



CNR: KAHC010115802019

NC: 2026:KHC:44661
CRL.P No. 1038 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL PETITION NO. 1038 OF 2019

BETWEEN:

- 1 . MR. SRINIVAS CHANDER
S/O LATE V.R. CHANDER
AGED ABOUT 54 YEARS
R/AT NO.18/10A,
CAMBRIDGE ROAD,
ULSOOR,
BANGALORE - 560 008.
- 2 . MRS. SUJAYA CHANDER
W/O LATE V.R. CHANDER
AGED ABOUT 74 YEARS
RESIDING AT NO.18/10A,
CAMBRIDGE ROAD,
ULSOOR,
BANGALORE - 560 008.
- 3 . MRS. VYJAYANTHI MALA BHASKER
D/O LATE V.R.CHANDER
AGED ABOUT 49 YEARS
R/AT AT NO.18/10A,
CAMBRIDGE ROAD,
ULSOOR
BANGALORE - 560 008.

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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4 . Ms. ARATHI CHANDER
S/O ALTE V.R. CHANDER
AGED ABOUT 42 YEARS
R/AT AT NO.18/10A,
CAMBRIDGE ROAD, ULSOOR
BANGALORE - 560 008.

...PETITIONERS

[BY SRI KIRAN S. JAVALI, SR. ADVOCATE FOR
SRI CHANDRASHEKARA K., ADVOCATE (PH)]

AND:

MR. RAVAL RAJNIKANT
S/O LATE RAJANAN RAVAL
AGED ABOUT 74 YEARS
R/AT FLAT NO.413,
RANKA COURT APARTMENT,
NO.18, CAMBRIDGE ROAD,
ULSOOR,
BANGALORE - 560 008.

...RESPONDENT

(BY SRI VIDUR NAIR, ADVOCATE FOR
SRI NITIN PRASAD, ADVOCATE)

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO SET
ASIDE THE ORDER DATED 24.03.2018 IN C.C.NO.53419/2018
(PCR.NO.60342/2017) ON THE FILE OF THE X A.C.M.M.,
BANGALORE, AND CONSEQUENTLY QUASH THE PROCEEDINGS
IN C.C.NO.53419/2018 (PCR.NO.60342/2017) ON THE FILE OF
THE X A.C.M.M., BANGALORE.

THIS PETITION IS HAVING BEEN HEARD AND RESERVED
FOR ORDERS ON 09.07.2026, THIS DAY, THE COURT,
PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI



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CAV ORDER

Challenging order dated 24.03.2018 as well as entire proceedings in CC no.53419/2018 arising out of PCR no.60342/2017 on file of X ACMM, Bengaluru, for offences punishable under Sections 417, 420, 423, 120-B read with Section 34 of Indian Penal Code, 1860 (**IPC**) this petition is filed.

2. Sri Kiran S Javali, learned Senior Counsel appearing for Sri Chandrashekhara K., advocate for petitioners submitted that petitioners were accused no.1 to 4 (**petitioners**) in PCR no.60342/2017 filed by respondent no.1 (**complainant**) on 04.12.2017, stating that petitioners were residents of Ulsoor, accused no.6 - Company was a Developer, accused no.7 to 9 were its directors and along with accused no.5 managing its day-to-day affairs. That on 29.12.2000, accused no.1 to 6 along with Late VR Keshavraj, Late VR Chander and Late Kaveri Keshavraj executed registered Sale Deed conveying Apartment along with extent measuring 889.57 sq.ft. (0.624%) of undivided share in larger composite property situated at Cambridge Road, Ulsoor, Bengaluru, in favour of complainant



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and his sons for total sale consideration of Rs.4,89,264/-. It was alleged that accused had represented themselves to be absolute owners of entire immovable property with valid and marketable title and assured complainant that property was free from all encumbrances and inducing him into purchase.

3. Further, that 'Ranka Court Apartment Owners Association (**Association**) had filed OS no.5192/2008 against accused no.6 and others before Civil Court at Bengaluru in which petitioners were subsequently impleaded as defendants and one of defendants namely Senior Superintendent of Posts, Bangalore claimed that a portion of property originally measuring 120 ft. × 70 ft. was acquired by Government in its favour. On enquiry, accused no.1 to 6 asserted valid title over entire land as on 29.12.2000 and assured him that claim of Superintendent of Posts was false and would not affect rights conveyed to complainant under sale deed dated 29.12.2000. Hence, complainant continued to remain under impression that his title was valid and unaffected by pending civil suit.

4. That on 30.09.2017 when complainant received copy of order dated 17.10.2015 passed by Civil Court on IA



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no.III in said suit, complainant noticed observations were made by Court that accused no.1 to 6 did not have valid title in respect of a portion of land on which Apartment complex was built, which contradicted assurances previously made by accused no.1 to 6. And complainant confronted them with said observations, accused threatened to have complainant arrested on false case of harassment. Alleging that accused had knowledge of acquisition of portion of land by Government, but deliberately suppressed material fact and based on false assurances with deliberate dishonest intention, executed sale deed in favour of complainant, filed complaint. It was submitted that in said complaint on 24.03.2018, learned X ACMM, Bangalore took cognizance of offences punishable under Sections 417, 420, 423, 120-B read with Section 34 of IPC and ordered issuance of summons to accused in CC no.53419/2018. Aggrieved by said order accused no.1 to 4 had filed this petition.

5. It was submitted, accused no.2 was wife of Late VR Chander and accused 1, 3 and 4 were her children. That Late VR Chander and his brother, Late VR Keshavraj (died issueless)



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were joint owners of property bearing no.18, Cambridge Road, Ulsoor, Bengaluru. In 1993 they entered into Joint Development Agreement (**JDA**) with accused no.5 to 9. In terms of said JDA apartment complex was constructed excluding disputed land (i.e. land over which Dept. of Posts was laying claim) and stating that it was not part of sanction plan. It was submitted that JDA was executed by VR Chander and his brother VR Keshavraj and petitioners had signed JDA as consenting parties for purpose of due diligence. And after demise of said brothers, petitioners succeeded to their estate. Further, JDA disclosed that a portion of property was subject to acquisition. It was contended that in a transaction of purchase of immovable property legal principle of *buyer beware* would apply and complainant/purchaser was required to verify title. Further, sale deed in favour of complainant was executed not by petitioners, but by Builder as Power of Attorney holder. Therefore, no liability can be attributed to petitioners in respect of sale transaction.

6. It was submitted dispute was purely civil in nature and already Association in its representative capacity had filed



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OS no.5192/2008 and pending. It was further submitted based only on contention of Superintendent of Posts in suit, present complaint was filed. Hence, initiation of criminal proceedings was to exert pressure on accused and abuse of process of law.

7. Further, complaint filed on 04.12.2017, 17 years after complainant purchased apartment on 29.12.2000 and nearly 9 years after filing of OS no.5192/2008 by Association and complainant being member of said Association. Relying on decision of Hon'ble Supreme Court in **Bhikhubhai Govindbhai Patel and Anr. v. State of Gujarat and Anr.** reported in **2026 SCC OnLine SC 915**, wherein it was held that criminal proceedings were liable to be quashed due to unexplained, inordinate nine-year delay in registering FIR even while actively pursuing parallel civil remedy constitutes abuse of process. Drawing parallel to present case, sought for allowing petition.

8. Sri Vidur Nair, learned counsel appearing for Sri Nitin Prasad, advocate for respondent (complainant) opposed petition. At outset, it was submitted illegalities and fraudulent nature of sale of apartment to complainant on 29.12.2000,



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came to knowledge of complainant, on 30.09.2017 when complainant received copy of order passed by Civil Court from Association. Cause of action for complaint also occurred when complainant was threatened by accused when he confronted them based on observations by Civil Court. It was submitted that complaint filed immediately thereafter would not suffer from any delay. Learned counsel relied on observation of Hon'ble Supreme Court in **Japani Sahoo v. Chandra Sekhar Mohanty** reported in **(2007) 7 SCC 394**, about foundational doctrine that '**a crime never dies**', was rooted in legal maxim *nullum tempus aut locus occurrit regi* (i.e. lapse of time is no bar to Crown proceeding against offenders). It was also held that Limitation Act, 1963 does not apply to criminal proceedings unless expressly provided and delay would be a relevant circumstance for evaluation only at time of final verdict. Therefore, proceedings could not be challenged on ground of delay alone.

9. Further, relief in OS no.5192/2008 was for permanent injunction to restrain builders from illegally restricting right of apartment owners from common areas and



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amenities and execution of illegal sale etc. which differed totally from nature scope and cause of action in present proceedings. It was also propounded that there was no bar against parallel civil and criminal remedies by relying on decision of Hon'ble Supreme Court in **Kathyayini v. Sidharth P.S. Reddy and Ors.** reported in **2025 SCC OnLine SC 1428**, wherein after referring to various earlier decisions it was held that pendency of civil suit was no bar against prosecution and cannot be justification for quashing criminal proceedings, if *prima facie* case exists against accused. It was submitted, referring to **Kathyayini's** case Hon'ble Supreme Court in **CS Prasad v. C Satyakumar & Ors.**, reported in **2026 SCC OnLine SC 50**, held that when factual foundation for prosecution exists, criminal law cannot be short-circuited by invoking inherent jurisdiction under Section 482 of CrPC. And where allegations require adjudication on evidence, proper course was to permit trial to proceed. In light of above, as there was allegation of accused conspiring with dishonest intention to cheat, mislead complainant with regard to their title in respect of entire undivided share in land and sale of apartment to make



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wrongful gain would constitute essential ingredients of offences alleged, criminal proceedings could not be scuttled without trial.

10. Drawing attention to sale deed dated 19.12.2000, it was submitted that Schedule-I describes entire extent of land as measuring 1,10,000 sq.ft. (equivalent to 12,222 sq. yds. or 10,218 sq. mts.) and Schedule-II mentions 0.624% as undivided share and there was no mention of any government land in sale deed to support petitioners' contention that land acquired by Government was not part of undivided land. Said contention required full-fledged trial. It was also submitted that Hon'ble Supreme Court in **M/s.Indian Oil Corporation v. M/s.NEPC Indian Ltd. & Ors.**, reported in **(2006) 6 SCC 736**, held existence of civil remedy does not preclude criminal proceedings if allegations disclose cognizable offence and that High Courts must not conduct mini-trial or weigh evidence at threshold.

11. It was submitted that Hon'ble Supreme Court in **CREF Finance Ltd., v. Shree Shanthi Homes Pvt. Ltd., & Anr.**, reported in **(2005) 7 SCC 467**, held that cognizance is deemed taken moment Magistrate peruses complaint and



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chooses to proceed further rather than rejecting it at threshold and rejected challenge of said order on ground of failure to take cognizance of offence prior to order of issuance of process and express use of words 'cognizance taken', was not necessary. On above grounds, sought for dismissing petition.

12. Heard learned counsel and perused material on record.

13. This petition is by accused no.1 to 4 challenging order of Magistrate taking cognizance and issuance of process to accused in a private complaint filed by complainant as well as for quashing of entire proceedings insofar as petitioners.

14. Main grounds urged are that petitioners were consenting parties to JDA and even sale deed in favour of complainant was executed by GPA holder of Builder; that dispute was purely civil in nature and Association of which complainant was member had filed suit; misconception that land acquired for Department of Post was part of undivided land on which apartment complex was built and lastly about



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complaint suffering from enormous delay and therefore continuation of proceedings would be abuse of process.

15. First contention that petitioners were merely consenting parties to JDA finds some support from decision of Hon'ble Supreme Court in case of **M. Srikanth v. State of Telangana**, reported in **(2019) 10 SCC 373**. Petitioners herein are legal heirs of owners of land who executed JDA and who have died. There are no specific overt acts alleged against petitioners as would implicating them for any offence. This aspect gains substantial weight from next contention about dispute being purely civil in nature given criminal flavor. Though, ratio laid down in **Indian Oil Corporation, Katyayani's** cases (supra) as well as in **CS Prasad's** case (supra), that existence of civil remedy by itself would not be a bar against criminal prosecution is well recognised, same is subject to rider *if prima facie ingredients of offence* are established. As noted above, there are no specific overt acts alleged against petitioners as would constitute ingredients for any offence much less those alleged. Only material reference to petitioners herein in entire complaint is about they joining Late



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VR Keshavraj, Late VR Chander and Late Kaveri Keshavraj in registration of sale deed in favour of complainant on 29.12.2000, which as noted above is as consenting parties only.

16. Next contention that land acquired for Department of Posts not included in Building Sanction Plan and such exclusion from undivided area of land would not affect complainant's share would require this Court to examine claim of complainant that land claimed by Department of Posts was part of undivided land on which Apartment complex was promised to be constructed by examining building plan, agreements, land records and sale deed executed in favour of complainant amounting to holding mini trial proscribed at this stage. Last contention about complaint being belated is relying on **Bhikhubhai Govindbhai Patel's** case (supra). However, as rightly pointed out one of offences invoked carries punishment of more than 7 years. Consequently, complaint being barred by limitation would not stand scrutiny. Above decision in any case, is in light of specific facts of case highlighted in following observations:



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"38. *It is pertinent to note that throughout the civil litigation for several years, respondent no.2 never alleged commission of offences such as extortion, criminal intimidation, forgery or conspiracy by the appellants. On perusal of the written statement filed by respondent no.2 in civil proceedings being Special Civil Suit no.377/2000, it is true that respondent no.2 asserted exclusive ownership over the property but did not contain the allegation of any criminal conduct committed by the appellants. To our minds, this circumstance is of importance because the said allegations were levelled in the impugned FIR and are related to events occurring in or around the year 2001, i.e., during the period of civil litigation.*

... ..
... ..

41. *The delay in registration of the FIR is another circumstance which cannot be ignored. The incidents in question pertain to the year 2001 whereas the FIR came to be registered only on 31.12.2009 after a delay of nearly eight to nine years. The High Court accepted the explanation offered by respondent no.2 that a Government Circular dated 23.07.2003 discouraged registration of FIRs involving civil disputes. In our view, the said explanation is not wholly satisfactory. The circular itself cannot explain the inaction by respondent no.2 between 2001 and 2009, particularly when respondent no.2 was actively litigating before competent courts throughout the said period and had access to all legal remedies including under Sections 154(3), 156(3) and 200 of the CrPC."*

17. In instant case, relief sought in suit filed by Association is for injunction against restriction of certain area



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from common area etc. and not about land over which Department of Posts was claiming right. That apart, there is nothing to indicate that complainant had suit or other proceedings, suppressed them or took stand contrary/contradicting pleadings therein as would indicate afterthought or embellishment. Therefore, petitioners' challenge on ground of delay would fail.

18. While passing order taking cognizance and ordering issuance of process, learned Magistrate considered averments in complaint, contents of sworn statement of complainant and documents produced as Ex.C1 and Ex.C2 and concluded that allegations disclosed commission of offences punishable under Sections 417, 420, 423, 120-B read with Section 34 of IPC. It observed that complainant had made out sufficient grounds to proceed against accused persons, directed registration of criminal case against accused no.1 to 9 and ordered issuance of summons. This would indicate sufficient application of mind by learned Magistrate.

19. For aforesaid reasons, petition would succeed.
Hence, following:



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ORDER

Petition is allowed, proceedings in CC no.53419/2018 arising out of PCR no.60342/2017 on file of X ACMM, Bengaluru, for offences punishable under Sections 417, 420, 423, 120-B read with Section 34 of IPC, stand quashed insofar as petitioners i.e. accused no.1 to 4.

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

GRD,YKL
List No.: 1 Sl No.: 45