



CNR: KAHC010241592020

NC: 2026:KHC:52224
CRL.P No. 5509 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF SEPTEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO.5509 OF 2020

BETWEEN:

1. MRS. ANN ABRAHAM
MANAGING DIRECTOR
AGED ABOUT 45 YEARS
USHUS APPARELS PRIVATE LIMITED
R/AT NO.791/A
2ND AND 3RD FLOOR
B-BLOCK, ACES LAYOUT
SINGASANDRA POST
BANGALORE-560 068

2. USHUS APPARELA PVT LIMITED
NO.791/A, 2ND AND 3RD FLOOR
B-BLOCK, ACES LAYOUT
SINGASANDRA POST
BANGALORE-560 068

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA

ALSO AT
USHUS APPARELS PVT LTD
2ND FLOOR, YESHAS COMPLEX
SINGASANDRA, HOSUR ROAD
BENGALURU-560 068

ALSO AT
USHUS APPARELS PVT LTD
SPARKLES FASHION STUDIO
NO.16, 1ST FLOOR, 5TH CROSS
6TH BLOCK, NEAR PRINTO



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60 FEET ROAD, KORAMANGALA
BENGALURU-560 095

...PETITIONERS

(BY SRI DEEPAKAR LIVINGSTON, ADVOCATE FOR
SRI P FREUD RICHARDSON, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REP BY PUBLIC PROSECUTOR
BENGALURU-01
2. KARIS STYLES LLP
REP BY MR.ROOPESH PATADE
AND MRS. PRACHI PATADE
BOTH R/AT E-1201
PURVA VENEZIA
YELAHANKA MAIN ROAD
YELAHANKA NEW TOWN
BENGALURU-560 064

...RESPONDENTS

(BY SRI SUHAS GOWDA M, HCGP FOR R1;
SRI P N HEDGE, ADVOCATE FOR R2)

THIS CRL.P IS FILED U/S 482 OF CR.PC PRAYING TO
QUASH THE PROCEEDINGS IN C.C.NO.22986/2019 BEFORE
THE LEARNED IV A.C.M.M., AT BENGALURU CITY IN AT
BENGALURU, INITIATED PURSUANT TO THE PRIVATE
COMPLAINANT REPORT BEARING PCR.NO.14487/2018
(ANNEXURE-A) AGAINST THE PETITIONERS HEREIN (ACCUSED
NO.1 AND 2) AND ETC.

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 respective parties.

2. The prayer is sought in this petition for quashing of proceedings in C.C.No.22986/2019 before the 4th ACMM, Bengaluru City arising out of PCR No.14487/2018 for the offences punishable under Section 120B, 405 and 420 of IPC.

3. This petition is filed by the Managing Director and also the company. The counsel for the petitioners would vehemently contend that very initiation of proceedings against these petitioners is only with an intention to abuse of process of law. The counsel would contend that there was no transaction between the complainant and this company and though this petitioner being a Managing Director. The counsel would contend that whatever the payment is made is only in favour of the husband of the first petitioner and not in favour of the company. Hence, the very initiation of criminal complaint against this petitioner is nothing but an abuse of process. The counsel also would contend that there was no



transaction or loan agreement or any contract in between the complainant and this petitioner and also the company. The loan agreement was also in between the husband of this petitioner and the complainant and cheques are also issued by the husband of the first petitioner and 138 proceedings also initiated against him. When there are no transaction between the petitioners and the complainant even any monetary transaction or any other documents, the question of prosecuting these petitioners does not arise.

4. The counsel also vehemently contend that Trial Court committed an error in taking cognizance without looking into the documents produced and while taking the cognizance, except coming to the conclusion that the complainant in the complaint has stated that he approached the Koramangala P. S. but they did not register the FIR against the accused and hence, filed the complaint. The Trial Court while issuing the summons taken note of only the contents of the complaint wherein held that the accused were into fashion and apparel business and intended to start



a branch and the complainant paid initial token of Rs.3 lakhs to open a shop and later the accused suggested to take over their shop at Koramangala for Rs.41 lakhs for 5 years against monthly returns for next 5 years. The accused gave monthly returns for few months and later stopped giving returns and later stated that they are closing the shop and will reopen in another location. The complainant in total have paid about Rs.2.5 crores against a return of Rs.3.8 crores and the accused issued a cheque which got bounced. The Trial Court comes to the conclusion that the dishonest and fraudulent intention and criminal breach of trust and misappropriation are to be decided at the trial. The counsel would contend that the very approach of the Trial Court is erroneous.

5. The learned counsel appearing for the complainant/respondent No.2 would vehemently contend that the specific averment is made in the complaint in respect of this petitioner is concerned. The counsel also would contend that when the amount was paid to the tune of



Rs.2.5 crores against the return of Rs.3.8 crores, the same was taken note by the Trial Court and rightly taken the cognizance and issued the summons holding that it is a matter of trial with regard to contents which have been taken in the complaint and the same can be urged during the course of trial.

6. The counsel appearing for the State would submit that the State is only a formal party in view of taking of cognizance by the Trial Court.

7. Having heard the learned counsel appearing for the petitioners and the learned counsel appearing for the complainant and also considering the contents of the private complaint, no doubt, in paragraph 4 of the complaint, it is mentioned that accused No.2 is the Managing Director and accused Nos.3 and 4 are Directors of accused No.1 company. In complaint, it is also stated that accused Nos.1 to 4 and the complainant are well known to each other and sharing the brand list on a weekly basis for one year as per the complainant requirements. In paragraph 15, pleaded with



regard to that an amount of Rs.55,000/- for the outlet was paid to personal account since company account of Karis Styles LLP was yet to be opened by the complainant.

8. Having taken note that the cognizance was taken based on the complaint averments. While taking the cognizance, Court has to take note of the contents of the complaint and documents relied upon. But the Trial Court while taking cognizance, fails to consider any of the documents which relied upon by the complainant. The counsel for the petitioners also brought to notice of this Court that the documents which were marked during the sworn statement not pertaining to any contract between these petitioners and also the complainant. The counsel appearing for the complainant also would contend that amounts are paid in favour of accused No.3, that is the husband of the petitioner. But this petitioner is the Managing Director of the company. When there is no documentary proof with regard to the payment is made in favour of these petitioners, the question of initiation of criminal prosecution



that too invoking Sections 405 and 420 of IPC does not arise.

9. The counsel for the petitioners also brought to notice of this Court that recently the Apex Court held that in the absence of any material, there cannot be any proceedings against the petitioners under Sections 120B, 405 and 420 of IPC. The same can not be considered for both the offences. This Court having conscious about the said principle held in the judgment of the Apex Court. But the foundational facts before the court for filing a complaint is that though made the complaint against these petitioners and also the husband, merely because the third accused is the husband of the petitioner, there cannot be any criminal liability against the petitioners who are not the part of transaction. When the amount was paid in the individual capacity, that too in the individual name of accused No.3 and not in respect of this company and this petitioner has not accepted the money as Managing Director in favour of the Company from the complainant, the question of continuing



the criminal prosecution against the petitioners does not arise. The counsel appearing for the complainants/respondents also not disputes the fact that amount was not paid in favour of the company but it was paid in favour of accused No.3. The counsel appearing for the complainant would submit that now there is a dispute between the accused No.3 and the petitioner i.e., husband and wife and husband is also out of country. But the question involved before the court is with regard to the foundational facts of the case for having filed the private complaint. When there was no any role on the part of these petitioners in transacting with the complainant, question of facing criminal trial does not arise and the same is nothing but an abuse of process. The trial court also fails to take note of contents of the complaint as well as the documents which have been relied upon. Those documents which are marked also nothing suggest about the transaction between these petitioners and also the complainant. When such being the case, proceeding against these petitioners leads to a miscarriage of justice. Hence, the petitioners have made out the case to invoke



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Section 482 of Cr.P.C to quash the proceedings initiated against them.

10. In view of the discussions period above, I pass the following:

ORDER

- (i) The petition is allowed.
- (ii) The proceedings initiated against these petitioners in C.C.No.22986/2019 before the 4th ACMM, Bengaluru City arising out of PCR No.14487/2018 for the offences punishable under Section 120B, 405 and 420 of IPC are hereby quashed.
- (iii) In view of disposal of the main petition, I.A. if any, does not survive for consideration and the same stands disposed of.

Sd/-
(H.P.SANDESH)
JUDGE

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