



CNR: KAHC010308182019

NC: 2026:KHC:49858
CRL.P No. 7142 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF SEPTEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO.7142 OF 2019

BETWEEN:

1. SRI. PRAVEEN CHANDRAN R. SHAH,
S/O.LATE RATILAL SHAH,
AGED ABOUT 86 YEARS,
RESIDIG AT NO.23, 2/3,
1ST FLOOR, EAST PARK ROAD,
KUMARA PARK EAST,
BENGALURU-560001.

PETITION AGAINST PETITIONER NO.1
IS DISMISSED AS ABATED,
VIDE ORDER DATED 14.09.2022.

2. SRI. NAGARAJ N.,
S/O.LATE H. NARAYAN KEDILAYA,
AGED ABOUT 65 YEARS,
RESIDING AT NO.563/1, PREETAM,
RAILWAY PARALLEL LINE ROAD,
R.P.C.LAYUOT, HAMPINAGAR,
VIJAYNAGAR, BENGALURU-560001.

3. SRI. YOGESH P. SHAH,
S/O.PRAVEEN CHANDRAN R. SHAH,
AGED ABOUT 56 YEARS,
RESIDIG AT NO.23, 2/3,
1ST FLOOR, EAST PARK ROAD,
KUMARA PARK EAST,
BENGALURU-560001.

...PETITIONERS

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA



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(BY SRI. MOHAMMED MUJASSIM, ADVOCATE FOR
PETITIONERS NO.2 AND R3;
VIDE ORDER DATED 14.09.2022, PETITION AGAINST
PETITIONER NO.1 STANDS DISMISSED AS ABATED)

AND:

1. STATE OF KARNATAKA,
BY R.T.NAGAR POLICE, BENGALURU,
REPRESENTED BY LEARNED
STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BENGALURU-560001.
2. SRI. HARSHITH N. SHAH,
S/O. LATE NAINESH P. SHAH,
AGE: MAJOR,
HOUSE AT NO.16,
COMFORT ENCLAVE,
1ST MAIN, 1ST CROSS,
GANGANAGAR, R.T.NAGAR,
BENGALURU-560032.

...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 17.09.2019
PASSED IN CRL.RP.NO.655/2019 PASSED BY THE HONBLE LXIV
ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU
VIDE (ANNEXURE-A) AND SET ASIDE THE ORDER DATED
01.08.2019 PASSED IN C.C.NO.10728/2016 PENDING ON THE
FILE OF LVI ADDL.C.M.M., BENGALURU, NOW PENDING
BEFORE THE XXXII ADDL.C.M.M., BENGALURU.

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



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

ORAL ORDER

Heard the learned counsel for petitioner Nos.2 and 3 and the learned High Court Government Pleader appearing for respondent No.1/State.

2. This petition is filed praying this Court to quash the proceedings initiated against these two petitioners, who have been arrayed as accused Nos.3 and 4 in C.C.No.10728/2016, in rejecting the application filed under Section 239 of Cr.P.C. and prayer is also sought to set aside the order dated 17.09.2019 passed in Crl.R.P.No.655/2019 confirming the said order.

3. The learned counsel for petitioner Nos.2 and 3 would vehemently contend that accused Nos.1 and 2 are no more. In the complaint dated 20.07.2013, an allegation is made that accused Nos.1 and 2, in order to grab the flat, have created a Will dated 17.09.2012 by forging the signature of late Nainesh P. Shah on the said Will and the same has been attested by Sri Nagaraj and Yogesh Shah. It is contended that her husband Nainesh P.Shah, was put on ventilator and would



not have signed the said Will. The above named persons have forged the signature of her late husband and produced the same to BBMP and seeking transfer of above flat to their name, which is worth more than Rs.1 crore as per the present market rates. The above named persons in order to cheat and to grab the property, illegally have forged the signature of her late husband. Ever since admitted to hospital with serious heart problems, he was neither in a position to sign any document nor in a position to understand the things as he was in semi-coma state of mind and he was put on ventilator and liquid food being fed to him through pipe.

4. These two petitioners are arrayed as accused Nos.3 and 4, as they being the attestors of the Will knowingly well that the original executant of the Will was not having sound state of mind to execute the same, attested the document. The application is filed before the Trial Court claiming that they are innocent and they have not committed any offence. If the complainant have any grievance against the Will purported to be executed by the deceased Nainesh P. Shah in favour of accused Nos.1 and 2, the same can be questioned for its



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genuinity before the competent Civil Court and there cannot be any criminal prosecution against these two petitioners that they are the attestors of the said Will. Instead of getting the relief before the Civil Court, the complainant has given criminal colour to the civil dispute and hence, sought for discharge of the accused persons.

5. The same is objected by the complainant by filing statement of objections. The Trial Court having considered the material on record, comes to the conclusion that after careful perusal of the charge-sheet and its enclosures and after appreciating the same in the background of the scope of Section 239 of Cr.P.C., the material placed on record is sufficient to call accused Nos.1, 3 and 4 to undergo trial and the Court has to frame the charge. The establishment of possibility of acquittal of accused after trial would not be a ground at this stage to hold that no prima facie case is made out and rejected the application. The same is confirmed in the revision petition.

6. In the revision also, the Revisional Court having considered the grounds urged in the revision petition,



particularly considering the ingredients of the offences under Sections 420, 471, 204 of IPC comes to the conclusion that there are sufficient materials to frame the charge against the accused for the allegations made against them and nothing is discussed in the revision petition about the order of the Trial Court in rejecting the application. The counsel also would contend that the Revisional Court has not exercised its revisional powers and fails to discuss in the order in respect of the conclusion given by the Trial Court with regard to the rejection is concerned. Hence, it requires interference of this Court.

7. Per contra, the counsel appearing for the State would submit that based on the complaint, the police have registered the case and investigated the matter and recorded the statement of CW1 and also the statement of CW2 who is the holder of katha. The other witness is CW3, who is the witness to the panchanama. When accused No.1 made the statement that he lost the original Will, to that effect, the complaint was lodged and CW4 has received the same. Ultimately, the IO who conducted the investigation, filed the



charge sheet and he has been cited as CW5. The counsel would contend that for making use of the very same forgery document before the BBMP, the material is collected by the IO and invoked Section 420 of IPC. Hence, it is not a case for quashing.

8. Having heard the petitioners' counsel and also the counsel appearing for the State, it discloses that the present petition is filed under Section 482 of Cr.P.C for questioning the order of the Trial Court and also the confirmation order passed by the Revisional Court. The Trial Court, while coming to the conclusion that it is a matter of trial with regard to the accusation is made in the charge sheet as against these two petitioners are concerned, not discussed in detail. So also, even Revisional Court, while considering the order of rejection passed by the Trial Court, not discussed anything except stating that there are sufficient materials to frame the charge against the accused and fails to take note of the fact that these two petitioners are only the signatories to the Will and they have not indulged in committing of any offences of 420 or 471 of IPC since these two petitioners have not used the document



of Will and only they are the attestors of the said Will. When the allegation of 468 and 471 is alleged against accused Nos.1 and 2, they are no more. Thus, no purpose would be served in proceeding against these two petitioners and ingredients of the offences under Sections 420, 471 read with Section 34 of IPC will not attract. It is rightly pointed out by the counsel appearing for the petitioners that with regard to forgery and the very executant of the Will was not having sound state of mind at the time of executing the Will, the same has to be proved before the Civil Court. Considering the scope of the criminal prosecution against these two petitioners who have been arrayed as accused Nos.3 and 4 and they were not the beneficiaries of the said Will and also they have not indulged in forging of that document as alleged in the complaint. When such being the case, it is nothing but an abuse of process in continuing the proceedings against these two petitioners. Hence, it is a fit case to exercise the powers under Section 482 of Cr.P.C. The Trial Court as well as the Revisional Court has not applied its judicious mind with regard to the ingredients of



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the offences which have been invoked against these petitioners.

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

ORDER

The petition is allowed.

The proceedings against these petitioners/accused No.3 and 4 in C.C.No.10728/2016 is hereby quashed.

**Sd/-
(H.P.SANDESH)
JUDGE**

MD/SN
List No.: 1 Sl No.: 23