'Point no. 3' and 'Point no. 4', Point no.3 related to the purchase of 30 computers for the year 2012-13 and 2013-14. The finding in the audit report is to the effect that 30 computers had been purchased during the year 2012-13 and no computers had been purchased during the year 2013-14. It is concluded by the auditor that the purchase of the said computers is in accordance with the relevant rules and Statutes of the University. Therefore, there was no offence in respect of which any action was warranted.

It is contended that 'Point no.4' of the Audit report relates to the transactions entered into between the KSOU and an entity, called IEM, Thane, Mumbai. It is indicated in the Audit report that on 31.10.2012, a Memorandum of Understanding was said to have been entered into by KSOU with IEM, and under the said transaction, KSOU was to pay a mobilization advance of a sum of Rs.1 Crore, which was said to have been paid on 27.11.2012. A further sum of Rs. 95 lakh is said to have been paid on 18-5-2013, which was allegedly not provided for under the agreement and was construed as excess payment.

It is pointed out by the petitioner that he had demitted office as the Vice Chancellor, KSOU, as on 10-1-2013. Therefore, he could never be made answerable for any such excess payment made much after he had left the University. Hence, there was no basis in the FIR that is registered against him.

It is further pointed out that even the sum of Rs.95 lakh, which was said to have been paid in excess is capable of being adjusted out of monies due to be payable to IEM by KSOU and the same is said to be withheld. Hence, there is no loss that has occasioned to the University.

3. In so far as the petition in Crl.P 6640/2016, it is asserted that the petitioners, who are arraigned as accused no.2 to 4, in the above said criminal case that is initiated, were members of the Faculty and were the heads of their respective department of studies. It is also the case of these petitioners that the so called irregularities highlighted by the Hon. Governor, were not found tenable and hence, the Registrar of the University, who was required to initiate criminal action in respect of the same, had sought clarification on how the criminality was to be asserted, when the same was pending consideration before the office of the Hon. Governor, the so called complaint having been lodged by the Finance Officer of the University, an FIR is registered by the police without application of mind as to the alleged acts of omission and commission constituting criminal offences, which wholly baseless and untenable.

4. The learned Senior Advocate, Shri Ashok Haranahalli, appearing for the counsel for the petitioner in Crl.P 6773/2016, would contend that the petitioner is presently working as the Registrar (Administration), KSOU. And in that capacity, he acts as the Correspondent of the University and cannot be held responsible for any decisions taken by the University in the course of its business.

It is further contended, apart from urging the very defence that is available to the petitioners hereinabove in so far as the allegations that are said to form the basis for the criminal complaint, it is contended that no infirmity is pointed out in the audit report in so far as the petitioner is concerned, in respect of Point no.3, as he was not even holding any post in the University at the relevant point of time. Hence, the petitioner being implicated in respect of the said transaction is misconceived.

So also in respect of Point no.4, as regards excess payment made to M/s IEM, is concerned, it is pointed out that the petitioner had joined the University as its Registrar only as on 20-8-2013, where as the payments made were much prior thereto. It is hence emphasized that it is inconceivable as to how the petitioner would be answerable for the transaction.

It is further contended that in the audit report, it is stated that as per the Memorandum of Understanding, the cost of each answer book is Rs.8/-. However, in respect of 35,02,000 answer booklets, an excess amount of Rs.2/- per booklet has been paid to M/s IEM, which is in violation of the terms of the Memorandum of Understanding and the tender Clause - 167. It is contended that M/s IEM had raised an invoice for the excess payment of Rs.2/- for 35,02,800 answer booklets. The Vice Chancellor had endorsed the communication stating that the same be considered favourably. Pursuant to the said invoice and endorsement of the Vice Chancellor, the petitioner had made a note to that effect and the said note was put up to the Vice Chancellor, KSOU inasmuch as he was the sanctioning authority. The Vice Chancellor, on 1.7.2014, approved the same and thereafter, on 4.10.2014, the Board of Management, KSOU ratified the excess payment of Rs.2/- towards each answer booklet. Hence, it is contended that the petitioner has acted as per the decision of the Vice Chancellor and the Board of Management, as he was bound to follow the directions of the Vice Chancellor and the Board of Management in terms of Section 27 of the Karnataka State Open Universities Act, 2000 and as such, there was no criminal liability that can be fastened on the petitioner. It is therefore contended that the FIR has to be quashed.

It is contended that it is stated in the audit report that M/s IEM have supplied 94,76,800 nos. of lower quality GSM answer booklets, thereby there was loss occasioned to the tune of Rs.1,51,62,840/- and Rs.1.00 Crore has been recovered from M/s IEM and the remaining amount of Rs.51,62,840/- has to be recovered as per the approval given by the Registrar. It is contended that a note was made wherein the Committee Report has stated that M/s IEM have supplied lower quality GSM answer booklets with shortage of four pages per answer booklet (out of 40 pages) and the Registrar - Evaluation has recommended to deduct the total loss amount of Rs.1,51,62,840/- in three stages. It is also stated that under two stages, Rs.50.00 lakh each amounting to Rs.1.00 Crore has already been deducted and the remaining amount of Rs.51,62,840/- has to be recovered from M/s IEM. The said note was forwarded to the petitioner. The petitioner had forwarded the same to the Vice Chancellor for approval. The Vice Chancellor, on 31.3.2015, granted approval of the same. Accordingly, the petitioner on 9.4.2015 passed an order to recover Rs.51,62,840/- from M/s IEM. Further, the same fact is said to have been reiterated in the audit report and there is no specific allegation as against the petitioner. On the other hand, the audit report indicates that since steps have been taken by the University to recover monies, it cannot be said that there is loss caused to the university.

It is hence contended that the proceedings pending as against the petitioner ought to be quashed.

5. The learned Senior Advocate Shri Y. R. Sadashiva Reddy, appearing for the learned counsel for the petitioner in Criminal petition 7471/2016, contends that the petitioner is arraigned as accused no.5 in the criminal proceedings. He was working as the Director Information and Technology and Computer Science, KSOU - on deputation during the period 11-10-2011 and 10-1-2013. Thereafter he was a Professor and Dean at the T.John University, Bangalore.

At the relevant point of time, in his capacity as Director of the said Department, he was neither endowed with any financial power nor was vested with any power to make payments to third parties, he was also not part of any decision making body. He was only required to act subject to the direction of the Vice Chancellor and the Registrar of the University.

It is hence contended that the proceedings are misconceived and not tenable as against the petitioner.

6. In so far as Criminal Petition 6595/2016 is concerned, Shri H. S. Chandramouli, counsel appearing for the petitioner contends that the petitioner was appointed as the Vice Chancellor of the KSOU, during the period 31-1-2013 and 31-1-2016. And that the facts alleged in the criminal proceedings now pending are said to be based on certain irregularities found during the audit of the accounts of the University for the period 2012-13 and 2013-14.

It is pointed out that the allegations in so far as the petitioner is concerned is as follows.

A tender Notification for software and other requirements for the university was issued on 5.9.2013. M/s IEM, Thane as the successful bidder. A Memorandum of Understanding was entered into between the said M/s IEM and the university wherein a sum of Rs.1,00,00,000/- was given as advance mobilisation amount which could be drawn in 12 instalments. Accordingly, a sum of Rs.1,00,00,000/- and Rs.95,00,000/- were deposited on 27.11.2012 and 18.5.2013, that is a total sum of Rs.1,95,00,000/- was deposited for mobilisation, which is contrary to the Memorandum of Understanding. That apart, according to Memorandum of Understanding, the answer book was determined at Rs.8/-, however an excess of Rs.2/- per answer book was deposited, that is an excess of Rs.7,04,000/- was deposited, which is in contravention of tender clause 167.

The learned counsel would also seek to raise similar defences as are urged on behalf the other petitioners, in respect of the other alleged irregularities are concerned and seeks that the proceedings be quashed.

7. The petitions are opposed by the State and the respondent who had filed the criminal complaint on behalf of the University.

Shri M.B. Naragund, learned counsel appearing for the second respondent would contend that in so far as the petitioner in Crl.P 6480/2016 is concerned, he was the Vice Chancellor of the University during the period 2009 and 2013. It is claimed that during his tenure there were many complaints

of maladministration, misappropriation of monies, favouritism and other illegal acts. It is in the wake of such large number of complaints that the Hon.Governor had thought it fit to appoint, Justice K. Bhakthavatsala, (Retired) as a One-man Committee to address several issues referred to him. The said committee is said to have submitted its report where in there were several adverse findings against the management of the University. It is contended that neither the constitution of the One-man Committee or its findings have been challenged by the petitioner.

It is further asserted that with reference to point no. 7.5 and point no. 8.4 of the said Report, there is clear finding to the effect that the University has not followed the provisions of Karnataka Transparency in Public Procurement Act, 1999 (For short 'KTPP Act') and Rules, 2000. In this background, after obtaining the explanations from the University, a summary of actions to be taken was indicated by the Chancellor to the KSOU. That at point No.10 regarding payment of Rs.1,00,00,000/- advance amount is concerned, the University has taken up the contention that there is clear provision for the payment Rs.1,00,00,000/- in the Memorandum of Understanding. It is contended that such a clause was not mentioned in the advertisement calling for the tender and in the original Memorandum of Understanding also. It is contended that prima facie, the Memorandum of Understanding has been manipulated. The investigation will reveal as to how such manipulation has taken place. Apart from payment of advance amount of Rs.1.00 crore, it is not in dispute that an advance amount of Rs.95,00,000/-, an excess amount of Rs.51,62,840/- (for using lesser Quality of GSM paper), Rs.70,04,000/- (excess payment over the agreed rate for blank answer scripts) was also paid to the IEM, with the approval of accused No.6 in the FIR in No.Cr.42/2016, as Vice Chancellor and Rs.6,21,885/- (the difference of EMD amount) has been paid. The petitioner is taking shelter on the ground that the University has to pay substantial amount to IEM, and the excess payment could be recovered from them from the pending bills. It is contended that mere withholding the bills is not sufficient. The persons who are accused of the offence have to be traced and punished. Likewise, with reference to the purchase of the computers and furnitures, at page No.403 of the report of the Committee, it is the Registrar who has to purchase the same as per the KTPP Act and further the manner in which the KTPP Act has been violated is pointed out in page no. 404 of the Report, which is a tip of the iceberg. The purchase or work orders for procurement of computers and furniture to 21 Regional Centres of KSOU have been initiated directly by the Dean (Study Centres) of the University (Accused No.2 in Crime No.42/2016). The further investigation would reveal the offence committed by the accused persons.

It is contended that even in the audit, that the particulars of the purchase of these items was not considered by the audit report. Based on the material submitted to the audit, the audit team have reported regarding purchase of 30 computers worth Rs.10,99,259/- which were purchased by KSOU under DGS and D price list and issued to IEM, the firm entrusted with the work of digitalization of admission and examination process of KSOU and stationed KSOU Head Office at Mysore. But the audit report does not refer to purchase of computers and furniture purchased to the Regional Centres of the University, located in different Districts of the State, amounting to Rs.94,30,345.00. Therefore, the Chancellor has observed that "There is prima facie illegality and irregularity in point no.3 and 4 of the Audit Repot." Hence, it is contended that the finding recorded on page no.3 and 4 of the audit report is not referable to the finding recorded by the Committee.

It is contended that an attempt was made to cover up these mistakes both in the audit and an assurance that the amount would be recovered from the IEM. It is contended that conspiracy was much deeper and hence an investigation by the competent authority is necessary.

It is contended that on 29.7.2016, the Registrar who is also one of the accused (No.7), without bringing to the notice of the Vice Chancellor or to the notice of the Board of Management, is said to have written a letter seeking clarification. Immediately on becoming aware of such letter written by the Registrar, one more letter was written by the Vice-Chancellor of the University on 9.8.2016 intimating the office of the Governor that necessary action would be taken as per the directions of the Chancellor's Secretariat and further requested that the letter dated 29.7.2016 of the Registrar be ignored. It is contended that the Vice Chancellor of the University has not sought clarification regarding Document No.5 in the criminal petition and it is false that pending clarification sought by the KSOU, the complaint was unilaterally lodged against the petitioner.

In this background, it is contended that since the Registrar himself is one of the accused in the matter, the Vice Chancellor, had authorized the Finance Officer to lodge a complaint. Based on the said complaint, FIR 42/2016 was registered by the Jayalakshmipuram Police Station.

It is contended that suppressing the material facts, the petitioner has approached this Court pointing out his antecedents etc. It is pertinent to note that even though in the month of September 2012, the then Chancellor, through his Secretariat directed the Vice Chancellor not to take any policy decisions, such decisions were taken by the Vice Chancellor.

8. In so far as the petitioner in Crl.P 6595/2016 is concerned, Shri Nargund would contend that the enquiry by the One-man Committee was conducted during the tenure of the present petitioner. And that the payment of Rs.1,00,00,000/- mobilisation advance amount to M/s IEM is concerned, the petitioner has taken up the contention that there is a clear provision for the payment of Rs.1,00,00,000/- in the agreement. It is contended that such a clause was not available in the advertisement calling for the tender and in the original agreement also. The report of the One-man Fact Finding Committee and the orders of the Chancellor have categorically held that there is no provision in the agreement dated 31.10.2012 for payment of mobilisation fund of Rs.1.00 crore to M/s IEM.

It is contended that the enquiry by the Committee was carried out in the tenure of the petitioner as the Vice Chancellor of KSOU. The petitioner being the then Vice Chancellor of the University and on his monitoring and approval, the relevant documents were produced for enquiry by the Committee. Based on the agreement dated 31.10.2012 produced before the Committee, it was concluded as above. It is contended that prima facie, the agreement has been manipulated. The investigation will reveal as to how such manipulation has taken place.

It is contended that apart from the payment of said advance amount of Rs.1.00 crore, it is not in dispute that further, an advance amount of Rs.95,00,000/-, an excess amount of Rs.51,62,840/- (for using lesser quality of GSM Paper), and Rs.70,04,000/- (excess payment over the agreed rate for blank answer scripts) were also paid to M/s IEM. All these amounts were paid with the approval

of the petitioner as Vice Chancellor. The audit report has rightly identified that there was no provision for payment of Rs.95,00,000/- paid to M/s IEM in addition to the mobilisation fund of Rs.1.00 crore. The petitioner has conceded that Rs.95,00,000/- was paid to M/s IEM on request by it, owing to changed circumstances including escalation of cost. Admittedly, the contract between KSOU and IEM was for 3 years from 30.10.2012 on terms and conditions laid down in the Tender Notification and the work order. The KSOU and IEM were bound by tender conditions also to provide service at the cost offered by M/s IEM in the bid. The excuses regarding changed circumstances and escalation of cost would not justify the additional payment of Rs.95,00,000/- to M/s IEM. When a contract is bound by specific tender stipulations, subsequent additional payments, though with the recommendation of any committee and approval of the Board of Management, as alleged by the petitioner would not cure the lapses. It is contended that the petitioner, Prof.M.G.Krishnan has worked as a Vice Chancellor of KSOU from 31.1.2013 to 31.1.2016. For the present, he is a retired Vice Chancellor. There was no clause either in the tender notification or in the agreement to pay the advance amount, however, under the guise of fabricated documents, since the former Vice Chancellor has paid Rs.1.00 Crore as advance and another Rs.95.00 lakh was paid during this petitioner's tenure.

It is therefore contended that the Chancellor, based on the Committee Report of a Former judge of this court, the audit report and the explanations offered by his communication dated 3.11.2015 and 22.7.2016 categorically observed that 'there is a prima facie illegality and irregularity .... and the university is directed to take necessary action by initiating steps for recovery and to prosecute the persons responsible in accordance with law.' Hence, it is contended that the finding recorded on page.no.3 and 4 of the audit report is not referable to the finding recorded by the Committee.

It was incumbent on the part of the university to take immediate action on the orders of the Chancellor dated 22.7.2016 in this regard.

Since the Registrar Prof.P.S.Naik happened to be one of the accused, a special order was passed authorising the Finance Officer to lodge the complaint. Based on the said complaint, a FIR No.42/2016 was registered before Jayalakshmipuram Police Station.

Therefore, it is contended that it is incorrect that there is no entrustment of funds with the Vice Chancellor. In this regard, the Committee has given its finding on Page No.405. With reference to the printing and purchase of marks cards are concerned, the Committee has observed that:

- a) One M/s Madalla Industries is a sole tenderer who is supposed to supply the marks card up to 5,00,000 at Rs.33/- per marks card and Rs.31.50 per marks card or Degree Certificate.
- b) An agreement was entered only at the instance of Vice Chancellor and the then Registrar.
- c) This agreement is valid for a period of 3 years.

- d) On 27.11.2013, KSOU has asked to supply

5,00,000 marks cards.

- e) On the very day, another letter was prepared for supply of 20,00,000 marks cards, in all amounting to Rs.6.30 crore.

The petitioners now are claiming that the same was ratified later.

It is contended that when the agreement with M/s IEM dated 31.10.2012 is valid for a period of 3 years, it is inexplicable as to how there was a deviation from its terms. Hence, the Committee had observed that 'the University did not bother about taking into consideration the agreement entered into with the IEM, when the tender of M/s Madalla Industries was accepted' and in page no.423, the Committee has given its conclusions.

It is contended that what has been pointed out is only an illustration. A detailed investigation by expert bodies is necessary in this regard. Therefore, a crime was registered and investigation was set into motion.

It is contended that in respect of answer scripts also excess of R.2/- was paid to each answer script. This is against the tender clause. This amount is not yet recovered from M/s IEM. As per the tender clause, a 40 page answer book including covering pages with 110 GSM and 36 inner pages with 70 GSM has to be supplied. The paper testing Committee has identified that the paper is of inferior quality and 4 pages were less. In this regard, a sum of Rs.1,51,62,840/- has to be recovered. A portion of it is recovered and more than Rs.51.00 lakh has remained unrecovered. All these facts have to be investigated during the investigation. Therefore, the investigation cannot be scuttled at the threshold.

9. In so far as the petitioner in Crl.P 6773/2016 is concerned, Shri Nargund would contend that the petitioner has made a statement pointing out the different Vice Chancellors, who according to him are responsible for the alleged offence. The petitioner, as the Registrar and being a responsible officer, should have made a necessary note on the file. On the other hand, he has joined hands with the other accused and made advance payments and excess payments to IEM, in violation of the agreement and the work order. All these facts have to be ascertained during the course of further investigation by the competent authorities. It is contended that this is a matter of investigation. Therefore, the petitioner cannot claim that he is innocent of the offences.

The Committee has held that there was no justification in purchasing 20 lakh marks cards or degree certificates in one lot, at a cost of Rs.6.30 crore during the year 2013-14 and the university has suffered wrongful loss. It is contended that the Chancellor has advised to take steps under the Prevention of Corruption Act, 1988 also for the constitution of Regional Centres and recruitment of staff and in respect of purchase of marks cards and degree certificates, which happened during the



tenure of the present petitioner. Therefore, the petitioner cannot plead that the offence has not taken place during his tenure.

It is contended that since the Registrar, Prof.P.S.Naik happened to be one of the accused, a special order was issued authorising the Finance Officer to lodge the complaint. In this regard, on 19.8.2016, the Vice Chancellor has passed an order. Based on the said complaint, FIR No.42/2016 was registered before Jayalakshmipuram Police Station.

It is contended that the petitioner is working as a Registrar and he has also been shown as one of the person responsible for the illegalities and irregularities. That in the matter of M/s Maddala Industries, there was initially a request for the supply of 5,00,000 marks cards and on the same day at a later point of time there is a request for 20,00,000 marks cards. This itself shows the financial loss to the University to the extent of Rs.6.30 crore.

10. The learned Government Pleader, Shri Chetan Desai, appearing on behalf of the State would contend that there is a clear misconception as to the investigation and prosecution of the petitioners would be restricted to particular points referred for audit or the audit report submitted thereto. On the other hand the report of the One- man Committee, which has not been questioned, categorically finds at page no.183, paragraphs X and XII , that there was no provision in the agreements dated 31-10-2012, between KSOU and IEM, for payment of any mobilization advance of Rs.1 crore.

It is contended that in the Request for Proposal (RFP) prepared for KSOU, no addition had been stipulated for payment of a mobilization advance of Rs.1.00 crore by the KSOU to the successful service provider. If at all, there was to be any such provision for advance, it would have attracted more number of bidders in the tender and that would have lead to the procurement of service at a more competitive price to KSOU.

It is contended that by concocting Annexure-A of Memorandum of Understanding dated 31.10.2012, under "mode of payments", a separate column has been incorporated prior to Mode of Payments in the guise "payment terms" and the provision has been incorporated for payment of mobilization fund of Rs.1.00 Crore by KSOU to IEM at the time of execution of Memorandum of Understanding, with a stipulation to adjust the same against future payments to be made to IEM within a period of 3 years in 12 equal instalments. This concoction of the Memorandum of Understanding dated 31.10.2012 has been carried-out by replacing clauses - 7 and 8 of the said Memorandum of Understanding to patch-up the lacunae.

It is also found that the entrustment of the work to IEM, was not in the interest of KSOU, as the proprietor of IEM and the Proprietor of M/s SCOPE, a collaborator, was one and the same individual.

It is contended that at page 405 of the report, it is stated that establishment of 21 Regional Centres of KSOU and appointment of Regional Directors, increasing their salary from Rs.20,000/- per month to Rs.36,200/- with Dearness Allowance, House Rent Allowance, City Compensatory Allowance etc., without there being a Statute for establishment of Regional Centres - is illegal.

It is contended that at page 403 of the report, it is stated that fixing the scale of Regional Directors at Rs.36,200/- with allowances during the months of November and December 2012, during the tenure of Prof. K.S.Rangappa is improper.

It is contended that in order to constitute an offence of criminal breach of trust as defined under Section 406 of the Indian Penal Code, 1860, it is not necessary that the person should misappropriate or convert property to his own use. The offence of criminal breach of trust is attracted even when the person disposes of any property entrusted to him, in violation of any direction of law prescribing the mode in which such trust is to be discharged or of any legal contract which he has made touching the discharge of such trust.

It is contended that the tenure of Prof. K.S.Rangappa (10.12.2009 to 10.12.2012) was coming to an end on 10.12.2012. The execution of Memorandum of Understanding dated 31.10.2012 for Integrated Web-based System (IWS) with IEM, issue of work order to IEM in No.KSOU/AB/G1-47/737/Software/2012-13 dated 30.10.2012, by fixing the rate of Rs.270/- per student and payment of mobilization advance of Rs.1.00 Crore to IEM were made during the month of 31st October to 30th November 2012, and they were approved by the then Vice-Chancellor of KSOU - Prof. Rangappa (Accused no.1) and signed by the then Registrar of KSOU - Prof. B.S.Vishwanath (Accused no.4) in Crime No.42/2016. And later on they were ratified by Board of Management of 21.11.2012.

It is contended that, Dr. Bhaktavatsala, in his Report has observed that the execution of Memorandum of Understanding and payment of mobilization advance of Rs.1.00 crore to IEM at the end of tenure as Vice Chancellor of KSOU, the decision of the Board of Management in ratifying these payments, were not only against the Tender Conditions and the Memorandum of Understanding, but contrary to orders of the State Government dated 22.3.2003 and 21.9.2012, directing the KSOU not to make recruitments and take major financial and policy decisions at the fag-end of the tenure of the Vice- Chancellor of the KSOU.

It is contended that the audit report further observed that, there was no provision in the Memorandum of Understanding for payment of Rs.95.00 lakh on 18.5.2013 in-addition to Rs.1.00 crore already paid in advance to IEM in November 2012.

It is contended that on 4.9.2013, a sum of Rs.1,05,00,000/- (Rupees One Crore Five Lakh only) was deducted as mobilization amount, in a single installment. The remaining amount was recovered in six installments till 18.5.2012.

The Memorandum of Understanding and the Work Order provided for payment of Rs.8/- per answer script supplied by IEM and the excess amount of Rs.2/- in addition to Rs.8/- per answer script, for 35,200 answer scripts amounting to Rs.70,04,000/- was paid on 20.5.2014. This was against the Memorandum of Understanding and Tender Clause No.167, till the said amount is not recovered from IEM.

It is contended that as per the contract, IEM was to supply 40-pages answer book, which includes two covering pages with 110 GSM and 36 inner pages with 70 GSM. The paper testing committee has identified that 94,76,800 answer scripts supplied by IEM to KSOU were found with inferior GSM quality and were containing less number of pages by four numbers, and in this regard, Rs.1,51,62,840/- was to be recovered from the IEM. And out of it, Rs.1.00 crore was recovered and the balance of Rs.51,62,840/- was still to be recovered.

It is contended that the payments of Rs.95.00 lakh Rs.70,04,000/- and Rs.1,51,62,840/- to IEM were approved and made during the tenure (31.1.2013 to 31.1.2016) of the then Vice-Chancellor of KSOU (Prof. M.G. Krishnan (Accused no.6) and issued by the Registrar (Prof. P.S.Naik (Accused no.7) in Cr. No.42/2016. And later on, they were placed before and ratified by the Board of Management.

It is contended that owing to the payment of Rs.1,00,00,000/- + Rs.95,00,000/- + Rs.1,95,00,000/- as mobilization advance to IEM, the KSOU has suffered loss of a huge sum of interest, which the above amounts would have fetched.

It is contended that the petitioners herein has alleged that the Vice Chancellor had sought for clarification pertaining to point no.3 and pending verification, the complainant has unilaterally lodged the complaint against the petitioners. It is contended that the Vice Chancellor in his letter dated 9.8.2016, sent to the Additional Secretary to Governor of Karnataka, has clearly stated that the University would initiate action as per the directions of the Chancellor's Secretariat. He has also requested not to take cognizance of the letter of the Registrar dated 29.7.2016. It is contended that the petitioners are playing mischief by referring to the letter of the Registrar dated 29.7.2016 wherein the Registrar has stated that Pont Nos.4(3), 4(4) and 4(5) are not part of the One-Man Fact Finding Committee Report. The letter dated 29.7.2016 was totally uncalled for and the same has been written with an ulterior motive.

It is contended that the Report submitted by Justice Dr. K. Bhakthavatsala, Former Judge, High Court of Karnataka and Inquiry Officer, clearly stated that the petitioners-accused have violated the provisions of the KTPP Act.

It is contended that the Dean (Study Centers) has purchased computers, furniture and allied parts, in all amounting to Rs.94,30,345/- (Rupees Ninety Four Lakhs Thirty Thousand Three Hundred and Forty Five only). The material collected by the investigating agency goes to show that though the price has been paid for branded computers, in fact, the computers assembled are of a different make. Of the total price of Rs.94,30,345/- (Rupees Ninety Four Lakhs Thirty Thousand Three Hundred and Forty Five only), goods worth Rs.40,39,360/- (Rupees Forty Lakhs Thirty Nine Thousand Three Hundred Sixty only) have been purchased by adopting the quotation procedure, instead of following the provisions of KTPP Act, 1999 and the Rules framed thereunder. It is contended that the KTPP Act is applicable to goods or services, other than construction works, the value of which exceeds Rs.1,00,000/- (Rupees One Lakh only) . But in the instant case, instead of making bulk purchase in the month of July 2011, the items have been purchased in installments on different dates, in all, amounting to Rs.3,37,405/- (Three Lakh Thirty-Seven Thousand Four

Hundred and Five only) with a mala fide intention to make it seem that each purchase made is less than Rs.1,00,000/- (Rupees One Lakh only) so as to deliberately overcome the provisions of KTPP Act. Thus, it is clear that the University has not followed the provisions of KTPP and the Rules in purchasing the computers or furniture, in all amounting to Rs.40,39,360/- (Rupees Forty Lakh Thirty- Nine Thousand Three Hundred Sixty only).

It is contended that by a letter dated 21.9.2012 bearing No.ED 41 UOV 2012, the Principal Secretary to Government, Higher Education Department has issued clear directions that since the term of office of the petitioner Prof. K.S.Rangappa was coming to an end on 10.12.2012, no major decision, including recruitment be taken at the fag-end of the term of Prof. K.S.Rangappa. Further, under a letter dated 15.11.2012, the Principal Secretary, Secondary Education Department has permitted to fill-up only 48 vacancies of the Teaching Staff. It is contended that in the letter dated 22.3.2003, the Secretary to Government, Department of Education has drawn attention of the Vice Chancellor, KSOU, to the fact that instructions were issued not to make any recruitment or appointment etc., to various posts in the University by the Vice Chancellor just before the completion of the term of the Vice Chancellor. In the said letter, the Vice Chancellor was requested to follow the instructions issued earlier. Further, the Vice Chancellor was directed not to take any major policy or financial decisions till the end of the term of Vice Chancellor.

It is hence contended that having regard to the circumstances, there is certainly a requirement of a detailed investigation before the case could be dubbed as being without basis. Notwithstanding that some of the petitioners could claim to be totally absolved of any involvement whatsoever, it would still be a matter of evidence or atleast subject to a closer examination by the court below, which may even result in the particular petitioner being discharged. This is certainly a possibility. But, it is contended, to treat all the petitioners on the same footing would lead to a lopsided view of the facts and circumstances. Hence, it is contended that the petitioners be left to their appropriate remedy before the trial court itself, of which they are not deprived, in establishing their bona fides. The learned Government Pleader hence seeks dismissal of the petition.

11. In the light of the above rival contentions, it is plain that the prayer of each of the petitioners is to quash the complaint dated 19-8-2016, registered by the Jayalakshmipuram Police, Mysore, in Crime no.42/2016 for the offences punishable under Sections 406, 409 read with Section 149 of the Indian Penal Code, 1860, pending before the Court of Additional Civil Judge, (Senior Division) and CJM, Mysore.

The genesis for the complaint appears to have arisen much earlier, as it is claimed that there were a spate of complaints originating from the Distance Education Council, the Indira Gandhi National Open University and several individuals - generally as regards various irregularities, including mismanagement and misappropriation of funds by persons at the helm of management of the Karnataka State Open University, Mysore. It is in this background that the Hon. Governor of Karnataka and ex-officio Chancellor of Universities in the State is said to have issued a notice dated 10-11-2014 to the Vice Chancellor, KSOU, calling upon him to furnish explanation as regards the several allegations made against the University and its management.

It is apparent that the Chancellor, not being satisfied with the explanation, and being of the opinion that the several allegations required to be verified independently, and acting under the provisions of the KSOU Act, 1992, is seen to have appointed Dr. Justice K. Bhaktavatsala, Former Judge, High Court of Karnataka, as a One-man Committee to enquire into the allegations, forming the terms of reference as contained in the Notification dated 19-12-2014. The terms of reference included a range of items in respect of which controversies appear to have been raised, including almost a dozen items of civil works, involving crores of rupees, admission of students and examinations conducted, transactions with private educational institutions, recruitments, establishment and construction of Regional Centres, expenditure towards printing and purchase of marks cards, purchase of computers and many other subjects.

The said Committee submitted its report on 14-10-2015, to the Hon. Governor of Karnataka. It is pursuant to the said report that the Hon. Governor has opined that notwithstanding the fact that his predecessor in office, had taken a decision as on 1-10-2013 that several allegations made in respect of some of the very same subjects, which were the terms of reference on which the report was tendered, were to be treated as closed - he was of the opinion that it did not preclude his office to take further action to address illegalities that may require to be addressed. It is in this background that a notice is said to have been issued to the KSOU, dated 3-11-2015, calling for explanation in respect of certain subjects. The Office of the Governor has enclosed the report of the Committee and has expressed that the Governor had advised necessary steps on the findings therein, within one month. This document is found at Annexure -D to the Statement of Objections filed on behalf of the State. The same is reproduced hereunder:

"D.O.No.GS 13 KOM 2014 (P-1) 3rd November, 2015 Dear Prof. Krishnan, Dr. Justice K.Bhakthavatsala, Former Judge, High Court of Karnataka and Inquiry Officer, One Man Fact Finding Committee, Karnataka State Open University, Mysuru has submitted the Inquiry Report (copy enclosed).

Hon'ble Governor and Chancellor has perused the Inquiry Report and expressed his views and advised necessary steps to be taken on the findings in terms of Section 8(6) of the Karnataka State Open University Act, 1992 (copy enclosed).

In the circumstances, as per the orders of Hon'ble Governor and Chancellor necessary steps may be taken within a period of one month and communicated for perusal of Hon'ble Governor and Chancellor.

Yours sincerely,

-sd-

Prof. M.G.Krishnan, Vice-Chancellor, Karnataka State Open University, Mysuru."

There is a note appended to the said letter, by the Under Secretary to the Governor, providing a ready reckoner for the University as to the steps required to be taken in respect of specific items, in

tabular form.

It is with reference to the above that the Registrar of the University, has requested an audit of 4 particular items to be carried out by the State Audit and Accounts Department, as per his letter dated 28-12-2015. An audit report is said to have been ultimately sent to the Vice Chancellor dated 5-4-2016. This having been forwarded to the Office of the Governor, it is returned with the following observation :

"There is prima facie illegally and irregularity in point No.3 and 4 of the Audit Report (page 3 and 4 of Annexure-1) submitted by the Senior Deputy Director, Office of the Additional Director, Regional Office, Mysuru Division and the University is directed to take necessary action by initiating steps for recovery and to prosecute the persons responsible, in accordance with law".

It is seen that the Registrar, however had sought to obtain further clarifications from the office of the Governor, with regard to the findings in the audit report not really disclosing any irregularity on which action was to be taken, as per his letter dated 29-7-2016. This letter appears to have been issued without reference to the Vice Chancellor. Therefore, when the same had been brought to the attention of the Vice Chancellor, he had immediately issued a clarification that the letter of the Registrar be ignored and had assured the Office of the Chancellor that necessary action as required would initiated forthwith, as per his letter dated 9-8-2016. And having regard to the fact that the Registrar himself was answerable in respect of certain transactions that were found to be irregular by the One-man Committee, the Vice Chancellor appears to have authorized the Finance Officer of the University to initiate criminal action.

It is in the above background that the complaint has been lodged. The same is certainly a cryptic piece of information. But nonetheless, having regard to the complexity of the several transactions that are the subject matter of the One-man Committee Report, and which indeed is the basis on which the Hon. Governor had expressed that criminal action be initiated against all errant officials involved, the subsequent analysis of the report by an Under Secretary to the Governor or the limited items referred to the Accounts and Audit Department or a report thereto would not limit the scope of the complaint. The basis of the complaint would be the One-man Committee Report. The report, as pointed out by the counsel for the respondents certainly renders the petitioners accountable to a greater or lesser degree, having regard to their respective office.

Given the above sequence of events, it would not be prudent for this court to superimpose its opinion on factual aspects which are primarily urged in these petitions, as to each of the petitioners being far removed from having had anything to do with particular transactions or decisions. As the law adequately provides for any of the petitioners to absolve himself of any criminal intent or act, even before commencement of the trial, it would not be for this court to prevent or stall the investigation and further proceedings against the petitioners any further. The petitions are dismissed. The interim order of stay granted, in each of these petitions, stand vacated.

Sd/-

JUDGE nv ABJ:

29.11.2016 CRL.P 6480/2016 & CRL.P 6773/2016 ORDER The petitioners shall not be arrested for a period of 15 days subject to the petitioners moving an application for anticipatory bail before the court below.

Sd/-

JUDGE nv ABJ:

ORDER The learned Counsel for the respondent no.2 states that the prayer made seeking that the petitioner shall not be arrested for a period of 14 days pending consideration of his anticipatory bail petition is not capable of being considered by this court, in view of the bar under Section 362 of the Code of Criminal Procedure, 1973. It is true that this court once having signed the judgment would not have the power to pass any further orders. However, it was for the petitioner to have moved the court even before the order was signed for such relief. The petitioner having been slow to get off the block should not be disentitled to such relief.

In any event, the petitioner shall not be arrested for a period of 14 days from today pending consideration of his application for anticipatory bail. If the application for anticipatory bail should be rejected and if it is before 14 days, this order shall not have any further course.

Sd/-

JUDGE nv