



CNR: KAHC010689092023

NC: 2026:KHC:54457
CRL.P No. 130 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 130 OF 2024

BETWEEN:

SRI. SUMANTH SARANGAPANI
DIRECTOR,
M/S.IVORY SENSE PVT LTD.,
FORMERLY M/S. IVORY EDGE TECHNOLOGIES
SERVICES PVT LTD
HAVING ITS OFFICE AT NO.1741,
GROUND FLOOR, 9TH CROSS,
JP NAGAR II PHASE,
BENGALURU - 560 078.

...PETITIONER

(BY SRI. AJIT KALYAN, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY KAMAKSHI PALYA POLICE STATION
REP BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDINGS,
BENGALURU - 01.
2. SRI.GOVINDAIAH M
S/O LATE SRI.MUTTAIAH
AGED ABOUT 51 YEARS,
NO.58, OLD NO.20, 1ST MAIN,
KHB COLONY 1ST STAGE,

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



CNR: KAHC010689092023

NC: 2026:KHC:54457
CRL.P No. 130 of 2024

BASAVESHWARANAGAR,
KAMAKSHIPALYA,
BENGALURU - 560 079
ACCOUNTS MANAGER
M/S. VAPS KNOWLEDGE SERVICES PVT LTD

...RESPONDENTS

(BY SRI.MAHESHA P., HCGP FOR R-1;
SRI.VIJAY NARAYAN, ADVOCATE FOR R-2)

THIS CRL.P IS FILED U/S 482 OF CR.PC PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.5967/2022 VIDE CHARGE SHEET DATED 20.10.2021 IN CR.NO.0145/2020 REGISTERED BY THE KAMAKSHIPALYA POLICE STATION FOR OFFENCE P/U/S 409 OF THE IPC, PRESENTLY PENDING FOR ADJUDICATION BEFORE THE HONBLE IV ACMM, BENGALURU ON SUCH TERMS AND CONDITIONS AS THIS HONBLE COURT DEEMS FIT TO GRANT ON THE FACTS AND CIRCUMSTANCES OF THE CASE.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

This petition is filed under Section 482 of Cr.P.C. to quash the proceedings in CC No.5967/2022, arising out of Crime No.145/2020 dated 15.07.2020, filed by the Kamakshipalya



CNR: KAHC010689092023

NC: 2026:KHC:54457
CRL.P No. 130 of 2024

Police Station, Bengaluru City, against the petitioners for the offence punishable under Sections 406 of IPC pending on the file of IV ACMM Bengaluru.

2. The brief facts of the case are that respondent No.2 filed a private complaint before the IV Additional Metropolitan Magistrate, Bengaluru, under Section 200 of the Cr.P.C., alleging commission of offences punishable under Sections 406, 407, 408, 409, 417, 420, 504 and 506 of the IPC. The said private complaint was referred to the jurisdictional Police, i.e., respondent No.1, pursuant to which respondent No.1 registered an FIR in Crime No.145/2020 dated 15.07.2020 for the aforesaid offences. Subsequently, respondent No.1 conducted the investigation and filed a charge sheet against the petitioner for the offence punishable under Section 406 of the IPC. The learned Magistrate thereafter took cognizance of the said offence. Aggrieved by the same, the petitioner has preferred the present petition.



CNR: KAHC010689092023

NC: 2026:KHC:54457
CRL.P No. 130 of 2024

3. It is alleged in the private complaint that the petitioner is the Director of M/s. Ivorysense Pvt. Ltd., a company engaged in the business of lighting and management systems, and respondent No.2 is the Accounts Manager of M/s.VAPS Knowledge Service Pvt. Ltd., which is a software company. On 27.04.2019, a work order was executed between the petitioner and respondent No.2, wherein the estimated project cost was Rs.50 lakhs. Pursuant to the execution of the said work order, the petitioner proceeded with the work by supplying and fixing lighting systems at the company of respondent No.2. However, after completion of the project, respondent No.2 came to know that the petitioner had supplied used and substandard materials, thereby allegedly committing breach of trust. Hence, respondent No.2 lodged the private complaint.

4. Heard the learned counsel for the respective parties.

5. The primary contention of the learned counsel for the petitioner is that the work order/agreement entered into between the petitioner and respondent No.2, dated 20.05.2019, clearly provides that any dispute arising in respect of the said work order shall be subject to the jurisdiction of the



CNR: KAHC010689092023

**NC: 2026:KHC:54457
CRL.P No. 130 of 2024**

competent Civil Court at Bengaluru. Despite the same, respondent No.2, with an intention to give a criminal colour to a civil dispute, has lodged the private complaint against the petitioner. He further contended that the terms of the work order specifically provide that, in the event the petitioner fails to complete the work within the stipulated period and the penalty is attracted, respondent No.2 has the right to cancel the agreement/work order. However, without invoking the remedies available under the terms of the agreement, respondent No.2 has proceeded to lodge the private complaint against the petitioner. Accordingly, he prays to allow the petition.

6. This prayer is opposed by the learned HCGP on the ground that now the charge sheet has been filed and the statement of material witnesses reveals that the petitioner committed breach of trust by not providing standard materials as agreed by him after receiving Rs.48 lakhs.

7. I have given my anxious consideration both on the submissions and perused the entire materials available on record.



CNR: KAHC010689092023

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CRL.P No. 130 of 2024**

8. As could be gathered from the records, admittedly, the work order was issued by respondent No.2-company to the petitioner-company on 20.05.2019. The terms and conditions of the said work order clearly provide that, in the event the petitioner fails to complete the work, respondent No.2 has the right to cancel the work order. It is further provided that, in the event of any dispute arising between the parties, they shall be at liberty to approach the competent Civil Court at Bengaluru. Further, the records reveal that the petitioner completed the work and respondent No.2 also paid the agreed amount. However, the charge sheet allegations disclose that, though the work was completed, the petitioner had allegedly supplied substandard lighting materials and thereby committed breach of trust. On perusal of the entire charge sheet material, it is evident that the allegation against the petitioner is omnibus in nature. Except for the general allegation that the petitioner had supplied substandard materials, no specific averments are forthcoming in the charge sheet to demonstrate as to which particular materials were substandard or in what manner the petitioner had violated the specifications agreed upon under the



CNR: KAHC010689092023

NC: 2026:KHC:54457
CRL.P No. 130 of 2024

work order. The work order specifically sets out the specifications of the lighting materials and other works to be provided by the petitioner to respondent No.2. However, the charge sheet does not disclose any specific breach of the said specifications. A mere omnibus allegation that the petitioner supplied substandard materials to respondent No.2, by itself, would not attract the ingredients of an offence punishable under Section 406 of the IPC. Moreover, the terms of the work order clearly provide that, in the event of any breach, the parties have the remedy of approaching the Civil Court and seeking appropriate relief, including cancellation of the agreement and recovery of the amount, as the case may be. Without availing such remedies, respondent No.2 has lodged the present complaint with an apparent attempt to give a criminal colour to a civil dispute. In such circumstances, mere breach of the terms of a contract, in the absence of the necessary ingredients constituting a criminal offence, would not attract the provision under Section 406 of the IPC, as held by the Hon'ble Apex Court in the case of **Arshad Neyaz Khan v.**



CNR: KAHC010689092023

NC: 2026:KHC:54457
CRL.P No. 130 of 2024

State of Jharkhand and Another reported in **2025 SCC**

Online SC 2058 in paragraph Nos.19 to 23 held as under:

"19. It is settled law that for establishing the offence of cheating, the complainant/respondent No. 2 was required to show that the appellant had a fraudulent or dishonest intention at the time of making a promise or representation of not fulfilling the agreement for sale of the said property. Such a culpable intention right at the beginning when the promise was made cannot be presumed but has to be made out with cogent facts. In the facts of the present case, there is a clear absence of dishonest and fraudulent intention on the part of the appellant during the agreement for sale. We must hasten to add that there is no allegation in the FIR or the complaint indicating either expressly or impliedly any intentional deception or fraudulent/dishonest intention on the part of the appellant right from the time of making the promise or misrepresentation. Nothing has been said on what the misrepresentations were and how the appellant intentionally deceived the complainant/respondent No. 2. Mere allegations by the complainant/respondent No. 2 that the appellant failed to execute the agreement for sale and failed to refund the money paid by the complainant/respondent No. 2 does not satisfy the test of dishonest inducement to deliver a property or part with a valuable security as enshrined under Section 420 IPC.

20. On perusal of the allegations contained in the complaint, in light of the ingredients of Section 406 IPC, read in the context of Section 405 IPC, do not find that any offence of criminal breach of trust has been made out. It is trite law that every act of breach of trust may not result in a penal offence unless there is evidence of a manipulating act of fraudulent misappropriation of property entrusted to him. In the case of criminal breach of trust, if a person comes into possession of the property and receives it legally, but illegally retains it or converts it to its own use against the terms of contract, then the question whether such retention is with dishonest



CNR: KAHC010689092023

NC: 2026:KHC:54457
CRL.P No. 130 of 2024

intention or not and whether such retention involves criminal breach of trust or only a civil liability would depend upon the facts and circumstances of the case. In the present case, the complainant/respondent No. 2 has failed to establish the ingredients essential to constitute an offence under Section 406 IPC. The complainant/respondent No. 2 has failed to place any material on record to show us as to how he had entrusted property to the appellant. Furthermore, the complaint also omits to aver as to how the property, so entrusted to the appellant, was dishonestly misappropriated or converted for his own use, thereby committing a breach of trust.

21. Furthermore, it is pertinent to mention that if it is the case of the complainant/respondent No.2 that the offence of criminal breach of trust as defined under Section 405 IPC, punishable under Section 406 IPC, is committed by the accused, then in the same breath it cannot be said that the accused has also committed the offence of cheating as defined in Section 415, punishable under Section 420 IPC. This Court in *Delhi Race Club (1940) Limited v. State of Uttar Pradesh*, (2024) 10 SCC 690 observed that there is a distinction between criminal breach of trust and cheating. For cheating, criminal intention is necessary at the time of making false or misleading representation i.e. since inception. In criminal breach of trust, mere proof of entrustment is sufficient. Thus, in case of criminal breach of trust, the offender is lawfully entrusted with the property, and he dishonestly misappropriates the same. Whereas, in case of cheating, the offender fraudulently or dishonestly induces a person by deceiving him to deliver a property. In such a situation, both offences cannot co-exist simultaneously. Consequently, the complaint cannot contain both the offences that are independent and distinct. The said offences cannot co-exist simultaneously in the same set of facts as they are antithetical to each other.

22. At this point, we must hasten to add that the complaint was filed after a delay of nearly eight years. Learned counsel for the complainant/respondent No. 2 has failed to impress the Court about the reason for the delay and hence this fact further raises a suspicion about the bona fides of the complainant/respondent No. 2. The



CNR: KAHC010689092023

NC: 2026:KHC:54457
CRL.P No. 130 of 2024

delay in lodging of the complaint and FIR, coupled with the vague allegations do not inspire any confidence in the Court to allow the criminal proceedings to continue against the appellant. Further, the complainant/respondent No. 2 had an alternative remedy of filing a civil suit claiming damages for the alleged violation of his contractual rights which has not been availed but a route through criminal proceedings, when no ingredient of offence is made out, cannot be permitted. Criminal law ought not to become a platform for initiation of vindictive proceedings to settle personal scores and vendettas. The appellant therefore, in our view, could not be attributed any mens rea and therefore, the allegations levelled by the prosecution against the appellant are unsustainable.

23. Furthermore, in **Inder Mohan Goswami**, it was held by this Court that the Court must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private vendetta or with an ulterior motive to pressurise the accused. It was further held by this Court that it is neither possible nor desirable to lay down any inflexible rule that would govern the exercise of inherent jurisdiction. In view of the above and for the reasons stated above, we are of the firm opinion that to continue the criminal proceedings against the appellant herein would cause undue harassment to him because as observed hereinabove, no prima facie case for the offence under Sections 406 or 420 IPC is made out.

9. On collocating the aforesaid findings of the Hon'ble Apex Court with the facts and circumstances of the present case, the above judgment is squarely applicable to the present case hence, by placing reliance on the judgment referred to *supra*, I am of the considered opinion that continuation of the



CNR: KAHC010689092023

NC: 2026:KHC:54457
CRL.P No. 130 of 2024

proceedings against the petitioner would amount to an abuse of the process of law. Accordingly, I proceed to pass the following:

ORDER

- i. The criminal petition is ***allowed***.
- ii. The proceedings in CC No.5967/2022, arising out of Crime No.145/2020 dated 15.07.2020, filed by the Kamakshipalya Police Station, Bengaluru City, against the petitioners for the offence punishable under Sections 406 of IPC pending on the file of IV ACMM Bengaluru, are hereby quashed.

**SD/-
(RAJESH RAI K)
JUDGE**

GPG
List No.: 1 SI No.: 10