



CNR: KAHC010083032020

NC: 2026:KHC:55131
CRL.P No. 6426 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 5TH DAY OF OCTOBER, 2026
BEFORE
THE HON'BLE MR. JUSTICE H.P.SANDESH
CRIMINAL PETITION NO.6426 OF 2020

BETWEEN:

1. SRI. L. AROGYASWAMY
S/O LATE A. LURDAPPA
AGED ABOUT 50 YEARS.
2. SRI. L. ALBERT
S/O LATE A. LURDAPPA
AGED ABOUT 48 YEARS.

BOTH ARE R/AT
SANNATHAMMANAHALLI
TC PALYA, KR PURAM
BANGALORE 560036.

...PETITIONERS

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA

(BY SRI. RAJESH GOWDA, ADV.,)

AND:

1. STATE OF KARNATAKA
REP. BY K.R. PURAM P.S.
BANGALORE 560036
REP BY SPP HIGH COURT COMPLEX
BANGALORE 560001.
2. SRI. ROBERT JOSEPH FRANCIS
S/O A. FRANCIS
SINCE DEAD BY LR'S.



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- 2a. MRS. LISSY ROBERT
W/O LATE ROBERT JOSEPH FRANCIS
AGED ABOUT 54 YEARS.
- 2b. MRS. MELANIE MARIAM ROBERT
D/O LATE ROBERT JOSEPH FRANCIS
AGED ABOUT 34 YEARS.
- 2c. MR. THOMSON
S/O LATE ROBERT JOSEPH FRANCIS
AGED ABOUT 30 YEARS.

ALL ARE R/AT NO. 261
K.R. NAGAR,
CHOODA SANDRA
BANGALORE – 560099.

...RESPONDENTS

(BY SRI. SUHAS GOWDA M, HCGP FOR R1
SRI. K. CHANDRANATH ARIGA, ADV., FOR R2 (a to c))

THIS CRL.P IS FILED U/S.482 OF CR.P.C. PRAYING TO
QUASH THE PROCEEDINGS IN C.C.NO.50208/2019 (IN
CR.NO.358/2017) FOR THE OFFENCE U/S 418, 419, 420, 468,
471, 447, 448, 120(b) & SECTION 34 OF IPC ON THE FILE OF
THE X A.C.M.M., MAYO HALL UNIT, BANGALORE CASE
REGISTERED BY K.R PURAM POLICE STATION, BANGALORE.

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 the learned counsel appearing for the petitioners and also the learned counsel appearing for the respondents.

2. The petition is filed praying this Court to quash the proceedings against the petitioners who have been arrayed as accused Nos.3 and 4 in C.C.No.50208/2019 (Crime No.358/2017) for the offences punishable under Sections 418, 419, 420, 468, 471, 447, 448, 120B and Section 34 of IPC on the file of X Additional Chief Metropolitan Magistrate, Mayohall Unit, Bengaluru.

3. The factual matrix of the case is that the respondent-complainant filed the PCR No.52422/2017 before the trial Court invoking the offences under Sections 468, 447, 448, 453, 454, 456 and 34 of IPC, the Magistrate invoked Section 156(3) of Cr.P.C. and referred the matter to the police. The police having received the direction, registered the FIR and investigated the matter and filed the charge sheet including the mother of the petitioners, who is no more, died on 11.02.2007.



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4. Learned counsel appearing for the petitioners would vehemently contend that the charge sheet is filed against the dead person. Learned counsel would also submit that while filing the charge sheet, an allegation is made that these two petitioners, along with their mother, had executed a sale deed in favour of Sagayaraju in conspiracy, though there was a sale agreement and also the General Power of Attorney (GPA) executed by the mother but the same was not executed by these two petitioners and they are not the part of earlier GPA dated 21.02.1990 as well as the sale agreement dated 26.03.1990. But learned counsel also vehemently contend that the said GPA executed by the mother Smt.Susheelamma was cancelled on 19.12.1992, and these petitioners have nothing to do with the alleged case. The matter between the accused Nos.1 and 5 and the complainant is civil in nature. The complainant has filed alleged case against these petitioners making unlawful gain. Learned counsel also submits that the said Ramathilak tried to interfere with the properties of the petitioners and hence, they have filed a suit in O.S.No.15900/2002 and the same was decreed. Learned



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counsel also submits that the contention of the complainant that said Ramathilak, as GPA holder of Smt.Susheelamma, sold a Site No.15 of ITI notified area Katha No.61/2/50/2/15 situated at Sannathammanahalli in favour of Smt.F.Caroline W/o. A.Francis and these petitioners are no way concerned to the said sale deed and even they are not witness to the said sale deed. The entire proceedings against the petitioners are required to be quashed. The learned counsel also submits that on 22.12.2003, the petitioners and their mother sold their entire property in favour of Sri.Sagayaraju under the registered sale deed dated 24.01.2004 and the said Sagayaraju sold a site bearing No.23 in favour of Sri.Dakshina Murthy and Smt.K.Ramani under the registered sale deed dated 05.05.2006, who in turn sold the same in favour of Smt.Josephine Mary under the registered sale deed dated 27.11.2010, who in turn sold the same in favour of accused No.1 Sri. Chinnappa on 07.06.2017. Hence, there is no role of these petitioners in selling those properties. Learned counsel also submits that subsequent purchasers have also not been made as parties to the criminal proceedings, but only with an



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intention to harass these petitioners, even though they are not parties to all the sale deeds, they were made as accused and hence it requires interference of this Court to exercise the power under Section 482 of Cr.P.C. Learned counsel in support of his argument relies upon the judgment in the case of ***Anukul Singh vs. State of Uttar Pradesh and Another*** reported in **2025 LiveLaw (SC) 948** and brought to the notice of this Court paragraph No.20, wherein the Apex Court held that it is manifest that the dispute concerning repayment of loan money and the alleged coercion in execution of documents is purely civil in character. The essential ingredients of cheating or forgery are not *prima facie* made out. The institution of multiple FIRs in quick succession, particularly after the appellant had already initiated lawful proceedings, reinforces the inference of mala fides and the Apex Court has also taken note of the earlier judgment in the case of ***State of Haryana & others vs. Bhajan Lal and others*** reported in **1992 Supp.(1) SCC 335**, when the complaint is filed with an intention to wreck vengeance, there cannot be criminal prosecution.



5. Per contra, learned counsel appearing for the respondent-complainants submits that the mother of the petitioners had executed a General Power of Attorney in favour of Ramathilak on 21.02.1990 is not in dispute and under the said GPA, all the powers are given to the said GPA holder to enter into sale transaction, form the layout, develop the property and sell the same. Learned counsel also submits that even a sale agreement was also executed on 26.03.1990. In pursuance of the sale agreement as well as GPA, the GPA holder had executed a sale deed on 23.08.1990 in favour of the complainant, wherein layout was formed and site number was assigned as 15. Learned counsel would also submits that initially Smt.F.Caroline had filed the suit for the relief of bare injunction and the same was withdrawn with liberty to file a declaration suit and subsequently filed the declaration suit, which was decreed on 04.10.2012 and the said suit is also filed against the petitioners as well as their mother. Learned counsel would submit that the said decree has attained its finality and the same is not challenged by these petitioners. Learned counsel would also submit that even though these petitioners



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were aware of the fact that their mother had executed the GPA, sale agreement and the sites were also formed and sold in favour of the complainant, colluding with their mother, the petitioners have also executed a sale deed in favour of one Sagayaraju on 22.12.2003 and that is the allegation in the charge sheet that these petitioners have also indulged in executing the sale deed in favour of Sagayaraju. Learned counsel would submit that Sagayaraju in turn sold the sites in favour of different persons and while selling the Site No.23 made the mention of the dimension and the boundaries mentioned in Site No.15. Learned counsel also submits that it is nothing but cheating and only in order to defeat the rights which have been conveyed in favour of the complainant, sale deed was executed. Learned counsel also submits that in order to sell Site No.23, it is on account of sale made by these petitioners along with their mother in favour of Sagayaraju, if there was no such sale deed in favour of Sagayaraju, then the contention of the learned counsel for the petitioners could have been accepted that they have not played any role. Learned counsel also submits that when the police have investigated the



matter and found that these are the transactions which were taken place subsequent to purchase of land by the complainant, and hence filed the charge sheet. Though in the private complaint specific allegation is not made against these two petitioners and allegation is made against accused Nos.1 and 6 as contented by the counsel appearing for the petitioners, however, truth has emerged during the course of investigation by the police and hence, filed the charge sheet. Hence, learned counsel submits that there cannot be any quashing of the criminal proceedings against the petitioners.

6. Learned High Court Government Pleader appearing for the respondent-State would submits that Investigating Officer, in view of the direction given by the Magistrate, investigated the matter and having found that the material, filed the charge sheet.

7. Having heard the learned counsel appearing for the petitioners and also the learned counsel appearing for the respondents-complainants and also the learned High Court Government Pleader appearing for the respondent-State, this



Court has to examine the material, particularly taking note of the charge sheet material. No doubt, the learned counsel appearing for the petitioners would contend that specific allegations are made in the private complaint against accused Nos.1 and 5. It is not in dispute that the entire property i.e. to an extent of 1 acre 10 guntas, belongs to the family of these petitioners. Learned counsel appearing for the petitioners though disputes that earlier there was a GPA in favour of Ramathilak by the mother of the petitioners and also disputes the sale agreement, but would contend that these petitioners were not parties to the said GPA as well as the sale agreement, but he would not dispute the fact that they were parties to the sale deed executed in favour of Sagayaraju by the mother as well as these petitioners. But the very contention of the learned counsel appearing for the complainants is that based on the GPA dated 21.02.1990 and sale agreement dated 26.03.1990, a sale deed was executed by Ramathilak, who is the GPA holder of petitioners' mother, but sale deed was made on 23.08.1990 in favour of the complainant. Learned counsel appearing to the petitioners does not dispute the fact that there was a sale deed



in favour of the complainant on 23.08.1990 and though he contends that subsequently the GPA executed by the mother was cancelled, but does not dispute the fact that before cancellation of the said GPA already there was a sale deed in favour of the complainant dated 23.08.1990.

8. When such being the material, the Investigating Officer, during the course of investigation found that there was a sale deed, which is admitted by the petitioners and also there was a sale deed in favour of Sagayaraju on 22.12.2003 and the fact that already there was a GPA and sale agreement in favour of Ramathilak and the said Ramathilak in turn sold the property in favour of the complainant for sale consideration. Specific accusations are made in the charge sheet against these petitioners also that they indulged in creation of document along with their mother in favour of Sagayaraju on 22.12.2003, when already there was a sale in respect of Site No.15 executed by the GPA holder prior to the cancellation of GPA and the cancellation of GPA was also subsequent to the sale deed executed in favour of the complainant. When such allegations are made and the Apex Court in the judgment in the case of



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Dineshbhai Chandubhai Patel vs. State of Gujarat and others reported in **2018 (3) SCC 104**, held that when the complaint is registered, it is the duty of the Investigating Officer to unearth the truth. The material are found that there was a transaction prior to the sale deed in respect of the very same property which was dealt with by the mother of the petitioners by executing the GPA and sale agreement and sale deed was also executed subsequently in the year 2003. After lapse of almost 13 years, these petitioners have joined along with their mother in executing the sale deed in respect of the entire property of 1 acre 10 guntas. When such being the case, the dispute is in respect of identity of the property and learned counsel appearing for the complainant also would submits that subsequently while selling site No.23, the very same description of site No.15, which the complainant had purchased, was mentioned and the learned counsel appearing for the petitioners would submit that the petitioners were not parties to the same, but the fact is that the petitioners are parties to the subsequent creation of sale deed in favour of Sagayaraju which tends to execution of sale deed in respect of



site No.23. When the specific accusation is made that based on the said sale deed dated 22.12.2003 of these petitioners there is creation of document and based on that creation of document, sale deeds are executed and acted upon by the subsequent purchaser, this Court under Section 482 of Cr.P.C. cannot look into the defence of the learned counsel appearing for the petitioners with regard to the cancellation of GPA and subsequently executing the sale deed. There was a sale deed earlier in favour of the complainant prior to cancellation of GPA and when already there was a sale deed, the very contention of the petitioners cannot be accepted, hence, whatever the defence and grounds which have been urged before this Court could be raised before the trial Court and not while considering the petition under Section 482 of Cr.P.C.

9. No doubt learned counsel appearing for the petitioners relied upon the judgment of the Apex Court in **Anukul Singh's** case referred supra and particularly brought to notice of this Court paragraph No.20, wherein the Apex Court also taken note of the dispute concerning repayment of loan money and the alleged coercion in execution of the documents



is purely civil in character. But in the case on hand the factual aspects is very different, as already the GPA was executed and also the sale deed was executed in favour of the complainant and subsequently the sale deed was executed in respect of the very same property by the mother of the petitioner as well as these two petitioners, when the mother had also joined along with the petitioners, the petitioners now cannot contend that they were not aware that earlier their mother dealt with and executed GPA and also the sale agreement and in pursuance of those two documents already the sale deed was executed, hence, the same is also a matter of trial and whether the petitioners were having knowledge or not and this Court cannot decide the disputed fact exercising the power under Section 482 of Cr.P.C.

10. When such being the material on record, no doubt this Court is also conscious about the judgment of Apex Court in ***Bhajan Lal's*** referred supra, wherein also the Apex Court held that there cannot be a criminal prosecution to wreck personal vengeance. In the case on hand, it is not the case of personal vengeance, it is a case of cheating and fraud and



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allegation is also made that there is creation of document in respect of the property which has already been sold in favour of the complainant in the year 1990 itself i.e. under sale deed dated 23.08.1990, and subsequently the sale deed is executed on 22.12.2003 in favour of Sagayaraju which had led the very execution of sale deed and the same has to be considered by the trial Court and not by this Court by exercising the power under Section 482 of Cr.P.C.

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

ORDER

Petition is ***dismissed***.

It is made clear that the trial Court shall not be influenced by the discussion made by this Court while considering the matter on merits.

Sd/-
(H.P.SANDESH)
JUDGE