



CNR: KAHC010292122022

NC: 2026:KHC:41950
WP No. 13191 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

WRIT PETITION NO. 13191 OF 2022 (GM-RES)

BETWEEN:

1. K PRAKASH SHETTY
S/O MADHAV SHETTY
AGED ABOUT 64 YEARS
R/AT NO.9, "ASHA"
ALI ASKAR ROAD,
BANGALORE - 560 051.
2. ASHA P SHETTY
W/O PRAKASH SHETTY
AGED ABOUT 56 YEARS
R/AT NO.9, "ASHA"
ALI ASKAR ROAD,
BANGALORE - 560 051.

...PETITIONERS

(BY SRI BIPIN HEGDE, ADVOCATE FOR
SRI KIRAN J., ADVOCATE)

AND:

1. STATE BY
HEBBAGODI POLICE STATION
BANGALORE - 560 095
REP BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BANGALORE - 560 001.
2. K ARUL SELVI
W/O LATE V K KALYANAM
AGED ABOUT 66 YEARS,
NO.890, 5A CROSS,
18TH MAIN ROAD,

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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KORAMANGALA
BANGALORE CITY - 560 095.

...RESPONDENTS

(BY SMT.SOWMYA R., HCGP FOR R1;
SRI NIRANJAN GANIG N., ADVOCATE FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH COMPLAINT DATED 11.6.2022 GIVEN BY RESPONDENT NO.2 TO RESPONDENT NO.1 POLICE FOR OFFENCES PUNISHABLE UNDER SECTIONS 406, 420, 447 OF INDIAN PENAL CODE, 1860 ANNEXURE-A IN SO FAR AS PETITIONER CONCERNED AND QUASH FIR DATED 11.6.2022 IN CRIME NO.163/2022 ON THE FILE OF II ADDL.CIVIL JUDGE (JR.DN.) AND JMFC COURT, ANEKAL, BANGALORE RURAL DSITRICT FOR ALLEGED OFFENCES UNDER SECTIONS 406, 420, 447 OF INDIAN PENAL CODE, 1860 (ANNEXURE-B) IN SO FAR AS PETITIONER CONCERNED.

THIS PETITION IS COMING ON FOR *ORDERS*, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

Challenging registration of FIR in Crime no.163/2022 by Hebbagodi Police Station for offences punishable under Sections 406, 420 and 447 of Indian Penal Code, 1860 (**IPC**), presently stated to be pending on file of II Addl. Civil Judge (Jn.Dn) & JMFC, Anekal, this petition is filed.



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2. Sri Bipin Hegde, learned counsel appearing for Sri Kiran J., advocate for petitioners submitted that petitioners were accused no.4 and 5 in a complaint filed by respondent no.2 (**complainant**) on 11.06.2022 stating that her husband had purchased Site no.148 measuring 30X40 feet in Sy.no.21/2 of Thirupally village, Jigani Hobli, Anekal Taluk, Bengaluru Rural (**site**) under registered Sale Deed dated 04.03.1999 from Munithimmaiah and had collected original Sale Deed and copy of layout plan etc. Thereafter, he was regular in paying taxes and Encumbrance Certificate for period from 01.04.1998 to 31.03.2004 clearly referred to him as owner of site. It was stated that having received Rs.44,000/- of sale consideration, Munithimmaiah colluded with accused with criminal intent to cheat complainant, after death of her husband.

3. It was specifically alleged that in year 2007, Munithimmaiah and other family members executed General Power of Attorney (**GPA**) in favour of accused no.4 and 5 and sold entire land bearing Sy.no.21/2 including Site no.148 to G.Janardhan Reddy with criminal intention for huge amount of money. After registration, land was got converted and without



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knowledge of complainant a joint venture agreement with GM Infinite Dwelling Pvt. Ltd. was executed illegally. It was alleged that despite several visits including by her son, during 2020-22, complainant received no response. Accused failed to consider request of complainant for compensation either monetarily or in assets. That they had also restricted visit of complainant to site. Alleging that accused had colluded and intentionally dishonestly with criminal intent cheated complainant, had trespassed and encroached on her property, action was sought. Complaint was registered as Crime no.163/2022 by Hebbagodi Police Station. Aggrieved thereby, present petition was filed.

4. It was submitted that challenge of registration of FIR was on three grounds. Averments in complaint would indicate that dispute was purely civil in nature sought to be given criminal flavour. One of grievances expressed about not being compensated would further highlight same. It was submitted that as per decision of Hon'ble Supreme Court in ***Delhi Race Club (1940) Ltd. & Ors. v. State of Uttar Pradesh & Anr.*** reported in ***(2024) 10 SCC 690***, offences under Sections 406 and 420 of IPC cannot not run together. It



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was submitted that even according to complaint averments, Sale Deed in favour of complainant was executed on 04.03.1999, GPA/Agreement of sale in favour of petitioners were executed in year 2007; Registered Sale Deed at Annexure-E, was executed in favour of G.Janardana Reddy on 17.09.2007 and in turn, G. Janardhan Reddy entered into Joint Development Agreement (**JDA**) with GM Infinite Dwelling Pvt. Ltd. Therefore, filing of complaint in year 2022 would be highly belated and indicative of afterthought.

5. Relying upon decision of Hon'ble Supreme Court in ***Md.Ibrahim & Ors. v. State Of Bihar & Anr.*** reported in ***(2009) 8 SCC 751***, it was submitted that Sale by a person without title by itself would not constitute an offence. Moreover, petitioners herein were GPA and Agreement of sale holders and had executed Sale Deed in favour of G.Janardhan Reddy as attorney. As there was no averment about *mens rea* on part of petitioners to commit offences, impugned complaint was liable to be quashed and sought for allowing petition.

6. On other hand, Smt.Sowmya R., learned HCGP for respondent-State opposed petition.



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7. Sri Niranjan Ganig N., learned counsel for respondent no.2-complainant also opposed petition. It was submitted that registered Sale Deed in favour of complainant's husband was executed by Munithimmaiah in year 1999 and same was reflected in Encumbrance Certificate. Thus, GPA and Agreement of sale in favour of petitioners executed in year 2007 by Munithimmaiah were without title and consequently, no valid title could flow in favour of G. Janardhan Reddy. In complaint, there was clear allegation of collusion and cheating by all accused intentionally and with dishonest criminal intent, apart from trespass and encroachment of complainant's property. It was submitted that in a challenge of FIR under Section 482 of CrPC, this Court was required to examine complaint disclosed commission of an offence and as contents of complaint contained essential ingredients of offences, no interference was warranted. On said grounds, sought for dismissal.

8. Heard learned counsel and perused material on record.



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9. This petition is by accused no.4 and 5 challenging registration of FIR.

10. It is settled law that in case of challenge of FIR, Court would examine whether contents of complaint without anything being added or subtracted indicated commission of offence. FIR in instant case, is registered for offences under Sections 406, 420 and 447 of IPC.

11. Section 406 of IPC provides punishment for offence of 'criminal breach of trust' defined under Section 405 of IPC. Essential ingredients of same are dishonest misappropriation or conversion for own use any property entrusted. Likewise, Section 420 of IPC prescribes punishment for cheating and dishonest inducement to deliver any property. Essential ingredients of Cheating defined under Section 415 of IPC would be fraudulent or dishonest inducement of a person for deceiving him to deliver any property. Emphasis in both offences is on intention i.e., *mens rea*. In entire complaint, except omnibus and vague allegation of collusion between all accused to cheat complainant, there is no specific averment about petitioners, who were GPA/Agreement of sale holders and had knowledge



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about sale in favour of complainant and despite same, had proceeded to execute Sale Deed in favour of G. Janardana Reddy with intent to cheat complainant. In absence of such assertion constituting essential ingredient of offences under Sections 406 and 420 of IPC, continuation of proceedings would not sustain.

12. Besides, invocation of offences of cheating and breach of trust in respect of very same incident would not be justified as held by Hon'ble Supreme Court in ***Delhi Race Club's*** case (supra). Even invocation of offence under Section 447 of IPC would not be justified as G. Janardhan Reddy and Developers acting under registered Sale Deed/JDA entering into land, fencing it etc., only because there exists a rival claim.

13. Apart from above, complaint averments would indicate that complainant had knowledge of execution of GPA/Agreement of sale in favour of petitioners. Complaint specifically states about complainant approaching original owner, alienee G.Janardhan Reddy as well as petitioners between 2020 and 2022, but complaint is filed only on 11.06.2022 would suffer from delay and afterthought. Though



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learned counsel for respondent no.2-complainant has sought to contend that name of complainant's husband was entered in Encumbrance Certificate, there is no specific assertion about petitioners herein having knowledge of such encumbrance and deliberately or intentionally proceeding to execute Sale Deed in favour of G.Janardana Reddy to cheat complainant.

14. For aforesaid reasons cumulatively, continuation of proceedings against petitioners would amount to abuse of process. Hence, petition is ***allowed***. FIR in Crime no.163/2022 registered by Hebbagodi Police Station for offences punishable under Sections 406, 420 and 447 of IPC, presently stated to be pending on file of II Addl. Civil Judge (Jn.Dn) & JMFC, Anekal, stands *quashed* only insofar as petitioners-accused no.4 and 5 are concerned.

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

AV
List No.: 1 Sl No.: 7