



CNR: KAHC010300662020

NC: 2026:KHC:55890
CRL.P No. 5248 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF OCTOBER, 2026

BEFORE

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

CRIMINAL PETITION NO.5248 OF 2020

BETWEEN:

1. PRAKASH V. NAYAK,
AGED ABOUT 61 YEARS,
S/O. VINAYAKA NAYAK,
R/AT 7-3-224/36,
502, DE MARVELLA,
3RD CROS, OPP. GLOBAL HOSPITAL,
MATADAKANI, MANGALURU,
D.K.DISTRICT-575006.
2. PAVAN NAYAK,
AGED ABOUT 31 YEARS,
S/O PRAKASH V. NAYAK,
R/AT 1303, ARAMIS,
PRESTIGE MONTE CARLO,
DODDABALLAPURA ROAD,
YELAHANKA,
BENGALURU-560064.

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA

...PETITIONERS

(BY SRI. NISHIT KUMAR SHETTY, ADVOCATE)

AND:

1. STATE OF KARNATAKA,
REPRESNETED BY STATION HOUSE OFFICER,
URVA POLICE STATION, MANGALURU,
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDINGS,
BENGALURU-560001.



CNR: KAHC010300662020

NC: 2026:KHC:55890
CRL.P No. 5248 of 2020

2. SMT. PRIYA BHANDARY,
W/O SADASHIVA BHANDARY,
AGED ABOUT 43 YEARS,
R/AT 203, VINAYAKA APARTMENTS,
MARTIN PAIS ROAD,
IN FRONT OF KARAVALI
FESTIVAL GROUND, MANGALURU,
D.K.DISTRICT-575006.

...RESPONDENTS

(BY SRI. SUHAS GOWDA M., HCGP FOR R1;
SRI. K.J. KAMATH, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE FIR AGAINST THE PETITIONER IN CR.NO.47/2020 OF URVA POLICE STATION, REGISTERED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 406 AND 420 R/W SECTION 34 OF IPC, ON THE FILE OF 3RD JMFC COURT AT MANGALURU.

THIS PETITION COMING ON FOR ADMISSION THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

ORAL ORDER

The learned counsel for the petitioners would submit that he will not press the petition against petitioner No.1 and he restricts his prayer only in respect of petitioner No.2.

2. The prayer sought in the petition is to quash the FIR in Crime No.47/2020, for the offences punishable under Sections 406, 420 read with Section 34 of IPC.



3. The learned counsel for the petitioners brought to the notice of this Court the averments made in paragraph No.1 of the complaint, wherein it is stated that the complainant borrowed loan to the tune of Rs.49,65,000/- from the bank in 2017 and gave the same to petitioner No.1 and petitioner No.1 had agreed to pay the amount after he receives the amount that is due from BSNL Company for the work he has done. It is stated that out of the said amount lent to petitioner No.1, a flat was purchased in the name of petitioner No.2 and when both of them did not repay the amount, they made false claim that they will repay the amount after they get the money from BSNL. But on verification with BSNL, no such amount was due to petitioner No.1. The learned counsel would contend that admittedly in the complaint it is stated that the loan was availed by the complainant on 17.10.2017 and the same was paid to petitioner No.1. The learned counsel placed on record the sale deed of the property purchased by petitioner No.2 on 05.08.2015 and contend that the question of petitioner No.1 purchasing the property from the amount lent by the complainant does not arise. The learned counsel also would



NC: 2026:KHC:55890
CRL.P No. 5248 of 2020

contend that while purchasing the property, petitioner No.2 has availed the loan from the Central Bank. To that effect also produced the document dated 04.08.2015 issued by the Central Bank of India and contend that while purchasing the said flat, petitioner No.2 had availed the loan from the bank to the tune of Rs.65,00,000/- and he is also working in Interglobe Aviation Ltd. and salary certificate is also produced to evidence the said fact and he had purchased the flat out of his own income as well as the loan amount which he had borrowed. The learned counsel contend that no specific allegations are made against petitioner No.2 that he had indulged in such act and question of invoking Sections 406 and 420 of IPC against petitioner No.2 does not arise.

4. The learned counsel for respondent No.2/complainant would submit that specific allegation is made against petitioner No.2 in paragraph No.2 of the complaint that both petitioner Nos.1 and 2 have cheated the complainant and also there are material to proceed against petitioner No.2.

5. The learned High Court Government Pleader appearing for respondent No.1/State also reiterates the same.



6. Having heard the learned counsel for the respective parties and particularly taking into note the averments made in paragraph No.1 of the complaint, OD facility was availed by the complainant on 17.10.2017 and the amount was lent to petitioner No.1 through cheque in total to the tune of Rs.49,65,000/-. Out of the said amount, the petitioners were due to the complainant for an amount of Rs.18,09,000/- and for that amount, interest payable to the tune of Rs.8,20,510/- is also due. It is contended that petitioner No.1 had promised the complainant to pay the additional amount of Rs.6,50,000/-. An averment is made in the complaint that there was a transaction between the complainant/respondent No.2 and petitioner No.1 and allegation made against petitioner No.2 is that he had purchased the property out of the amount lent by the complainant. But documentary evidence discloses that the flat was purchased in the year 2015 itself i.e., prior to availing of the amount by the complainant. When such being the case, there cannot be any criminal prosecution against petitioner No.2 and when there is no any privity of contract, the question of cheating does not arise and the same is interse between the



CNR: KAHC010300662020

NC: 2026:KHC:55890
CRL.P No. 5248 of 2020

complainant and petitioner No.1 and hence, there is a force in the contention of the learned counsel for the petitioners that there cannot be any prosecution against petitioner No.2.

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

ORDER

- (i) The petition is allowed in part.
- (ii) The petition in respect of petitioner No.2 is allowed. The proceedings initiated against petitioner No.2 in Crime No.47/2020 is quashed.
- (iii) The petition in respect of petitioner No.1 is dismissed as not pressed.

Sd/-
(H.P.SANDESH)
JUDGE

MD
List No.: 1 Sl No.: 17