**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 17TH DAY OF OCTOBER, 2026**

**R**

**BEFORE**

**THE HON'BLE MR. JUSTICE H.P.SANDESH**

**CRIMINAL PETITION NO.633 OF 2020**

**BETWEEN:**

1. M. PRASANNA KUMAR,
S/O C. MUNIREDDY,
AGED ABOUT 37 YEARS,
R/AT KARAHALLI VILLAGE AND POST,
BANGARPET TALUK,
OFFICE AT: NIHARIKA LAW CHAMBERS,
BEHIND PACRD BANK, MUNICIPAL COMPLEX,
BANGARPET-563114.

…PETITIONER

(BY SRI. D. PRABHAKAR, ADVOCATE)

**AND:**

1. STATE OF KARNATAKA,
REPRESENTED BY SUB-INSPECTOR,
BANGARPET POLICE STATION,
BANGARPET-563114.

2. SRI. N. NARAYANAPPA,
S/O NARASIMHAPPA,
AGED ABOUT 50 YEARS,
R/AT GUTTAHALLI VILLAGE,
GULLAHALLI POST, BUDIKOTE HOBLI,
BANGARPET TALUK-563 114.

3. STATE BAR COUNCIL OF KARNATAKA,
HIGH COURT BUILDING, BENGALURU
REP. BY SECRETARY.

…RESPONDENTS

(BY SRI. SUHAS GOWDA M., HCGP FOR R1;
R2 – SERVED;
SRI. G. NATARAJ, ADVOCATE FOR R3)

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE ENTIRE PROCEEDING IN PCR NO.224/2019 UNDER SECTIONS 419, 420, 120-B AND 511 OF IPC R/W SECTION 45 OF ADVOCATE ACT, PENDING ON THE FILE OF THE PRINCIPAL CIVIL JUDGE AND JMFC AT BANGARPET.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 07.10.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

**CAV ORDER**

Heard the learned counsel for the petitioner, the learned High Court Government Pleader appearing for respondent No.1/State and the learned counsel for respondent No.3/Bar Council. The respondent No.2/complainant is served and unrepresented.

2. The prayer sought in the petition is to quash the entire proceedings in PCR No.224/2019 under Sections 419, 420, 120B and 511 of IPC read with Section 45 of the Advocates Act, on the file of the Principal Civil Judge and JMFC, Bangarpet.

3. The matter was referred for investigation under Section 156(3) of Cr.P.C. This Court would like to extract the order of the Trial Court. Having filed the complaint, the following order is passed:

*"Complainant present. Perused complaint and relevant documents along with the witness list and affidavit. These documents prima facie shows that there is an offence. Therefore cognizance taken against offences punishable under Sec. 419, 420, 120(B), 511 of IPC read with Section 45 of Advocates Act. Hence, office is directed to register the case as PCR in Reg.No.II.*

*By acting under Sec.156(3) of Cr.P.C., refer the matter to PSI of Bangarpet police station for investigation."*

4. The complainant had filed a private complaint before the Trial Court and the same is numbered as PCR No.224/2019 and in the complaint invoked the offences under Sections 419, 420, 120B and 511 of IPC read with Section 45 of the Advocates Act. In the complaint it is stated that the complainant being an advocate practicing before the Courts of Bangarpet, KGF and all over Kolar District and his Karnataka Bar Council Enrollment number is KAR/2094/1999. This Court would like to extract paragraph No.3 of the complaint which is the sum and substance of the allegation made against the petitioner:

*"3. It is further submitted that as per section 24 of Advocates Act and also All India Bar Examination*

*Rules 2010, whoever provisionally enrolled with State Bar Council of India after 2010, shall pass the ALL INDIA BAR EXAMINATION (AIBE) conducts by ALL INDIA BAR COUNCIL and then only he is eligible to practice. Though the accused person being provisionally enrolled with the Karnataka State Bar Council vide enrollment No.KAR/852/2011, he without passing AIBE Examination as required under law has been practicing before the Bangarapet, KGF and Kolar courts illegally. Though he is not eligible and qualified advocate to practice, he has been practicing intentionally with the motive to commit offence. Thereby he has cheated the Judges, clients, advocate by misrepresentation and also he has committed professional misconduct which is penalize-able offence and the State Bar Council has given an endorsement stating that his name is not forthcoming in the list of AIBE examination passers as such he has committed the offences punishable under sections 419, 420, 120(b), 511 of IPC and also section 45 of Advocates Act."*

5. In paragraph No.4 of the complaint it is stated that he gave the complaint to the Bangarpet Police Station, who instead of registering the case, issued the NCR No.392/2019 dated 05.10.2019 stating that they have registered as non-cognizable case and hence, he had approached the higher police officers regarding the issuance of NCR. But they did not

entertain and hence, complaint is filed before the Court. The matter was referred under Section 156(3) of Cr.P.C. This Court has to take note of the order passed by the Trial Court when the complaint was entertained and an observation is made that the complaint averments were perused along with documents, witness list and affidavit. The said documents prima facie shows that there is an offence. Therefore, cognizance was taken for the said offences. But that procedure is erroneous. There cannot be any taking of cognizance while referring the matter under Section 156(3) of Cr.P.C. The said order would be a pre-cognizance order. The cognizance was taken and subsequently passed an order referring the matter under Section 156(3) of Cr.P.C. But the option open to the Magistrate is either to take cognizance or refer the matter under Section 156(3) of Cr.P.C. Though there is a procedural error, but ultimately the matter was referred under Section 156(3) of Cr.P.C. The same is challenged before the Revisional Court. The Revisional Court in Criminal Revision Petition No.67/2019 comes to the conclusion that revision petition is not maintainable against the order under Section 156(3) of Cr.P.C. However, liberty was given to the petitioner to challenge the

order in accordance with law, if he is so advised. Hence, the present petition is filed before this Court.

6. The main contention of the learned counsel for the petitioner is that respondent No.2/complainant has launched an malicious prosecution against the petitioner inspite of fully aware that the allegations made against the petitioner being under Advocates Act and the same cannot be tried by the Trial Court, has incorporated the alleged offence punishable under IPC. Though there is no ingredients in the complaint regarding the said offences being committed, the Trial Court committed an error in referring the matter under Section 156(3) of Cr.P.C. The allegations in the complaint is that the petitioner has committed professional misconduct under the Advocates Act and if so, the said act of misconduct is punishable under Section 35 of the Act and it is only to be tried and disposed of by the Disciplinary Committee of the State Bar Council and not by the Court. It is also contended that respondent No.2 in the complainant himself has stated that the petitioner is duly enrolled as an advocate under the Karnataka State Bar Council vide enrollment No.KAR/852/2011 and the question of trying the petitioner for the offence punishable under Section 45 of the Advocates Act does not arise. Having read Section 45 of the

Advocates Act, it makes abundantly clear that it applies to only the person who is not authorized to practice shall be punishable. The learned counsel would contend that in the certificate of enrollment, it is not stated as provisional enrollment and when the same is not a provisional enrollment, he can practice and also produced the copy of the enrollment certificate before the Court. The learned counsel would contend that subsequently he got through in the All India Bar Examination and the Bar Council of India issued the certificate on 30.03.2021.

7. The other contention of the learned counsel for the petitioner is that when the word 'provisional' was omitted in the certificate issued by the Karnataka State Bar Council, the petitioner contacted the State Bar Council seeking clarification. However, in the absence of any timely reply or communication from the Bar Council, the petitioner continued to practice law under the bonafide belief that his enrollment was unconditional and that he was entitled to practice. The learned counsel also vehemently contend that the petitioner's practice during the intervening period, without clearing the AIB Examination was at best a procedural lapse and did not involve any fraudulent intention or mens rea. The learned counsel submits that the

petitioner neither fabricated any document nor made any deliberate false representation to any client or Court. Hence, the question of invoking the offences under Sections 419 and 420 of IPC does not arise. The learned counsel submits that the Karnataka State Bar Council and the Bar Council of India are empowered to examine allegations of professional misconduct under the said Act and that the institution of a private criminal complaint in respect of what is essentially a regulatory violation amounts to an abuse of process of law. Hence, this Court has to invoke Section 482 of Cr.P.C. or otherwise it amounts to an abuse of process and miscarriage of justice.

8. The learned counsel for respondent No.3/State Bar Council submits that the contents of the complaint is very clear that the petitioner had practiced in various Courts for about 10 years without clearing the mandatory AIB Examination in violation of the applicable rules of the Bar Council of India. The learned counsel also contend that the petitioner is not entitled to practice, notwithstanding the alleged absence of the requisite qualification to continue such practice. Once the petitioner has accepted the profession, he has to maintain the ethics and he did not maintain the ethics and continued to practice for more than a decade without appearing for the AIB

Examination. The learned counsel also contend that the petitioner subsequently cleared the AIB Examination in 2021 and the same cannot retrospectively validate his practice and the same will not extinguish his criminal liability that had already arisen. The learned counsel would contend that the disciplinary jurisdiction of the Bar Council does not exclude criminal jurisdiction where the allegations independently discloses the commission of an offence. The learned counsel would contend that not only the offence under the Bar Council Act, but even the offences under the IPC also attracts in view of cheating the general public as well as the institution and also the client who believes that he is an advocate.

9. The learned High Court Government Pleader appearing for respondent No.1/State submits that when the complaint was filed making the allegation of cheating and it amounts to cheating at large and person who is not competent and eligible, cannot practice before the Court of law, that too in a institution where justice is dispensed. Hence, the very contention of the learned counsel for the petitioner that the complaint is not maintainable before the criminal Court cannot be accepted. The investigating agency can investigate and initiate the criminal prosecution.

10. Having heard the learned counsel for the respective parties and so also considering the pleadings and the grounds, which have been urged in the petition, the points that would arise for the consideration of this Court are:

(i) Whether the complainant can invoke criminal jurisdiction against the petitioner invoking the offences under the Indian Penal Code as well as under the Advocates Act, 1961, in view of practice without clearing the AIB Examination?

(ii) Whether the complainant has got locus-standi to institute a criminal complaint against the petitioner without approaching the Bar Council, in view of suspension of his enrollment on account of not clearing the AIB Examination?

(iii) Whether this Court can exercise the inherent power under Section 482 of Cr.P.C. in favour of the petitioner in view of the factual aspects of the case?

**Point Nos.(i) to (iii):**

11. Having considered the grounds which have been urged by the petitioner as well as respondents and so also the prayer sought for the relief of quashing the entire proceedings initiated against the petitioner and referring the matter under Section 156(3) of Cr.P.C for investigation and the scope of

exercising the powers under Section 482 Cr.P.C., this Court has to analyze the factual aspects of the case.

12. Having considered the grounds which have been urged, it discloses that the allegation against the petitioner is that he has committed professional misconduct as alleged in the PCR No.224/2019. In keeping paragraph 3 of the complaint, wherein the accusation made for the offence under Section 45 of the Advocates Act as well as Sections 419, 420, 120B and 511 of IPC, this Court has to consider the material on record.

13. In the complaint, the complainant has produced documents of endorsement issued by the Karnataka State Bar Council, copies of vakalath and so also the NCR issued by the police dated 05.10.2019 and copy of the complaint given to the PSI of Bangarapet Police Station. Thus, it is clear that before filing the private complaint, the complainant has approached the police and after the issuance of NCR as per Document No.2, invoked Section 200 of Cr.P.C for filing a private complaint. The same is also questioned before the Revisional Court and the Revisional Court comes to the conclusion that there cannot be a

revision as against referring the matter under Section 156(3) of Cr.P.C.

14. Having considered the complaint and grounds urged in the petition, it is not in dispute that the petitioner has enrolled as an advocate in 2011 and the same is subsequent to the Rules made by the Bar Council of India in 2010 prescribing the condition to qualify in the examination conducted within two years from the date of enrollment. In case, if the same is not qualified within two years, the enrollment would be suspended and he cannot practice as an advocate and file vakalath. Hence, the court has to take note of specific accusation made in the complaint particularly, in paragraph 3.

15. It is also not in dispute that petitioner had practiced as an advocate almost for a period of 10 years, though he is only entitled to practice for a period of two years and within that period, he has to qualify in the AIB examination. The petitioner also not disputes the fact that he had continued the practice even after he has not qualified. Apart from that, petitioner categorically admits that he did not take up the exams for almost a decade but he only qualified in the said examination in 2021. Hence, there is no dispute with regard to

the factual aspects as well as allegations made in the complaint. The private complaint is filed invoking the IPC offences as well as Section 45 of the Advocates Act.

16. The contention of the petitioner's counsel that there cannot be any criminal prosecution before the court for those offences and if any grievances, ought to have approach the Karnataka State Bar Council. Now, the question before the Court is whether the complainant is having any locus standi to file such complaint before the court. It is also important to note that Bar Council of India, vide Resolution No.73/2010 dated 05.06.2010 published in the Gazette of India, Part III, Section 4, dated 12-18.06.2010, AIBE Rules were framed and the application for certificate of practice is also very clear that the said certificate of practice shall be issued by the Bar Council of India to the address of the successful advocate within 30 days from the date of declaration of results having successful in the said examination. But in the case on hand, no such examination was passed by the petitioner and issued any such certificate within the prescribed period.

17. Now, with regard to the jurisdiction of the Court is concerned, this Court would like to rely upon the judgment of

the Apex Court reported in **(1984) 2 SCC 500** in the case of **A R ANTULAY vs RAMDAS SRINIWAS NAYAK AND ANOTHER** wherein also discussion was made with regard to the cognizance of offence can be taken upon a private complaint. So also, discussed with regard to locus is concerned. In this judgment it is held that private complainant has equal standing before the court in absence of any clear and specific statutory provision to the contrary and discussed plain meaning also that in the absence of any clear and specific exclusionary provision in the statute, court should plainly treat it as a general provision instead of delving in search of any possible hidden or implied exclusion. The Apex Court discussed locus standi of the complainant is a concept foreign to criminal jurisprudence save and except that where the statute creating an offence provides for the eligibility of the complainant, by necessary implication the general principle gets excluded by such statutory provision for, it is a well recognized principle of criminal jurisprudence that anyone can set or put the criminal law into motion except where the statute enacting or creating an offence indicates to the contrary. This one is in detail discussed in the judgment by the Apex Court in paragraph 6. The scheme of the Code of Criminal Procedure envisages two

parallel and independent agencies for taking criminal offences to court. The Apex Court also discussed the scope of Section 190 of the Code of Criminal Procedure. Hence, it is very clear that anyone can have locus standi and also can set law into motion.

18. This Court also would like to rely upon Madhya Pradesh High Court judgment in the case of **RAJENDRA SINGH vs SURENDRA SINGH** reported in **1992 M.P.L.J. 650** wherein also discussion was made with regard to the right to practice in courts and categorically held that only advocates are entitled to practice in courts and discussion was made with regard to Sections 45, 29 and 30 of the Advocates Act. It is also held that Section 45 of the Act is a penal provision which prescribes a penalty for a person illegally practicing in a court or before other authority. In this judgment held that Judicial Magistrate First Class is permitted to proceed with the case under Section 45 of the Act and powers are given to the Magistrate to deal with Section 45 of the Act.

19. This Court also would like to rely upon the judgment of the Apex Court reported in **(1998) 4 SCC 409** in the case of **SUPREME Court BAR ASSOCIATION vs UNION**

**OF INDIA AND ANOTEHR** wherein the Apex Court in detail discussed in paragraph 45 that whether an advocate is also guilty of professional misconduct and exercising the powers by the Bar Council and held that the disciplinary jurisdiction of the State Bar Councils and the Bar Council of India to take action for professional misconduct is different from the jurisdiction of the courts to take action against the advocates for the contempt of Court. The said jurisdictions coexist independently of each other. The action taken under one jurisdiction does not bar an action under the other jurisdiction.

20. This court also would like to rely upon the judgment of the Apex Court reported in **(2023) 7 SCC 756** in the case of **BAR COUNCIL OF INDIA vs BONNIE FOI LAW COLLEGE AND OTHERS** wherein also Apex Court discussed with regard to Section 24 of the Advocates Act as well as Section 49. In this Judgment also the Apex Court made thought process in keeping Section 24 of the Advocates Act. Quality of lawyers is an important aspect and part of administration of justice and access to justice. Half-baked lawyers serve no purpose. It is this quality control, which has been the endeavour of all the efforts made over a period of time. The same is discussed in paragraph 28 of the judgment. Also discussed the prominent

role of the Bar Council of India, the Apex body, is apparent from the functions prescribed for the Bar Council of India under Section 7 of the said Act. The same is discussed in paragraph 29. So also, in paragraph 31 discussed in respect of clause (d) of sub-section (3) of Section 24 of the said Act that Bar Council of India sought to introduce the All India Bar Examination, which would be uniformly applicable irrespective of the recognized educational institutions from which a person would complete Law before he was enrolled at the Bar. The Apex Court also discussed with regard to Section 49(1)(ah) of the said Act for providing a post-enrollment examination if the answers to the first two questions are in negative. Section 49 deals with the general powers of the Bar Council of India to make rules and clause (ah) specifically deals with the conditions subject to which an advocate shall have the right to practice and the circumstances under which a person can be deemed to practice as an advocate in a court. The Apex Court in detail discussed the issue with regard to the conducting of the said examination and such examination could be conducted by the Bar Council of India. That it would make the Bar Council of India more conscious of the importance of the role it has to perform, including ensuring that the only persons who are well

equipped with the tools of law pass the All India Bar examination.

21. This Court also would like to rely upon the judgment of High Court of Kerala at Ernakulam in **BAIL APPL. No.5868/2021** delivered on **17.09.2021**. The similar issue was raised. A lady who is not a graduate in law and not enrolled as an advocate before the Bar Council of Kerala is practicing in the courts in the district and then invoked the offences under Sections 417, 419 and 420 of IPC. The Kerala High Court also considered in paragraph 15, an observation is made that lawyers' profession is considered to be one of the noblest profession. Lawyers have to play a pivotal role in the administration of justice as only with their sincere and purposeful effort and assistance the courts could administer justice properly. They owe onerous responsibility and duty towards courts and they are considered as the officers of the courts. Their first responsibility is towards their clients and then to the courts. So misrepresenting or presenting as an advocate before a client and obtaining a brief as if she is an advocate, itself would amount to cheating towards the public. As observed above, prima facie the materials so far gathered by the investigating agency indicate that she has cheated the Bar

Association, Alappuzha, the clients approached her with brief, the entire judiciary especially the District Judiciary, Alappuzha and the General Public.

22. This Court would like to rely upon the judgment of Allahabad High Court reported in **2026 SCC ONLINE ALL 25632** in the case of **YOGENDRA vs STATE OF U.P. AND OTHERS** wherein also discussion was made with regard to right to practice and other rights of advocates in view of All India Bar Examination and so also discussed Sections 24, 30, 32, 45 and 49 of the Advocates Act. Allahabad High Court also formulated the points in paragraph 11 with regard to similar question that whether the law students who graduated during the academic session, 2009-10 or thereafter and enrolled as an advocate under Section 24 of the Advocates Act, 1961 would be entitled to continue practice without qualifying the All India Bar Examination. The first point for consideration is in respect of the very same issue. The Allahabad High Court also taken note of as per Rule 9 of All India Bar Examination Rules 2010 that shall not be entitled to practice in court unless qualifies the All India Bar Examination conducted by the Bar Council of India. Even if a law graduate is enrolled under Section 24 of the Act is not entitled to practice in court unless qualifies the All India Bar

examination if that law graduate obtained law degree during the academic session and also taken note of Rule 11 of the All India Bar Examination Rules 2010, a certificate of practice shall be issued by the Bar Council of India to successful advocates within 30 days of declaration of result, and that certificate of practice issued by the Bar Council of India gives the right to practice as an advocate in any court of law in India during its validity for a period of 5 years and taken note of Rules 9, 10 and 11 of All India Bar Examination Rules, 2010.

23. Having considered the principles laid down in the judgments referred supra, it is very clear that the complainant can invoke criminal jurisdiction against the petitioner, invoking the offences under the Indian Penal Code as well as under the Advocates Act, 1961, in view of practicing without clearing the AIB examination. The judgments which have been referred supra are very clear that the complainant has got locus standi to institute a criminal complaint against the petitioner, even without approaching the Karnataka State Bar Council. In the case on hand, the complainant had approached the police, but police have not taken any action but issued the NCR. Hence the complainant was made to approach the Court.

24. This Court also would like to rely upon Certificate of Practice and Place of Practice (Verification) Rules 2015, published in the Gazette of India dated 12.01.2015, New Delhi. Rule 5 of the said Rule is also very clear that there is necessary of certificate of practice. The disability to practice law would come into force only when the name of such advocate is published under Rule 20.4. Having perused Rule 20.4, it is very clear that the list of non-practicing advocates and name of advocate whose application for issuance/verification of certificate of practice stands dismissed under Rule 13 shall also be published by the State Bar Council as per law after of such list and consequences of failure to respond and publication of list of non-practicing advocates also taken note of in Rule 20. The State Bar Council is also having a responsibility to do the same.

25. This Court also would like to rely upon the letter addressed to the Presidents / Secretaries of All Recognized Bar Associations in the State of Karnataka by the Karnataka State Bar Council, dated 07.08.2026 wherein also it is clarified that the effect of failure to pass AIB examination within two years, automatically it will be suspended of license to practice and so also it does not require any cancellation or re-enrollment but

cannot practice and also disciplinary action under Section 35 is also taken note of. It is very clear that suspension does not mean cancellation of enrollment but it is very clear that suspension of certificate of practice automatically ceases and full practice rights are restored without requiring fresh enrollment but the advocate should get fresh enrollment certificate from the Bar Council having successful in the said examination. Bar Council of India also vide letter dated 29.07.2026 made clear in view of the judgment of the Apex Court in a case of **BONNIE FOI LAW COLLEGE AND OTHER** referred supra that if the advocate fails to pass AIB examination within the prescribed two years period, after accounting for any period specifically excluded or extended by the Bar Council of India, the advocate's license and entitlement to practice shall remain under suspension until the advocate passes AIB examination. Upon subsequently passing AIB examination and completing the prescribed formalities, the suspension of the right to practice shall cease and the advocate shall be entitled to resume practice. During the period of suspension, however, the advocate cannot sign or file a vakalatnama, act or plead before any court, tribunal or authority, advise or represent clients as an advocate, undertake

litigious or non-litigious professional work or hold himself or herself out as being entitled to practice law.

26. Having taken note of the principles laid in the judgments referred supra as well as the Rules and thereafter clarificatory orders issued, it is very clear that in view of the judgments of Apex Court as well as the judgments of different High Courts, it is very clear that the principle emerging from the decisions that disciplinary authority conferred upon the Bar Council cannot be assumed by a court merely because the conduct complained of relates to the legal profession. Equally, the existence of a disciplinary mechanism does not, by itself, extinguish the jurisdiction of a competent criminal court to examine conduct which independently satisfies the ingredients of a criminal offence. The nature of the proceeding, the statutory provision invoked and the relief sought must therefore be examined before determining whether the jurisdiction of criminal court is attracted. In keeping Section 6(1)(c) of the Advocates Act 1961, confers upon the State Bar Council the function of entertaining and determining cases of misconduct against advocates on its roll wherein powers are vested with the Bar Council under Section 35. So also the Court has to take note of statutory mechanism for disciplinary action

against the advocates as well as the applicability of Section 45 of the Advocates Act, 1961, must be considered separately. The said provision prescribes punishment for a person who practices in a court or before an authority or person when such person is not entitled to practice under the provisions of the Act. When such being the case, the complainant can invoke both Section 45 of the Advocates Act as well as IPC offences. In the case on hand, though the petitioner was enrolled and his enrollment is only for practice for two years and thereafter his practice ceases to be in view of not clearing the examination prescribed under the Rule. Under such circumstances, Section 45 of the Advocates Act pressed into service. This Court also taken note of the judgment of the Apex Court in the case of **A R ANTULAY** referred supra wherein also principle recognizes that a criminal offence is not necessarily an injury confined to the individual directly affected by the Act. It is nothing but an offence against the society at large, i.e., against the institution and it is not only a personal suffering of an injury unless the law provides otherwise, the Court can exercise the power under Section 190 and Magistrate can take cognizance. But in the case on hand, only the matter was referred under Section 156(3) of Cr.P.C. for investigation. It is the duty of the Investigating Officer and

domain of the Investigating Officer to investigate that whether it attracts Section 420 of the Indian Penal Code and other offences and also whether it attracts Section 45 of the Advocates Act. Maintainability of the complaint under Section 45 of the Advocates Act must be considered independently of the allegations under Section 420 of IPC while filing the report before the learned Magistrate. Hence, the Court has got jurisdiction to order for investigation under Section 156(3) of Cr.P.C. entertaining the complaint and no need to even exhaust the remedy before the State Bar Council only and State Bar Council is not only having exclusive jurisdiction, even courts also have the jurisdiction to deal with the matter when such factual aspects is not in dispute. Hence, I answer the above points accordingly.

27. It is also the duty of the Karnataka State Bar Council to make a mechanism to identify such practice, if such persons who have been enrolled are not completed and get through in the examination. It is not the only duty of the Karnataka State Bar Council to enroll and it is also the duty of the State Bar Council to maintain a roll in respect of those who are eligible and not eligible to practice. If such persons are continued to practice without clearing the AIB examination,

make specific mechanism, identify such persons and take immediate action against them. But in the case on hand, it is unfortunate that the petitioner had practiced for more than a decade without appearing for AIB examination and also even not got the qualification to continue to practice for about a decade. Hence, it is appropriate to give directions to the Karnataka State Bar Council having taken note of the factual aspects of the present case. Hence, this Court would like to issue Guidelines to the Karnataka State Bar Council for specific mechanism to identify such persons.

28. In view of the discussions made above, I pass the following:

**ORDER**

1) The criminal petition is dismissed.
2) The jurisdictional police are permitted to proceed against the petitioner in accordance with law and submit the report before the Trial Court expeditiously.
3) The following directions are issued to the Karnataka State Bar Council to evolve a mechanism to identify such persons who are practicing illegally without getting the qualification as per the Rules of the All India Bar Council to practice:

(i) The Karnataka State Bar Council, in respect of having enrolled the advocate and when the same is provisional enrollment in terms of the rule, make an appropriate mechanism in order to prevent the illegal practice, if they have not qualified in AIB examination;

(ii) The State Bar Council is directed to maintain a record digitally for having made the date of enrollment and expiry period of two years;

(iii) The State Bar Council is directed to track such advocates who have enrolled but not qualified to continue the practice and prepare the list of suspended role of advocates in order to curb the illegal practice;

(iv) The State Bar Council make a specific mechanism that it should come to notice of Bar Council automatically, the expiry of the said period of two years in order to enable the Bar Council to take action against such persons who have indulged in such illegal practice;

(v) The State Bar Council is directed to take immediate steps to initiate action against such persons who have not qualified to continue the practice since it is an offence against the society at large;

(vi) The State Bar Council is directed to maintain an integrated enrollment record and make verification of examination results by appropriate mechanism for verifying the AIB examination results with the aid of Bar Council of India;

(vii) The State Bar Council is directed to make periodical review identifying the cases in which prescribed period for clearing the AIB examination has expired and get the available records for initiation of action;

(viii) The State Bar Council also make such mechanism to give an opportunity to the said advocates to explain the discrepancies before taking any action against them to meet the principles of natural justice;

(ix) The State Bar Council is directed to make a mechanism of final determination to the concerned advocates to entitlement to practice if such discrepancies are clarified and if they are eligible to practice;

(x) Registry is directed to send a copy of this order to the State Bar Council forthwith to evolve the mechanism in compliance of the direction of this Court.

(xi) The State Bar Council is directed to report to this Court having evolved the mechanism within a period of 45 days.

List the matter on 30.11.2026.

**Sd/-**
**(H.P.SANDESH)**
**JUDGE**

MD/SN