



CNR: KAHC010185102020

NC: 2026:KHC:51610
CRL.P No. 6339 of 2020
C/W CRL.P No. 4973 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF SEPTEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO.6339 OF 2020

C/W

CRIMINAL PETITION NO.4973 OF 2019

IN CRL.P NO.6339/2020:

BETWEEN:

1. SHIVA MURTHY M.N.,
S/O MUNIVENKATAPPA
AGED ABOUT 51 YEARS
R/AT THATAHALLI VILLAGE
KASABA HOBLI
SIDLAGHATTA TALUK
CHIKKABALLAPURA DISTRICT-562 114.

...PETITIONER

(BY SRI. A.V. RAMAKRISHNA, ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY SHIDLAGHATTA TOWN POLICE
REPRESENTED BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
HIGH COURT BUILDING
BENGALURU-560 001.
2. ANWAR PASHA
S/O SYED ISMAIL SAHEB
AGED ABOUT 66 YEARS
R/AT NO.19, 11TH MAIN ROAD

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA



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HBR 2ND BLOCK, YASIN NAGAR
BENGALURU - 560 043.

...RESPONDENTS

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

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482
OF CR.PC PRAYING TO QUASH THE ORDER DATED 29.01.2019
PASSED BY THE ADDITIONAL CIVIL JUDGE AND JMFC,
SIDLAGHATTA IN C.C.NO.61/2019 AND ALL FURTHER
PROCEEDINGS IN THE SAID CASE.

IN CRL.P NO.4973/2019:

BETWEEN:

1. HEMANTHA KUMAR
S/O RAMAKRISHNEGOWDA
AGED ABOUT 39 YEARS
R/AT J. VENKATAPURA VILLAGE
SIDLAGHATTA TALUK
CHIKKABALLAPURA DISTRICT-562 101.

...PETITIONER

(BY SRI. A.V. RAMAKRISHNA, ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY SHIDLAGHATTA TOWN POLICE
RERPESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
HIGH COURT BULDING
BENGALURU-560 001.
2. ANWAR PASHA
S/O SYED ISMAIL SAHEB
AGED ABOUT 66 YEARS
R/AT NO.19, 11TH MAIN ROAD



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HBR 2ND BLOCK, YASIN NAGAR
BENGALURU-560 043.

...RESPONDENTS

(BY SRI. SUHAS GOWDA M., HCGP FOR R1;
SRI. C.R. ABDUL RASHEED, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE ORDER DATED 29.01.2019 PASSED BY THE PRINCIPAL CIVIL JUDGE AND J.M.F.C., SIDLAGHATTA IN C.C.NO.61/2019 AND ALL FURTHER PROCEEDINGS IN THE SAID CASE.

THESE PETITIONS 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 for the petitioner, learned High Court Government Pleader for respondent No.1/State and learned counsel for respondent No.2/complainant.

2. Learned counsel for respondent No.2 was absent on the previous occasion and this Court granted one more opportunity to respondent No.2 and inspite of the same, the counsel for the respondent No.2/complainant is not present today also.



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3. The prayer is sought for quashing of proceedings against accused Nos.1 and 2 and offences invoked against accused Nos.1 and 2 is under Section 420 read with Section 34 of IPC. The charges levelled against accused Nos.1 and 2 in the charge sheet is that there was sale transaction between accused No.1 and C.W.1 to C.W.3 and an agreement came into existence having made the payment of Rs.35,00,000/- as against Rs.1,35,00,000/-. The payment was made to accused No.1 in the presence of accused No.2. But, while filing the charge sheet, it is stated that both of them have received the money. It is the further accusation in the charge sheet that when the payment was made to accused No.1, he did not come forward to execute the sale deed and the amount which was paid to accused No.1 was given to accused No.2 and he took the amount, but did not repay the said amount. Hence, sale deed was not executed. When the accused No.2 was enquired, he admits the same. However, a proposal was given to sell five sites at Vijayapura. But, even did not come forward to execute the sale deed. Hence, it is an allegation that with the common intention accused Nos.1 and 2 cheated the complainant.



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4. The counsel appearing for the petitioners in both the petitions i.e., accused Nos.1 and 2 would contend that no such ingredients of the offence under Section 420 read with Section 34 of IPC could be invoked against accused Nos.1 and 2. The learned Magistrate also failed to take note of the fact that alleged transaction between C.W.1 to C.W.3 and accused No.1 and failed to take note of allegation against accused No.1 and accused No.2 and there is no such allegation against accused No.2 and he has been falsely implicated and there was an improvement during the course of investigation. The counsel also would contend that agreement has taken place between C.W.1 to C.W.3 and accused No.1 and in respect of agreement is concerned, accused No.2 is not a party and only to include the accused No.2, further statement was recorded and filed the charge sheet.

5. Per contra, learned High Court Government Pleader appearing for respondent No.1/State would submit that at the time of transaction, accused No.2 was also present and statement was made that payment was made to both of them and during the course of investigation, it has come to light that



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accused No.2 took the money, but he did not repay. Hence, he has been arraigned as an accused.

6. Having taken note of the grounds urged in both the petitions as well as the allegation made in the complaint in PCR, specific allegation is made against accused No.1 that he had received the amount of Rs.35,00,000/- as against the sale consideration of Rs.1,35,00,000/- and no specific allegations are made in the complaint against accused No.2 for having received the money from accused No.1 and in the complaint, stated that amount of Rs.35,00,000/- is paid and remaining amount will be paid at the time of registration.

7. Having considered contents of the complaint, when there is no accusation in respect of accused No.2 is concerned for having received the money, there cannot be any ingredients of offence under Section 420 read with Section 34 of IPC against accused No.2 that at the inception of this transaction itself, he was having an intention to cheat, but when the payment was not made in favour of accused No.2, the FIR is also clear against accused No.1 that payment was made and in the FIR, an allegation is also made that already a civil suit was



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filed in O.S.No.28/2015 and summons are also received. When the verification was made, it discloses that on 08.04.2013, an amount of Rs.20,00,000/- was paid and agreement was executed in favour of Lakshmidevi and allegation is also against accused No.1 that with an intention to cheat, subsequently entered into an agreement.

8. When such allegations are made, it is a fit case to exercise the power under Section 482 of Cr.P.C. in respect of petitioner in Crl.P.No.4973/2019 filed by accused No.2 and in respect of accused No.1 is concerned, there is a specific allegation that earlier, he had executed the sale agreement having received the advance amount and also subsequently, he had received the amount from the complainant. Whether with an intention to cheat received the amount of Rs.35,00,000/- from the complainant having transacted earlier in respect of the very same property is a matter of trial and at this juncture, the Court cannot look into the material. Hence, the petitioner in Crl.P.No.4973/2019 has made out a ground, but not the petitioner in Crl.P.No.6339/2020.



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

ORDER

- (i) The Crl.P.No.6339/2020 filed by petitioner/accused No.1 is rejected.
- (ii) The Crl.P.No.4973/2019 filed by petitioner/accused No.2 is allowed. The proceedings initiated against him in C.C.No.61/2019 for the offence punishable under Section 420 read with Section 34 of IPC is hereby quashed.

Sd/-
(H.P.SANDESH)
JUDGE

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List No.: 1 Sl No.: 12