



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO.35941 OF 2024 (GM-RES)

BETWEEN:

DHARMENDRA
AGED ABOUT 42 YEARS
S/O BORAIAH
R/A NO.129, NISARGA APPARTUS,
2ND CROSS, 5TH BLOCK,
BANASHANKARI III STAGE
NEAR BRAND FACTORY ROAD
BENGALURU – 560 085.

...PETITIONER

(BY SRI. VIVEK S. REDDY, SENIOR COUNSEL
APPEARING FOR SRI. T. ANJAN KUMAR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY SHO
CHANDRA LAYOUT POLICE STATION
REPRESENTED BY SPP
HIGH COURT BUILDING
DR B R AMBEDKAR VEEDHI
BENGALURU – 560 001.
2. SMT.VANITHA AITHAL
AGED ABOUT 40 YEARS
W/O PARANJYOTHI AITHAL,
R/A NO.1443/44, PH LAND MARK,
80 FEET ROAD, GANAPATHI CIRCLE,
CHANDRA LAYOUT,
BENGALURU – 560 040

...RESPONDENTS

(BY SRI. B.N. JAGADEESHA , ADDL. SPP FOR R-1;
SRI. S.S SRINIVASA RAO, ADVOCATE FOR R-2)

Digitally
signed by
VANDANA S
Location:
High Court
of Karnataka



THIS W.P IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA READ WITH SECTION 528 OF BNSS 2023, PRAYING TO QUASH THE FIR IN CRIME NO. 617/2024 REGISTERED FOR THE OFFENCES P/U/S 406, 419, 420, 420B, 504, 506 READ WITH SECTION 34 OF THE INDIAN PENAL CODE, IN SO FAR AS THE PETITIONER IS CONCERNED (ANN-A).

THIS PETITION IS BEING HEARD AND RESERVED ON 08.04.2026 COMING ON FOR PRONOUNCEMENT OF ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

CAV ORDER

This petition by petitioner – accused No.3 seeks quashing of the criminal proceedings registered as an FIR in Crime No.617/2024 dated 23.12.2024 pursuant to a complaint dated 23.12.2024 filed by the 2nd respondent – *de facto* complainant for alleged offences punishable under Sections 406, 419, 420, 120-B, 504, 506 r/w 34 IPC, pending on the file of the IV ACMM, Bangalore, currently being investigated by the Criminal Investigation Department (CID), Bangalore.

2. Briefly stated the facts giving rise to the present petition are as under:-

The 2nd respondent – *de facto* complainant – Smt.Vanitha Aithal filed the instant complaint dated 23.12.2024 alleging that the petitioner-accused No.3 along with accused Nos.1 and 2 had



allegedly induced the 2nd respondent by accused No.1 misrepresenting herself as sister of Ex-M.P. – Sri.D.K.Suresh and a business woman with high level connections to invest gold and gold ornaments, in all, 14 Kgs and 659.94 gms in a sum of Rs.8,41,25,430/- with accused No.1 during 2023-24 from the 2nd respondent and when she demanded repayment during December, 2024, the accused persons did not repay and instead threatened and intimidated the 2nd respondent, who filed the instant complaint against the petitioner – accused No.3 and accused Nos. 1 and 2 for the aforesaid alleged offences leading to the 2nd respondent filing the instant complaint which was registered as the instant FIR against the petitioner. Aggrieved by the impugned complaint and FIR, petitioner is before this Court by way of the present petition.

3. Heard learned Senior Counsel for the petitioner and learned Addl. SPP for 1st respondent and learned counsel for 2nd respondent – de facto complainant and perused the material on record.

4. In addition to reiterating the various contentions urged in the memorandum of petition and referring to the material on record, learned Senior Counsel for the petitioner submitted that the



impugned FIR is a gross abuse of process of law and the 2nd respondent is illegally and highhandedly attempting to raise a dispute which is fundamentally civil in nature and evident as per the material on record, which indicates that essential ingredients of the alleged offences are not made out and criminal machinery was being misused for debt recovery which was impermissible in law and as such, the impugned complaint, FIR and all further proceedings pursuant thereto deserve to be quashed. It was submitted that except stating that the petitioner – accused No.3 had allegedly impersonated Sri.D.K.Suresh that too over telephone, there was absolutely no allegation made against the petitioner – accused No.3 in the entire complaint which was nothing but an abuse of process of law and the same deserves to be quashed. In support of his submissions, learned Senior Counsel for the petitioner places reliance upon the following judgments:-

(i) *Delhi Race Club V. state of Uttar Pradesh & Anr. - (2024) 10 SCC 690;*

(ii) *Arshad Neyaz Khan v. State of Jharkhand (2025) SCC On Line SC 2058;*

(iii) *Archana Rana vs. State of U.P. – (2021) 3 SCC 751;*



(iv) *State of Haryana & ors. V. Bhajan Lal -
(1992) SUPP (1) SCC 335.*

5. Per contra, learned Addl. SPP for the 1st respondent – State and learned counsel for the 2nd respondent submitted that apart from the fact that the allegations in the FIR disclosed the commission of cognizable offences and since the veracity of the allegations can be determined only after thorough investigation and trial, there is no merit in the present petition and the same is liable to be dismissed.

6. I have given my anxious consideration to the rival submissions and perused the material on record.

7. Before advertng to the rival contentions, it would be necessary to extract the impugned complaint dated 23.12.2024, which reads as under:-

ಇವರಿಗೆ,

ದಿನಾಂಕ: 23.12.2024

ಪೊಲೀಸ್ ಇನ್ಸ್ ಪೆಕ್ಟರ್,
ಚಂದ್ರ ಲೇ ಔಟ್ ಪೊಲೀಸ್ ಠಾಣೆ
ಬೆಂಗಳೂರು ನಗರ - 560 040.

ಇಂದ,

ಶ್ರೀಮತಿ ವನಿತಾ ಐತಾಳ ಕೋಂ. ಪರಂ ಜ್ಯೋತಿ ಐತಾಳ
44 ವರ್ಷ, ನಂ. 1443/44, ಪಿ.ಹೆಚ್. ಲ್ಯಾಂಡ್ ಮಾರ್ಕ್ಸ್
80 ಅಡಿ ರಸ್ತೆ, ಗಣಪತಿ ಸರ್ಕಲ್, ಚಂದ್ರ ಲೇ ಔಟ್
ಬೆಂಗಳೂರು - 560 040. ಮೊ. 9900063075.



ವಿಷಯ: ನನಗೆ ಮೋಸ ಮಾಡುವ ದುರುದ್ದೇಶದಿಂದಲೇ ಪ್ರಾರಂಭದಲ್ಲಿ ನನ್ನನ್ನು ನಂಬಿಸಿ ನನ್ನ ಚಿನ್ನದ ಅಂಗಡಿಯಲ್ಲಿ ಓಡವೆಗಳನ್ನು ತೆಗೆದುಕೊಂಡು ಹೋಗಿ ಒಡವೆಗಳ ಹಣವನ್ನು ಕೊಡದೆ, ನಂಬಿಕೆ ದ್ರೋಹವೆಸಗಿ ವಂಚಿಸಿರುವ ಹಾಗೂ ಹಣ ಕೇಳಿದರೆ ನನಗೆ ಬೈದು, ಪ್ರಾಣ ಬೆದರಿಕೆ ಹಾಕಿ ಬ್ಲಾಕ್ ಮೇಲೆ ಮಾಡುತ್ತಿರುವ ಹಾಗೂ ರಾಜಕಾರಣಿಗಳ ಹೆಸರಿನಲ್ಲಿ ಕರೆಮಾಡಿಸಿ, ಜೀವ ಬೆದರಿಕೆ ಹಾಕಿ, ವಂಚಿಸಿರುವ ಶ್ರೀಮತಿ ಐಶ್ವರ್ಯ ಗೌಡ @ ನವ್ಯಶ್ರೀ ಕೆ.ಎಂ... (9113980634, 8217738519, 8296999755) ಅವರ ಪತಿ ಹರೀಶ್ ಕೆ.ಎನ್ (9980676955,) ಮತ್ತು ಚಲನಚಿತ್ರ ನಟ ಧರ್ಮೇಂದ್ರ ಬಿ (9742023309/9110856772) ಹಾಗೂ ಇತರರ ಮೇಲೆ ಕಾನೂನು ಕ್ರಮಕ್ಕೆ ದೂರು.

ನಾನು ಮೇಲ್ಕಂಡ ವಿಳಾಸದಲ್ಲಿ ವಾರಹೀ ವಲ್ಡ್ ಆಫ್ ಗೋಲ್ಡ್ ಎಂಬ ಚಿನ್ನದ ಅಂಗಡಿ ಮಾಲೀಕಳಾಗಿದ್ದು ನನಗೆ ಪರಿಚಯವಿರುವ ಶ್ರೀಮತಿ ಐಶ್ವರ್ಯ ಗೌಡ @ ನವ್ಯಶ್ರೀ ಕೆ.ಎಂ. ಮತ್ತು ಹರೀಶ್ ಕೆ.ಎನ್. ರವರು ವಾಸ ನಂ.11/, ಸಂಭ್ರಮ, 6ನೇ ಅಡ್ಡರಸ್ತೆ, ವಿವೇಕಾನಂದ ವಾರ್ಕ್ ಎಂದು, ಬಿ.ಇ.ಎಂ.ಎಲ್ ಲೇಔಟ್ ಆರ್.ಆರ್. ನಗರ, ಬೆಂಗಳೂರು-560098 ವಿಳಾಸದಲ್ಲಿ ವಾಸವಾಗಿದ್ದು ಸದರಿ ಐಶ್ವರ್ಯ ಗೌಡ ರವರು ನಾನು ಸಂಸದರಾದ ಶ್ರೀ ಡಿ.ಕೆ.ಸುರೇಶ್ ರವರ ತಂಗಿ ಎಂದು ಹೇಳಿ ನಂಬಿಸಿ, ನನಗೆ ಅನೇಕ ರಾಜಕೀಯ ವ್ಯಕ್ತಿಗಳ ಸಂಪರ್ಕವಿದೆ, ತಾನು ದೊಡ್ಡ ವ್ಯಾಪಾರಸ್ಥೆ, ಮುಂದಕ್ಕೆ ನಿಮಗೆ ಒಳ್ಳೆಯ ವ್ಯಾಪಾರ ವಹಿವಾಟು ನೀಡುತ್ತೇನೆ ಎಂದು ನಂಬಿಸಿ ನಾನು ಅವರನ್ನು ನಂಬುವಂತೆ ಮಾಡಿ ನನ್ನ ಸ್ನೇಹ ಸಂಪಾದಿಸಿ ನಮ್ಮ ಚಿನ್ನದ ಅಂಗಡಿಯಲ್ಲಿ ಸುಮಾರು ಹಲವಾರು ಬಾರಿ ಚಿನ್ನದ ಓಡವೆಗಳನ್ನು ಸಾಲವಾಗಿ ತೆಗೆದುಕೊಂಡು ಸ್ವಲ್ಪ ದಿನಗಳ ನಂತರ ಹಣವನ್ನು ಕೊಟ್ಟಿರುತ್ತಾರೆ. ಇದನ್ನು ನಂಬಿ ನಾವು ಅವರು ಕೇಳಿದಾಗಲೆಲ್ಲಾ ಓಡವೆಗಳನ್ನು ಕೊಡುತ್ತಾ ಬಂದಿರುತ್ತೇವೆ;

ಶ್ರೀಮತಿ ಐಶ್ವರ್ಯ ಗೌಡ @ ನವ್ಯಶ್ರೀ ಕೆ.ಎಂ. ಹಾಗೂ ಅವರ ಗಂಡ ಹರೀಶ್ ಕೆ. ಎನ್. ರವರು ನಮ್ಮ ಚಿನ್ನದ ಅಂಗಡಿಯಲ್ಲಿ ದಿನಾಂಕ: 12.10.2023 ರಿಂದ ದಿನಾಂಕ: 01.01.2024 ರವರೆಗೆ ಹಂತ ಹಂತವಾಗಿ ಸುಮಾರು 14 ಕೆ.ಜಿ 660 ಗ್ರಾಂ ಚಿನ್ನದ ಒಡವೆಗಳನ್ನು ಸಾಲವಾಗಿ ತೆಗೆದುಕೊಂಡಿರುತ್ತಾರೆ. ಕೆಲವೊಮ್ಮೆ ಶ್ರೀಮತಿ ಐಶ್ವರ್ಯ ಹಾಗೂ ಅವರ ಗಂಡ ಹರೀಶ್ ರವರು ಹಾಗೂ ಅವರ ಕಡೆಯವರಾದ ಮ್ಯಾನೇಜರ್ ಹರ್ಷವರ್ಧನ್ ನವೀನ್, ಬೌನ್ದರ್ ಗಜ ಹಾಗೂ ಡ್ರೈವರ್ ಮಹೇಶ್ ರವರು ಬಂದು ತೆಗೆದುಕೊಂಡು ಹೋಗುತ್ತಿದ್ದರು. ಕೆಲವೊಮ್ಮೆ ಆರ್ಡರ್ ಮಾಡುತ್ತಿದ್ದರು. ನಮ್ಮ ಕಡೆಯವರಾದ ಸುಹಾಸ್, ಅಭಿಜಿತ್ ಗೌಡ, ಪ್ರಮೋದ್ ಹಾಗೂ ಅಭಿನವ್ ಮಂಜುನಾಥ್ ರವರ ಮೂಲಕ ಒಡವೆಗಳನ್ನು ಕಳುಹಿಸಿಕೊಟ್ಟಿರುತ್ತೇನೆ. ಅವರು ಒಡವೆ ಖರೀದಿಸಿದ ದಿನಕ್ಕೆ ಕೊಡಬೇಕಾಗಿರುವ ರೂ. 8,41,25,430/- ಹಣವನ್ನು ಕೊಡುತ್ತೇವೆಂದು ಹೇಳಿ ಹಣವನ್ನು ಇದುವರೆವಿಗೂ ಕೊಟ್ಟಿರುವುದಿಲ್ಲ. ನಾವು ಅವರಿಗೆ ಕೊಟ್ಟಿರುವ ಒಡವೆಗಳ ವಿವರಗಳು ಈ ಕೆಳಕಂಡಂತಿವೆ.

ಕ್ರ.ಸಂ	ಡೆಲಿವರಿ ನೋಟ್ ಸಂಖ್ಯೆ	ದಿನಾಂಕ	ಒಡವೆಗಳ ತೂಕ (ಗ್ರಾಂಗಳಲ್ಲಿ)	ಮೊತ್ತ
1	1	12/10/2023	1056.830 ಗ್ರಾಂ	ರೂ.62,03,590/-
2	3	13/10/2023	164.450 ಗ್ರಾಂ	ರೂ. 9,65,320/-



3	4	18/10/2023	1735.000 ಗ್ರಾಂ	ರೂ. 95,42,500/-
4	5	27/10/2023	2411.000 ಗ್ರಾಂ	ರೂ. 1,37,42,70-
5	9	29/11/2023	1525.500 ಗ್ರಾಂ	ರೂ. 7,71,630/-
6	10	01/12/2023	1004.500 ಗ್ರಾಂ	ರೂ. 57,25,650/-
7	11	01/01/2024	2481.000 ಗ್ರಾಂ	ರೂ. 1,45,51,070/-
8	2	13/10/2023	1279.420 ಗ್ರಾಂ	ರೂ. 75,10,200/-
9	6	10/11/2023	1003.360 ಗ್ರಾಂ	ರೂ. 57,22,120/-
10.	7	12/11/2023	1000.360 ಗ್ರಾಂ	ರೂ. 57,02,050/-
11.	8	12/11/2023	998.000 ಗ್ರಾಂ	ರೂ. 56,88,600/-
ಒಟ್ಟು			14,659.940 ಗ್ರಾಂ	ರೂ. 8,41,25,430/-

ನಮಗೆ ಕೊಡಬೇಕಾಗಿರುವ ಹಣ ಕೇಳಿದಾಗ ಏಪ್ರಿಲ್ 2024 ರ ಅಂತ್ಯದವರೆಗೆ ಸಮಯಾವಕಾಶ ನೀಡಲು ಕೇಳಿದರು. ಅದರಂತೆ ದಿನಾಂಕ: 29.04.2024 ರಂದು ಕೊಡಬೇಕಾಗಿರುವ ಹಣವನ್ನು ಕೇಳಿದಾಗ ಐಶ್ವರ್ಯಗೌಡ ರವರು ತನ್ನ ಬಳಿ ಈಗ ಹಣವಿಲ್ಲ ಎಂದು ಹೇಳಿದರು. ಅದಕ್ಕೆ ನಾನು ನೀವುಗಳು ಪಡೆದಿರುವ 14 ಕೆ.ಜಿ 660 ಗ್ರಾಂ. ಚಿನ್ನಕ್ಕೆ ಈ ದಿನಕ್ಕೆ ಅಂದರೆ 29.04.2024 ಕ್ಕೆ ಚಿನ್ನದ ಬೆಲೆ ರೂ. 9,82,21,598 ಆಗುತ್ತದೆ ಹಾಗೂ ನಿಮ್ಮಿಂದ ನಮಗೆ ಆಗಿರುವ ನಷ್ಟಕ್ಕೆ ಪರಿಹಾರವಾಗಿ ರೂ. 10,00,00,000 ನೀಡಲು ಮತ್ತು ಎಂಒಯು ಮಾಡಿಕೊಡಲು ಕೇಳಿದವು ಅದಕ್ಕೆ ಶ್ರೀಮತಿ ಏಶ್ವರ್ಯ ಗೌಡ ನವಶಿ ಹಾಗೂ ಅವರ ಅವರ ಗಂಡ ಹರೀಶ್ ಕೆ.ಎನ್.ರವರುಗಳು ನಮಗೆ ದಿನಾಂಕ: 30-07-2024 ರವರೆಗೆ ಕಾಲಾವಕಾಶ ಕೊಡಿ ಎಂದು ಕೇಳಿಕೊಂಡು ಅವರುಗಳು ಕೊಡಬೇಕಾಗಿರುವ ಹಣಕ್ಕೆ ಎಂಒಯು ಗಳನ್ನು ಮಾಡಿಕೊಟ್ಟರುತ್ತಾರೆ.

ನಾನು ಐಶ್ವರ್ಯ ಗೌಡ ರವರಿಗೆ ಹಣ ನೀಡಲು ಕೋರಲಾಗಿ ಶ್ರೀಮತಿ ಐಶ್ವರ್ಯಗೌಡ ಕೂಂ ಹರೀಶ್ ಕೆ.ಎನ್ ರವರು ಮಾಜಿ ಸಂಸದರಾದ ಒ ಡಿ.ಕೆ.ಸುರೇಶ್ ರವರಿಂದ ಕರೆ ಮಾಡಿಸಿ ಕಾಲಾವಕಾಶ ಕೋರಿದರು. ನಾವು ಸಹ ಅದನ್ನು ನಂಬಿದವು. ತದನಂತರ ದಿನದಲ್ಲಿ ವಿಚಾರಿಸಲಾಗಿ ಶ್ರೀಮತಿ ಐಶ್ವರ್ಯಗೌಡ ರವರು ಶ್ರೀ ಡಿ.ಕೆ.ಸುರೇಶ್ ರವರ ಹೆಸರಿನಲ್ಲಿ ಸಿನಮಾ ನಟರಾದ ಶ್ರೀ ಧರ್ಮೇಂದ್ರ ಬಿ ರವರಿಂದ ನಮಗೆ ಕರೆ ಮಾಡಿಸಿರುವುದು ತಿಳಿದು ಬಂದಿರುತ್ತದೆ. ಈ ವಿಚಾರ ತಿಳಿದ ಮೇಲೆ ಶ್ರೀಮತಿ ಐಶ್ವರ್ಯ ಗೌಡ ರವರು ನೀನು ನನಗೆ ಪದೇ ಪದೇ ಕರೆ ಮಾಡಿದರೆ ಸರಿ ಇರುವುದಿಲ್ಲ, ನಿನ್ನನ್ನು ಏನು ಬೇಕಾದರೂ ಮಾಡುತ್ತೇವೆ ಹಣದ ವಿಚಾರವಾಗಿ ನನಗೆ ಕರೆ ಮಾಡಿದರೆ ನಿನ್ನ ಅಂಗಡಿಗೆ ಧರ್ಮೇಂದ್ರ ನನ್ನು ಕಳುಹಿಸಿ ನಿನ್ನನ್ನು ಕೊಲೆ ಮಾಡಿಸುತ್ತೇನೆ ಎಂದು ಅವಾಚ್ಯ ಶಬ್ದಗಳಿಂದ ಬೈದು ಜೀವ ಬೆದರಿಕೆ ಹಾಕಿರುತ್ತಾರೆ. ಮತ್ತು ಧರ್ಮೇಂದ್ರ ಎಂಬುವವರನ್ನು ನನ್ನ ಅಂಗಡಿಗೆ ಕಳುಹಿಸಿ ಪ್ರಾಣ ಬೆದರಿಕೆ ಹಾಕಿರುತ್ತಾರೆ.

ಹಾಗೂ ನಾವು ಇವರಿಗೆ ನೀಡಿರುವ 14.ಕೆ.ಜಿ. 660 ಗ್ರಾಂ ಒಡವೆಗಳನ್ನು ನಾವು ಮುಂಬಯಿ ಹಾಗೂ ಬೆಂಗಳೂರು ವ್ಯಾಪಾರಿಗಳಿಂದ ಸಾಲವಾಗಿ ಪಡೆದು ನೀಡಿರುತ್ತೇವೆ. ವ್ಯಾಪಾರಿಗಳಿಗೆ ನಾವು ಇನ್ನೂ ಹಣ ಹಿಂತಿರುಗಿಸದೆ ಇರುವುದರಿಂದ, ನಾವು ಅವರಿಗೆ ನೀಡಿರುವ ಚೆಕ್ಗಳನ್ನು ಬ್ಯಾಂಕಿಗೆ ಹಾಕಿ ಬೌನ್ಸ್ ಮಾಡಿ ನಮ್ಮ ವಿರುದ್ಧ ಕಾನೂನು ಕ್ರಮ ಜರುಗಿಸುತ್ತೇನೆಂದು ಹೇಳಿ ಬಹಳ ತೊಂದರೆ ಕೊಡುತ್ತಿದ್ದಾರೆ. ನಮಗೆ ದೈನಂದಿನ ವ್ಯಾಪಾರ ವಹಿವಾಟು ನಡೆಸಲು ಬಹಳ ತೊಂದರೆಯಾಗಿದೆ.



ಅದುದರಿಂದ ಶ್ರೀಮತಿ ಐಶ್ವರ್ಯ ಗೌಡ, ಅವರ ಪತಿ ಶ್ರೀ ಹರೀಶ್ ಕೆ.ಎನ್. ಹಾಗೂ ಈ ವ್ಯವಹಾರದಲ್ಲಿ ಭಾಗಿಯಾಗಿರುವ ಸಿನೆಮಾ ನಟರಾದ ಶ್ರೀ ಧರ್ಮೇಂದ್ರ ರವರುಗಳು, ನಮ್ಮ ಬಳಿ ಚಿನ್ನದ ಒಡವೆಗಳನ್ನು ಸಾಲವಾಗಿ ಪಡೆದು ಇದುವರೆಗೂ ಹಣವನ್ನಾಗಲಿ ಅಥವಾ ನಮ್ಮಿಂದ ಪಡೆದಿರುವ ಚಿನ್ನಾಭರಣಗಳನ್ನಾಗಲಿ ಪಾಪಾಸ್ ಹಿಂದಿರುಗಿಸಿಲ್ಲ. ಇವರುಗಳು ನಮ್ಮನ್ನು ನಂಬಿಸಿ ವಂಚಿಸಿ* ನಂಬಿಕೆ ದ್ರೋಹ ಮಾಡಿ ಅಕ್ರಮ ನಷ್ಟ ಉಂಟು ಮಾಡಿರುತ್ತಾರೆ.

ಶ್ರೀಮತಿ ಐಶ್ವರ್ಯ ಗೌಡ @ ನವ್ಯಶ್ರೀ ಕೆ.ಎಂ. ಅವರ ಗಂಡ ಹರೀಶ್ ಕೆ.ಎನ್. ಹಾಗೂ ಧರ್ಮೇಂದ್ರ ಹಾಗೂ ಇತರರು ಸೇರಿಕೊಂಡು ನಮಗೆ ನಂಬಿಕೆ ದ್ರೋಹವೆಸಗಿ ವಂಚಿಸುವ ಉದ್ದೇಶದಿಂದಲೇ ಮೊದಲೇ ತಮ್ಮೊಳಗೆ ಒಳಸಂಚು ಮಾಡಿಕೊಂಡು ನಮ್ಮನ್ನು ನಂಬಿಸಲು ಪ್ರಾರಂಭದ ದಿನಗಳಲ್ಲಿ ಒಡವೆಗಳನ್ನು ಪಡೆದು ಹಣ ನೀಡಿ ನಮ್ಮನ್ನು ನಂಬಿಸಿ ಮೋಸ ಮಾಡಿದ್ದು ನಂತರದ ದಿನಗಳಲ್ಲಿ ಒಡವೆಗಳ ಹಣ ನೀಡುವುದನ್ನು ನಿಲ್ಲಿಸಿ ವಂಚಿಸಿರುತ್ತಾರೆ.

ಸದರಿಯವರುಗಳಿಗೆ ನಾವು ನೀಡಿರುವ ಚಿನ್ನಾಭರಣ ಒಟ್ಟು 14 ಕೆ.ಜಿ 660 ಗ್ರಾಂ. ಒಡವೆಗಳನ್ನಾಗಲಿ ಅಥವಾ ಈ ದಿನಕ್ಕೆ ಆ ಒಡವೆಗಳಿಗೆ ತಗಲುವ ಹಣವನ್ನಾಗಲಿ ಅವರುಗಳಿಂದ ಹಿಂತಿರುಗಿಸಿಕೊಡಿಸಬೇಕೆಂದು ಹಾಗೂ ಒಳಸಂಚು ನಡೆಸಿ, ನಮ್ಮನ್ನು ನಂಬಿಸಿ, ವಂಚಿಸಿ, ನಂಬಿಕೆ ದ್ರೋಹ ಎಸಗಿ ಪ್ರಾಣ ಬೆದರಿಕೆ ಹಾಗಿ ಬ್ಲಾಕ್ ಮೇಲ್ ಮಾಡುತ್ತಿರುವ 1. ಶ್ರೀಮತಿ ಐಶ್ವರ್ಯ ಗೌಡ, ಅವರ ಪತಿ, 2. ಶ್ರೀ ಹರೀಶ್. ಕೆ.ಎನ್. ಹಾಗೂ ಈ ವ್ಯವಹಾರದಲ್ಲಿ ಭಾಗಿಯಾಗಿರುವ ಸಿನೆಮಾ ನಟರಾದ 3. ಧರ್ಮೇಂದ್ರ ಬಿ ಹಾಗೂ ಇವರೊಂದಿಗೆ ವಂಚನೆಯಲ್ಲಿ ಭಾಗಿಯಾಗಿರುವ ಇತರರ ವಿರುದ್ಧ ಕಾನೂನು ರೀತಿಯ ಕ್ರಮ ಕೈಗೊಂಡು ನನಗರ ನ್ಯಾಯ ಕೊಡಿಸಬೇಕಾಗಿ ತಮ್ಮಲ್ಲಿ ವಿನಂತಿಸಿಕೊಳ್ಳುತ್ತೇನೆ.

ವಂದನೆಗಳೊಂದಿಗೆ,

ಇಂತಿ ತಮ್ಮ ವಿಶ್ವಾಸಿ,

(ವನಿತಾ ಎಸ್. ಐತಾಳ್)

8. A perusal of the material on record will indicate that the primary question that arises for consideration is, whether continuation of the impugned criminal proceedings against the petitioner would amount to an abuse of process of the court; in this context, a plain reading of the complaint makes it evident that the entire allegations are directed only as against accused Nos. 1 and 2 and not petitioner – accused No.3 against whom, there are



absolutely no allegations constituting the alleged offences; in fact, the complaint merely alleges that the accused No.1 is said to have informed the 2nd respondent – complainant that petitioner – accused No.3 was involved in the transactions between herself and the 2nd respondent – complainant and the impugned proceedings based on allegations made only against accused Nos. 1 and 2 are clearly unsustainable and the same deserve to be quashed.

9. In **Archana Rana's case supra**, the Apex Court held as under;

“7. Having heard the learned counsel appearing on behalf of the appellant and the learned counsel appearing on behalf of the respondent State and having gone through the averments in the complaint and the charge-sheet, even if the averments made in the complaint are taken on their face, they do not constitute the ingredients necessary for the offence under Sections 419 and 420 IPC. As observed and held by this Court in R.K. Vijayasathy [R.K. Vijayasathy v. Sudha Seetharam, (2019) 16 SCC 739 : (2020) 2 SCC (Cri) 454] , the ingredients to constitute an offence under Section 420 are as follows:

- (i) a person must commit the offence of cheating under Section 415; and*
- (ii) the person cheated must be dishonestly induced to*
 - (a) deliver property to any person; or*



(b) make, alter or destroy valuable security or anything signed or sealed and capable of being converted into valuable security.

Thus, cheating is an essential ingredient for an act to constitute an offence under Section 420 IPC.

8. "Cheating" is defined under Section 415 IPC. The ingredients to constitute an offence of cheating are as follows:

(i) there should be fraudulent or dishonest inducement of a person by deceiving him:

The person who was induced should be intentionally induced to deliver any property to any person or to consent that any person shall retain any property, or the person who was induced should be intentionally induced to do or to omit to do anything which he would not do or omit if he were not so deceived.

Thus, a fraudulent or dishonest inducement is an essential ingredient of the offence under Section 415 IPC. A person who dishonestly induced any person to deliver any property is liable for the offence of cheating.

9. Now, keeping in mind the relevant ingredients for the offences under Sections 419 and 420 IPC, as noted hereinabove, it is required to be considered whether the averments in the complaint taken on their face do constitute the ingredients necessary for the offences under Sections 419 and 420 IPC, as alleged.

10. Having gone through the complaint/FIR and even the charge-sheet, it cannot be said that the averments in the FIR and the allegations in the complaint against the appellant



constitute an offence under Sections 419 and 420 IPC. Whatever allegations are made for the offence with respect to inducement and/or even giving Rs 5,00,000 for obtaining the job, are made against the appellant's husband, co-accused. There are no allegations at all that the appellant herein induced the complainant to get the job and the amount of Rs 5,00,000 was given to the appellant herein. Therefore, even if all the allegations in the complaint taken at the face value are true, in our view, the basic essential ingredients of cheating are missing. Therefore, this was a fit case for the High Court to exercise the jurisdiction under Section 482 CrPC and to quash the criminal proceedings against the appellant herein for the offences under Sections 419 and 420 IPC. The High Court has failed to exercise the jurisdiction vested in it by not quashing the criminal proceedings against the appellant herein for the offences under Sections 419 and 420 IPC.”

10. In **Arshad Neyaz Khan’s case supra**, the Apex Court held as under:-

“17. In Inder Mohan Goswami v. State of Uttaranchal, (2007) 12 SCC 1 (“Inder Mohan Goswami”), while dealing with Section 420 IPC, this Court observed thus:

“42. On a reading of the aforesaid section, it is manifest that in the definition there are two separate classes of acts which the person deceived may be induced to do. In the first class of acts he may be



induced fraudulently or dishonestly to deliver property to any person. The second class of acts is the doing or omitting to do anything which the person deceived would not do or omit to do if he were not so deceived. In the first class of cases, the inducement must be fraudulent or dishonest. In the second class of acts, the inducing must be intentional but need not be fraudulent or dishonest. Therefore, it is the intention which is the gist of the offence. To hold a person guilty of cheating it is necessary to show that he had a fraudulent or dishonest intention at the time of making the promise. From his mere failure to subsequently keep a promise, one cannot presume that he all along had a culpable intention to break the promise from the beginning."

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.

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.”

11. In the aforesaid judgment, the Apex Court reiterated the principle laid down by it in ***Delhi Race Club’s case supra*** to the effect that offences punishable under Section 420 and 406 cannot co-exist on the same set of facts and held as hereunder:-

“ 38. In our view, the plain reading of the complaint fails to spell out any of the aforesaid ingredients noted above. We may only say, with a view to clear a serious misconception of law in the mind of the police as well as the courts below, that if it is a case of the complainant that offence of criminal breach of trust as defined under Section 405IPC, punishable under Section 406IPC, 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 and explained in Section 415IPC, punishable under Section 420IPC.

43. There is a distinction between criminal breach of trust and cheating. For cheating, criminal intention is necessary at the time of making a 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 misappropriated the same.



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Whereas, in case of cheating, the offender fraudulently or dishonestly induces a person by deceiving him to deliver any property. In such a situation, both the offences cannot co-exist simultaneously.

46. *It has been held in State of Gujarat v. Jaswantlal Nathalal [State of Gujarat v. Jaswantlal Nathalal, 1967 SCC OnLine SC 58 : AIR 1968 SC 700 : (1968) 2 SCR 408] : (SCC OnLine SC para 8)*

“8. The term “entrusted” found in Section 405IPC governs not only the words “with the property” immediately following it but also the words “or with any dominion over the property” occurring thereafter—see Velji Raghavji Patel v. State of Maharashtra [Velji Raghavji Patel v. State of Maharashtra, 1964 SCC OnLine SC 185 : AIR 1965 SC 1433 : (1965) 2 SCR 429] . Before there can be any entrustment there must be a trust meaning thereby an obligation annexed to the ownership of property and a confidence reposed in and accepted by the owner or declared and accepted by him for the benefit of another or of another and the owner. But that does not mean that such an entrustment need conform to all the technicalities of the law of trust — see Jaswantrai Manilal Akhaney v. State of Bombay [Jaswantrai Manilal Akhaney v. State of Bombay, 1956 SCC OnLine SC 46 : AIR 1956 SC 575 : 1956 SCR 483] . The expression “entrustment” carries with it the implication that the person handing over any property or on whose behalf that property is handed over to another, continues to be its owner. Further the person handing over the property must have confidence in the person taking the property so as to create a fiduciary relationship between them. A mere transaction of sale cannot amount to an “entrustment”.”

49. *From the aforesaid, there is no manner of any doubt whatsoever that in case of sale of goods, the property passes to the purchaser from the seller when the goods are delivered. Once the property in the goods passes to the*



purchaser, it cannot be said that the purchaser was entrusted with the property of the seller. Without entrustment of property, there cannot be any criminal breach of trust. Thus, prosecution of cases on charge of criminal breach of trust, for failure to pay the consideration amount in case of sale of goods is flawed to the core. There can be civil remedy for the non-payment of the consideration amount, but no criminal case will be maintainable for it. [See : Lalit Chaturvedi v. State of U.P. [Lalit Chaturvedi v. State of U.P., (2024) 12 SCC 483 : 2024 SCC OnLine SC 171] and Mideast Integrated Steels Ltd. v. State of Jharkhand [Mideast Integrated Steels Ltd. v. State of Jharkhand, 2023 SCC OnLine Jhar 301] .]

12. In the instant case, apart from the fact that the necessary ingredients constituting offence of criminal breach of trust are missing and conspicuously absent in the impugned complaint, coupled with the principles laid down in **Delhi Race Club's case and Aarshad Neyaz Khan's case supra**, the impugned complaint and FIR are unsustainable and viewed from this angle also, the impugned complaint and FIR deserve to be quashed.

13. The present case is a classic illustration falling within the parameters and categories 1, 5 and 7 of paragraph-102 of the land



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mark judgment of the Apex Court in ***Bhajanlal's case supra***, wherein it is held as under:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”



14. The aforesaid facts and circumstances clearly established that the impugned criminal proceedings are manifestly attended with malafides and are instituted with an ulterior motive to wreak vengeance upon the petitioner and the impugned proceedings being an attempt to give a cloak of criminality and convert an essentially, predominantly and overwhelmingly civil dispute by giving the same a criminal colour / texture which is impermissible in law, allowing such proceedings to continue would be a gross abuse of process of court and would result in travesty of justice warranting interference by this Court in the present petition.

15. In view of the aforesaid facts and circumstances, I am of the considered opinion that continuation of the impugned complaint and FIR and all further proceedings pursuant thereto would amount to abuse of process of law / court warranting interference by this Court in the present petition and consequently, the impugned complaint and FIR and all further proceedings deserve to be quashed.

16. In the result, I pass the following:-

ORDER

(i) Petition is hereby allowed.



(ii) The impugned complaint dated 23.12.2024 lodged by the 2nd respondent – *de facto* complainant and impugned FIR in Crime No.617/2024 dated 23.12.2024 registered by the 1st respondent – Police and all further proceedings pursuant thereto insofar as the petitioner – accused No.3 is concerned, are hereby quashed.

(iii) It is made clear that the present order is passed without prejudice to the rights and contentions of the parties in any other pending / future civil litigation between the parties before any court or forum and all rival contentions in this regard are kept / left open and no opinion is expressed on the merits / demerits of the rival contentions.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

Srl.