HC-KAR
NC: 2026:KHC:61923
CRL.P No. 1358 of 2025
CNR: KAHC010056822025

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. 1358 OF 2025 (482(Cr.PC) / 528(BNSS)-)

BETWEEN:

ANIL KUMAR
SON OF LATE VISHWANATHA REDDY,
AGED ABOUT 45 YEARS
AND RESIDING AT NO.395, SLN ROAD,
NEAR KAVERI INDUSTRIES, JIGANNI HOBLI,
ANEKAL TALUK, BENGALURU 562 106

...PETITIONER

(BY SRI. ABHINAY Y T., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY BANDEPALYA POLICE STATION
REPRESENTED BY THE
STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA
BENGALURU 560 001

2. JAVEED SAB,
SON OF MEHABOOB SAB,
AGED ABOUT 45 YEARS
AND RESIDING AT NO.82 AND 83,
4TH CROSS, ELEYABLE RESIDENCY,
HARALURU, SOMASANDRA PALYA,
BENGALURU 560 102

...RESPONDENTS

(BY SMT. RASHMI PATEL., HCGP FOR R1;
R2-SERVED)

THIS CRIMINAL PETITION IS FILED U/S 482 CR.PC (FILED U/S 528 BNNS) PRAYING TO QUASH THE PROCEEDINGS IN CC NO. 2276

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OF 2021 PENDING ON THE FILE OF HONBLE I/C VII ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, BENGALURU FOR OFFENCES PUNISHABLE UNDER SECTION 420, 418, 120(B) R/W 34 OF IPC.

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:

> *Quash the proceedings in CC No. 2276 of 2021 pending on the file of Honble I/C VII Additional Chief Metropolitan Magistrate, Bengaluru for offences punishable under section 420, 418, 120(B) r/w 34 of IPC.*

2. Respondent No.2 lodged a complaint on 12.12.2018, on the basis of which the Bandepalya Police registered FIR in Crime No.236 of 2018 for the offences punishable under Sections 34, 120-B and 420 of the IPC. On completion of the investigation, a charge sheet came to be filed on 28.10.2020. The proceedings arising therefrom are pending in C.C. No.2276 of 2021. It is these proceedings that the petitioner seeks to quash.

3. The submission of Sri Abhinay Y.T., learned counsel for the petitioner, is as follows:

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3.1. A reading of the complaint would indicate that respondent No.2 allegedly entered into an oral agreement with one Vishwanath Reddy and the petitioner, who is his son, for the purchase of their property. Pursuant to the said agreement, respondent No.2 is stated to have paid a sum of ₹30,00,000/-.

3.2. Subsequently, respondent No.2, being occupied with contesting an election, could not approach Vishwanath Reddy and the petitioner for execution of the sale deed. In the meanwhile, they sold the property to a third party. When respondent No.2 demanded the return of the amount paid, they allegedly assured him that the amount would be refunded within one month. Since the amount was not returned, respondent No.2 lodged the complaint on 12.12.2018.

3.3. Learned counsel submits that even if the allegations in the complaint are taken at face value, they do not disclose the ingredients of the offences punishable under Sections 420, 418 or 120-B of the IPC. He further submits that Vishwanath Reddy has since expired and

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that the petitioner, being his son, is before this Court seeking quashing of the proceedings insofar as he is concerned.

4. Notice issued to respondent No.2, though served, respondent No.2 has chosen not to represented.

5. Heard Sri.Abhinay Y.T., learned counsel for the petitioner, and Smt.Rashmi Patel, learned High Court Government Pleader for respondent No.1. Perused the records.

6. The complaint relates to a transaction concerning the proposed sale and purchase of immovable property. According to respondent No.2, he entered into an oral agreement with the petitioner and his father, Vishwanath Reddy, for purchase of their property and paid a sum of ₹30,00,000/- towards the transaction. The grievance of respondent No.2 is that the property was subsequently sold to a third party and the amount paid by him was not returned despite a promise to do so.

7. Certain aspects of the complaint are relevant. Respondent No.2 himself states that, after entering into the agreement and making the payment, he could not approach the petitioner and his father for

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execution of the sale deed as he was occupied with contesting an election. The complaint does not disclose the date on which the alleged oral agreement was entered into, the date on which the amount of ₹30,00,000/- was paid, or the manner in which the payment was made. It also does not set out the circumstances in which the agreement was entered into or any representation made by the petitioner which was false to his knowledge at the time of the transaction.

8. The charge sheet material, as placed before this Court, consists principally of the statements of respondent No.2 and his family members. These statements refer to the alleged agreement and the payment of ₹30,00,000/- to the petitioner and his father. However, the material does not disclose any further circumstance indicating that, at the time of entering into the agreement or receiving the amount, the petitioner had a dishonest intention not to perform the transaction. The subsequent sale of the property and the failure to refund the amount may give rise to a claim for recovery of money or other appropriate civil remedies. In the absence of material indicating dishonest intention at the inception of the transaction, those circumstances, by themselves, do

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not constitute the offence of cheating punishable under Section 420 of the IPC.

9. For an offence under Section 420 of the IPC to be made out, there must be deception and dishonest inducement of the person deceived to deliver property or to do or omit to do something which he would not otherwise have done. The dishonest intention must exist when the inducement is made. A subsequent failure to fulfil a contractual obligation or to return money does not, by itself, establish that the person had a dishonest intention from the beginning. In the present case, the complaint and the material collected during the investigation do not disclose circumstances from which such initial dishonest intention can be inferred against the petitioner.

10. The offence punishable under Section 418 of the IPC also requires the prosecution to establish that the accused cheated a person, knowing that he was likely thereby to cause wrongful loss to that person whose interests the accused was bound, either by law or by a legal contract, to protect. The complaint does not disclose any such obligation on the part of the petitioner to protect the interests of respondent No.2, apart from the alleged contractual

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arrangement for purchase of the property. Nor does the charge sheet material disclose circumstances establishing the specific ingredients of Section 418 of the IPC. The mere allegation that the amount paid towards the proposed purchase was not refunded does not, without more, attract the said provision.

11. The allegation of criminal conspiracy under Section 120-B of the IPC also cannot be sustained merely because the petitioner and his father were parties to the alleged property transaction. The prosecution must place material indicating an agreement between them to commit an illegal act or to accomplish a lawful act by illegal means. In the present case, apart from the assertion that the petitioner and his father entered into the alleged agreement and received the amount, there is no material indicating that they had agreed to cheat respondent No.2. Once the material does not disclose the commission of the alleged offence of cheating, the allegation of conspiracy to commit that offence cannot be sustained on the basis of the same circumstances alone.

12. Section 34 of the IPC does not create a separate offence but embodies the principle of joint liability

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where a criminal act is done by several persons in furtherance of their common intention. The material in the present case does not disclose the existence of a common intention to cheat respondent No.2. The mere fact that the petitioner and his father were jointly involved in the alleged property transaction is not sufficient to attract Section 34 of the IPC.

13. It is not in dispute that respondent No.2 claims to have paid ₹30,00,000/- towards the proposed purchase of the property and that the transaction did not culminate in execution of a sale deed in his favour. The subsequent sale of the property and the alleged failure to refund the amount may entitle respondent No.2 to pursue appropriate remedies for recovery of the amount or for enforcement of any other civil rights arising from the alleged agreement. However, the criminal process cannot be continued merely to enforce such a claim when the allegations and the charge sheet material do not disclose the essential ingredients of the offences alleged.

14. In the circumstances, even if the allegations in the complaint and the charge sheet material are accepted at face value, the essential ingredients of the offences punishable under Sections 420, 418 and

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120-B read with Section 34 of the IPC are not made out against the petitioner. Permitting the proceedings to continue would therefore amount to an abuse of the process of law.

15. Accordingly, this court passes the following:

ORDER

i. The criminal petition is ***allowed***.

ii. The proceedings in C.C. No.2276 of 2021 pending on the file of the learned In-charge VII Additional Chief Metropolitan Magistrate, Bengaluru, are hereby quashed insofar as the petitioner is concerned.

iii. It is made clear that this order shall not come in the way of respondent No.2 pursuing such civil remedies as may be available to him in accordance with law.

iv. All pending interlocutory applications, if any, stand disposed of.

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(SURAJ GOVINDARAJ)
JUDGE

SR/List No.: 1 Sl No.: 6