



CNR: KAHC010054712019

NC: 2026:KHC:44219
CRL.P No. 1418 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL PETITION NO. 1418 OF 2019

BETWEEN:

THE STATE OF KARNATAKA
BY THE SUBRRAMNYAPURA POLICE STATION,
BENGALURU,
REP BY THE
STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BANGALORE - 560 001.

...PETITIONER

(BY SMT.SOWMYA R., HCGP;
SRI MA SUBRAMANI, ADV. V/O DATED 04.03.2026)

AND:

K S KRISHNA
S/O SEENAPPA
AGED ABOUT 63 YEARS
PROPRIETOR,
R.K. HOMES,
VITTAL DRESSES,
1ST FLOOR, DVG ROAD,
BASAVANAGUDI
BANGALORE - 560 004.

...RESPONDENT

[BY SMT.VAIBHAVI, ADVOCATE FOR
SRI KS NARAYANASWAMY, ADVOCATE (VC)]

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO
SETTING ASIDE THE ORDER PASSED BY THE LEARNED LXVIII

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BANGALORE
(CCH-69) IN CRL.R.P.NO.452/2018 DATED 19.11.2018 AND
THE ORDER PASSED BY THE LEARNED II A.C.M.M.,
BANGALORE.

THIS PETITION IS HAVING BEEN HEARD AND RESERVED
FOR ORDERS ON 19.06.2026, THIS DAY, THE COURT,
PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

Challenging order dated 19.11.2018 passed by LXVIII
Addl. City Civil and Sessions Judge, Bengaluru in
Crl.RP.no.452/2018, this petition is filed.

2. Smt.Sowmya R., learned HCGP for petitioner-State
submitted that one Gokul Das (**complainant**) filed complaint
on 06.05.2014 stating that he was in Saree business with his
wife Smt.Jayalakshmi since 1994. That one KG Hanumantaiah
(accused no.4) told them that they would not make profit in
saree business, and that his friends KS Krishna (accused no.1),
Ramaswamy (accused no.2) and Ganganna (accused no.3) had
opened real estate office by name '*Jyothi Enterprises*' in
Chikkallasandra, in which accused no.4 had also invested



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money and that they had obtained GPA in respect of land bearing Sy.no.28 of Arehalli village, Uttarahalli Hobli, Bengaluru South Taluk, formed sites and were selling same. By showing plan, he convinced complainant and his wife that they can make profits by paying advance, buy sites and sell them for profit. He introduced complainant to accused no.1 to 3. Due to inducement complainant and his wife left Saree business and diverted capital from 1994 till 2006, paid total of Rs.26.4 Lakhs (Rs.2.4 Lakhs as advance and Rs.24 Lakhs at time of registration) to accused and got executed agreements of sale in respect of sites bearing no.9, 19, 20, 21, 22, 31, 32, 33, 34, 44, 45 and 51 measuring 30 ft. X 40 ft. each (**sites** colly.) carved out of Sy.no.28 of Arehalli village (supra).

3. It was stated that on 19.04.2006 and 26.04.2006, accused executed registered sale deeds and sold *sites* to complainant and his wife (**victims**). Complaint specifically mentioned role of each accused, that accused no.4 introduced victims to other accused and induced them to invest money in sites; that accused no.2 had opened real estate office and under authority of GPA executed registered sale deeds; that



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accused no.1 received money from victims and signed receipt and based on forged documents accused no.3 took victims to Sub-registrar's office and signed sale deeds as witness.

4. Only after 2008-09, when BMTC built compound wall around land including sites purchased by victims, they verified records and found that accused had induced them to pay money for purchase of sites in Government lands based on forged documents to cheat them. And when victims sought return of their money, accused threatened to kill them if they persisted with demand. Alleging that accused had not only defrauded victims and threatened to kill them, but were likely to conspire, forge documents and defraud others in same manner, action was sought. Same was registered as Crime no.296/2014 against accused for offences punishable under Sections 468, 471, 420, 120B, 506 r/w 34 of Indian Penal Code, 1860 (**IPC**). And after investigation Charge Sheet was filed for said offences in CC no.12675/2015.

5. Thereafter, accused no.1 filed application for discharge under Section 239 of Code of Criminal Procedure, 1973 (**CrPC**). Though trial Court rejected it on 02.05.2018,



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learned District Judge reversed order in Crl.R.P.no.452/2018 without proper consideration leading to this petition.

6. Assailing said order, Smt.Sowmya R. learned HCGP for petitioner - State submitted that Sessions Court failed to appreciate agreement dated 26.11.2012 between victims and accused, wherein accused agreed to pay compensation to victims and which would vindicate complaint allegations and constitute prima facie material. Besides, there is specific allegation about accused threatening to kill victims if they persisted with demand for return of their money. Hence order allowing discharge application would be unsustainable.

7. It was submitted that about 100 Acres of land in Sy.no.28 of Arehalli was government land. And accused conspired with each other fabricated documents, showing 2 Acres in said land as private land, forged GPA in favor of accused no.2, divided land into sites and sold them, including 12 sites to victims on 19.04.2006 and 26.04.2006 by receiving total of Rs.26,40,000/-. It was submitted some sites were purchased by complainant himself. Therefore, contention about



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lack of *locus standi* to file complaint would not be tenable. On above grounds prayed for allowing petition.

8. Petition was also opposed by Sri MA Subramani learned counsel for complainant. It was submitted, learned Sessions Judge gravely erred in discharging accused no.1 on ground that complaint was barred by time and about dispute being of civil nature. It was submitted that offences under Sections 420 and 506 of IPC were punishable with imprisonment for upto seven years. Hence, contention about complaint being barred by time would not sustain. Further, material collected in course of investigation included GPA, agreements of sale; sale deeds etc. which indicate that accused had formed sites in government land. Even agreement dated 26.11.2012 indicated that land belonged to government. Thus, prosecution material would substantiate suspicion of accused committing offences alleged. Considering same, trial Court rightly dismissed application for discharge and learned Sessions Judge erred in reversing same.

9. Apart from above, it was submitted, since accused no.2 and 3 were reported dead, Trial Judge vide order dated



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08.11.2021 closed proceedings against them as abated. On above grounds prayed for allowing petition by rejecting application for discharge.

10. Smt.Vaibhavi learned counsel appearing for Sri KS Narayanaswamy, advocate for accused no.1 opposed petition. It was submitted though Sy.no.28 of Arehalli village totally measured 100 Acres 38 guntas with portion of it granted to several persons, including grant of 1 Acre 20 guntas to Chikkananjappa under order dated 28.12.1978. As owner, said grantee executed Agreement of sale and GPA in favour of accused no.1. On 31.03.1994 accused no.1 executed agreement of sale in favour of Smt.Jayalakshmi in respect of one site for Rs.1,15,000/-, receiving Rs.15,000/- as advance and agreeing to receive remaining at time of registration. But, land granted to Chikkananjappa was acquired for BMTC. In any case, complaint filed eighteen years after agreement of sale, was time barred. And even if matter was resolved by execution of Memorandum of Understanding on 26.11.2012, whereunder accused no.1 agreed to pay compensation, same was subject to condition of complainant returning all original deeds. As



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condition was not fulfilled, payment of compensation would not arise. In above circumstances, knowing that complainant would not get relief before Civil Court, victims resorted to criminal proceedings to harass accused. Learned Sessions Judge allowed application for discharge on examination of prosecution material and concluding absence of *prima facie* material against accused no.1. Relying on decision of Hon'ble Supreme Court in **Chanchalpati Das v. State of West Bengal**, reported in **(2023) 20 SCC 120**, it was submitted though proceedings cannot be quashed on delay alone, it could be considered as one of factors. It was submitted that Hon'ble Supreme Court in **Hasmukhlal D. Vora v. State of T.N.** reported in **(2022) 15 SCC 164**, held unexplained inordinate delay in filing complaint was crucial factor for quashing complaint. Caution was sounded against holding of mini trial and that law must serve as a shield to protect innocent, instead of tool to harass accused.

11. He also relied on decision of this Court in **Rudra Swamy v. State of Karnataka [2021:KHC:36191]**, wherein it was held, normally accused must face trial based on material secured during investigation and power under Section 482 of



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CrPC to quash such proceedings must be exercised in exceptional cases. On said ground, sought for dismissal.

12. Heard learned counsel and perused entire material.

13. This petition is by State challenging order passed by Revisional Court reversing order of trial Court and allowing application for discharge filed by accused no.1. Before deciding on legality of impugned order, it would be imperative to refer to principles for consideration of application for discharge. In ***Sajjan Kumar v. CBI*** reported in **(2010) 9 SCC 368**, Hon'ble Supreme Court held:

"17. Exercise of jurisdiction under Sections 227 & 228 of Cr.P.C.

On consideration of the authorities about the scope of Section 227 and 228 of the Code, the following principles emerge:

- (i) The Judge while considering the question of framing the charges under Section 227 of the Cr.P.C. has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.*
- (ii) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.*
- (iii) The court cannot act merely as a post office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of*



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the evidence and the documents produced before the court, any basic infirmities, etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

- (iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.*
- (v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.*
- (vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.*
- (vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal."*

14. While passing order on application for discharge in instant case, trial Court noted that dispute was between accused no.1 and CW.2 wife of CW.1 about *sites*. On ground that offences alleged carried punishment of more than seven



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years, it rejected contention that complaint was time barred. It noted prosecution material showed transaction between accused and victims (CWs.1 and 2) in respect of *sites* formed in Government land, would be *prima facie* material for trial and question whether accused committed offense or not would be matter for trial, to reject application.

15. In revision, learned Sessions Judge noted that Sale Deeds referred to by prosecution in charge-sheet were not executed by accused no.1 but by other accused. It referred to contention that complainant's wife failed to comply with terms of agreement dated 26.11.2012 and even if case of prosecution was for breach of agreement, suit for recovery of money ought to have been filed. Thus, there was no *prima facie* material to proceed against accused no.1 and observing that trial Court had failed to consider said aspects. It also observed that a person facing criminal prosecution would suffer loss of reputation and reversed order on application for discharge.

16. Though various contentions as noted above are urged, it would be useful to refer to scope for interference of order against an order on application for discharge. Hon'ble



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Supreme Court in case of **Central Bureau of Investigation v. Aryan Singh**, reported in **(2023) 18 SCC 399**, spelt on powers of High Court under Section 482 of CrPC against such orders as follows:

*"7. Therefore, the High Court has materially erred in going in detail in the allegations and the material collected during the course of the investigation against the accused, at this stage. At the stage of discharge and/or while exercising the powers under Section 482 CrPC, the Court has a very limited jurisdiction and is required to consider '**whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not**'.*

17. Thus, while deciding on legality of order on application for discharge, this Court has to examine, whether Courts have sifted through prosecution material, examine it for basic infirmities and thereafter consider broad probabilities of case to find out existence of prima facie case against accused for framing of charges.

18. In instant case, prosecution relies on spot panchanama dated 14.10.2014, agreements of sale executed by accused no.1 to victims on various dates in respect of *sites*; GPA dated 29.09.1994 in favour of accused no.2, GPA and affidavit dated 19.06.1995 by accused no.2 in respect of sites



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no.19 to 22 and 31 to 34 (8 sites) to CW.2, agreement of sale dated 10.10.1992 by accused no.5 to accused no.1, agreement dated 26.11.2012 by accused no.1 undertaking to pay compensation to victims, sale deeds executed by accused no.2 to victims, documents provided by CWs.5 and 6 about grant of land by government to BMTC, further statement of complainant, statement of complainant's wife as CW.2 and statement of CTC of BMTC as CW.6. In their statements, victims as CWs.1 and 2 reiterate complaint averments. Statement of CW.6 who is CTC of BMTC is that on request of BMTC, Special Deputy Commissioner, Bangalore passed order on 23.01.2008 granting 10 Acres out of 100 Acres 38 guntas of Government land in Sy.no.28 of Arehalli village to it.

19. Whether above material establishes *prima facie* case against accused no.1 for offences of cheating, criminal conspiracy and criminal intimidation requires to be examined.

20. At outset, there appears glaring omission to evaluate prosecution material insofar as offence under Section 506 of IPC as stated by both CWs1 and 2. Even allegation of cheating and conspiracy are based on statements of CWs.1 and



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2 about dishonest inducement by accused to part with money to buy sites by specifically mentioning role of each accused i.e. about accused no.4 introducing victims to accused no.1 to 3 by claiming that they had obtained GPA from owner of 1 Acre 20 guntas of granted land in Sy.no.28 of Arehalli in which they had formed sites and were selling them for profit and inducing victims to invest in said sites and sell them for profit. CW.1 further state that land in which sites were formed, with regard to they were shown order of grant and GPA by owner and agreements of sale and sale deeds executed in favour of victims was government land, which prima facie constitute essential ingredients for offences under Section 420 and 120B of IPC. Though, application for discharge is based on denial of role of accused no.1 and pointing out that GPAs/agreements of sale as well as Sale deeds were executed by accused no.2, but agreement dated 26.11.2012 relied upon by prosecution would implicate accused no.1. Revisional Court doubted it's enforceability. Regardless of same it bears acknowledgement of earlier transactions with victims in relation to sites formed on government land receipt of consideration etc. Promise to pay



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compensation by accused no.1 would be prima facie material about involvement of accused no.1 in transactions with victims. Explanation that transaction with victim was frustrated due to acquisition of land in favour of BMTC apart from being in nature of defence and statement of CW.6 and documents collected from CWs.5 and 6 would indicate that land bearing Sy.no.28 of Arehalli village was government land and granted to BMTC. Therefore, reasoning by Revisional Court would appear contrary to record, which indicates existence of prima facie case against accused to proceed for trial. In view of above conclusion, following:

ORDER

Petition is ***allowed***, impugned order dated 19.11.2018 passed by LXVIII Addl. City Civil and Sessions Judge, Bengaluru in Crl.RP.no.452/2018 is set-aside, restoring order passed by trial Court rejecting application for discharge passed by trial Court.

**Sd/-
(RAVI V HOSMANI)
JUDGE**