HC-KAR

NC: 2026:KHC:61430
CRL.P No. 2698 of 2025

CNR: KAHC010128132025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO. 2698 OF 2025 (482(Cr.PC) / 528(BNSS)-)

BETWEEN:

SRI.SHANKAR N
S/O. NAGARAJAH J.S,
AGED ABOUT 50 YEARS,
R/AT NO.39, SF-205,
ABHIVRUDDI ENCLAVE,
GOPALAKRISHNA LAYOUT,
SUBRAMANYAPURA, BENGALURU - 560070.

...PETITIONER

(BY SRI. YATHISHA K J.,ADVOCATE)

AND:

1. STATE OF KARNATAKA
   BY BANASHANKARI POLICE STATION,
   REPRESENTED BY THE
   STATE PUBLIC PROSECUTOR,
   HIGH COURT OF KARNATAKA,
   BENGALURU 560001.

2. SRI. DARSHAN VENKATESH
   S/O VENKATESH
   AGED ABOUT 27 YEARS
   RESIDING AT NO.15,
   NEW NO.09, 11TH CROSS,
   CHIKKALASANDRA MAIN ROAD
   PADHMANABHA NAGAR,
   BENGALURU-560070

...RESPONDENTS

(BY SMT. RASHMI PATEL., HCGP FOR R1;

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

SRI. KIRAN B.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 AGAINST ACCUSED NO.2 THE PETITIONER HEREIN, IN SPL.C.NO.1034/2022 ARISING OUT OF CRIME NO.26/2022 OF BANASHANKARI POLICE STATION, FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 120(B), 406, 409, 420 R/W 34 OF IPC AND UNDER SECTION 9 OF THE KARNATAKA PROTECTION OF INTEREST OF DEPOSITORS IN FINANCIAL ESTABLISHMENT ACT, 2004, AND U/S 21 OF THE BANNING OF UNREGULATED DEPOSIT SCHEMES ACT, 2019, ON THE FILE OF THE PRL.CITY CIVIL AND SESSIONS JUDGE, (CCH-01) AT BENGALURU 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:

i) Quash the entire proceedings against accused no.2 the petitioner herein, in Spl.C.No.1034/2022 arising out of Crime No.26/2022 of Banashankari Police Station, for the offences punishable under sections 120(B), 406, 409, 420 r/w 34 of IPC and under section 9 of the Karnataka Protection Of Interest Of Depositors In Financial Establishment Act, 2004, and u/s 21 of the Banning Of Unregulated Deposit Schemes Act, 2019, on the file of the Prl.City Civil and Sessions Judge, (CCH-01) at Bengaluru.

ii) Pass such other order and orders as this Honble Court may deem fit to grant in the facts and circumstances of the case to meet then ends of justice.

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

2. Respondent No.2 lodged a complaint on 08.02.2022, pursuant to which Crime No.26/2022 came to be registered by Banashankari Police Station for the offences punishable under Sections 120-B, 406, 409, 420 read with Section 34 of the Indian Penal Code, Section 9 of the Karnataka Protection of Interest of Depositors in Financial Establishments Act, 2004 (hereinafter referred to as the '**KPIDE Act'**), and Section 21 of the Banning of Unregulated Deposit Schemes Act, 2019 (hereinafter referred to as the '**BUDS Act'**).

3. Investigation having been conducted, a charge sheet came to be filed on 30.04.2022 for the aforesaid offences. It is challenging the said proceedings, insofar as he is concerned, that the petitioner is before this Court.

4. The submission of learned counsel for the petitioner is that accused Nos.1 and 3 alone were running the establishment, namely, Panchamukhi Chits Private Limited. The petitioner, who is arrayed as accused No.2, is only the brother of accused No.1 and had nothing to do with the affairs of the said establishment.

5. Learned counsel submits that the allegations made in the complaint and the statements recorded during investigation are substantially a repetition of the allegation that the petitioner was involved in the business. It is contended that such statements cannot be

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

relied upon in the absence of any documentary material demonstrating that the petitioner derived a benefit from the transactions. According to learned counsel, no material establishes any nexus between the petitioner and the alleged collection of deposits or the alleged financial fraud.

6. In support of the said contention, learned counsel places reliance upon the decision of a Co-ordinate Bench of this Court in **Sri Vipul Prakash Patil v. State of Karnataka and Others,** Criminal Petition No.104152/2022, decided on 30.05.2023, more particularly paragraphs 16 to 22 thereof, which read as follows:

"16. The documents that are produced by Sri.Harshawardhan M Patil would no doubt make out a case that the money is received by Pankaj Namadev Patil and Santosh Gangaram Ghodake. The defacto complainant is unable to place any documentary proof whatsoever at least at this stage in order to establish the nexus between the alleged fraud and the present petitioner.

17. It is the argument of Sri.Harshawardhan M Patil that it is for the investigating agency to investigate the matter thoroughly and file appropriate report. Such an argument on behalf of the defacto complainant is farfetched in the considered opinion of this Court.

18. In order to proceed against a person with criminal action, the complainant or the prosecuting agency must make out a prima facie material whereby some nexus could be established to the alleged crime with a person. If such material is not available, very registration of the case against such persons would definitely amount to abuse of process of law affecting right of a citizen enshrined in Article 21 of the Constitution of India. No person shall be allowed to undergo ordeal of a

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

criminal investigation unless there is some material which would connect the said person with the alleged crime.

19. In the case on hand, since only name of the present petitioner is taken in the complaint without there being any documentary proof to remotely establish the nexus to the alleged fraud and the present petitioner, this Court is of the considered opinion that continuation of investigation as against the present petitioner in Crime No.242/2022 would necessarily result in abuse of process of law.

20. Therefore, a case is made out by the petitioner to exercise powers vested in this Court under Section 482 of Cr.P.C. in seeking quashing of very registration of the case as against the petitioner.

21. At this stage, Sri.Harshawardhan M Patil, submits that when investigation is proceeded against other two persons and Pinomic Ventures LLP if the investigation agency were to find any material whereby the present petitioner is also involved in the alleged fraud, the investigating officer may be reserved with liberty of arraigning him as an additional accused. The said submission appears to be fair.

22. Sri.Pramod Kathavi, learned Senior counsel fairly submits that even if this Court does not reserve such liberty, the investigating officer having regard to the powers vested in him under the Code of Criminal Procedure can always arraign an additional accused if there is sufficient material to proceed against him and file appropriate report as contemplated under Section 173 of Cr.P.C. Nevertheless, he has no objection if any such material is unearthed by the investigating agency to arraign the present petitioner as an additional accused."

7. Relying upon **Vipul Prakash Patil**, learned counsel submits that unless there is material establishing a nexus between the petitioner and the alleged crime, the proceedings cannot be continued against him. It is contended that continuation of the proceedings, in the

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

absence of such material, would violate the petitioner's right under Article 21 of the Constitution of India. On this basis, learned counsel seeks quashing of the proceedings insofar as the petitioner is concerned.

8. Per contra, Sri Kiran B.S., learned counsel appearing for respondent No.2, submits that although the complaint in the present case was lodged by respondent No.2, several other depositors have also lodged complaints against the establishment. The allegations have been investigated and the charge sheet runs into nearly 2,000 pages, containing statements of approximately 170 witnesses.

9. Learned counsel submits that the witnesses have consistently stated that the petitioner was involved in the business along with accused No.1 and that the petitioner personally collected money from several depositors on behalf of Panchamukhi Chits. It is contended that the statements are not confined to a general allegation of association with accused No.1, but specifically attribute the collection of deposits to the petitioner.

10. Learned counsel further submits that the depositors were induced to invest their money on the promise that interest would be paid at the rate of 24% per annum. Initially, payments were made, but subsequently the payments stopped and the deposited amounts were not returned. It is submitted that nearly Rs.500 crore is

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

alleged to have been collected by the establishment from unsuspecting investors, who have been deprived of their savings.

11. It is further submitted that the petitioner is a director of Panchamukhi Apparels Private Limited, which is stated to be a group company. The seal of Panchamukhi Apparels was found in the premises of Panchamukhi Chits, indicating that the businesses of the two establishments were being conducted from the same premises. Learned counsel submits that accused No.1 and the petitioner, who are brothers, were handling the respective businesses and that the material collected during investigation establishes the petitioner's involvement in the collection of deposits.

12. On these grounds, learned counsel submits that there is sufficient material to continue the prosecution and that this Court ought not to interfere with the proceedings by conducting a mini-trial in exercise of its jurisdiction under Section 482 of the Code of Criminal Procedure.

13. Learned High Court Government Pleader adopts the submissions made on behalf of respondent No.2 and submits that the investigation has been completed and the petitioner has been arrayed as accused No.2 on the basis of the material collected during investigation. It is

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

therefore submitted that the petition is liable to be dismissed.

14. Heard Sri Yathisha K.T., learned counsel for the petitioner, Smt. Rashmi Patel, learned High Court Government Pleader for respondent No.1, and Sri Kiran B.S., learned counsel for respondent No.2. Perused the papers.

15. The complaint lodged by respondent No.2 on 08.02.2022 alleges that Panchamukhi Chits and persons associated with the establishment represented to prospective depositors that amounts invested with the establishment would earn interest at the rate of 24% per annum. Acting upon such representations, respondent No.2 is stated to have deposited money with the establishment from time to time. Although payments were initially made, the establishment subsequently stopped making payments and failed to return the deposited amount.

16. The complaint specifically refers to Ananthram, Varun Raj and Shankar, the brother of Ananthram, as persons who collected money from respondent No.2. The petitioner herein is Shankar.

17. During investigation, statements of approximately 170 persons were recorded. The submission on behalf of respondent No.2 is that several of these witnesses have specifically stated that Ananthram and his brother

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

Shankar, the petitioner herein, collected money from them on behalf of Panchamukhi Chits. It is further submitted that the amount collected by the establishment from depositors is alleged to be in the vicinity of Rs.500 crore.

18. The charge sheet contains nearly 2,000 pages. The material relied upon by the prosecution is therefore not confined to the complaint of respondent No.2 or to the mere naming of the petitioner. The prosecution relies upon statements of several depositors who are stated to have personally dealt with the petitioner and entrusted money to him.

19. The petitioner contends that he was concerned only with Panchamukhi Apparels Private Limited and that Panchamukhi Chits was being managed by accused No.1 and his wife Sandhya. The petitioner further contends that he had no role in the collection of deposits and that there is no documentary material showing that he received any benefit from the transactions.

20. The prosecution, however, relies upon the statements of depositors who have specifically attributed the collection of money to the petitioner. It is also pointed out that the petitioner was a director of Panchamukhi Apparels Private Limited and that the seal of the said company was found in the premises of Panchamukhi Chits. These

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

circumstances, when considered along with the statements of the depositors, require examination in their entirety.

21. The petitioner's relationship with accused No.1, by itself, cannot establish his guilt. Similarly, his directorship in another company or the presence of that company's seal in the premises of Panchamukhi Chits, taken in isolation, would not be sufficient to attribute criminal liability. However, the prosecution relies upon specific statements concerning the petitioner's own conduct, namely, that he personally collected deposits from members of the public on behalf of Panchamukhi Chits. It is this alleged participation, and not merely his relationship or association, which assumes significance.

22. The principal question that arises for consideration is whether the material collected during investigation discloses a prima facie nexus between the petitioner and the alleged offences, or whether the petitioner has been implicated merely on account of his relationship with accused No.1.

23. The seriousness of the allegations or the scale of the alleged financial loss cannot substitute for the ingredients of the offences. Equally, where the material collected during investigation specifically attributes acts to an accused, the proceedings cannot be quashed merely

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

because the accused disputes those allegations or because the prosecution has not produced documentary proof of personal financial gain.

24. Section 406 of the IPC prescribes punishment for criminal breach of trust. Section 405, which defines criminal breach of trust, requires:

24.1. entrustment of property or dominion over property to the accused;

24.2. dishonest misappropriation or conversion of such property to his own use; or dishonest use or disposal of the property in violation of a direction of law or a legal contract governing the discharge of the trust; or wilfully suffering another person to so deal with the property; and

24.3. the requisite dishonest intention accompanying such conduct.

25. The expression 'entrustment' is not to be understood in an unduly narrow or technical manner. It is necessary that the property, or dominion over it, is placed in the hands of the accused for a particular purpose or in a relationship which obliges him to deal with it in a manner consistent with the confidence reposed in him. The ownership or beneficial interest in the property must, in

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

the circumstances contemplated by the section, remain with a person other than the accused.

26. In the present case, the prosecution does not rest its allegation merely on the fact that deposits were made with a company and that the company subsequently failed to repay them. The specific allegation is that the petitioner himself collected money from several depositors on behalf of Panchamukhi Chits. The statements of the depositors are stated to identify the petitioner as the person who received the money, including amounts collected in cash.

27. If the depositors handed over the money directly to the petitioner in his capacity as the person entrusted with collecting and accounting for the deposits, the petitioner would have had dominion over the money for the purpose for which it was received. The allegation thus concerns not merely a debt owed by the company but the petitioner's direct receipt and handling of money belonging to the depositors.

28. The subsequent failure to return deposits, by itself, would not automatically constitute criminal breach of trust. There must also be material from which dishonest misappropriation, conversion, use or disposal, or wilful permitting of another to so deal with the entrusted property, can prima facie be inferred. In the present

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

case, the prosecution relies upon the repeated collection of deposits by the petitioner, the alleged operation of the establishment as a common business, the substantial sums collected from numerous depositors, the initial payment of returns and the subsequent failure to account for or return the deposits. These circumstances, taken together, are relied upon to indicate that the money was not merely received in an isolated transaction followed by an ordinary repayment default, but was collected and dealt with as part of the alleged fraudulent operation.

29. The circumstances in which the petitioner received the cash deposits, the manner in which he accounted for or transferred the amounts, the manner in which the establishment dealt with the collections and whether the petitioner dishonestly used, disposed of or permitted others to deal with the funds contrary to the purpose for which they were received are matters to be examined on the evidence. The statements attributing direct collection to the petitioner provide a prima facie foundation for that inquiry. It would be inappropriate to quash the entire proceedings without considering the specific role attributed to him.

30. Section 409 of the IPC is an aggravated form of criminal breach of trust. In addition to the ingredients of Section 405, the prosecution must establish that the accused was entrusted with the property, or had dominion over it, in

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

one of the capacities specifically enumerated in Section 409, namely, as a public servant or in the course of business as a banker, merchant, factor, broker, attorney or agent.

31. In the present case, the prosecution's case is that the petitioner was not merely a person acquainted with the affairs of Panchamukhi Chits. He is alleged to have acted as a collecting agent of the establishment and to have personally received deposits from several members of the public. The expression 'agent' in Section 409 is significant. Where a person, in the course of business, receives money on behalf of an establishment and is entrusted with the responsibility of collecting and accounting for the same, his actual role and the nature of the dominion exercised over the funds become relevant to the application of the provision.

32. The prosecution relies upon statements of several depositors who are stated to have personally handed over money to the petitioner. If those statements are accepted at their face value, they provide material to examine whether the petitioner was acting as an agent in the collection of deposits and whether the money received by him was thereafter dealt with dishonestly. The prosecution is not relying solely upon his designation as a director of another company or his relationship with

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

accused No.1. It relies upon his alleged conduct as a person who collected deposits from the public.

33. Whether the petitioner was acting as an agent in the manner contemplated by Section 409, whether the money was entrusted to him in that capacity and whether he committed a criminal breach of trust in respect of the same are matters which require consideration on the evidence. At this stage, the specific statements attributing the collection of money to him cannot be brushed aside.

34. It is necessary, however, to keep in view the distinction between criminal breach of trust and cheating. In **Delhi Race Club (1940) Limited and Others v. State of Uttar Pradesh and Another**, 2024 INSC 626, reported in (2024) 10 SCC 690, the Hon'ble Supreme Court reiterated that criminal breach of trust requires lawful entrustment followed by dishonest misappropriation or conversion, whereas cheating requires dishonest inducement at the inception which causes the person deceived to deliver property or do or omit an act. The two offences rest on distinct and, in their essential factual foundation, mutually exclusive concepts. They cannot be mechanically invoked together in respect of the very same transaction without identifying the distinct factual basis for each.

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

35. The prosecution in the present case concerns a number of depositors and multiple collections over a period of time. The allegation of cheating relates to the representations made to induce depositors to part with their money. The allegation of criminal breach of trust, insofar as it is invoked, must rest upon a distinct factual basis showing that money was lawfully entrusted to the petitioner in his capacity as a collecting agent and that he thereafter dishonestly misappropriated, converted, used or disposed of it, or wilfully permitted another to do so in violation of the obligation attached to that entrustment.

36. The Court does not proceed on the assumption that the same act of inducing and obtaining a deposit by deception can simultaneously be treated as lawful entrustment for the purpose of Section 406 or Section 409. The prosecution must establish the factual basis for the respective offences, whether by reference to distinct transactions, distinct stages of dealing with the funds, or alternative legal characterisations permitted by law. The precise applicability of Sections 406 and 409 is therefore to be determined on the evidence and in the light of the distinction stated above. This, however, does not warrant quashing the entire proceedings, particularly when the material discloses specific allegations of personal collection and handling of deposits by the petitioner.

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

37. Section 420 of the IPC deals with cheating and dishonestly inducing delivery of property. The essential ingredients are:

37.1. deception of a person by a false or misleading representation, or by an act or omission;

37.2. fraudulent or dishonest inducement of that person by such deception;

37.3. delivery of property, or consent to the retention of property, as a consequence of such inducement; and

37.4. dishonest intention on the part of the accused at the time of making the inducement.

38. The existence of dishonest intention at the inception of the transaction is of particular importance. A mere subsequent failure to fulfil a promise or repay money would not, by itself, constitute cheating.

39. In the present case, the prosecution alleges that Panchamukhi Chits and the persons operating the establishment represented to depositors that they would receive interest at the rate of 24% per annum on the amounts invested. The depositors are stated to have acted upon those representations and parted with their money. The statements of several witnesses are stated to

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

attribute to the petitioner the direct collection of those amounts.

40. The representation concerning the return payable to depositors, if made without a genuine and viable basis for fulfilling the promised returns, would constitute a material representation capable of inducing members of the public to deposit their money. The allegation that payments were initially made but subsequently discontinued, and that the establishment failed to return the deposits, is relevant to the question whether the representations were made with dishonest intention at the inception.

41. The subsequent default cannot, by itself, establish the requisite intention at the inception. However, the subsequent conduct may be considered along with the manner in which the scheme was promoted, the returns promised, the scale of the collections, the persons involved in soliciting and receiving deposits and the financial capacity of the establishment to honour its commitments. In a case involving numerous depositors and a common arrangement, the repeated nature of the transactions and the manner in which money was collected are relevant circumstances for assessing the initial intention.

42. The prosecution case is not that the petitioner merely guaranteed repayment of a private loan and thereafter

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

failed to honour that assurance. It is that he participated in the collection of money from several members of the public as part of a common deposit-taking business, on the basis of a promise of substantial returns, and that the collected amounts were not returned. The statements identifying the petitioner as a person who collected the money provide a prima facie connection between him and the inducement which resulted in delivery of property.

43. Whether the petitioner personally made the representation, knowingly conveyed a representation made by the other accused, or participated in the operation of the scheme with knowledge of its dishonest character are matters to be assessed on the evidence. The absence of documentary proof of personal enrichment does not, by itself, negate the allegation of participation in the deception and inducement.

44. The rate of interest of 24% per annum, viewed in isolation, may not conclusively establish that the promise was fraudulent. However, the prosecution relies upon the rate of return in the context of the entire arrangement, the number of persons who invested, the substantial amount allegedly collected, the initial payments made to depositors and the subsequent widespread default. The question whether the scheme was commercially viable and whether the persons conducting it knew that the promised returns and repayment commitments could not

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

be honoured is a matter to be examined on the financial records and other evidence.

45. The Court is not required, at this stage, to determine the ultimate financial viability of the scheme or the exact use to which every rupee collected was put. It is sufficient to notice that the prosecution relies upon a course of conduct extending beyond an isolated failure to repay, and that the petitioner is specifically alleged to have participated in the collection of deposits from numerous persons. The ingredients of deception, inducement, delivery of property and the requisite dishonest intention are, on the prosecution version, prima facie disclosed.

46. Section 120-B of the IPC prescribes punishment for criminal conspiracy. The definition of criminal conspiracy under Section 120-A requires an agreement between two or more persons to do or cause to be done an illegal act, or an act which is not illegal by illegal means. Where the agreement is to commit an offence, the agreement itself constitutes the conspiracy. The agreement may be inferred from the conduct and surrounding circumstances, since direct evidence of a meeting of minds may not ordinarily be available.

47. In the present case, the prosecution alleges that the petitioner, accused No.1 and other persons were involved in the operation of Panchamukhi Chits and the collection

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

of deposits from members of the public. The material relied upon includes statements of depositors who allegedly identify the petitioner and accused No.1 as persons who collected money from them. The prosecution also relies upon the association between the business establishments operating under the Panchamukhi name and the fact that the seal of Panchamukhi Apparels was found in the premises of Panchamukhi Chits.

48. The mere fact that the petitioner and accused No.1 are brothers would not establish a criminal conspiracy. Nor would the mere existence of associated companies or common premises be sufficient, by itself, to infer an agreement to commit an offence. However, the prosecution relies upon the specific acts allegedly performed by the petitioner in the collection of deposits, together with the alleged concerted operation of the establishment and the representations made to the depositors.

49. If several persons knowingly participate in soliciting deposits on the same terms, collecting money from the public and operating the establishment in furtherance of a common fraudulent arrangement, their conduct may furnish circumstantial material from which an agreement to commit the alleged offences can be inferred. Whether the petitioner shared the requisite knowledge and intention and whether the circumstances establish an

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

agreement to commit an illegal act are matters for trial. At this stage, the allegation is not based merely on relationship or association; it is supported by specific statements attributing active participation to the petitioner.

50. Section 34 of the IPC embodies the principle of joint liability where a criminal act is done by several persons in furtherance of the common intention of all. It is not a separate substantive offence. Its application requires participation in the criminal act and the existence of a common intention shared by the persons concerned.

51. The prosecution alleges that the petitioner and the other accused participated in the operation of the deposit-taking establishment and in collecting money from members of the public on the promise of substantial returns. The statements of several depositors are stated to attribute the actual collection of money to the petitioner. The alleged participation of the petitioner in the collection of deposits, considered with the role attributed to the other accused in the conduct of the establishment, provides material to examine whether the acts were performed in furtherance of a common intention.

52. It is not necessary that every accused should have performed an identical act or personally received every

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

deposit. What is necessary is participation in furtherance of the common intention. The question whether such common intention existed and whether the petitioner consciously participated in the alleged course of conduct is a matter for trial. However, the petitioner's alleged direct role in collecting deposits from several persons provides a prima facie basis for invoking Section 34, read with the substantive offences, subject to proof of the requisite common intention.

53. Section 9 of the KPIDE Act deals with fraudulent default by a financial establishment. The provision applies where a financial establishment fraudulently defaults in repayment of a deposit on maturity, along with the promised interest, bonus, profit or other benefit, or fraudulently fails to render the service assured against the deposit. The provision also makes liable every person, including a promoter, director, partner, manager or any other person or employee responsible for the management or conduct of the business or affairs of the financial establishment.

54. The expression ‘deposit’ under the KPIDE Act is broad. It includes receipt of money by a financial establishment with an obligation to return it after a specified period or otherwise, either in cash or in kind, with or without any benefit in the form of interest, bonus, profit or otherwise. A ‘financial establishment’ includes any person or group

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

of individuals accepting deposits under a scheme, arrangement or in any other manner, subject to the exclusions contained in the statute.

55. The prosecution alleges that Panchamukhi Chits accepted money from members of the public on the promise that the deposits would be returned with interest at the rate of 24% per annum. The deposits were initially serviced by making payments, but thereafter the establishment allegedly stopped making payments and failed to return the deposited amounts. On the allegations made, the amounts received were not ordinary payments for goods or services but money accepted with a promise of repayment and a promised financial return.

56. The name of the establishment, namely, Panchamukhi Chits Private Limited, does not by itself establish that the transactions were genuine subscriptions to a chit scheme falling within the statutory exclusion. The nature of the actual arrangement must be examined. Where the money is received as a deposit repayable with a promised return, the transaction would fall within the statutory definition of deposit unless it is shown to fall within one of the specified exclusions.

57. The prosecution's allegation that the establishment collected deposits from a large number of persons and thereafter defaulted in repayment is therefore capable of

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

attracting Section 9, subject to the proof of the statutory requirements.

58. The fraudulent nature of the default also requires consideration. Section 9 does not make every inability to repay a deposit a criminal offence. The default must be fraudulent. The statutory explanation, however, identifies circumstances in which a default is deemed fraudulent, including a default made with an intention to cause wrongful gain to one person or wrongful loss to another, inability arising from impracticable or commercially unviable promises made while accepting deposits, or deployment of money or assets acquired from deposits in a manner involving inherent risk in recovering the same when required.

59. In the present case, the prosecution relies upon the promise of 24% interest, the alleged collection of a very large aggregate amount from members of the public, the initial payments and the subsequent cessation of payments and failure to return the deposits. These circumstances, when considered together, provide a basis to examine whether the promises made at the time of accepting deposits were commercially viable and whether the default was fraudulent within the meaning of Section 9.

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

60. The rate of interest, by itself, would not be conclusive. Nor would the mere fact of non-payment automatically establish fraudulent default. However, the repeated collection of deposits from numerous members of the public on the same terms, followed by widespread default, is a relevant circumstance which cannot be disregarded at the threshold.

61. The individual liability of the petitioner under Section 9 also requires consideration. The provision does not make every person associated with a financial establishment automatically liable. The person must fall within the class specified by the statute, namely, a person responsible for the management or conduct of the business or affairs of the financial establishment.

62. In the present case, the prosecution relies upon statements of several depositors who are stated to have personally handed over money to the petitioner. Such direct participation in the collection of deposits from members of the public is relevant to determining whether the petitioner was involved in conducting the business or affairs of the establishment. The allegation is therefore not confined to his being the brother of accused No.1 or a director of another company.

63. If the petitioner repeatedly solicited and collected deposits on behalf of the establishment, his role may

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

extend beyond that of a passive employee or person having no control over its activities. Whether he was responsible for conducting the business or affairs of the financial establishment, and whether the statutory conditions for his individual liability are satisfied, are matters to be determined on the evidence. The statements relied upon by the prosecution provide a prima facie basis for proceeding against him under Section 9.

64. Section 21 of the BUDS Act prescribes punishment for contravention of Section 3 of the said Act. Section 3 prohibits unregulated deposit schemes and prohibits any deposit taker from directly or indirectly promoting, operating, issuing advertisements soliciting participation or enrolment in, or accepting deposits pursuant to an unregulated deposit scheme.

65. The Act defines a 'deposit' as money received by a deposit taker with a promise to return it after a specified period or otherwise, with or without interest or other benefit. A 'deposit taker' includes an individual, a group of individuals, a company and other specified arrangements receiving or soliciting deposits. An 'unregulated deposit scheme' is a scheme or arrangement under which deposits are accepted or solicited by a deposit taker by way of business and which is not a

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

regulated deposit scheme specified in the First Schedule to the Act.

66. Section 21 contains distinct offences relating to solicitation of deposits, acceptance of deposits and acceptance of deposits followed by fraudulent default in repayment or in rendering a specified service. The applicability of the relevant sub-section must be considered with reference to the particular conduct alleged.

67. In the present case, the prosecution alleges that Panchamukhi Chits and persons associated with it solicited and accepted deposits from members of the public by promising returns at the rate of 24% per annum. The statements of several depositors are stated to identify the petitioner as one of the persons who collected the money. If the petitioner personally solicited or accepted deposits as an individual or as part of the arrangement through which deposits were collected, his conduct is capable of attracting the prohibition contained in Section 3.

68. Further, the allegation that deposits were accepted and subsequently not repaid is relevant to Section 21(3), which requires acceptance of deposits in contravention of Section 3 followed by fraudulent default in repayment or failure to render the specified service. The explanation to

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

Section 21 recognises that where the terms of a deposit scheme are entirely impracticable or unviable, those terms are relevant facts indicating an intention to defraud.

69. The promise of 24% interest cannot, by itself, conclusively establish that the scheme was unviable or fraudulent. However, it is a circumstance to be considered with the scale of collections, the number of depositors, the manner in which deposits were solicited, the initial payments and the subsequent widespread default. The statements attributing solicitation and collection of deposits to the petitioner, read with the allegations of fraudulent default, provide a prima facie basis for examining the applicability of Section 21.

70. Where the deposit taker is a company or another entity and not an individual, Section 25 of the BUDS Act also becomes relevant. It provides for liability of persons who, at the time of commission of the offence, were in charge of and responsible to the deposit taker for the conduct of its business. It further deals with liability arising from consent, connivance or neglect of a director, manager, secretary, promoter, partner, employee or other officer.

71. In the present case, the prosecution does not merely rely upon the petitioner's alleged position in an associated company. It relies upon the statements of depositors who

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

allegedly dealt directly with him and entrusted money to him. Such conduct is relevant both to the question whether he personally participated in soliciting or receiving deposits and, where liability is sought to be attached through the company, whether he was in charge of or responsible for the conduct of its business or had participated with the requisite consent, connivance or neglect.

72. The applicability of Section 25 must be examined on the basis of the precise capacity attributed to the petitioner and the material collected in that regard. The petitioner cannot be absolved merely because the deposit-taking establishment is a company, when the prosecution specifically alleges his active participation in the collection of deposits. Equally, his liability cannot be founded merely on his relationship with the other accused or his directorship in another company.

73. The petitioner places considerable reliance upon the decision in **Sri Vipul Prakash Patil**. The said decision proceeds on the basis that the petitioner therein had merely been named in the complaint and that there was no documentary material to remotely establish a nexus between that petitioner and the alleged fraud. In that factual setting, the Co-ordinate Bench held that continuation of the proceedings would amount to an abuse of process.

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

74. The facts of the present case stand on a materially different footing. Here, the prosecution does not rely merely upon the petitioner's relationship with accused No.1 or his association with Panchamukhi Apparels. The prosecution relies upon statements of several depositors who are stated to have specifically identified the petitioner as a person who collected money from them on behalf of Panchamukhi Chits. The material is therefore stated to contain direct allegations concerning the petitioner's participation in the transactions which form the subject matter of the prosecution.

75. The requirement of a prima facie nexus between an accused and the alleged offence remains essential. However, such nexus need not invariably be established only through documentary evidence. Statements of persons who claim to have personally dealt with an accused and entrusted money to him are also material which must be considered. Whether those statements are truthful, consistent and sufficient to establish the charges is a matter for trial. This Court cannot, in exercise of its jurisdiction under Section 482 of the Code of Criminal Procedure, undertake an assessment of their credibility or evidentiary value as though conducting a trial.

76. The submission that there is no documentary evidence showing that the petitioner personally derived a financial benefit from the deposits cannot be accepted as a ground

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

to quash the proceedings. The offences alleged do not uniformly require proof that the accused personally retained or appropriated the entire amount collected. The relevant statutory requirements include entrustment and dishonest dealing, deception and inducement, agreement to commit an illegal act, participation in a criminal act in furtherance of common intention, responsibility for conducting the business of a financial establishment, or participation in solicitation or acceptance of deposits under an unregulated deposit scheme, as applicable to each provision.

77. A person who knowingly participates in the solicitation or collection of deposits cannot claim immunity merely because the money was ultimately received or retained by the establishment or another accused. Whether the petitioner acted knowingly, in what capacity he acted and whether the requisite intention or responsibility is established are matters to be determined on the evidence. The absence of proof of personal enrichment is not, by itself, decisive.

78. This Court is conscious that the mere invocation of several penal provisions does not establish that every offence is made out. Each provision has distinct statutory ingredients, and the prosecution must establish them independently. In particular, the distinction between cheating and criminal breach of trust must be maintained.

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

The Court has, therefore, considered Sections 406 and 409 with reference to the allegation of entrustment and subsequent dishonest dealing, and Section 420 with reference to the alleged deception and dishonest inducement at the inception of the transactions.

79. The present proceedings involve numerous depositors and repeated collections. The prosecution relies upon different instances of collection and handling of money by the petitioner. The precise transactions, the capacity in which he received each deposit and the subsequent manner in which the amounts were dealt with must be examined at trial. The same transaction cannot be mechanically characterised as both cheating and criminal breach of trust without satisfying the distinct requirements explained by the Hon'ble Supreme Court. This qualification, however, does not justify quashing the entire prosecution where the material discloses a prima facie basis for the offences alleged and the petitioner's active participation in the larger scheme.

Public interest and preventive role of the police

80. Before parting with the matter, this Court considers it necessary to observe that offences involving fraudulent financial establishments and unregulated deposit schemes require serious consideration and effective action in accordance with law. Such schemes often

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

operate by holding out promises of high returns, which may appear attractive to persons seeking to secure or augment their savings. Persons who are induced by such representations may part with their hard-earned money, often without appreciating the risks involved or the absence of any lawful or viable basis for the promised returns.

81. It is unfortunate that, even in the present day, members of the public continue to be defrauded by promises of returns which are unrealistic or incapable of being fulfilled. The familiar principle that there is no free lunch assumes particular significance in the context of financial investments. When an offer appears too attractive to be true, it ought to invite careful scrutiny. A promise of unusually high returns, particularly when projected as assured and without corresponding risk, should alert a prospective depositor to examine the bona fides and regulatory status of the establishment before parting with money.

82. The responsibility for preventing such frauds, however, cannot be placed solely upon the members of the public. Persons who organise, operate or knowingly assist fraudulent schemes must be dealt with in accordance with law. The law must protect innocent depositors who are induced to part with their savings through deception.

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

83. Where material discloses a prima facie connection between an accused and the alleged offence, technical objections cannot be employed to obstruct a lawful investigation or prosecution. At the same time, the seriousness of the alleged fraud cannot dispense with the requirement of establishing the statutory ingredients of each offence and the individual role of each accused. The protection of an innocent person from an unwarranted prosecution and the protection of depositors from financial fraud are not competing objectives. Both are essential components of the administration of criminal justice.

84. The role of the police in dealing with financial fraud cannot be confined to registering cases and commencing investigation after members of the public have already suffered financial loss. Preventive action and public awareness are equally important. The police, in coordination with the concerned regulatory and administrative authorities, ought to undertake sustained public awareness initiatives to caution citizens against unregulated deposit schemes, unrealistic assurances of returns and financial offers made without lawful authorisation.

85. Members of the public should be made aware of the importance of verifying the registration and regulatory status of financial establishments, understanding the

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

terms and conditions of proposed investments and exercising caution before handing over money. Such awareness may not completely eradicate financial fraud, but it can certainly reduce the number of persons who fall victim to such schemes. The police must, therefore, adopt a proactive approach by disseminating information and issuing appropriate cautions, rather than remaining reactive until substantial financial loss has occurred.

86. In the present case, the prosecution alleges that a large number of depositors were induced to invest their money on the promise of substantial returns and that the establishment subsequently failed to repay the deposits. The amount allegedly collected is stated to be approximately Rs.500 crore. The prosecution further relies upon statements of approximately 170 witnesses, several of whom are stated to have specifically attributed the collection of money to the petitioner.

87. The magnitude of the alleged fraud and the number of persons stated to have been affected underscore the importance of examining the material collected during investigation. However, the decision in the present petition does not rest merely on the amount allegedly involved or the number of complaints. It rests on the specific material relied upon by the prosecution to establish a prima facie nexus between the petitioner and

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

the collection of deposits. The truthfulness and evidentiary value of that material are matters for trial.

88. The right of an individual to be protected against unwarranted criminal prosecution is undoubtedly an important constitutional safeguard. Equally, the right of persons who have allegedly been defrauded to have their complaints investigated and prosecuted in accordance with law cannot be rendered illusory. The jurisdiction under Section 482 of the Code of Criminal Procedure is intended to prevent abuse of the process of Court and to secure the ends of justice. It is not intended to enable the Court to assess the credibility of witnesses, weigh competing explanations or conduct a mini-trial when the material collected discloses a prima facie connection between the accused and the alleged offences.

89. In the facts of the present case, the allegations against the petitioner are not confined to his relationship with accused No.1 or his directorship in Panchamukhi Apparels Private Limited. The prosecution relies upon statements of several depositors who are stated to have personally entrusted money to the petitioner on behalf of Panchamukhi Chits. These statements, read with the other material collected during investigation, disclose a prima facie nexus requiring the petitioner to face the proceedings.

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

90. The petitioner is at liberty to challenge the veracity of the statements, the nature of his alleged involvement, the precise capacity in which he received the deposits and the applicability of the individual statutory provisions before the competent Court in accordance with law. The Special Court shall, while considering the charges and the evidence, ensure that the ingredients of each offence are independently established and that the distinction between cheating and criminal breach of trust is maintained.

91. For the foregoing reasons, this Court is of the considered opinion that the petitioner has not made out a case for quashing the proceedings in exercise of the jurisdiction under Section 482 of the Code of Criminal Procedure. The petition is accordingly liable to be dismissed. This court passes the following:

ORDER

i) The criminal petition is **dismissed**.

ii) The proceedings in Spl.C.No.1034/2022 arising out of Crime No.26/2022 of Banashankari Police Station shall continue in accordance with law.

iii) The Special Court shall independently examine the ingredients of each offence alleged, the individual role attributed to the petitioner and the evidence brought on record.

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

iv) While considering the offences punishable under Sections 406 and 409 on the one hand and Section 420 of the IPC on the other, the Special Court shall bear in mind the distinction between criminal breach of trust and cheating explained by the Hon'ble Supreme Court in **Delhi Race Club (1940) Limited and Others v. State of Uttar Pradesh and Another**, 2024 INSC 626, and shall not mechanically treat the same factual transaction as simultaneously constituting both offences.

v) It is made clear that the observations made in this order are confined to the consideration of the petition under Section 482 of the Code of Criminal Procedure and shall not influence the Special Court while considering the matter on its merits.

Digitally Signed By:
SURAJ GOVINDA RAJ
12/11/2026, 14:27, Bengaluru
Verified

(SURAJ GOVINDARAJ)
JUDGE

KTY
List No.: 1 Sl No.: 26