HC-KAR
NC: 2026:KHC:63705
CRL.P No. 2109 of 2021
CNR: KAHC010104062021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF NOVEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO.2109 OF 2021

BETWEEN:

1. SRI K S GANESH @ GANAPATHY
S/O ALTE SUBBAIAH
AGED ABOUT 66 YEARS
R/AT NAPOKLU VILLAGE AND POST
MADIKERI TALUK
KODAGU DIST.-571201

2. SRI.B.T.NANJAPPA
S/O LATE B.M.THIMMAIAH
AGED ABOUT 65 YEARS
R/AT STEWART HILL
MADIKERI TOWN AND POST
MADIKERI TALUK
KODAGU DIST.-571234

...PETITIONERS

(BY SRI. VENKATESH R BHAGAT, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY MADIKERI RURAL POLICE STATION
KODAGU DISTRICT
REP. BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGLAURU-560 001

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

2. RAMACHANDRA RAO T.S.
ARCHID INVESTEMENTS
NO.77/8, 2ND MAIN ROAD
VAYALIKAVAL, BENGALURU
BENGALURUR, KARNATAKA-560003

…RESPONDENTS

(BY SRI SUHAS GOWDA M, HCGP FOR R1;
SRI DHANANJAY KUMAR, ADVOCATE FOR R2)

THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO QUASH THE ORDER DATED 05.06.2020 IN CRL.RP.NO.4/2020 PASSED BY THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, KODAGU-MADIKERI AT ANNEXURE-A AND ETC.

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

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

ORAL ORDER

This petition is filed praying this Court to quash the order dated 05.06.2020 passed in Crl.R.P.No.4/2020 (Annexure-A) and also the order dated 07.12.2019 passed in C.C.No.42/2015 (Annexure-B).

2. Heard the learned counsel appearing for the respective parties.

3. The counsel appearing for the petitioners would vehemently contend that the very case was registered against

these two petitioners who happens to be the accused Nos.3 and 4 based on the complaint dated 12.04.2014 wherein an allegation is made that there was a sale agreement by accused Nos.1 and 2 and petitioner No.1 is the consenting witness to the said sale agreement and possession was given to the complainant but subsequently, in respect of the very same property, a sale deed was executed on 09.04.2014 in favour of petitioner No.1 and also another i.e., M. M. Bharathi, hence, thereby cheated the complainant and caused the threat to hand over the possession.

4. Based on the complaint, the police have registered the case in Crime No.93/2014 and after investigation, filed the charge sheet for the offences punishable under Sections 406, 417, 420, 506 read with Section 34 of IPC.

5. The counsel appearing for the petitioners would vehemently contend that both the Trial Court and also the Revisional Court have committed an error in rejecting the application filed under Section 239 of Cr.P.C. The main contention of the counsel appearing for the petitioners that the orders of both the Courts are perverse and arbitrary since the

investigation officer has not alleged in the charge sheet that what was the benefit the petitioners received threatening the complainant and there is no direct cogent evidence against petitioner Nos.3 and 4 and no case is made out against these two petitioners who have been arrayed as accused Nos.3 and 4. The counsel would vehemently contend that there was an agreement dated 20.01.2014 and brought to notice of this court regarding delivery of possession as per clause No. 7, but no such possession was delivered and though it is contended in the complaint that possession was delivered, but the same would be delivered at the time of registration. Hence, very claim made in the complaint that possession was delivered is erroneous. The counsel also brought to notice of this court that Trial Court while passing rejection order, a reference was made that possession is with the complainant but the said observation is against the document of sale agreement. The counsel also brought to notice of this court that sale deed was executed on 09.04.2014 i.e., by accused Nos.1 and 2 in favour of petitioner No.1 herein. The counsel would vehemently contend that the said sale deed came into existence at the

instance of the complainant. Hence, there cannot be any criminal prosecution.

6. Per contra, the counsel appearing for respondent No.2 would submit that Annexure-F i.e., the statement given by one Sri. B. S. Harish is very clear that he was working as a writer in the said property as there was a purchase of property by the complainant and he was taking care of the said property. That on 10.04.2014 at 07:00 a.m. these two petitioners along with others came in two cars and stated that they have purchased the said property and asked him to leave the place and also caused the life threat. The same was informed to the Ramachandra Rao who is the owner of the property. That on 12.04.2014, the said Ramachandra Rao had given the complaint and case was registered and he had shown the spot to the police when police came to the spot. The counsel also brought to notice of this court that when the agreement was executed in the month of January i.e., on 20.01.2014 and when the agreement was subsisting, the question of executing the sale deed under which the petitioners claim that they have purchased the property vide sale deed

dated 09.04.2014 does not arise. The very contention of the counsel for the petitioners that there was no any fraud or cheating cannot be accepted. The counsel would submits that when petitioner No.1 was a party to the sale agreement as a consenting witness and he has received the amount of Rs.5,00,000/-, but document came into existence in his favour and he had purchased the same within a span of 3 months from the date of agreement of sale with the complainant. This is a matter of trial and the same cannot be considered at this stage.

7. The counsel also would submits that even in respect of petitioner No.2 is concerned, the statement of Harish is very clear that he came along with petitioner No.1 and caused the life threat and the same was informed to the Ramachandra Rao. When specific allegations are made in the complaint and even if possession is not delivered as mentioned in the document of sale agreement, material is very clear that in view of the statement that possession was delivered though it is not mentioned in the document, court has to look into the contents of the sale deed as well as sale agreement and also the

transaction was taken place within 3 months of the sale agreement.

8. The counsel appearing for the State also reiterates that when the sale agreement was subsisting and petitioner No.1 was a consenting witness to the said document, he cannot have the sale deed in his favour and what circumstances made him to have the sale deed that too at the instance of accused Nos.1 and 2, is not explained and the same is a matter of trial and this court cannot quash the proceedings at this stage. The Trial Court and also the Revisional Court made an observation with regard to specific accusation made in the charge sheet and also considered the statement of witnesses. Hence, no grounds are made out to set aside the order.

9. Having heard the learned counsel appearing for the respective parties and also on perusal of the material on record, it discloses that the statement of Harish is clear that on particular date, these two petitioners came and claimed that they have purchased the property and caused the life threat. The contents of the complaint as per Annexure-C is that the complainant came to know about the same through Harish and

also contend that there was a sale agreement and also on 10.04.2014, the person who is taking care of the property had made the call and informed him that persons came in two cars and claimed the property and the same is reiterated in the complaint that complainant came to know about the same through the said Harish. The specific accusation is made that the document of sale deed came into existence in favour of petitioner No.1 and also another person i.e., M M Bharathi and all of them conspired each other and caused the life threat and cheated the complainant. The police also conducted the spot mahazar and recorded the statement of witnesses as CW1 to CW9. The counsel appearing for the petitioners not disputes the fact that there was an agreement of sale as against the sale consideration of Rs.22,50,000/- on 20.01.2014 i.e., executed by accused Nos.1 and 2 in favour of Orchid Investment represented through the Managing Partner T. S. Ramachandra Rao and also it is not in dispute that there is a sale deed dated 09.04.2014 i.e., within a span of 3 months of the said sale agreement, the said sale deed came into existence. The material also discloses that petitioner No.1 is a consenting

witness to the sale agreement and he has also received the amount of Rs.5,00,000/- by way of DD dated 17.01.2014 and balance consideration of Rs.10,50,000/- shall be paid by the purchaser to the vendors at the time of registration of the sale deed.

10. No doubt, the counsel appearing for the petitioners brought to notice of this court that possession was not delivered in terms of the clause No.7. But the fact is that when the present agreement was in subsistence, a sale deed was executed on 09.04.2014 i.e., within a span of 3 months in favour of petitioner No.1 who happens to be the consenting witness in respect of the earlier agreement. But the agreement holder is not the party and he is also not given any consent while executing this sale deed. Hence, specific accusation is made that this petitioner being the part of the sale agreement, had indulged in getting the sale deed in his favour. When such specific accusation is made, it is a matter of trial.

11. The Trial Court and also the Revisional Court have taken note of the said fact into consideration. Though there is a discrepancy in respect of delivery of possession is concerned,

but the complainant claims that the possession was handed over at the time of agreement and though the said contention is against the contents of the sale agreement and the same is a disputed fact to be considered during the course of trial. The statement made by one B. S. Harish is very clear with regard to that persons came near the property and claimed the said property and caused the threat and allegation against petitioner No.2 is that he accompanied along with petitioner No.1 and caused the threat. When such accusation is made, whether they have caused the threat or not, once again, it is a matter of trial. Hence, I do not find any error on the part of the Trial Court and also the Revisional Court in rejecting the application filed for discharge. At the time of consideration of the discharge application, the Trial Court cannot conduct a mini trial even in respect of the dispute in respect of the delivery of possession is concerned and only have to look into the prima facie material that when the agreement of sale dated 20.01.2014 was in existence, the sale deed came into existence on 09.04.2014 i.e., within a span of 3 months of the sale agreement that too during the subsistence of the said agreement. Hence, I do not

find any grounds to entertain the petition under Section 482 of CrPC.

12. The counsel for the petitioners also brought to notice of this Court the order passed in W.P.No.40198/2014 connected with W.P.No.3853/2024. w.P.No.40198/2014 is filed by K. S. Ganapathy and also M. M. Bharathi who are the purchasers and W.P.No.3853/2024 is filed by the agreement holder. This Court also considered the material available on record while answering point Nos.1 and 2 and comes to the conclusion that it is only an agreement holder and no rights have been created in favour of Orchid Investments, the auction having been conducted and culminated and when the relief is sought that auction which has been carried out is proper and correct and the auction purchaser would have all right, title and interest in the said properties. When the issue was decided in the writ petitions and also court cannot decide the issue of factual aspects in a writ petition when the specific accusation is made that there was an agreement of sale and also the role of petitioner No.1 who had acted upon as a consenting witness in the earlier agreement and obtained the sale deed in his favour

within a span of 3 months of the said agreement. When such allegations are made, the very ingredients of offence under Section 420 of IPC also to be looked into in a trial that whether there was an intention to cheat the complainant at the inception. The order passed by this Court in the writ petitions will not come to the aid of the petitioners to quash the proceedings when petitioner No.2 went along with petitioner No.1 in a car and caused the threat. Whether he had caused the threat or not is also a matter of trial and the submission of the counsel that there is no material against petitioner No.2 cannot be accepted as the complainant witness speak about his presence and threat.

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

ORDER

The petition is dismissed.

Sd/-
(H.P.SANDESH)
JUDGE

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