HC-KAR



CNR: KAHC010069292024

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 18TH DAY OF NOVEMBER, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE RAJESH RAI K**

**CRIMINAL PETITION NO. 1200 OF 2024**

**BETWEEN:**

SRI PURUSHOTHAM .D
S/O SRI DODDAMUNIYAPPA
AGED ABOUT 51 YEARS
NO.362, 15TH CROSS
11TH MAIN
POORNAPRAGNA LAYOUT
BENGALURU-560 085

...PETITIONER

(BY SRI. SHRIDHARAMURTHY H.R, ADVOCATE)

**AND:**

Digitally signed by PANKAJA S
Location: HIGH COURT OF KARNATAKA

1. STATE OF KARNATAKA
BY SURBAMANYAPURA POLICE STATION
REPRESENTED BY THE
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-560 001

2. SRI NAVEEN BANU T
S/O T BHASKAR NAIDU
AGED ABOUT 44 YEARS
NO.15/1, 2ND MAIN ROAD
3RD CROSS, P.P LAYOUT
BHANASHANKARI 3RD STAGE
BENGALURU-560 085

3. SRI LOKANADH CHOWDRY
S/O B JAYARAM NAIDU
AGED ABOUT 55 YEARS
R/A NO.405, 8TH MAIN ROAD
10TH CROSS, PADMANABHANAGAR
BENGALURU-560 070

…RESPONDENTS

(BY SRI. MAHESHA P, HCGP FOR R1,
SRI. SURESHA S, ADVOCATE FOR R2 - ABSENT,
SRI. B.G. GOKESHA, ADVOCATE FOR R3 - ABSENT

THIS CRL.P IS FILED U/S. 482 OF CR.P.C PRAYING TO QUASH THE FIR NO.252/2016, CHARGE SHEET AND ENTIRE PROCEEDINGS IN C.C.NO.21926/2021 ON THE FILE OF THE 4TH A.C.M.M AT BENGALURU FOR THE OFFENCE P/U/S 406,420,120B OF IPC REGISTERED BY THE RESPONDENT NO.1 i.e SUBRAMANYAPURA P.S., BENGALURU.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

**ORAL ORDER**

1. This petition is filed under Section 482 of Cr.P.C. seeking to quash the proceedings in C.C.No.21926/2021 arising out of FIR registered in Crime No.252/2016 by the 1st respondent - police against the petitioner for the offences punishable under Sections 406, 420 and 120B of IPC, pending on the file of the 4th Additional Chief Metropolitan Magistrate, Bengaluru.

2. The factual matrix of the case is that respondent nos.2 and 3 lodged a complaint before the 1st respondent -

police on 25.04.2016 alleging that the petitioner herein claiming to be the owner of property bearing Site No.1, Old Katha No.28 situate at Arehalli Village, Uttarahalli Hobli, Bangalore South Taluk, measuring East to West (126-0 + 68-0)/North to South (116-0 + 106-0)/2 feet, in all measuring 10,767 sq.ft., approached respondent Nos.2 and 3 with an offer for entering into joint development agreement in respect of said property for construction of apartments. Accordingly, they agreed for the offer of the petitioner and after negotiation, they paid the advance amount of Rs.75,00,000/- and it was agreed that petitioner, being the owner of land, would be entitled for 41% of developed area and respondents 2 and 3, being the developers, would be entitled for 59% of the developed area. Thereafter, when respondents 2 and 3 started construction work at the site, one Smt.Bhagyamma obstructed and stated that it was her land. Though the same was intimated to the petitioner, he did not take any action and hence, respondents 2 and 3 asked him to return the amount invested by them. When he failed to refund the amount, respondents 2 and 3 lodged the complaint. On the strength of the said complaint, FIR came to

be registered against the petitioner and two others in Crime No.252/2016. Subsequently, the 1st respondent investigated the case and laid charge sheet against the petitioner for the aforesaid offences by dropping accused nos.2 and 3 from the charge sheet. The learned Magistrate accordingly took cognizance of the offence. Aggrieved by the same, the petitioner preferred this petition.

3. Heard the learned counsel for the petitioner and the learned HCGP. Despite granting sufficient opportunity, there is no representation for respondents 2 and 3.

4. The primary contention of learned counsel for the petitioner is that dispute between the petitioner and respondent nos.2 and 3 is purely civil in nature and in connection with the joint development agreement. According to the learned counsel, the execution of Absolute Sale Deed by one Narayanamurthy in favour of the petitioner in respect of the subject property is at the behest of the developers - respondents 2 and 3 and thus, they cannot claim defect in the title of the subject property. Further, it is respondents 2 and 3 who offered to enter into joint development agreement on the

very day of the execution of the Absolute Sale Deed and agreed to pay advance amount of Rs.75,00,000/-. Thereafter, when the petitioner insisted respondents 2 and 3 for commencement of work by paying the advance amount of Rs.75,00,000/-, they failed perform their part of contract. It is further contended that if at all there is defect in the title, respondents 2 and 3 ought to have approached the petitioner for cancellation of joint development agreement, however, they lodged the false complaint to give a criminal colour to the civil dispute. In such circumstances, continuation of criminal proceedings against the petitioner would be nothing but abuse of process of Court. Accordingly, he prays to allow the petition.

5. The prayer is opposed by the learned HCGP on the ground that now the charge sheet has been filed and the statement of material witnesses discloses that though the petitioner had the knowledge of defect in the title of the subject property, he entered into joint development agreement with respondents 2 and 3 and yet received Rs.75,00,000/- under the said agreement and further, when the construction work was obstructed by Smt.Bhagyamma, the petitioner failed to refund

the advance amount to the complainants. In such circumstances, the ingredients of the offences for which the petitioner has been charge sheeted have been made out against the petitioner. As such, the proceedings cannot be quashed at this stage. Accordingly, he prays to dismiss the petition.

6. I have given my anxious consideration to the submissions of learned counsel for the petitioner and the learned HCGP and perused the material on record.

7. As could be gathered from charge sheet material, the subject property was purchased by the petitioner on 17.07.2014 and on the very same day, the petitioner entered into joint development agreement with the developers - respondents 2 and 3 in respect of the subject property. The contention of the learned counsel for the petitioner is that it is at the behest of respondents 2 and 3, Narayanamurthy executed the Absolute Sale Deed in favour of the petitioner and hence, they cannot claim defect in the subject property. Further, the joint development agreement depicts that respondent Nos.2 and 3 have only paid Rs.25,00,000/- and

that admittedly, the joint development agreement has not been cancelled till today. In such circumstances, as rightly contended by the learned counsel for the petitioner, question of refund of amount does not arise for consideration till this date.

8. The Hon'ble Apex Court in SLP (Crl.) No.10294/2025 in the case of ***G.SAMINATHAN & ANOTHER Vs. THE STATE REPRESENTED BY THE SUB-INSPECTOR OF POLICE & ANOTHER***, in similar circumstances, where there is dispute in respect of joint development agreement between the parties with regard to refundable security deposit, held that such disputes essentially are of civil nature and as such, the offences under Sections 406 and 420 of IPC do not attract.

9. Further, the Hon'ble Apex Court in the case of ***ARSHAD NEYAZ KHAN VS. STATE OF JHARKHAND & ANOTHER - 2025 SCC ONLINE SC 2058*** has held in paragraphs 21 to 23 as under:

> **"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 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."

10. Collocating the above findings to the facts and circumstances of this case and since the allegations in the FIR and the chargesheet against the petitioner do not prima facie

make out the offences under Sections 406, 420 & 120B of IPC and that the allegations on the face of it point to a purely civil dispute between the parties, I am of the considered view that continuation of criminal proceedings against the petitioner would amount to abuse of process of Court. Hence, I proceed to pass the following:

**ORDER**

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

ii. The proceedings in C.C.No.21926/2021 arising out of FIR registered in Crime No.252/2016 by the 1st respondent - police against the petitioner for the offences punishable under Sections 406, 420 and 120B of IPC, pending on the file of the 4th Additional Chief Metropolitan Magistrate, Bengaluru, are hereby quashed.

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

HKV/PKS/List No.: 1 Sl No.: 18