



CNR: KAHC010585182026

NC: 2026:KHC:51639
CRL.P No. 12957 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CRIMINAL PETITION NO. 12957 OF 2026

BETWEEN:

MANISH KUMAR
S/O SHIV SHANKAR DUBEY
AGED ABOUT 36 YEARS EWS 309,
THE LEGEND APARTMENT,
SUSHANT LOK 3, THE LEGEND APARTMENT,
GURGAON, SEC 57, CHAKARPUR (74),
GURGAON, HARYANA 122002.

...PETITIONER

(BY SRI AIYAPPA K G., ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY INDIRANAGAR PS, BANGALORE CITY,
REPRESENTED BY THE STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
HIGH COURT BUILDING, BENGALURU,
KARNATAKA - 560001.

2. OPTIMIZING RESOURCES PRIVATE LIMITED
REPERSENTED BY
JHANAVI G.,
ACCOUNTANT,
164, 9TH CROSS, 5TH MAIN,
HOYSALA NAGAR, INDIRANAGAR,
JIGANI HOBLI, ANEKAL TALUK
BENGALURU, KARNATAKA 560038.

...RESPONDENTS

(BY SRI NAGHARISH G S, HCCGP FOR R1)

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RAMNATH HEGDE





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THIS CRL.P IS FILED U/S 482 CR.PC (FILED U/S 528 BNNS) BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONOURABLE COURT MAY BE PLEASED TO 1.SET ASIDE THE IMPUGNED ORDER ISSUING SUMMONS DATED 02.02.2026 IN C.C.NO.6453/2026 PASSED BY THE IV ADDL.C.M.M BENGALURU (PENDING BEFORE THE IV ADDL.C.M.M COURT) BENGALURU AT ANNEXURE-E2.SET ASIDE THE IMPUGNED ORDER TAKING COGNIZANCE DATED 02.02.2026 IN C.C.NO.6453/2026 PASSED BY THE IV ADDL.CMM BENGALURU (PENDING BEFORE THE IV ADDL.CMM COURT BENGALURU) AT ANNEXURE-E.

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

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

ORAL ORDER

Heard the learned counsel for the petitioner and the learned High Court Government Pleader appearing for the respondent No.1-State.

2. This petition is filed to quash the order dated 02.02.2026 in C.C.No.6453/2026 passed by IV Additional Chief Metropolitan Magistrate, Bengaluru and to quash the FIR in Crime No.0194/2024 for the offences punishable under Sections 420, 406, 408, 467, 465, 468, 471, 473 of Indian Penal Code, 1860 ('IPC') and for the offences alleged under

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Sections 66(C) and 66(D) of the Information Technology Act, 2000 ('IT Act').

3. Learned counsel for the petitioner would submit that petitioner is accused No.5, and complaint is filed against various persons. However, the petitioner is not named in the complaint. It is submitted that accused No.1 to 4 are the employees of complainant-Company and the money is transferred to the Complainant - Company from the account of the accused No.5 and other accused. It is alleged in the complaint that around Rs.15 crores was transferred to the account the petitioner. The complaint is filed with an allegation that the fake invoices have been created and logistic services are not provided as assured and the complaint is investigated and the charge sheet is filed.

4. Learned counsel appearing for the petitioner would submit that the contents of the complaint would indicate that the alleged offences are committed under the provisions of IPC. However, investigation has commenced on 18.07.2024 as FIR was registered on 18.07.2024 and the charge sheet is filed and the Trial Court has passed an order taking cognizance under

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the provisions of Code of Criminal Procedure, 1973 (Cr.P.C.), which was repealed by then.

5. Learned counsel for the petitioner would submit that the order is erroneous and it goes to the root of the matter. In addition to that, it is also stated that the order is not supported by reasons.

6. Learned counsel for the petitioner would urge that the impugned order has to be set aside as the provisions of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) have not been looked into while passing the impugned order and there was a mandate on the Trial Court to pass appropriate order by referring to the contents of BNSS.

7. To substantiate his contention, learned counsel for the petitioner would refer to the judgment of the Co-ordinate Bench of this Court in ***Arunkumar vs. State of Karnataka and Anr¹*** and ***Smt.Thara Peethambaram & Anr. vs. State of Karnataka and Anr.²***.

¹ ***Crl.P.No.200913/2024***

² ***Crl.P.No.7868/2025***



8. Admittedly, in the instant case, the alleged offences are committed when IPC was in force. However, the complaint was filed after the BNSS was enacted and Cr.P.C. was repealed.

9. Admittedly, the investigation was carried out under the provisions of the BNSS and the charge sheet is also filed under the said enactment. However, the Magistrate has passed an order invoking the provisions of the Cr.P.C. Thus, the learned counsel for the petitioner would urge that the said exercise is impermissible.

10. It is relevant to notice that, in so far as the procedure for taking cognizance of an offence investigated pursuant to a Police complaint is concerned, the procedure is the same under the Cr.P.C as well as in BNSS.

11. Under these circumstances, the Court is of the view that though the Trial Court has passed an order stating that cognizance was taken under the provisions of Cr.P.C., said order cannot be said to be illegal to urge that the petition has to be allowed and the order has to be quashed.

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12. The Court is required to consider whether the case is made out for proceeding further to hold the trial against the accused. The charge sheet materials *prima facie* would indicate that forgery and fraud is also alleged.

13. That being the position, the Court is the view that the matter requires trial. The order of the Trial Court, taking cognizance under the provisions of Cr.P.C. can be read as the order taking cognizance under the provisions of BNSS.

14. Learned counsel for the petitioner would submit that the charge relating to cheating and the charge relating to breach of trust cannot go hand in hand as held by the Apex Court in ***Delhi Race Club (1940) Ltd. & ors. vs. State of Uttar Pradesh & Anr.***³.

15. The Court has considered the said judgment as well.

16. The Court is of the view that the contention relating to the charge can be raised by the petitioner while hearing before charge or at any other stage as provided in law.

³ 2024 SCC online SC 2248



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17. At this juncture, the Court is of the view that there are no grounds to quash the proceedings.

18. Hence, the following:

ORDER

- (i) The Criminal Petition is ***dismissed***.
- (ii) Liberty is reserved for the petitioner to file such application or to raise such a contention as advised in law in relation to the charges relating to cheating and criminal breach of trust.
- (iii) If such an plea is filed, same shall be considered in accordance with law, as the Court has not expressed anything on the merits on the said plea.
- (iv) It is made clear that, proceeding shall be conducted under the provisions of BNSS.

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(ANANT RAMANATH HEGDE)
JUDGE

GVP
List No.: 1 Sl No.: 15