



CNR: KAHC010332952025

NC: 2026:KHC:49794
CRL.P No. 7305 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO. 7305 OF 2025 (482(Cr.PC)

/ 528(BNSS)-)

BETWEEN:

1. SMT. LAKSHMAMMA,
WIFE OF LATE KRISHNA.M,
AGED ABOUT-69 YEARS,
2. SMT.NIRMALA RAJANNA
D/O LATE. KRISHNA.M,
MAJOR IN AGE,
3. SRI.KUMAR,
SON OF LATE. M.KRISHNA,
MAJOR IN AGE.
4. SMT.BETHA SUMITHRA,
D/O LATE. M. KRISHNA,
MAJOR IN AGE,
5. SMT SATHYABHAMA,
D/O LATE M. KRISHNA,
MAJOR IN AGE,

ALL ARE RESIDING AT
NO. 39/5, SUDDAGUNTEPALYA
NEAR MAHESHWARAMMA TEMPLE
C.V.RAMANNAGA POST
BENGALURU-560095

...PETITIONERS

(BY SRI. PRASAD B S.,ADVOCATE)

AND:

Digitally Signed By:
SURAJ GOVINDA RAJ
21/09/2026, 13:40, BENGALURU
Verified





CNR: KAHC010332952025

NC: 2026:KHC:49794
CRL.P No. 7305 of 2025

1. THE STATE OF KARNATAKA
BYAPPANAHALLI POLICE STATION
REPT.BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BANGALORE-560001
2. R.SURENDRABABU,
S/O V.RAMIAH,
AGED ABOUT 54 YEARS
3. SRI. R ASHOK KUMAR
S/O LATE V RAMIAH
AGED ABOUT 52 YEARS

BOTH ARE R/AT NO.49, 9TH J CROSS,
KAGGADASAPURA, CV RAMAN NAGAR POST,
BENGALURU 560093

...RESPONDENTS

(BY SRI. RANJITH KUMAR.N., HCGP FOR R1;
SRI. MADHUKAR DESHPANDE., ADVOCATE FO R2 & R3)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482
CR.PC (FILED U/S 528 BNSS) PRAYING TO QUASH THE ENTIRE
PROCEEDINGS IN PCR NO.73466/2024 (CR.NO.08/2025
REGISTERED BY THE RESPONDENT NO.1 POLICE STATION) PENDING
ON THE FILE OF X ADDL. CJM COURT AT BANGAORE FOR THE
OFFENCE P/U/S 2(9), 2(36), 61(2), 316(1), 316(2), 318(4) R/W 190
OF BNS AND ETC.

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

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

Digitally Signed By:
SURAJ GOVINDA RAJ
21/09/2026, 13:40, BENGALURU
Verified



NC: 2026:KHC:49794
CRL.P No. 7305 of 2025

ORAL ORDER

1. The petitioner is before this Court seeking for the following reliefs:

a. Quash the entire proceedings in PCR No.73466/2024 (Crime No.08/2025) registered by the Respondent No.1 police station) pending on the file of X Addl. Chief Judicial Magistrate court at Bengaluru for the offences punishable under section 2(9), 2(36), 61(2), 316(1), 316(2), 318(4), r/w 190 of BNS in the interest of justice.

2. Respondents No.2 and 3 had filed a private complaint under Section 223 of the **Bharatiya Nagarik Suraksha Sanhita, 2023** ['BNSS' for short] which came to be registered as PCR No.73466 of 2024. In the said matter, the 10th Addl. CMM had referred the allegations for investigation under Section 174(B) of the BNSS. It is challenging the said order, the petitioners are before this Court.
3. Sri B.S. Prasad, learned counsel for the petitioners, would submit that a reading of the complaint in its entirety would indicate that the dispute between the parties is essentially civil in nature and that no criminal element is made out from the allegations therein. He submits that, according to the complaint, the parties had negotiated for purchase and sale of the properties belonging to the petitioners for a consideration of ₹50,00,00,000/-,

Digitally Signed By:
SURAJ GOVINDA RAJ
21/09/2026, 13:40, BENGALURU
Verified



CNR: KAHC010332952025

NC: 2026:KHC:49794
CRL.P No. 7305 of 2025

pursuant to which an amount of ₹3,65,00,000/- is alleged to have been paid over a period of time, as set out in paragraph 6 of the complaint.

4. He submits that petitioner No.5 and respondent No.3 are advocates and had several transactions with each other and that the amounts referred to in the complaint were paid in the course of such transactions and not towards the sale consideration of the subject properties.
5. His further submission is that no agreement of sale in respect of any of the properties has been executed by the petitioners in favour of the respondents. According to him, even on a holistic reading of the complaint, the grievance of the complainants is either that the petitioners should execute an agreement of sale in respect of the properties in question or that the amounts allegedly paid by them should be refunded. Both such claims, according to learned counsel, give rise to civil remedies and cannot, in the absence of the requisite criminal ingredients, form the basis for criminal proceedings. On these grounds, he submits that the order passed by the X Additional Chief Judicial Magistrate is liable to be quashed.
6. Sri Madhukar Deshpande, learned counsel appearing for respondent Nos.2 and 3, on the other hand, would submit that the availability of a civil remedy for refund of money

Digitally Signed By:
SURAJ GOVINDA RAJ
21/09/2026, 13:40, BENGALURU
Verified



CNR: KAHC010332952025

NC: 2026:KHC:49794
CRL.P No. 7305 of 2025

and/or specific performance would not preclude the respondents from initiating criminal proceedings if the ingredients of the offence of cheating are otherwise made out.

7. He submits that the complainants are entitled to pursue both civil and criminal remedies where the facts disclose the commission of a criminal offence. According to him, the petitioners received an amount of ₹3,65,00,000/- pursuant to the understanding that an agreement of sale would be executed, but no such agreement was executed. He contends that the circumstances pleaded in the complaint disclose the requisite intention on the part of the petitioners to cheat the respondents and, therefore, the criminal proceedings ought to be permitted to continue.
8. Heard Sri B.S. Prasad, learned counsel for the petitioners, Sri Ranjith Kumar N., learned HCGP appearing for respondent No.1, and Sri Madhukar Deshpande, learned counsel appearing for respondent Nos.2 and 3. Perused papers.
9. The principal question that arises for consideration is whether the allegations contained in the complaint, taken at their face value and in their entirety, disclose the ingredients of the offences alleged against the petitioners or whether the dispute essentially relates to the alleged

Digitally Signed By:
SURAJ GOVINDA RAJ
21/09/2026, 13:40, BENGALURU
Verified



NC: 2026:KHC:49794
CRL.P No. 7305 of 2025

CNR: KAHC010332952025

payment of advance sale consideration and the subsequent failure to refund the same.

10. A perusal of the complaint indicates that the parties had allegedly negotiated in relation to the sale and purchase of the properties belonging to the petitioners for a consideration of ₹50,00,00,000/-. It is alleged that, pursuant to such negotiations, an aggregate amount of ₹3,65,00,000/- was paid by the complainants between 21.05.2021 and 19.04.2023.
11. In paragraph 8 of the complaint, the complainants have stated that the property had already been sold under a registered agreement of sale. In paragraph 12, it is alleged that the accused had been postponing, on one pretext or another, the return of the advance sale consideration and that, when the first complainant approached them on 16.11.2024 and demanded return of the amount, the accused refused to do so and stated that the complainant could do whatever he wished. It is thereafter that the complainants claim to have approached the police on 19.11.2024 and, upon the police allegedly not acting on the complaint, instituted the private complaint.
12. Thus, the subsequent conduct attributed to the petitioners is essentially that, after the property had been sold to a third party, the amount allegedly paid by the

Digitally Signed By:
SURAJ GOVINDA RAJ
21/09/2026, 13:40, BENGALURU
Verified



CNR: KAHC010332952025

NC: 2026:KHC:49794
CRL.P No. 7305 of 2025

complainants as advance sale consideration was not returned to them. The complaint does not, in substance, allege that, at the time when the amount was received, the petitioners had made a false representation with a dishonest intention of inducing the complainants to part with their money and had, from the inception, no intention either to perform the transaction or to deal with the amount in accordance with the understanding between the parties.

13. The distinction between a mere breach of a contractual obligation and the offence of cheating is well settled. For constituting cheating, the allegation must disclose deception and fraudulent or dishonest inducement, and the dishonest intention must exist at the inception of the transaction. A subsequent failure to honour a promise or contractual obligation, without the requisite dishonest intention at the commencement of the transaction, does not, by itself, constitute cheating.
14. At the same time, the mere fact that a transaction gives rise to a civil remedy cannot, as an abstract proposition, be a ground for quashing criminal proceedings. A transaction may, in a given case, give rise simultaneously to civil and criminal consequences if the ingredients of the criminal offence are independently disclosed. The question, therefore, is not merely whether the complainants have a civil remedy, but whether the factual

Digitally Signed By:
SURAJ GOVINDA RAJ
21/09/2026, 13:40, BENGALURU
Verified



CNR: KAHC010332952025

NC: 2026:KHC:49794
CRL.P No. 7305 of 2025

allegations in the complaint disclose the ingredients of the offences alleged.

15. Tested on the aforesaid principle, the allegations in the present complaint do not disclose the essential ingredients of cheating under Section 318 of the BNS 2023. The complaint proceeds on the basis that the amount was paid pursuant to negotiations for sale and purchase of the properties and that, subsequently, the property was sold to a third party and the amount was not refunded despite demand.
16. There is no specific averment which, even if accepted as true, would establish that, at the very inception of the transaction, the petitioners had a dishonest or fraudulent intention and that such intention induced the complainants to part with the amount of ₹3,65,00,000/-. The allegation of non-refund, by itself, is an allegation of subsequent conduct. It cannot, without further foundational facts demonstrating the requisite intention at inception, be retrospectively converted into an allegation of cheating.
17. The distinction assumes significance in the present case because the complainants themselves have pleaded that, after the property had been sold to a third party, they demanded return of the amount paid by them. Their

Digitally Signed By:
SURAJ GOVINDA RAJ
21/09/2026, 13:40, BENGALURU
Verified



CNR: KAHC010332952025

grievance, therefore, is the non-refund of the amount allegedly paid as advance sale consideration.

18. The remedy in respect of such a claim would ordinarily lie in appropriate civil proceedings for recovery of money and, depending upon the nature and terms of the underlying transaction, such other reliefs as may be available in law. The existence of such civil remedies does not, by itself, exclude criminal liability; however, as observed supra, in the absence of the foundational allegations necessary to constitute the criminal offence, the criminal process cannot be permitted to substitute the civil remedy.
19. The other provisions invoked in the complaint also require examination in the light of their respective ingredients. Section 61 of the BNS 2023 concerns criminal conspiracy and requires an agreement between two or more persons to do an illegal act, or to do a lawful act by illegal means. A mere allegation that the petitioners jointly dealt with the complainants or that they failed to refund the amount does not, without an allegation disclosing the requisite agreement to commit an illegal act or to achieve a lawful object by illegal means, constitute criminal conspiracy.
20. Likewise, insofar as the offences under Section 316 of the BNS 2023 are concerned, the mere receipt of money pursuant to negotiations for sale of property cannot,



CNR: KAHC010332952025

NC: 2026:KHC:49794
CRL.P No. 7305 of 2025

without the necessary foundational allegations relating to entrustment, dishonest misappropriation or conversion, be treated as constituting criminal breach of trust. The complaint has to disclose the specific legal ingredients of the offence and cannot merely characterise a contractual or monetary dispute as criminal breach of trust.

21. The same principle applies to the other provisions invoked in the complaint. The criminal process cannot be set in motion merely by reproducing the statutory provisions in the complaint unless the factual allegations contained therein satisfy the ingredients of those provisions. This Court is required to examine the substance of the allegations and not merely the nomenclature assigned to the alleged acts.
22. In the present case, the substance of the complaint is that the complainants paid an amount of ₹3,65,00,000/- in connection with the proposed sale of the properties; that the properties were thereafter sold to a third party; and that, when the complainants demanded return of the amount allegedly paid by them, the petitioners failed or refused to refund the same.
23. The complaint does not disclose facts which, even if accepted in their entirety, establish that the petitioners had the dishonest intention necessary to constitute cheating at the time of receipt of the money. Nor does it

Digitally Signed By:
SURAJ GOVINDA RAJ
21/09/2026, 13:40, BENGALURU
Verified



CNR: KAHC010332952025

NC: 2026:KHC:49794
CRL.P No. 7305 of 2025

disclose the foundational facts necessary to constitute criminal conspiracy or criminal breach of trust.

24. It is also material that the complainants, according to their own averments, accepted the subsequent position that the property had been sold to a third party and thereafter demanded refund of the amount paid by them. This circumstance is relevant not because a demand for refund can, in law, preclude a criminal prosecution, but because the nature of the grievance as pleaded by the complainants themselves is one concerning recovery of money following the failure of the underlying transaction.
25. The subsequent refusal to refund the amount may give rise to a cause of action in civil law. However, absent specific allegations and material demonstrating that the petitioners had the requisite dishonest intention when the amount was initially received, the subsequent refusal to repay cannot, by itself, constitute cheating under Section 318 of the BNS 2023.
26. The Hon'ble Supreme Court has repeatedly cautioned that a breach of contract cannot be converted into a criminal prosecution for cheating merely by describing the subsequent non-performance as fraudulent. The decisive consideration is whether fraudulent or dishonest intention existed at the inception of the transaction.

Digitally Signed By:
SURAJ GOVINDA RAJ
21/09/2026, 13:40, BENGALURU
Verified



CNR: KAHC010332952025

NC: 2026:KHC:49794
CRL.P No. 7305 of 2025

27. Consequently, on a consideration of the complaint as a whole, the allegations disclose, at their highest, a dispute concerning the payment of advance sale consideration and the subsequent non-refund of the amount. The complaint does not disclose the essential ingredients of the offences alleged against the petitioners.
28. The continuation of the criminal proceedings in such circumstances would amount to permitting the criminal process to be employed for adjudication of a claim which, on the allegations contained in the complaint itself, is essentially one for recovery of money arising out of a failed property transaction.
29. In that view of the matter, the impugned order passed by the X Additional Chief Judicial Magistrate, insofar as it has set the criminal law in motion against the petitioners on the basis of the allegations contained in the private complaint, cannot be sustained. The proceedings are accordingly liable to be quashed.
30. It is made clear that this Court has not adjudicated upon the parties' respective civil rights or upon the entitlement, if any, of the complainants to recover the amount allegedly paid by them. Any such claim shall be considered by the competent forum in accordance with law and on its own merits.

Digitally Signed By:
SURAJ GOVINDA RAJ
21/09/2026, 13:40, BENGALURU
Verified



CNR: KAHC010332952025

NC: 2026:KHC:49794
CRL.P No. 7305 of 2025

31. In that view of the matter, this Court passes the following:

ORDER

- i. The petition stands ***allowed***.
- ii. The order dated 26.12.2024 is set-aside. Consequently, the proceedings in PCR No.73466/2024 pending on the file of the X Additional Chief Judicial Magistrate Court at Bangalore are quashed.
- iii. Liberty is, however, reserved to the respondents to initiate such civil proceedings in accordance with law.

Digitally Signed By:
SURAJ GOVINDA RAJ
21/09/2026, 13:40, BENGALURU
Verified

(SURAJ GOVINDARAJ)
JUDGE

LN

List No.: 1 Sl No.: 44