



CNR: KAHC010440212019

NC: 2026:KHC:53405
CRL.P No. 7239 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL PETITION NO. 7239 OF 2019

BETWEEN:

- 1 . ROHAN SALIAN
S/O LATE PRAVEEN KUMAR SALIAN,
AGED ABOUT 42 YEARS,
- 2 . VIJAYA SALIAN
W/O ROHAN SALIAN
AGED ABOUT 35 YEARS,

ALL ARE RESIDING AT
NO.302, 4TH FLOOR,
MONT TABOR
BDS NAGAR, 3RD CROSS,
K.NARAYANAPURA,
KOTHANOR POST
BANGALORE - 560 077.

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka

...PETITIONERS

[BY SRI SUMAN K. SURESH, ADVOCATE]

AND:

- 1 . STATE OF KARNATAKA
BY KOTHANOR POLICE STATION
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
HIGH COURT BUILDING
BANGALORE - 560 001.



NC: 2026:KHC:53405
CRL.P No. 7239 of 2019

CNR: KAHC010440212019

2 . MR. NAVEEN R
S/O RAMKRISHNA R.P.
AGED ABOUT 41 YEARS,
RESIDING AT NO.626,
4TH C MAIN ROAD,
OMBR LAYOUT,
BANASWADI,
BANGALORE - 560 043.

...RESPONDENTS

(BY SRI MAHESHA P., HCGP FOR R1;
SMT.RAMYA N., ADVOCATE FOR
SRI PRAVEEN S. REDDY, ADVOCATE FOR R2)

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO ALLOW
THE PETITION AND QUASH THE ENTIRE PROCEEDINGS IN PCR
NO.53115/2017, REGISTERED AS CRIME NO.107/2017, NOW
PENDING IN C.C.NO.51763/2018, ON THE FILE OF 11TH
ADDITIONAL CHIEF METROPOLITAN MAGISTRATE,
BANGALORE, FOR THE OFFENSES PUNISHABLE UNDER
SECTIONS 323, 419, 420, 465, 468, 471, 504, 506 R/W 34 OF
IPC PERTAINING TO KOTHNAOOR POLICE STATION.

THIS PETITION IS HAVING BEEN HEARD AND RESERVED
FOR ORDERS ON 29.07.2026, THIS DAY, THE COURT,
PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI



CNR: KAHC010440212019

NC: 2026:KHC:53405
CRL.P No. 7239 of 2019

CAV ORDER

Challenging entire proceedings in CC no.51763/2018 pending on file of XI Additional Chief Metropolitan Magistrate, Bengaluru for offences punishable under Sections 419, 420, 323 and 506 read with Section 34 of Indian Penal Code, 1860 (**IPC**), this petition is filed.

2. Sri Suman K. Suresh learned counsel for petitioners submitted that petitioners were accused no.1 and 3 (**petitioners**) in PCR no.53115/2017 filed by respondent no.2 (**complainant**) on 26.05.2017 stating that petitioners were proprietors of '**Lock Stock & Barrel Restaurant**' ('**LSB**') and accused no.3 was wife of accused no.1. It was further stated that since three years complainant was in Sports Arena business under name and style '**Agon Sports**', near Gubbi Cross, Bengaluru. And when complainant was looking for suitable place for another outlet, came in contact with petitioners through Real Estate Agents and who assured him of suitable premises. They also expressed intention to do business in partnership with complainant and induced him to enter into partnership agreement with accused no.1 for similar business in



CNR: KAHC010440212019

NC: 2026:KHC:53405
CRL.P No. 7239 of 2019

name of '**Agon Sports Arena**'. But except signing agreement no further action was taken.

3. In meanwhile, accused no.1 informed complainant that cost of furnishing LSB had exceeded his expectation and borrowed money from complainant. It was stated between 05.08.2015 and 20.11.2015 payments were made through Bank transfer and in cash. For repayment, accused no.1 had executed On-Demand Promissory Notes ('**DPN**') for Rs.5 Lakhs and Rs.30 Lakhs respectively, promising to repay with interest at 24% p.a. payable every month. In DPN for Rs.5 Lakhs, accused no.1 offered complainant 20% stake in LSB and in DPN for Rs.30 Lakhs offered 30% stake in LSB as collateral security.

4. A year later on 30.11.2016, accused approached complainant and proposing to settle entire dues got earlier DPNs cancelled and fresh DPNs executed by accused no.2 and 3 for Rs.35 Lakhs before Notary on same day and based on assurance of accused no.2 and 3 to pay due amount, he issued letter canceling earlier DPNs. Thereafter accused no.2 issued three cheques no.721673, 721674 and 721675 drawn on



CNR: KAHC010440212019

Canara Bank for Rs.5 Lakhs, Rs.10 Lakhs and Rs.20 Lakhs respectively assuring that they would be honored by end of March, 2017. But, before due date, petitioners approached complainant and accused no.1 issued three new cheques no.70421, 70422 and 70423 drawn on Bharath Bank for Rs.5 Lakhs, Rs.10 Lakhs and Rs.20 Lakhs respectively. But on 11.04.2017 first cheque returned with endorsement 'Insufficient Funds'. At that time, complainant noticed dates on remaining two cheques was 31.03.2018 and 31.03.2019 instead of 31.03.2017 and realized that petitioners had fraudulently induced him to part with Rs.35,00,000/- promising repayment or stake in LSB and thereafter failed to repay amount or transfer promised stake in LSB. It was stated, initially petitioners promised 50% stake in LSB later reduced to 30% as collateral for repayment and thereafter failed to repay, despite multiple demands.

5. It was stated that on 10.04.2017, accused no.2 got issued legal notice to complainant making false allegations about complainant threatening him, which were denied. It was alleged that petitioners had similarly induced several others to



CNR: KAHC010440212019

invest money on promise of stake in LSB and cheated Kim John Kapper partner/investor in LSB. And when complainant demanded repayment near LSB and residence of accused, instead of repayment accused no.1 grabbed complainant by his collar and slapped, all accused pushed him and made him fall down and kicked him. At that time, accused no.2 and 3 instigated accused no.1 to kill complainant. Thereafter all accused abused complainant in filthy language and threatened to kill him if he was found near their residence or LSB.

6. It was further stated that though immediately after incident, complainant approached jurisdictional police station to lodge complaint, his complaint was not received or acted upon due to influence of accused. Therefore, complainant filed PCR no.53115/2017 against accused. Based on direction FIR in Crime no.107/2017 was registered on 02.06.2017 by Kothanur Police Station and after investigation, charge sheet filed for offences punishable under Sections 419, 420, 323, and 506 read with Section 34 of IPC. Based on same, cognizance was taken of offences against accused and for issuance of summons. Aggrieved, this petition is filed.



CNR: KAHC010440212019

NC: 2026:KHC:53405
CRL.P No. 7239 of 2019

7. At outset, it was submitted, dispute was about borrowing money and failing to return same. But even as per complaint accused executed DPNs and issued cheques for repayment. Therefore, transactions were purely civil in nature and in CC no.58807/2017 filed by complainant for offence under Section 138 of Negotiable Instrument Acts (**NI Act**) had ended in acquittal of petitioners. That, present complaint was counterblast to legal notice got issued by accused no.1. Hence, impugned proceedings were liable to be quashed as abuse of process of law.

8. Absence of particulars such as time, date and place of alleged threat or assault except vague statement by CW.3 that complainant visited LSB and found it closed, there was no material to probabalise allegations. Moreover, CW.3 would be hearsay witness. Thus, on ground of lack of prima facie material, proceedings were liable for quashing.

9. It was submitted there were material contradiction in prosecution case. Whereas complaint mention about complainant visiting accused house for demanding repayment,



CNR: KAHC010440212019

without any explanation, CW.4 claims to have accompanied complainant. Thus, on ground of material improvement and afterthought, proceedings were liable for quashing.

10. It was submitted absence of medical examination as MLC, drawing up of spot panchanama of place of assault also indicated at abject lack of prima facie case against petitioners. On above grounds, sought for allowing petition.

11. Sri Mahesha P, learned HCGP for respondent no.1-State, opposed petition. It was submitted there were allegations that with dishonest intention from inception to cheat complainant petitioners induced him to enter into partnership agreement initially by executing DPNs and later issuing cheques, one of which was dishonored, would be essential ingredients for offence under Section 420 of IPC. It was submitted initiation of proceeding under NI Act did not bar proceedings for offences under other Acts and there was *prima facie* material against petitioners for offence of cheating.

12. It was further submitted alleged incident of assault occurred at Agon Sports Club and essential ingredient for



CNR: KAHC010440212019

offence of criminal intimidation i.e. threat to kill complainant if he insisted on repayment attracted offence under Section 506 of IPC. Moreover, CW.4 was eyewitness to alleged incident and further submitted, for assault involving minor injuries, absence of medical report was not fatal. On above grounds, sought for dismissal.

13. Smt.Ramya N, learned counsel appearing for Sri Praveen S. Reddy, advocate for respondent no.2-complainant, opposed petition by adopting submissions of learned HCGP.

14. Heard learned counsel and perused material on record.

15. This petition is by accused no.1 and 2 challenging entire proceedings in CC no.51763/2018 for offences punishable under Sections 419, 420, 323, and 506 read with Section 34 of IPC.

16. Main grounds of challenge are dispute being purely civil in nature; present complaint is counterblast; no *prima facie* material present to attract alleged offences; allegations of assault and intimidation are vague; no spot mahazar



CNR: KAHC010440212019

conducted; no medical or other evidences and lastly improvements/contradictions in statements of Charge-sheet witnesses.

17. Insofar as first ground of challenge that incident is purely civil in nature and complainant cannot be permitted to criminalise same, Hon'ble Supreme Court has in **V.Y. Jose v. State of Gujarat**, reported in **(2009) 3 SCC 78** held:

"21. There exists a distinction between pure contractual dispute of a civil nature and an offence of cheating. Although breach of contract per se would not come in the way of initiation of a criminal proceeding, there cannot be any doubt whatsoever that in the absence of the averments made in the complaint petition wherefrom the ingredients of an offence can be found out, the court should not hesitate to exercise its jurisdiction under Section 482 of the Code of Criminal Procedure."

18. In **All Cargo Movers (I) (P) Ltd. v. Dhanesh Badarmal Jain** reported in **(2007) 14 SCC 776**, it held:

"16. For the said purpose, allegations in the complaint petition must disclose the necessary ingredients therefor. Where a civil suit is pending and the complaint petition has been filed one year after filing of the civil suit, we may for the purpose of finding out as to whether the said allegations are prima facie correct, take into consideration the correspondences exchanged by the parties and other admitted documents. It is one thing to say



CNR: KAHC010440212019

that the Court at this juncture would not consider the defence of the accused but it is another thing to say that for exercising the inherent jurisdiction of this Court, it is impermissible also to look to the admitted documents. Criminal proceedings should not be encouraged, when it is found to be mala fide or otherwise an abuse of the process of the court. Superior courts while exercising this power should also strive to serve the ends of justice."

19. And in **Mohd. Ibrahim v. State of Bihar**, reported in **(2009) 8 SCC 751**, it held:

"8. *This Court has time and again drawn attention to the growing tendency of the complainants attempting to give the cloak of a criminal offence to matters which are essentially and purely civil in nature, obviously either to apply pressure on the accused, or out of enmity towards the accused, or to subject the accused to harassment. Criminal courts should ensure that proceedings before it are not used for settling scores or to pressurise parties to settle civil disputes. **But at the same time, it should be noted that several disputes of a civil nature may also contain the ingredients of criminal offences and if so, will have to be tried as criminal offences, even if they also amount to civil disputes.***"

20. And in **Mohd. Wajid v. State of U.P., (2023) 20 SCC 219**, it held:

"37. *We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc.*



CNR: KAHC010440212019

then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not.

38. *In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged."*

21. In view of above ratio, while evaluating whether a dispute is purely civil in nature, this Court would be justified in taking note of surrounding circumstances including post proceeding conduct while determining whether initiation of



CNR: KAHC010440212019

NC: 2026:KHC:53405
CRL.P No. 7239 of 2019

criminal proceeding is for purposes of wrecking vengeance or is vexatious. In this case, it is seen that apart from initiation of proceedings impugned herein has also resorted to other proceedings filed money suit in OS no.3540/2018 on 27.04.2018 and obtained ex-parte decree on 04.12.2018 and also filed CC no.58807/2017 for offence under Section 138 of NI Act, which ended in acquittal of accused no.1.

22. Thus, when complainant has several avenues of redress and has resorted to same, observation in **Paramjeet Batra v. State of Uttarakhand and Ors.**, reported in **(2013) 11 SCC 673** that even if complaint has criminal texture arising out of civil transactions and civil remedy available is opted by a party, High Court should not hesitate to quash criminal proceedings to prevent abuse of process of Court, would come into play.

23. Offences alleged against petitioners-accused herein are under Sections 419, 420, 323 and 506 read with Section 34 of IPC. Section 419 of IPC prescribes punishment for offence of cheating by impersonation. But there are no allegations or



CNR: KAHC010440212019

material about impersonation. Essential ingredients of offence under Section 420 of IPC are dishonest inducement of a person with intention of cheating to part with property, where dishonest intention would have to be from inception. At outset, dispute between parties arises out of financial and business transactions relating to Rs.35,00,000/- which spread over a lengthy period of time and included execution of documents, merely on ground that one of parties later failed to perform any of terms of agreement would not justify invocation of offence under Section 420 of IPC. Mere failure to repay amount or dishonor of cheque would not, by itself, constitute cheating unless dishonest or fraudulent intention existed at inception of transaction. In instant case, execution of DPNs and subsequent issuance of cheques towards repayment indicate existence of monetary liability, but at this stage, material on record does not *prima facie* establish that petitioners had dishonest intention at inception to deceive complainant.

24. Though allegations about accused no.1 slapping complainant, all accused assaulting and threatening complainant form some ingredients for offences under Section



CNR: KAHC010440212019

NC: 2026:KHC:53405
CRL.P No. 7239 of 2019

323 and 506 of IPC, there is glaring absence of particulars such as time and place of incident. Therefore, as held by Hon'ble Supreme Court in case of ***Ghanshyam Soni v. State (Govt. of NCT of Delhi) and Anr.***, reported in ***2025 SCC OnLine SC 1301***, if allegations are vague without particulars such as time, date and place of incident, continuation of proceedings would be abuse of process of Court warranting interference.

25. For aforesaid reasons, petition succeeds, impugned proceedings in CC no.51763/2018 pending on file of XI Additional Chief Metropolitan Magistrate, Bengaluru for offences punishable under Sections 419, 420, 323 and 506 read with Section 34 of IPC are quashed.

Sd/-
(RAVI V HOSMANI)
JUDGE

GRD,AV
List No.: 1 Sl No.: 67