HC-KAR
CNR: KAHC010033552025

NC: 2026:KHC:61925
CRL.P No. 824 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO. 824 OF 2025 (482(Cr.PC) / 528(BNSS)-)

BETWEEN:

SRI. S SUDHAKAR
S/O SUNLINGAM
AGED ABOUT 48 YEARS,
SY. NO. 29/1, 3RD CROSS,
BEHIND VARTHUR HIGH SCHOOL,
VARTHUR POST,
BENGALURU 560087

...PETITIONER

(BY SRI. GADILINGAPPA G M.,ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
   BY VARTHUR POLICE STATION,
   (REPRESENTED BY LEARNED
   STATE PUBLIC PROSECUTOR)
   THE HIGH COURT BUILDING
   BENGALURU-560 001

2. SRI.T.NAGENDRAN,
   S/O N. THIRUGNANAM,
   AGED ABOUT 39 YEARS,
   NO.4, PUDHU VASANTHAM
   1ST STREET, PONMENI MAIN ROAD,
   MADURAI DISTRICT,
   TAMILNADU-625016

   ALSO R/AT C/O S.PALANI KUMAR
   NO.327, B2, GANGA BLOCK,
   NATIONAL GAMES VILLAGE,

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KORAMANGALA,
BENGALURU-560047

…RESPONDENTS

(BY SMT. RASHMI PATEL., HCGP FOR R1;
SRI. SURENDRA Y.S., ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED U/S 482 CR.PC (FILED U/S 528 BNSS) PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN CC.NO.8837/2021 (CRIME NO.154/2019) PENDING ON THE FILE OF THE BEFORE THE HONBLE FILE OF II ADDITIONAL CJM AT BENGALURU AGAINST THIS PETITIONER/ACCUSED FOR THE ALLEGED OFFENCES P/U/S 417, 418, 420, 504, 506 OF IPC AND ETC.

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

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. The petitioner is before this Court seeking for the following reliefs;

   1. *Quash the entire proceedings in Cc.No.8837/2021 (Crime No.154/2019) pending on the file of the before the Honble file of II Additional CJM at Bengaluru against this petitioner/accused for the alleged offences p/u/s 417, 418, 420, 504, 506 of IPC.*

   2. *Pass any appropriate order or directions as deems fit and proper to this Hon'ble Court to the facts and circumstances of the case in the interest of justice and equity.*

2. Respondent No.2 lodged a complaint on 13.06.2019, pursuant to which the Varthur Police Station registered FIR in Crime No.154 of 2019 for offences punishable under Sections 420, 504, 506 and 34 of

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the Indian Penal Code, 1860 (for short, 'IPC'). The proceedings arising therefrom are now pending in C.C. No.8837 of 2021.

3. The allegation in the complaint is that Respondent No.2 had entered into two agreements in respect of an apartment in Vahe Imperial Gardens, promoted by M/s. Vahe Projects Pvt. Ltd. One agreement related to the purchase of the apartment and the other to its construction. The aggregate consideration is stated in the records to be ₹64,00,000/-, out of which Respondent No.2 claims to have paid ₹55,00,000/-. Despite receipt of the amount, the apartment was not delivered. It is further alleged that the apartment was sold to another person and that the request made by Respondent No.2 for return of the amount was not accepted. On these allegations, the complaint came to be lodged.

4. Sri Gadilingappa G.M., learned counsel for the petitioner, submits that the allegations, even if accepted in their entirety, essentially arise out of agreements for purchase and construction of an apartment. According to him, the remedies available to Respondent No.2 are specific performance of the

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agreements or recovery of the amount paid. The failure to deliver the apartment or refund the amount cannot, without more, constitute cheating or the other offences alleged. He submits that no dishonest intention existed at the inception of the transaction and that the complaint has been given a criminal colour to enforce contractual obligations.

5. Heard Sri Gadilingappa G.M., learned counsel for the petitioner, and Sri Surendra Y.S., learned counsel for Respondent No.2. Perused the records.

6. A perusal of the complaint indicates that the transaction relates to two agreements concerning the purchase and construction of an apartment in the project promoted by M/s. Vahe Projects Pvt. Ltd., of which the petitioner is stated to be a Director. The grievance of Respondent No.2 is that, despite payment of ₹55,00,000/- towards the agreed consideration, the apartment was not delivered and was subsequently sold to another person. The amount paid was also not refunded.

7. The first question is whether these allegations disclose the ingredients of cheating. Section 415 of the IPC defines cheating, while Sections 417 and 420 prescribe punishment for different forms of cheating.

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The essential requirement is deception and the consequent inducement of the person deceived to deliver property, consent to the retention of property, or do or omit to do something which causes or is likely to cause damage or harm.

8. A mere breach of contract and the offence of cheating depends upon the intention of the accused at the time of inducement. Subsequent conduct may be considered in determining that intention, but mere failure to fulfil a promise subsequently does not establish that the promise was made with a dishonest intention from the beginning.

9. Applying the above principle, the complaint does not disclose any specific representation made by the petitioner, at the time of entering into the agreements, which was false to his knowledge. Nor does it disclose that, when the agreements were entered into or the amount was received, the petitioner had already decided not to deliver the apartment or had no intention of performing the contractual obligations. The subsequent allegation that the apartment was not delivered and was sold to another person, without particulars connecting that conduct to a dishonest intention at the inception of

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the transaction, does not by itself establish the offence of cheating.

10. The allegation that the amount was not refunded may give rise to a claim for recovery of money and other appropriate civil remedies. However, a failure to refund an amount due under an agreement does not, by itself, constitute cheating.

11. Section 417 of the IPC prescribes punishment for cheating. Since the complaint does not disclose the essential ingredients of cheating as defined under Section 415 of the IPC, the offence punishable under Section 417 is also not made out.

12. Section 418 of the IPC deals with cheating with knowledge that wrongful loss may ensue to a person whose interest the offender is bound by law or by a legal contract to protect. Apart from the basic ingredients of cheating, the provision requires a specific obligation on the part of the accused to protect the interest of the person deceived and knowledge that the deception is likely to cause wrongful loss to that person. The complaint does not disclose any such separate legal or contractual obligation undertaken by the petitioner towards Respondent No.2, or any dishonest deception in

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breach of such obligation. The ingredients of Section 418 are, therefore, not made out.

13. Section 420 of the IPC requires cheating accompanied by dishonest inducement to deliver property or to make, alter or destroy a valuable security. Though Respondent No.2 alleges that a substantial amount was paid towards the apartment, the complaint does not disclose the necessary dishonest intention at the time of the inducement. The mere fact that the apartment was not delivered or was subsequently sold to another person cannot, in the absence of material indicating dishonest intention at the inception, satisfy the requirements of Section 420. The dispute, on the allegations placed before this Court, remains one arising from the non-performance of contractual obligations.

14. The complaint also invokes Section 504 of the IPC. To attract this provision, there must be intentional insult of such a nature as to give provocation, with the intention or knowledge that such provocation is likely to cause the person insulted to break the public peace or commit another offence. Mere abuse, without the requisite intention or knowledge and the circumstances constituting provocation, is not

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sufficient to attract Section 504. In the present case, the allegations placed before this Court do not disclose any specific act of intentional insult or circumstances indicating an intention to provoke Respondent No.2 to commit a breach of peace or another offence. The ingredients of Section 504 are consequently absent.

15. Section 506 of the IPC prescribes punishment for criminal intimidation, which is defined under Section 503. The provision requires a threat of injury to the person, reputation or property of the complainant, or to a person in whom the complainant is interested, made with the intention of causing alarm or compelling the complainant to do an act which he or she is not legally bound to do, or omit an act which he or she is legally entitled to do. Mere expression of words, without an intention to cause alarm, is insufficient to constitute criminal intimidation. In the present case, the complaint, as placed before this Court, does not disclose the nature of any specific threat or the intention to cause alarm. The ingredients of Section 506 are, therefore, not made out.

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16. The FIR also refers to Section 34 of the IPC. Section 34 does not create a separate offence but provides for joint liability where a criminal act is done by several persons in furtherance of their common intention. In the absence of the basic ingredients of the offences alleged, the invocation of Section 34 does not sustain the prosecution.

17. It is settled that the mere existence of a civil remedy does not bar criminal proceedings where the allegations independently disclose the ingredients of a criminal offence. Equally, a contractual dispute cannot be converted into a criminal prosecution merely because one party has failed to perform the obligations undertaken under an agreement. The Court must examine whether the allegations, taken at their face value, disclose the ingredients of the offences alleged.

18. In the present case, the substance of the complaint is that Respondent No.2 paid a substantial amount towards purchase and construction of an apartment, that the apartment was not delivered and that the amount was not refunded. The complaint does not disclose the requisite dishonest intention at the inception of the transaction or the other ingredients necessary to attract Sections 417, 418 or 420 of the

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IPC. It also does not disclose the ingredients of Sections 504 and 506 of the IPC.

19. In these circumstances, the continuation of the criminal proceedings against the petitioner would amount to an abuse of the process of Court. The petitioner cannot be subjected to a criminal trial merely on account of the alleged failure to perform the contractual obligations, when the essential ingredients of the offences alleged are not disclosed.

ORDER

i. Criminal petition stands ***allowed***

ii. The proceedings in Cc.No.8837/2021 (Crime No.154/2019) pending on the file of the before the Hon'ble file of II Additional CJM at Bengaluru are quashed.

iii. Liberty is reserved to the respondent to file such appropriate proceeding for specific performance and/or recovery of money as may be advised.

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(SURAJ GOVINDARAJ)
JUDGE

SR/List No.: 1 Sl No.: 2