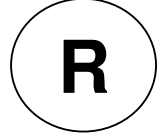




CNR: KAHC010002282026

NC: 2026:KHC:54168
CRL.P No. 11 of 2026



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CRIMINAL PETITION NO. 11 OF 2026

BETWEEN:

MR K S KEERTHIKUMAR,
S/O SRINIVASRAO,
AGED ABOUT 34 YEARS,
RESIDING AT JAKKINAKOPPA
SHIKARIPURA TALUK,
SHIVAMOGGA - 577427,

ALSO AT

9TH CROSS, B BLOCK,
OPPOSITE TO SHIVAPARVATI TEMPLE
DEVARAJ ARS BADAVANE,
DAVANAGERE 577001.

...PETITIONER

(BY SRI VIVEKANANDA N, ADVOCATE)

AND:

1. STATE OF KARNATAKA,
BY CHITRADURGA EXTENSION POLICE STATION,
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA BUILDING,
BENGALURU - 560001.
2. MRS G S SOWMYARANI,
D/O SADASHIVAPPA,
AGED ABOUT 36 YEARS,
RESIDING AT 2ND CROSS,
BANK COLONY, CHITRADURGA 577501,
PERMANENT ADDRESS
SHIVAGANGA VILLAGE,

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HOALALKERE 577526.

...RESPONDENTS

(BY SRI M V ANOOP KUMAR, ADDL.SPP FOR R1,
SMT JYOTHI S KEMPAGAUDAR, ADVOCATE FOR R2)

THIS CRL.P IS FILED U/S 482 CR.PC (FILED U/S 528 BNSS) BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONOURABLE COURT MAY BE PLEASED TO QUASH THE ENTIRE CRIMINAL PROCEEDINGS IN CC NO.890/2023 ON THE FILE OF PRL.SENIOR CIVIL JUDGE AND CJM CHITRADURGA FOR THE OFFENCES P/U/S 406 AND 420 OF IPC 1860 AS FAR AS PETITIONER IS CONCERNED PRODUCED AT ANNEXURE-A.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

ORAL ORDER

Heard the learned counsel appearing for the petitioner, the learned Additional State Public Prosecutor for respondent No.1-State and the learned counsel for respondent No.2/the de facto complainant.

2. This petition is filed to quash the proceedings in C.C.No.890/2023 on the file of the Chief Judicial Magistrate, Chitradurga, for the offences punishable under Sections 406 and 420 of the Indian Penal Code, 1860. ('IPC').

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3. The learned counsel for the petitioner would submit that the complaint is filed on the allegation that the complainant had parted with some money in favour of the petitioner on his assurance that he would marry her, purchase property in the name of the complainant and secure a government job for the complainant's relative.

4. It is alleged that the petitioner refused to marry the complainant, did not secure employment for the complainant's relative, and did not purchase the property in the name of the complainant.

5. Learned counsel appearing for the petitioner would submit that the transactions referred to in the complaint, even if accepted to be true, are civil transactions and that the ingredients of the offences under Sections 406 and 420 of the IPC are absent.

6. In addition, it is urged that Sections 406 and 420 of the IPC cannot co-exist. Learned counsel for the petitioner would place reliance on the judgment of the Apex Court in

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Delhi Race Club (1940) Limited and Others v. State of Uttar Pradesh and Another¹ to support his contention.

7. It is also urged that the charge sheet could not have been filed for the offence under Section 420 of the IPC, and reliance is placed on the judgment of the Apex Court in ***Raju Krishna Shedbalkar v. State of Karnataka and Another²***.

8. The learned Additional State Public Prosecutor for respondent No.1 would submit that the materials in the charge sheet clearly indicate that an amount of around Rs.24,00,000/- was transferred from the complainant and her relatives to the petitioner. The petitioner did not fulfil the promises made by him and made false promises with an intention to extract money and to cheat the complainant and her relative. His acts and omissions constitute criminal offences.

9. The learned counsel for respondent No.2/ complainant would also submit that, because of the petitioner's inducement, the complainant parted with money and that the

¹ **2024 SCC OnLine SC 2248**

² **SLP (Crl.) No. 13615 of 2023**



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petitioner had promised to marry the complainant, purchase property in her name, and secure a government job for the complainant's relative. It is submitted that the petitioner had an intention to cheat at the very inception and that the complainant realised the same subsequently.

10. It is also submitted that the petitioner claimed that he is the Chairman of the Maharashtra Housing Board Urban Development Authority and that all his promises and claims turned out to be false.

11. The Court has considered the contentions raised at the Bar and perused the records.

12. The complaint would indicate that the petitioner allegedly approached the complainant and claimed that he is the Chairman of the Maharashtra Housing Board Urban Development Authority. He further claimed that he is a bachelor and promised to marry the complainant.

13. The petitioner allegedly told the complainant that his bank account was blocked and asked her to pay money. The

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complainant allegedly transferred the amount to the account of the petitioner.

14. The complaint also discloses that the petitioner allegedly told the complainant that they would need a residential house after their marriage and promised to purchase a house in Harihar. He introduced a broker and showed some documents relating to the property and induced the complainant to credit the amount. The complainant states that she credited the amount to the account of the petitioner.

15. It is also alleged that the petitioner promised the complainant that he would secure a job for G.P. Deepak, son of Premanath who is a relative of the complainant. The complainant again parted with money, and G.P. Deepak also credited some amount to the account of the petitioner.

16. It is alleged that the petitioner represented to the complainant's mother and aunts that he would marry the complainant and asked them to fix a date for the marriage. All of them allegedly paid money to the petitioner towards the marriage expenses.

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17. It is alleged that, thereafter, the petitioner started avoiding the complainant. The complainant further states that she later came to know that the petitioner was already married and that he had suppressed this fact when he promised to marry the complainant.

18. It is alleged that the petitioner received around Rs.24,00,000/- from the complainant and her relatives and that the said payments were made because of the petitioner's inducement and promises.

19. The police, after investigation, have filed a charge sheet. The charge sheet materials *prima facie* indicate that the money was transferred from the accounts of the complainant to the petitioner's bank account.

20. In the backdrop of the allegations made in the complaint, one cannot conclude that the transactions are purely civil transactions.

21. Though the learned counsel for the petitioner would urge that the ingredients of Section 406 of the IPC are not forthcoming in the complaint, it is noticed that there are *prima*



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facie materials to try the petitioner for the offence under Section 406 of IPC. It is alleged in the complaint that the petitioner received money from the complainant with an assurance that he would purchase property in her name. The allegation is that the property is not purchased. If it is established that the amount was diverted for some other purpose without the complainant's approval or consent, it would amount to misappropriation, as the amount was allegedly paid with express or implied instructions to purchase the property.

22. In addition, it is also noticed that the complainant contends that she parted with money acting on the assurance that the petitioner would marry her. It is further alleged that the petitioner was already married when he made the promise to marry the complainant and that the fact that he was already married was suppressed.

23. At this juncture it is necessary to refer to Sections 415 and 420 of the IPC which read as under:

"415. Cheating.— *Whoever, by deceiving any person, fraudulently or dishonestly induces the*

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person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat".

Explanation.— *A dishonest concealment of facts is a deception within the meaning of this section.*

420. Cheating and dishonestly inducing delivery of property.— *Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."*

(Emphasis supplied)

24. As can be noticed from the explanation to Section 415 of IPC, dishonest concealment of facts is a deception within the meaning of this section.

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25. The allegation is that the petitioner concealed his subsisting marriage when he promised to marry the complainant and induced her to pay the amount. Thus, it appears that from the inception he had an intention to cheat.

26. Thus, a case is made out to try the accused for the offence under Section 420 of the IPC.

27. Since the learned counsel for the petitioner referred to **Delhi Race Club** (*supra*), it is necessary to notice the following paragraphs in the aforementioned judgment.

"40. To put it in other words, the case of cheating and dishonest intention starts with the very inception of the transaction. But in the case of criminal breach of trust, a person who comes into possession of the movable property and receives it legally, but illegally retains it or converts it to his own use against the terms of the contract, then the question is, in a case like this, whether the retention is with dishonest intention or not, whether the retention involves criminal breach of trust or only a civil liability would depend upon the facts of each case.

41. The distinction between mere breach of contract and the offence of criminal breach of trust and cheating is a fine one. In case of cheating, the intention of the accused at the time of inducement should be looked into which

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may be judged by a subsequent conduct, but for this, the subsequent conduct is not the sole test. Mere breach of contract cannot give rise to a criminal prosecution for cheating unless fraudulent or dishonest intention is shown right from the beginning of the transaction i.e. the time when the offence is said to have been committed. Therefore, it is this intention, which is the gist of the offence.

42. *Whereas, for the criminal breach of trust, the property must have been entrusted to the accused or he must have dominion over it. The property in respect of which the offence of breach of trust has been committed must be either the property of some person other than the accused or the beneficial interest in or ownership of it must be of some other person. The accused must hold that property on trust of such other person. Although the offence i.e. the offence of breach of trust and cheating involve dishonest intention, yet they are mutually exclusive and different in basic concept.*

43. *There is a distinction between criminal breach of trust and cheating. For cheating, criminal intention is necessary at the time of making a false or misleading representation i.e. since inception. In criminal breach of trust, mere proof of entrustment is sufficient. Thus, in case of criminal breach of trust, the offender is lawfully entrusted with the property, and he dishonestly misappropriated the same. Whereas, in case of cheating, the offender fraudulently or*

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dishonestly induces a person by deceiving him to deliver any property. In such a situation, both the offences cannot co-exist simultaneously."

28. The judgment in ***Delhi Race Club*** (*supra*) like any other case has to be understood in the context of the facts of the said case. The complainant in the said case alleged that he had supplied the goods and the purchaser did not pay the dues in respect of said supply. In this behalf, the private complaint was filed alleging offences under Sections 406 and 420 of IPC. The Magistrate had taken cognizance for the offence under Section 406 of IPC and issued process. The cognizance was not taken in respect of the offence under Section 420 of IPC. The accused had questioned the said order and High Court had rejected the petition filed by the accused. The Apex Court accepted the challenge by the accused and came to the conclusion that the ingredients of the offences pertaining to Section 406 as well as Section 420 of IPC have not been made out.

29. In the aforementioned background the Apex Court has held that the registration of FIR for the offences under

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Sections 406 and 420 of IPC by the Police was without application of mind.

30. As can be noticed from the paragraphs No.40 to 43 in **Delhi Race Club** (*supra*) extracted above, it is evident that the Apex Court has not laid down a ratio that there cannot be simultaneous prosecution of offences under Sections 406 and 420 IPC in every case where the charges are framed under aforementioned provisions. To put it simply, the facts in **Delhi Race Club** (*supra*) did not attract any of the said offences.

31. It is required to be noticed that if the complaint refers to two or more distinct transactions/incidents and if such transactions/ incidents independently attract the offences under Sections 420 and 406 of the IPC, then there cannot be any bar to try the accused for both the offences.

32. The contention that the offences under Sections 406 and 420 of IPC cannot be tried together cannot be accepted as an inflexible thumb rule. In a given case, the facts may attract both the offences. In some cases it may attract

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either one of the two. It can be explained with illustrations as under:

Illustration-1

- *A and B are aware that C has met with an accident and is in need of money for the treatment.*
- *A transfers money to B with an express mandate that B should pay the money to C to meet the medical expenses.*
- *B does not pay the money to C, however B misappropriates the same.*

Illustration -2

- *A and B are aware that C has met with an accident and is in need of money for the treatment.*
- *A pays money to B with instruction to pay to C. B, misappropriates the same. B thereafter induces A to pay more money saying C is in need of money. A believes and pays money to B. Again B misappropriates.*

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33. In Illustration-1 there is no inducement by B while A transferred the money to B. Thus, Section 420 of IPC cannot be invoked against B. However, Section 406 of IPC can be invoked against B for misappropriating the money.

34. However, in Illustration -2 both Sections 406 and 420 of IPC are attracted. The reason is that when A pays money for the second time, there is an inducement before delivery.

35. Thus, the Court is of the view in the instant case the contents of the complaint *prima facie* disclose that the petitioner/accused had an intention to cheat the complainant and suppressed the fact that he was already married, and promised to marry the complainant, took money from her assuring that he would purchase the property, assuring employment for the relative and allegedly misappropriated the money. The complainant apparently was not aware of the fact that the accused was already married when he proposed to marry the complainant and he represented himself as a bachelor. Thus, both Sections 406 and 420 of IPC are attracted.



36. The Court has perused the judgment of the Apex Court in the case of **Raju Krishna Shedbalkar** (*supra*), wherein the Apex Court has held that a mere promise to marry and thereafter the refusal on the part of the promisor to marry will not amount to cheating.

37. From paragraphs No.2 and 3 of the judgment in **Raju Krishna Shedbalkar** (*supra*), wherein the facts of the said case are spelt out, it can be noticed that the facts are not similar to the facts of the present case.

38. In the instant case, the allegation is that the petitioner, though married, had suppressed his marriage and allegedly promised the complainant that he would marry her and thereby induced her to part with money. In **Raju Krishna Shedbalkar** (*supra*), the petitioner was not married when he allegedly promised to marry the complainant.

39. Though the learned counsel for the petitioner would urge that the transactions between the complainant and the accused were only civil transactions, the Court is unable to accept the said contention as the facts narrated above clearly



indicate that the ingredients of the criminal offences are made out. It is well settled principle of law that certain transactions may give rise to both civil and criminal consequences and certain transactions may give rise to either of the two. The case on hand attracts both civil and criminal consequences.

40. In addition, the second respondent, along with the application for vacating the stay, has produced certain documents allegedly sent by the petitioner from his email ID. From the said documents, it is noticed that the petitioner allegedly sent an email to the complainant along with an attachment claiming that he had obtained an appointment order from the Chief Minister of Maharashtra in favour of G.P. Deepak, son of Premanath.

41. In reply to the said documents, learned counsel for the petitioner would submit that the email ID allegedly used to forward the mail to the complainant does not belong to the petitioner.

42. It is the submission of learned counsel for the complainant that the complainant had furnished the records

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produced along with the application for vacating the stay to the Investigating Officer and that the Investigating Officer had not considered those records.

43. Learned Additional State Public Prosecutor would submit that liberty may be reserved to the Investigating Officer to conduct further investigation into the documents allegedly sent by the petitioner and submit an appropriate report/ additional charge sheet, if required.

44. The Court, after having gone through the documents produced, is of the firm view that there must be further investigation into the allegations based on the records produced along with the application filed for vacating the stay, as the complainant claims that those records were submitted at the time of investigation and that they have not been taken into consideration. There has been no investigation with regard to those records.

45. It is indeed true that the complainant has not challenged the investigation carried out by the police and has not sought a specific prayer directing the police to carry out

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further investigation. However, from the materials placed on record, it is noticed that, even in a petition filed by the accused to quash the charge sheet, if the Court finds that the investigation is incomplete in respect of certain matters, or that the Investigating Officer has overlooked certain vital aspects, the Court, to ensure complete justice, can direct further investigation and insist upon the filing of an appropriate report upon completion of the investigation.

46. As already noticed, in the instant case, there is a serious allegation of extracting money on the promise that the petitioner would secure Government employment and purchase property in the name of the complainant.

47. In addition to that, as already noticed, in the application filed for vacating the stay, the complainant has produced documents allegedly sent by the petitioner, whereby he is alleged to have sent a fake employment order. That being the position, the Court is of the view that the matter has to be tried and that there has to be further investigation as indicated above.

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ORDER

- (i) The Criminal Petition is ***dismissed***.
- (ii) The respondent No.1-State shall also investigate the allegation relating to procuring Government employment.
- (iii) Respondent No.1-State shall file an appropriate additional report before the Trial Court within three months from today.

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(ANANT RAMANATH HEGDE)
JUDGE

CHS
List No.: 2 Sl No.: 9

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