



CNR: KAHC010508362019

NC: 2026:KHC:53425
CRL.P No. 322 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF SEPTEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO.322 OF 2020

BETWEEN:

1. SRI KIRAN SINGH,
EX-DIRECTOR,
AGED ABOUT 46 YEARS,
IMMERISION ONLINE SERVICES PVT. LTD.,
3/1, FLAT NO.0025,
INDUS VOGUE, 1ST MAIN,
VENKATA REDDY LAYOUT, EJIPURA,
KORAMANGALA, 6TH BLOCK,
BENGALURU-560095.

...PETITIONER

(BY SRI. VAIDYA RAVI LAXMINARAYANA, ADVOCATE)

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by DEVIKA M

Location: HIGH
COURT OF
KARNATAKA

AND:

1. M/S. AMBI PLY AND BOARDS,
PLOT NO 49-50,
AMBLE INDUSTRIAL AREA,
CHIKMAGALUR-577101.
REPRESENTED BY ITS
MANAGING PARTNER,
SRI. G. CHENDIL KUMAR,
AGED ABOUT 48 YEARS,
S/O V. GANESHAN.

...RESPONDENT

(BY KUM. NITHYA H.J., ADVOCATE FOR
SRI. K.S.GANESHA, ADVOCATE)



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THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.1875/2019 ON THE FILE OF THE 1ST ADDITIONAL SENIOR CIVIL JUDGE AND JMFC AT CHIKKAMAGALURU AND TO QUASH THE ORDER DATED 15.10.2018 UNDER WHICH THE LEARNED 1ST ADDITIONAL SENIOR CIVIL JUDGE AND JMFC AT CHIKKAMAGALURU, HAS TAKEN COGNIZANCE OF THE OFFENCE PUNISHABLE UNDER SECTION 420 OF IPC IN PCR NO.22/2018 AND TO QUASH THE ORDER DATED 22.07.2019 WHERE UNDER THE LEARNED 1ST ADDITIONAL SENIOR CIVIL JUDGE AND JMFC AT CHIKKAMAGALURU, HAS TAKEN COGNIZANCE FOR THE 2ND TIME IN PCR NO.22/2018 AND ISSUED SUMMONS TO THE PETITIONER.

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

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

ORAL ORDER

Heard the learned counsel for the petitioner and the learned counsel for the respondent.

2. The prayer sought in the petition is to quash the entire proceedings in C.C.No.1875/2019, on the file of the I Additional Senior Civil Judge and JMFC at Chikkamagaluru, to quash the order dated 15.10.2018 taking cognizance for the offence punishable under Section 420 of IPC in PCR No.22/2018 and also to quash the order dated 22.07.2019 taking cognizance for the second time in PCR No.22/2018.



3. The main contention of the learned counsel for the petitioner in the petition is that when the complaint was filed in PCR, particularly in paragraph No.5, made an allegation that inspite of repeated request and demand made by the complainant, accused persons have not repaid the amount of Rs.9,15,191/-. The learned counsel would contend that the same is purely a civil dispute with regard to the non-payment of amount as against the supply of material, but the complainant has given criminal colour to the same. The learned counsel also submits that in the complaint in paragraph No.4, it is stated that the accused persons are the officials of Immersion Online Services Private Ltd. and are the customers of the complainant and they used to buy the products of the complainant and had purchased various items on 05.02.2018 as per Annexures-C to E. The learned counsel contend that the company has not been made as party and without the company, there cannot be any prosecution against the officials of the said company. The learned counsel also contend that the officer says that the transaction is between the complainant and Suraksha Plywood Shop and the petitioner is in no way



connected to Suraksha Plywood Shop. The statement of CW2 is contrary to the statement of CW1 while making the sworn statement. The Trial Court failed to take note of the same and committed an error in taking cognizance for the offence under Sections 415 and 420 of IPC.

4. Per contra, the learned counsel for the respondent not disputes the fact that allegations are made in paragraph No.4 of the complaint that the accused persons are the officials of Immersion Online Services Pvt. Ltd. The learned counsel also not disputes the fact that the company has not been made as accused. However, the learned counsel contend that while purchasing the material, they promised to pay the amount, but they did not pay the amount. The learned counsel would contend that there is a clear breach of promise and having purchased the materials, failed to make the payment and hence, complaint is filed.

5. Having heard the learned counsel for the petitioner and the learned counsel for the respondent, it is not in dispute that PCR No.22/2018 is filed against the petitioner and the Trial



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Court proceeded to record the sworn statement and taken the cognizance. The Trial Court failed to take note of that, in the complaint in paragraph No.4, specific averment is made that the accused persons are the officials of Immersion Online Service Private Limited and are the customers of the company. Hence, it is clear that they are the officials of the said company. But the company has not been made as party as contended by the learned counsel for the petitioner. The learned counsel for the respondent not disputes the same that the company has not been arrayed as accused. The Court has to take note of the averment made in paragraph No.5 of the complaint, wherein an allegation is made that repeated request was made, but they did not comply with the demand. Hence, there is a clear averment that in view of non-payment of the amount as against the materials supplied, the PCR is filed. While filing the PCR also, invoked the offences under Sections 415 and 420 read with 34 of IPC. While invoking the penal provision of Section 420 of IPC, there must be an intention of cheating at the inception. But in the case on hand, the said ingredient is missing. They had purchased the material, but not paid the



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amount subsequently and the same is a civil dispute regarding non-payment of the amount. Hence, the question of invoking the criminal jurisdiction by giving a criminal colour to the civil dispute of non-payment of the amount is nothing but an abuse of process. If this Court fails to exercise the power under Section 482 of Cr.P.C., it leads to miscarriage of justice.

6. The other contention with regard to the supply of material in favour of Suraksha Plywood Shop in the respect of the petitioner is concerned, this Court cannot look into those issues while considering the petition under Section 482 of Cr.P.C., since there is a foundational defect in not making the company as party.

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

ORDER

The petition is allowed and the proceedings initiated against the petitioner is quashed.

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

MD
List No.: 1 Sl No.: 20