HC-KAR

NC: 2026:KHC:60527
CRL.P No. 1628 of 2021

CNR: KAHC010080592021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL PETITION NO.1628 OF 2021

BETWEEN:

1. MRS. RAMYA DEVI,
AGED ABOUT 39 YEARS,
W/O MR.CHANDRA MOHAN B.S.,
R/AT NO.33, 7TH MAIN ROAD,
SHARADA COLONY,
BASAWESHWARA NAGAR,
BENGALURU-560 064.

2. DR. CHANDRA MOHAN B.S.,
AGED ABOUT 45 YEARS,
S/O MR. SIDDAIAH,
R/AT FLAT NO.D1104,
SRIRAM SUHANA APARTMENTS,
SURAYAVAMSHI APARTMNTS,
DODDABALLAPURA ROAD,
YELAHANKA NEW TOWN,
BENGALURU-560 054.

3. MR. SHIVALINGAIAH,
AGED ABOUT 63 YEARS,
S/O LATE MR. THIMME GOWDA,
R/AT O.33, 7TH MAIN ROAD,
SHARADA COLONY,
BASAWESHWARA NAGAR,
BENGALURU-560 064.

...PETITIONERS

(BY SRI. RAVI B. NAIK, SENIOR COUNSEL FOR
SRI. SOMASHEKHARAIAH.R.P., ADVOCATE)

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

AND:

1. STATE OF KARNATAKA,
   BY NANDINI LAYOUT POLICE STATION,
   REPRESENTED BY STATE PUBLIC PROSECUTOR,
   HIGH COURT BUILDING,
   KARNATAKA-560001.

2. MR. R. JAGADISH,
   AGED ABOUT 45 YEARS,
   S/O RANGAPPA M.,
   R/AT NO.120, 1ST FLOOR,
   NEAR CENTRAL BANK ATM,
   JAI MARUTHI NAGAR,
   NANDINI LAYOUT,
   BENGALURU-560 096.

…RESPONDENTS

(BY SRI. MOHAMMED AYUB ALI, ADDL. SPP FOR R1;
R2 IS SERVED)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.PC PRAYING TO QUASH THE CHARGE SHEET BEARING NO.148/2020 ONLY WITH REGARD TO ACCUSED NO.7 TO 9 i.e PETITIONERS FILED BEFORE HONBLE VII A.C.M.M., BENGALURU WHICH IS REGISTERED IN CASE BEARING C.C.NO.12820/2020 FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 415, 420, 468, 471 R/W SECTION 34 OF IPC, PENDING BEFORE LEARNED VII A.C.M.M., AT BENGALURU.

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

CNR: KAHC010080592021

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

ORAL ORDER

Heard the learned counsel for the petitioners and the learned Additional SPP appearing for respondent No.1/State.

2. This petition is filed by accused Nos.7 to 9 praying this Court to quash the charge-sheet in C.C.No.12820/2020 for the offence punishable under Sections 415, 420, 468, 471 read with Section 34 of IPC.

3. The main contention of the learned Senior Counsel appearing for the petitioners is that PCR No.13862/2019 was filed before the Trial Court making an allegation against these petitioners and other accused persons and only verifying affidavit was filed along with the complaint. The learned Senior Counsel relies upon the judgment of the Apex Court in the case of **PRIYANKA SRIVASTAVA AND ANOTHER v. STATE OF UTTAR PRADESH AND OTHERS** reported in **(2015) 6 SCC 287** and contend that the Apex Court has clearly held in this judgment regarding non-compliance of Sections 154(1) and 154(3) of Cr.P.C. while referring the matter under Section

156(3) of Cr.P.C. In order to prevent the frivolous litigation, the complaint should be accompanied by an affidavit and the same is not found.

4. The learned Senior Counsel also relied upon the judgment of the Apex Court in the case of **DIPAKBHAI JAGDISHCHANDRA PATEL v. STATE OF GUJARAT AND ANOTHER** reported in **(2019) 16 SCC 547,** wherein the Apex Court has made an observation that all the co-accused absconding and the appellant alone being proceed against – no material on basis of which even a strong suspicion could be aroused against the appellant and held that in the circumstances, the Trial Court erred in not discharging the appellant and the High Court erred in not quashing such proceedings.

5. The learned Senior Counsel also relied upon the judgment of the Apex Court in the case of **SHIV KUMAR v. THE STATE OF MADHYA PRADESH** reported in **2022 LiveLaw (SC) 746,** wherein the Apex Court taken note of that in order to bring home the guilt under Section 411 of IPC, the prosecution must prove (1) that the stolen property was in the

possession of the accused, (2) that some person other than the accused had possession of the property before the accused got possession of it, and (3) that the accused had knowledge that the property was stolen property.

6. The learned Senior Counsel also relies upon the judgment passed by this Court in **Crl.P.No.515/2023** dated 25.04.2026, wherein the petition was allowed and quashed the proceedings invoking Section 482 of Cr.P.C. The learned counsel also relies upon the judgment of the Apex Court in the case of **KARAN TALWAR v. THE STATE OF TAMIL NADU** passed SLP (Crl.) No.10736/2022 so also the judgment of this Court passed in Crl.P.No.103102/2023 dated 20.08.2024, wherein also in respect of accused No.2 is concerned, exercised the power under Section 482 of Cr.P.C. when the voluntary statement of accused was recorded wherein disclosure was made.

7. The main contention of the learned Senior Counsel appearing for the petitioners is that the accusation made in the complaint and also in the charge-sheet is that there was an agreement and payment was made prior to the agreement to

petitioner Nos.1 and 2 i.e., an amount of Rs.25,00,000/- and also an amount of Rs.20,00,000/- was paid in different account and though payment was made in favour of petitioner No.3/accused No.9 subsequent to the agreement, but none of the witnesses who have been examined by the Investigating Officer stated anything about the involvement of petitioner No.3. The learned counsel also brought to the notice of this Court the voluntary statement of accused No.3 that there was a payment in favour of petitioner Nos.1 and 2 and that itself is not enough to invoke the ingredients of the offence under Section 420 of IPC. Insofar as petitioner No.3 is concerned, when there is no any material collected by the Investigating Officer as against petitioner No.3, except relying upon the bank statement for having made the payment, the same cannot be a ground to invoke Sections 415 and 420 of IPC and hence, it is a fit case to exercise the power under Section 482 of Cr.P.C. or otherwise it amounts to abuse of process which leads to miscarriage of justice.

8. Per contra, the learned Additional SPP appearing for respondent No.1/State would vehemently contend that other

accused made the voluntary statement that out of the amount which was paid by CW1, the amount was paid in favour of these petitioners. This Court having heard the matter had directed to clarify whether that amount was paid subsequent to the agreement or prior to the agreement and the learned Additional SPP fairly submits that payment was made prior to the agreement in 2016 and 2018, but insofar as petitioner No.3 is concerned, relying upon the bank statement would submit that payment of Rs.50,000/- each was made subsequent to the agreement and hence, there cannot be any quashing of proceedings against petitioner No.3/accused No.9.

9. Having heard the learned Senior Counsel for the petitioners and the learned Additional SPP appearing for respondent No.1/State, the Court has to take note of that a private complaint was filed in PCR No.13862/2019. Having perused this complaint, no doubt, an allegation is made that payments are made, but in support of this application, as rightly pointed out by the learned Senior Counsel for the petitioners, no affidavit is filed except the verifying affidavit. The judgment of the Apex Court in the case of **Priyanka**

Srivastava (supra) is very clear that while initiating the criminal prosecution, along with the application under Section 156(3) of Cr.P.C. and private complaint, there must be an affidavit. The same is with an object to prevent the frivolous litigation. The Apex Court also discussed with regard to compliance of Sections 154(1) and 154(3) of Cr.P.C. However, in the case on hand, the matter was referred under Section 156(3) of Cr.P.C. and the police have also investigated the matter and the Investigating Officer also collected the material. The accused No.3 made the voluntary statement that in 2016 payment was made to the tune of Rs.25,00,000/- and in the year 2018 when the amount was borrowed by him from the complainant to the tune of Rs.50,00,000/-, out of that an amount of Rs.20,00,000/- was paid. But this is also prior to the agreement and none of the witnesses speak about the role of accused No.9 having received the amount, except relying upon by the bank statement. Even if any payment is made by the complainant to CW1 and if such amount is paid to these petitioners, the same will not attract the ingredients of the offence under Sections 415 and 420 of IPC and in order to

invoke Sections 415 and 420 of IPC, there must be a material and while invoking Section 420 of IPC it is also settled law that at the inception of the transaction there must be an intention to defraud the complainant and the same is not found. Under the circumstances, it is a fit case to exercise the power under Section 482 of Cr.P.C. or otherwise it amounts to miscarriage of justice and an abuse of process.

10. In view of the discussions made above, I pass the following:

ORDER

The petition is allowed and the proceedings initiated against the petitioners herein i.e., accused Nos.7 to 9 in C.C.No.12820/2020, is hereby quashed.

Sd/-
(H.P.SANDESH)
JUDGE

MD
List No.: 1 Sl No.: 15