



CNR: KAHC010851322025

NC: 2026:KHC:52477
CRL.RP No. 1975 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MRS. JUSTICE GEETHA K.B.

CRIMINAL REVISION PETITION NO. 1975 OF 2025

(397(Cr.PC) / 438(BNSS))

BETWEEN:

1. K R GOPINATH
AGED ABOUT 50 YEARS,
S/O. K. RAMAKRISHNAPPA,
R/A. NO.946, SOPPINABEEDHI, NANDI ROAD,
CHIKKABALLAPURA - 572 137.

...PETITIONER

(BY SRI.M.S.SHYAM SUNDAR, SR.ADVOCATE FOR
SRI. ARAVIND REDDY H, ADVOCATE)

AND:

1. S G BUILDERS AND DEVELOPERS
NO.89/1, 13TH CROSS, NEAR ANJANEYA TEMPLE,
MUNIYAPPA GARDEN, 1ST STAGE,
J.P.NAGAR, BENGALURU - 560 078.
REP BY ITS PRO
MR. P. RAVIKIRAN,
S/O PRASAD

...RESPONDENT

(BY SRI. GOWRI SHANKAR E, ADVOCATE)

THIS CRL.RP IS FILED U/S.397 R/W 401 CR.P.C (U/S 438 R/W 442 BNSS) BY THE ADVOCATE FOR THE PETITIONER PRAYING TO SET ASIDE THE ORDER DATED 18.09.2025 IN ISSUING FLW AGAINST THE PETITIONER IN CC.NO.1242/2017

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ON THE FILE OF THE IV ADDL. SMALL CAUSES JUDGE AND
ADDL. CHIEF JUDICIAL MAGISTRATE, BENGALURU.

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

CORAM: HON'BLE MRS. JUSTICE GEETHA K.B.

ORAL ORDER

1. This is the revision petition filed under Section 438
r/w Section 442 of Bharatiya Nagarik Suraksha
Sanhita, 2023 (in short 'BNSS, 2023') (under Section
397 r/w Section 401 of Code of Criminal Procedure,
1973) (in short 'Cr.P.C.,'), challenging the issuance
of FLW dated 18.09.2025 in C.C.No.1242/2017 on
the file of IV Additional Small Causes Judge and
Additional Chief Judicial Magistrate, Bengaluru (in
short 'the trial Court').
2. Parties would be referred with their ranks, as they
were before the Trial Court, for the sake of
convenience and clarity.
3. Heard the arguments.

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4. The learned Senior Counsel Sri M. S. Shamsundar for Sri Aravind Reddy.H for the revision petitioner would submit that the process of law is abused and misused by the complainant. He submitted about the facts of the case in detail.
5. The learned Senior Counsel would submit that in lieu of the amount of sentence of fine passed by the trial court, the accused paid a portion of the amount complainant and executed six sale deeds.
6. The learned Senior Counsel would submit that the execution of the six sale deeds by the accused in lieu of payment of fine amount was not at all brought to the notice of the Trial Court by the complainant. Instead, the complainant continued to pay the process fee and obtained NBW and FLW against the accused, thereby misrepresenting the facts before the Court. Thus, the learned Senior Counsel would submit that the continuation of the criminal

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proceedings and issuance of NBW/FLW against the accused amount to abuse and misuse of the process of law. Accordingly, prays for allowing the petition.

7. The learned counsel for the respondent Sri Gaurishankar.E would submit that, though the sale deeds were executed, physical possession of the properties was not handed over to the complainant and, therefore, he continued the criminal proceedings. He would submit that the criminal proceedings were not continued with any *malafide* intention, but believing the words of the accused that he would hand over physical possession of the properties and thus, had not taken coercive action against accused. Accordingly, he prayed for dismissal of the petition.

8. Heard and perused the records.

9. The facts, which are not in dispute are that, the complainant invested totally a sum of



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Rs.2,48,00,000/- (Rupees Two Crores Forty Eight Lakhs Only) with the accused to procure the property and MOU was executed between the two. But, the accused could not procure the property as agreed in the MOU. Hence, he issued two cheques for a sum of Rs.2,50,00,000/-, (Rupees Two Crores Fifty Lakhs Only) which includes the investment amount and mental agony and damages suffered by the complainant. Those cheques were dishonored. Hence, criminal action was initiated as required under Section 138 of the Negotiable Instruments Act, 1881 (in short 'NI Act'). After recording the sworn statement, it was registered as C.C.No.1242/2017.

10. After appearance of the parties before the Trial Court, the parties entered into settlement and executed the joint memo dated 10.12.2018, wherein the accused agreed to pay Rs.1,00,00,000/- (Rupees One Crore Only) on 09.03.2019 and Rs.1,40,00,000/- (Rupees One Crore Forty Lakhs

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Only) on 09.06.2019 and, if there is any delay even for a day, then he agreed to pay another sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) Said joint memo is filed on 18.12.2018 before the court. It is mentioned in the joint memo that settlement is before Lok Adalat. However, based on this settlement, a conviction judgment was passed on 18.12.2018 itself. Thereafter, the case was continued. The accused totally paid Rs.35,00,000/- (Rupees Thirty Five Lakhs Only) on two occasions, i.e., Rs.15,00,000/- (Rupees Fifteen Lakhs Only) on 03.04.2019 and Rs.20,00,000/- (Rupees Twenty Lakhs Only) on 03.06.2019. The conviction judgment was only for Rs.2,40,00,000/- (Rupees Two Crore Forty Lakhs Only) and not for Rs.2,50,00,000/- (Rupees Two Crore Fifty Lakhs Only), the cheque amount and not for the penal amount in case of delay mentioned in the joint memo. After passing

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this conviction judgment, the accused paid Rs.35,00,000/-(Rupees Thirty Five Lakhs Only).

11. It is agreed and admitted by both sides that, thereafter, the accused executed six sale deeds in respect of six sites on 19.07.2019 for the balance amount. The accused on his behalf and on behalf of his family members as the GPA holder has executed the aforesaid sale deeds. However, one of his sisters was not the executant of the sale deed as well as the GPA.

12. According to the averments made in these sale deeds, the market value of those six sale deeds in total is Rs.55,64,000/- (Rupees Fifty Five Lakhs Sixty Four Thousand Only). It is clearly recited in those sale deeds *"AND WHEREAS the purchaser filed PCR No.9551/2016, CC No.1242/2017 against the attorney and the attorney was convicted under Section 138 of N.I.Act R/w 255 (2) Cr.P.C., on*

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18.12.2018 by IV Additional and 30th ACMM Small Causes Court, Bangalore with an order to repay Rs.2,40,00,000/- (Rupees Two Crores Forty Lakhs Only). Whereas the Attorney failed to fulfill the said orders but opted to repay the part of said liability by way of absolutely transferring the schedule property in favour of purchaser herein, wherein the attorney is empowered to execute the sale deed in favour of the purchaser by the vendor/Executant herein." that towards partial discharge of liability of the above cheque criminal case, these sale deeds were being executed. Thus, it was obligatory on the complainant to mention that he received at least the market value or guideline value mentioned in those sale deeds before the trial Court and he would request for issuance of FLW or NBW for the balance amount. However, the order sheet of the Trial Court does not reveal the receipt of this Rs.55,64,000/- (Rupees Fifty Five Lakhs Sixty Four Thousand Only) by the

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complainant from the accused. He continued to pay the process fee and accordingly, NBW was being issued to the accused since the next date of hearing after receipt of Rs.20,00,000/- (Rupees Twenty Lakhs Only) before the Court and FLW issued from 27.04.2022 onwards. However, the FLW or NBW was not at all executed for all these long years. The complainant has not informed the Court that he has received six sale deeds worth Rs.55,00,000/- (Rupees Fifty Five Lakhs Only) on 19.07.2019 from the accused. Thus, the complainant has suppressed the material factum of receipt of six sale deeds from the accused in lieu of part of liability.

13. Both parties admit that those six sale deeds were executed for the balance amount of Rs.2,05,00,000/- (Rupees Two Crore Five Lakhs Only) mentioned in the conviction judgment. But, the value mentioned in the sale deeds is Rs.55,00,000/- (Rupees Fifty Five Lakhs Only). Then, the complainant would inform the

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trial Court about receipt of balance amount and would close the criminal case.

14. The learned counsel for the respondent would submit that even though sale deeds were executed, possession was not delivered to him and by believing the accused that he would hand over possession, he continued the criminal proceedings.
15. The said submission of learned counsel for respondent is not tenable because, in the sale deeds, there is clear recital that the possession of the property was handed over to the complainant. When there is such recital in a registered document that possession is handed over and if physical possession was not handed over, it was left open for the complainant to take necessary action in that regard and he ought to have intimate in writing about non-delivery of possession to the accused and recourse open for him to initiate civil proceedings.

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However, instead of doing so, the complainant continued criminal proceedings. Only at his request, continuously the Trial Court has issued NBW and FLW to the accused.

16. According to the revision petitioner, the accused was not aware about issuance of the said NBW and FLW since from 2019 onwards. According to him, only during December-2025, he came to know about it and hence, immediately, he approached this Court and obtained the stay.
17. The learned counsel for the respondent also fairly submitted that he has not precipitated the NBW and FLW orders issued by the Trial Court.
18. The foregoing discussion establishes that the complainant's actions constitute a clear abuse of process of law. Despite a settlement existing between the parties and the accused having executed the sale deeds for the remaining balance,



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the complainant continually secured NBW and FLW by repeatedly paying process fees to keep these warrants active, the complainant arbitrarily misused court proceedings by hanging the sword on the accused to keep the accused under constant threat.

19. The complainant maintained a constant threat over the accused, intending to exploit the situation for his own benefit whenever he chose.
20. This represents a blatant abuse of the process of law which the Court cannot overlook. Once it was known that the deeds were executed for the owed amount, the complainant had a duty bound to withdraw the criminal case, yet he intentionally kept the threat hanging over the accused.
21. The Trial Court passed the judgment of conviction and order of sentence to pay the fine amount and directed to pay said fine amount as compensation to the complainant. According to both parties, said



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amount is already paid by paying some amount through DD and by executing six sale deeds. The accused in lieu of sale consideration amount has executed those sale deeds. Hence, this Court holds that the continuation of criminal proceedings after realization of the fine amount itself is improper and illegal. Hence, issuance of NBW/FLW to the accused on 18.09.2025 is improper and this was based on misrepresentation of facts by the complainant.

22. Accordingly, this Court passes the following:

ORDER

- i. The Criminal Revision Petition is ***allowed***.
- ii. The NBW/FLW issued on 18.09.2025 against the petitioner in C.C.No.1242/2017 on the file of the IV Additional Small Causes Judge & Additional Chief Judicial Magistrate, Bengaluru is ***recalled***.

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iii. The criminal case continued against accused is ***closed.*** However, liberty is given to the complainant, to get the relief available before the appropriate Civil Court.

In view of disposal of the main case, pending IAs, if any, does not survive for consideration.

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(GEETHA K.B.)
JUDGE

SPV/List No.: 1 SI No.: 24