



CNR: KAHC010012592021

NC: 2026:KHC:48761
CRL.P No. 297 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF SEPTEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO.297 OF 2021

BETWEEN:

1. ASHOK SHETTY
AGED ABOUT 58 YEARS
S/O LATE BOLLU SHETTY
PROPRIETOR M/S ASHOK IMPEX
D.NO.2-14-14B6, 1ST FLOOR
RAJ TOWERS, CITY BUS STAND
UDUPI-576101, UDUPI DISTRICT.

...PETITIONER

(BY SRI. SUDESH KUMAR ACHARYA U., ADVOCATE)

AND:

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA

1. STATE OF KARNATAKA
BY UDUPI TOWN POLICE STATION
UDUPI-576 101
REP BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
HIGH COURT OF KARNATAKA
BENGALURU-560001
2. H.E. BASAVARAJ SWAMY
AGED ABOUT 60 YEARS,
PROPRIETOR
PRAGATHI ELECTRICAL ENGINEERING
SALES AND SERVICE
BYPASS ROAD



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NEAR CANTER SHOWROOM,
C.V. COMPLEX, POST URAGADUR
SHIVAMOGGA DISTRICT-577203.

...RESPONDENTS

(BY SRI. SUHAS GOWDA M., HCGP FOR R1;
R2 – SERVED, UNREPRESENTED)

THIS CRIMINAL PETITION IS FILED U/S.482 OF CR.P.C.
PRAYING TO QUASH THE IMPUGNED ORDER DATED
10.09.2020 PASSED IN CRL.RP.NO.45/2018 ON THE FILE OF
PRINCIPAL DISTRICT AND SESSIONS JUDGE, UDUPI AND TO
QUASH THE IMPUGNED ORDER DATED 10.05.2018 PASSED IN
PCR NO.73/2013 ON THE FILE OF ADDITIONAL CIVIL JUDGE
AND J.M.F.C., UDUPI.

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

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

ORAL ORDER

Heard learned counsel appearing for the petitioner and
learned High Court Government Pleader appearing for
respondent No.1-State.

2. The prayer is sought before this Court to quash the
order of the Trial Court dated 10.05.2018 accepting the 'B'
report and rejecting the complaint and confirmation order
passed by the Revisional Court in CrI.R.P.No.45/2018 dated
10.09.2020.



3. The factual matrix of case of the complainant/petitioner before this Court is that on 18.06.2013, when the petitioner filed P.C.R.No.73/2013 invoking Section 200 of Cr.P.C, an allegation is made against respondent No.2 that he had committed the offence punishable under Sections 415, 420, 504, 506(2) of IPC. Based on the said complaint, matter was referred under Section 156(3) of Cr.P.C and the Police, who investigated the matter by registering Crime No.343/2013 and recording statement of witnesses, have filed the 'B' report. In respect of the 'B' report, the petitioner herein has filed objections to the 'B' report and he himself is examined as P.W.1 and got marked the documents Exs.C1 to C8. The Trial Court having considered the sworn statement of P.W.1 and also the document Exs.C1 to C8 comes to the conclusion that it is a civil dispute between the parties with regard to the payment and non-performance of duty by the accused/respondent No.2 and accepted the 'B' report and rejected the complaint. Hence, revision petition is also filed before the Court.



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4. In the revision petition, it is contended that Trial Court mechanically passed a non-speaking impugned order and failed to consider the evidence of P.W.1, who has been examined and Trial Court ought not to have accepted the 'B' report and erred in suspecting the bonafides in the matter of written agreement of the petitioner with the accused. The Revisional Court also having considered the grounds, perused the material on record and formulated the point whether the revision petitioner/complainant has made out sufficient grounds to revive the impugned order. The Revisional Court also having considered the contents of complaint, 'B' report filed by the Police and also the statement of P.W.1 comes to the conclusion that main grievance of the complainant about non-performance of the contract within stipulated time and extract of money more than the contractual terms by the accused and on 17.06.2013 when demanded refund of excess money collected more than the contractual terms, the accused abused in filthy language caused threat to the life of the complainant which is extracted in paragraph No.18 of the revisional order.



5. However, in paragraph No.20 comes to the conclusion that having considered the material on record, it reveals that Trial Court appreciating the material available in the file, rightly concluded that complainant failed to place material to constitute ingredients of the offence punishable under Sections 417, 420, 504 and 506(2) of Cr.P.C. The Revisional Court also comes to the conclusion that when the dispute is between the parties with regard to payment of the amount and non-performance, question of invoking criminal jurisdiction does not arise.

6. Being aggrieved by the said order of the Trial Court accepting the 'B' report as well as the order of the Revisional Court, the counsel appearing for the petitioner would vehemently contend that both the Courts failed to consider the case of petitioner with regard to clear averments made in the complaint, which clearly attribute that offence under Sections 417, 420, 504 and 506(2) are made out. In spite of it, the accused, who was having wrongful intention/motive to cheat the complainant and having accepted the amount of Rs.10,94,576/- from the complainant, he had caused wrongful



loss to him and the very ingredients of Sections 417 and 420 of IPC attracts. The counsel would contend that while entering into the said agreement and contract, he was having an intention to cheat the complainant. The counsel also would contend that Trial Court failed to consider the very ingredients of the offence under Sections 504 and 506 of IPC when the accused/respondent No.2 was called and requested to make the payment, at that time, he caused life threat and also abused in filthy language which has been set out in the complaint itself. But, the same is not considered and hence, it requires interference of this Court.

7. Learned High Court Government Pleader appearing for respondent No.1-State would submit that the Trial Court having considered the material on record passed the impugned order considering the 'B' report filed by the Police and the 'B' report is also very clear that it was a civil dispute between the parties. Hence, the Trial Court considered the 'B' report and accepted the same.

8. This Court has issued notice to respondent No.2 and he has been served and unrepresented. Having heard learned



counsel appearing for the petitioner and learned High Court Government Pleader for respondent No.1-State, considered the contents of the complaint, particularly an averment is made with regard to petitioner and respondent No.2 entering into a contract and the same is set out in paragraph No.4 of the complaint at document No.3 and also made the payment of Rs.10,94,576/-, but allegation is made that he did not perform his part of duty having accepted the money.

9. Having perused the contents of complaint in paragraph No.5 also, specific date is mentioned in the complaint that incident has taken place on 17.06.2013 at 10.00 a.m. and when the respondent No.2 was called to the office of complainant, the respondent No.2 abused in filthy language and also threatened the life and there is an averment in the complaint with regard to invoking the offence punishable under Section 420 of IPC as well as Sections 504 and 506(2) of IPC. In paragraph No.7 also stated that accused had also taken the material worth of Rs.5,50,000/- and invoked the provisions against the respondent No.2. The Police have also investigated the matter and filed the 'B' report and the same is questioned



by filing statement of objections. The complainant is also examined before the Trial Court and in the evidence before the Magistrate on oath, he has reiterated the contract between the petitioner and also respondent No.2 and the fact of receiving an amount of Rs.10,94,756/- is also spoken by the complainant and so also causing loss to the tune of Rs.10,00,000/-. The P.W.1 also reiterated with regard to the incident dated 17.06.2013 at 10.00 a.m. causing life threat and also abuse made by him. It is also stated that with an intention to cheat the complainant, he had received the amount, but he did not complete the work.

10. Having perused the statement of P.W.1, the very ingredients of the offences have been stated in his sworn statement before the learned Magistrate. However, the Trial Court while considering the 'B' report and also the evidence of complainant failed to consider the sworn statement made before the Magistrate when he was examined subsequent to filing of 'B' report and in paragraph No.5 of the order of the Revisional Court, an observation is made that failure to fulfill his obligation does not constitute an offence under Section 417



and 420 of IPC. The allegation made in the complaint clearly indicates that civil liability has been tried to give colour of criminal liability and having discussed the same, failed to discuss anything about the evidence of P.W.1 which was made subsequent to filing of the report and nothing is discussed in the order of the Trial Court while coming to such a conclusion that 'B' report is liable to be accepted.

11. With regard to the offence under Sections 504 and 506 of IPC, the incident and so also the abuse made in filthy language and causing of life threat are concerned, nothing is discussed by the Trial Court. The Revisional Court also when the grounds were urged before the Revisional Court with regard to accepting the 'B' report and not considering the statement made by the complainant and no doubt, he has not examined any of the witnesses though cited some of the witnesses with regard to the incident is concerned, but the Revisional Court also failed to discuss anything about the ingredients of the offence under Sections 504 and 506 of IPC when the complainant himself has deposed before the learned Magistrate on oath that on the particular date an incident has taken place



and the accused abused the complainant in a filthy language on 17.06.2013 and caused life threat.

12. The Court also has to take note of whether there was an intention to cheat at the time of inception of entering into an agreement or not and the same is a matter of trial and the same cannot be considered at the stage of taking cognizance and issuing summons. Hence, learned counsel appearing for the petitioner has made out a ground that the evidence which was led by the complainant which has been reiterated in his statement made on 06.08.2016 was not considered by both the Trial Court as well as the Revisional Court. Therefore, the petitioner has made out a case to interfere with the findings of the Trial Court in accepting the 'B' report and confirmation of the same by the Revisional Court.

13. Learned counsel for the petitioner also relied upon the judgment of the Apex Court in **SHIVJEE SINGH V. NAGENDRA TIWARY AND OTHERS** reported in **(2010) 7 SCC 578**. This judgment is applicable to the facts of the case on hand because non-examination of other witnesses is not a fatal. However, the Trial Court failed to consider the very



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evidence of complainant which was led subsequent to filing of 'B' report, wherein he has narrated with regard to ingredients of the offences which have been invoked in the statement made before the learned Magistrate on oath and also specific averment is made in the complaint and the same has not been considered. Hence, this judgment comes to the aid of learned counsel appearing for the petitioner.

14. In view of the discussion made above, I pass the following:

ORDER

- (i) The criminal petition is allowed.
- (ii) The impugned order passed by the Trial Court dated 10.05.2018 passed in P.C.R.No.73/2013 accepting the 'B' report and rejecting the complaint is set aside. Consequently, the order of confirmation passed by the Revisional Court dated 10.09.2020 in CrI.R.P.No.45/2018 is also set aside. The trial Judge is directed to proceed in accordance with law.

Sd/-
(H.P.SANDESH)
JUDGE

ST
List No.: 1 Sl No.: 30