HC-KAR
CNR: KAHC010138202020

NC: 2026:KHC:62915
CRL.P No. 6341 of 2020
C/W CRL.P No. 6342 of 2020
CRL.P No. 6419 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF NOVEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO.6341 OF 2020
C/W
CRIMINAL PETITION NO.6342 OF 2020
CRIMINAL PETITION NO.6419 OF 2020

IN CRL.P NO.6341/2020:

BETWEEN:

1. SRI. KIRTI KANTILAL MEHTA
S/O KANTILAL MEHTA
AGED ABOUT 66 YEARS

2. SRI. PRATIK K. MEHTA
S/O KIRTI KANTILAL MEHTA
AGED ABOUT 37 YEARS

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

3. SRI. VINAY K. MEHTA
S/O KIRTI KANTILAL MEHTA
AGED ABOUT 32 YEARS

NO.36, UNISHIRE HOUSING LLP
RAILWAY PARALLEL ROAD
KUMARA PARK WEST
BENGALURU-560020

PRESENTLY AT NO.42, 2ND FLOOR
CASTLE STREET, ASHOK NAGAR
BENGALURU-560025.

...PETITIONERS

(BY SRI. G.S. VENKAT SUBBARAO, ADVOCATE)

AND:

1. STATE BY SHESHADRIPURAM POLICE
SHESHADRIPURAM, BENGALURU
REP. BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU-560001.

2. MR. MOHAMAD MEERAM SAHEB
S/O LATE UMMER SHAHEB @
ABDUL KHADER SAHEB
AGED ABOUT 72 YEARS
NO.854, M.M. HOUSE
5TH CROSS, 1ST STAGE
INDIRANAGAR,
BENGALURU-560038
REP. BY HIS GENERAL POWER
OF ATTORNEY HOLDER
MR. KAZI MOHAMMED SHAHID
AGED ABOUT 42 YEARS

…RESPONDENTS

(BY SRI. SUHAS GOWDA M., HCGP FOR R1;
R2 - SERVED)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.PC BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONBLE COURT MAY BE PLEASED TO QUASH THE COMPLAINT/FIR AND ALSO THE CHARGE SHEET FILED IN C.C.NO.10121/2019 FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 120B, 420 R/W SECTION 34 OF IPC BEFORE THE 56TH ADDITIONAL CHIEF METROPOLITAN MAGISTRATE AT BENGALURU (RE DESIGNATED AS 32ND ACMM) VIDE ANNEXURES-A, B AND C RESPECTIVELY.

IN CRL.P NO.6342/2020:

BETWEEN:

1. SRI. KIRTI KANTILAL MEHTA
   S/O KANTILAL MEHTA
   AGED ABOUT 66 YEARS

2. SRI. PRATIK K. MEHTA
   S/O KIRTI KANTILAL MEHTA
   AGED ABOUT 37 YEARS

3. SRI. VINAY K. MEHTA
   S/O KIRTI KANTILAL MEHTA
   AGED ABOUT 32 YEARS

   NO.36, UNISHIRE SQUARE
   RAILWAY PARALLEL ROAD
   KUMARA PARK WEST
   BENGALURU-560020.

   PRESENTLY AT NO.42, 2ND FLOOR
   CASTLE STREET, ASHOK NAGAR
   BENGALURU-560025.

...PETITIONERS

(BY SRI. G.S. VENKAT SUBBARAO, ADVOCATE)

AND:

1. STATE BY SHESHADRIPURAM POLICE
   SHESHADRIPURAM, BENGALURU
   REP. BY STATE PUBLIC PROSECUTOR
   HIGH COURT OF KARNATAKA
   BENGALURU-560001.

2. MRS. AMEL MAHMOOD
   D/O HIDAYATHULLA ABBAS
   AGED ABOUT 37 YEARS
   PRESTIGE FOUR SEASONDS
   NO.201, 2ND FLOOR, BRUNTON ROAD
   BENGALURU-560001.

REP. BY HER GENERAL POWER
OF ATTORNEY HOLDER
SRI. KRISHNAMURTHY
AGED ABOUT 54 YEARS
NO.88, DODDABOMMASANDRA
VIDYARANAPURA POST
BENGALURU-560097.

...RESPONDENTS

(BY SRI. SUHAS GOWDA M., HCGP FOR R1;
R2 - SERVED)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.PC PRAYING TO QUASH THE COMPLAINT/FIR IN CR.NO.97/2018 FILED IN C.C.NO.10124/2019 FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 120B, 420 R/W SECTION 34 OF IPC BEFORE THE 56TH ADDITIONAL CHIEF METROPOLITAN MAGISTRATE AT BENGALURU VIDE ANNEXURES - A AND B RESPECTIVELY.

IN CRL.P NO.6419/2020:

BETWEEN:

1. SRI. KIRTI KANTILAL MEHTA
   S/O KANTILAL MEHTA
   AGED ABOUT 66 YEARS

2. SRI. PRATIK K. MEHTA
   S/O KIRTI KANTILAL MEHTA
   AGED ABOUT 37 YEARS

3. SRI. VINAY K. MEHTA
   S/O KIRTI KANTILAL MEHTA
   AGED ABOUT 32 YEARS

   NO.36, UNISHIRE SQUARE
   RAILWAY PARALLEL ROAD
   KUMARA PARK WEST
   BENGALURU-560020

PRESENTLY AT NO.42, 2ND FLOOR
CASTLE STREET, ASHOK NAGAR
BENGALURU-560025.

...PETITIONERS

(BY SRI. G.S. VENKAT SUBBARAO, ADVOCATE)

AND:

1. STATE BY SHESHADRIPURAM POLICE
SHESHADRIPURAM, BENGALURU
REP. BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU-560001.

2. MR. AYAZ ABDULLA
S/O LATE HAJI ABDULLA SAIT
AGED ABOUT 63 YEARS
NO.58, BOWRING HOSPITAL ROAD
SHIVAJINAGAR, BENGALURU-560001.

...RESPONDENTS

(BY SRI. SUHAS GOWDA M., HCGP FOR R1;
SMT. BHARATI PATIL, ADVOCATE FOR R2 – [ABSENT])

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE COMPLAINT/FIR AND ALSO THE CHARGE SHEET FILED IN C.C.NO.10128/2019 FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 120-B, 420 R/W SECTION 34 OF IPC BEFORE THE XXXII ADDITIONAL CHIEF METROPOLITAN MAGISTRATE BENGALURU VIDE ANNEXURES-A, B AND C RESPECTIVELY.

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

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

ORAL ORDER

The Crl.P.No.6341/2020 is filed praying this Court to quash the complaint, FIR and also the charge sheet filed in C.C.No.10121/2019 for the offences punishable under Sections 120B, 420 read with Section 34 of IPC vide Annexure-A to C.

2. The Crl.P.No.6342/2020 is filed praying this Court to quash the complaint and FIR in Cr.No.97/2018 filed in C.C.No.10124/2019 offences punishable under Sections 120B, 420 read with Section 34 of IPC vide Annexure-A and B.

3. The Crl.P.No.6419/2020 is filed praying this Court to quash the complaint, FIR and also the charge sheet filed in C.C.No.10128/2019 for the offences punishable under Sections 120B, 420 read with Section 34 of IPC vide Annexure-A to C.

4. Heard the learned counsel appearing for the petitioners and the learned High Court Government Pleader appearing for respondent No.1 in all the cases. Though respective respondent No.2 in Crl.P.Nos.6341/2020 and 6342/2020 are represented through the GPA are served,

unrepresented. Respondent No.2 in Crl.P.No.6419/2020 though represented though the counsel, the counsel is absent.

5. The relief sought in all the petitions is for quashing of initiating of criminal prosecution against the petitioners by the respective complainants consequent upon Joint Development Agreement and Memorandum of Agreement of Sale between the parties having received the money of Rs.1,80,00,000/- in Crl.P.No.6341/2020, Rs.76,50,000/- in Crl.P.No.6342/2020 and Rs.15,00,000/- in Crl.P.No.6419/2020 promising to put up the construction of commercial complex but not constructed the same in terms of the Agreement of Sale and Joint Development Agreement.

6. The counsel appearing for the petitioners would vehemently contend that petitioners are accused Nos.1 to 3 in all the cases and all the petitioners have resigned on 24.02.2016 and partnership also reconstituted and reconstitution agreements are also produced before the court. The counsel would submit that Memorandum of Agreement of Sale came into existence as per Annexure-G in all the case i.e., dated 15.07.2015, 01.12.2015 and 03.07.2015 respectively

and in all the cases, Joint Development Agreement is dated 14.05.2015. The counsel would vehemently contend that when the transaction was taken place between the parties, witnesses are shown in the agreement but they have not been made as witnesses to the charge sheet in all the cases to invoke Section 420 of IPC to prove the factum that at the inception there was an intention to cheat the complainants. The counsel would vehemently contend that when the agreement was entered into between the parties there was no any inducement and in the absence of any inducement, the question of invoking of Section 420 of IPC does not arise. The counsel also brought to notice of this court that in terms of the agreement, if any dispute arises between the parties, there is a clause for dispute resolution and instead of approaching the Arbitrator to solve the dispute, invoked the criminal jurisdiction by initiating the criminal prosecution against the petitioners.

7. The counsel also vehemently contend that the complaints are not filed against the authorized signatory. The counsel also brought to notice of this court that in terms of the Joint Development Agreement an amount of Rs.3 crore was

paid. The counsel would contend that before initiating the criminal prosecution, notice was issued wherein also demanded for refund of the amount. The counsel would contend that now the company is under liquidation and also made the claim before the Liquidator. When such being the case, there cannot be a criminal prosecution.

8. Similar arguments are made in all the cases and accusation made in all the cases are also that committed the offence of cheating.

9. The counsel for the petitioners in support of his arguments, relies upon the judgment of the Apex Court reported in **2025 SCC ONLINE SC 2058** in the case of **ARSHAD NEYAZ KHAN vs STATE OF KHARKHAND AND ANOTHER** wherein the Apex Court discussed the scope of Section 406 for punishment for criminal breach of trust and also cheating and dishonestly inducing delivery of property invoking Section 420. The counsel also would contend that there is no any ingredients of Section 114 and brought to notice of this Court that in this judgment, Apex Court also

discussed with regard to the case of **Inder Mohan Goswami vs State of Uttaranchal ([2007] 12 SCC 1.**

10. The counsel also relied upon the judgment of Apex Court reported in **2024 SCC ONLINE SC 268** in the case of **NARESH KUMAR AND ANOTHER vs STATE OF KARNATAKA AND ANOTHER** wherein also in respect of breach of contract is concerned, the counsel brought to notice of this Court paragraphs 4 and 8 of the judgment and so also, paragraphs 8 and 9 of judgment reported in **2024 SCC ONLINE SC 2311** in the case of **RADHEYSHYAM AND OTHER vs STATE OF RAJASTHAN AND ANOTHER.**

11. The counsel would vehemently contend that once the notice was issued asking for refund of money, there cannot be any criminal prosecution. In respect of this argument, he relies upon the judgment reported in **(2024) 12 SCC 483** in the case of **LALIT CHATURVEDI AND OTHERS vs STATE OF UTTAR PRADESH AND ANOTHER** and brought to notice of this Court paragraphs 6 to 9 in this regard.

12. The counsel also relies upon the judgment reported in **(2024) 11 SCC 758** in the case of **DINESH GUPTA vs STATE OF UTTAR PRADESH AND ANOTHER** and brought to notice of this court paragraph 28 and 34 wherein discussion was made with regard to the monitory transaction is concerned and in this regard, there cannot be any criminal prosecution.

13. The counsel also relies upon the judgment reported in **(2022) 7 SCC 124** in the case of **VIJAY KUMAR GHAI AND OTHERS vs STATE OF WEST BENGAL AND ANOTHER** and brought to notice of this Court paragraphs 40 and 41 and contend that when there is a breach of contract, there cannot be criminal prosecution. In a similar line of argument, he relies upon another judgment reported in **(2022) 14 SCC 572** in the case of **MITESH KUMAR J.SHA vs STATE OF KARNATAKA AND OTHER** and also relies upon the judgment reported in **(2015) 8 SCC 293** in the case of **VESA HOLDINGS PRIVATE LIMITED AND ANOTHER vs STATE OF KERALA AND OTHER.**

14. The counsel relying upon these judgments would vehemently contend that when there are monitory transaction

between the parties and at the inception there was no any intention to defraud, there cannot be criminal prosecution invoking Section 420 of IPC.

15. The counsel also vehemently contend that the offences invoked in these petitions are Sections 120B and 420 read with Section 34 of IPC. But there is no any material to invoke the conspiracy under Section 120B and no such conspiracy when there was an agreement between the parties i.e., Joint Development. When the dispute arises with regard to the Joint Development Agreement and not put up the construction, the same cannot be a ground for initiation of criminal prosecution.

16. Per contra, the counsel appearing for the State would submit that based on the complaints given by the respective complainants in each cases, having perused the contents of the complaints, FIRs were registered and thereafter conducted the investigation and found that there was a transaction between the parties. The counsel would submit that in the case on hand, when the construction was not made, it clearly discloses that at the inception, there was an intention to

cheat. When such being the case invoked the offence under Section 420 and when all the three accused persons who have indulged in such act, invoked Section 120B and there was a conspiracy between the accused persons in not carrying out the work entrusted to them that is construction of the building. Hence, the offences under Sections 120B and 420 read with Section 34 of IPC was invoked. Hence, there cannot be any quashment of proceedings.

17. Having heard the learned counsel appearing for the respective parties and also on perusal of the material on record and taking into note of principles laid down in the judgments referred supra the point that would arise for the consideration of these petitions are:

1. Whether the petitioners have made out the grounds to invoke Section 482 of CrPC in all the cases?
2. What order?

Point No.1:

18. Having perused the material on record, it discloses that in all the cases, the specific accusation is made in respect

of the offences under Sections 420, 120B read with Section 34 of IPC. The specific accusation made in the respective complaints that the accused have collected the money in connection with the construction of the commercial complex. Having received the money of Rs.1,80,00,000/- in Crl.P.No.6341/2020, Rs.76,50,000/- in Crl.P.No.6342/2020 and Rs.15,00,000/- in Crl.P.No.6419/2020 not constructed the building.

19. The Court has to take note of the agreement entered between the parties i.e., Memorandum of Agreement of Sale dated 15.07.2015, 01.12.2015 and 03.07.2015 respectively and the Joint Development Agreement dated 14.05.2015 in all the cases. The respective complainants are also parties in the agreements. The main contention of the counsel for the petitioners that already company is under the liquidation and also made the claim before the Liquidator and with regard to their claim is concerned, the same has to be adjudicated by the Liquidator. It is also to be noted that in the agreement, there is a provision for dispute resolution and complainant also party to the said agreement. The condition

No.34 of the said Agreement is that in the event of any dispute or difference relating to any of the matters set out in the Memorandum of Sale Agreement, the parties hereto shall refer the matter to a sole Arbitrator to be agreed by the parties and the provisions of the Arbitration proceeding shall be in accordance with the provisions of the Arbitration and Re-Conciliation Act, 1996 and the decision of the Arbitrator shall be final and binding on the both parties. The jurisdiction of the Arbitration shall be subject to the Bangalore City Civil Courts. In the agreement, the purchaser assures the confirming party/developers that they shall not defame the confirming party/developers or the project in any manner and in the event of any dispute with the confirming party/developers; they shall follow the dispute resolution provided in this memorandum. Hence, it is clear that when such Agreement is between the parties, if any dispute between the parties, ought to have invoked the dispute resolution but invoked the criminal prosecution.

20. It is also important to note that court has to look into the contents of the documents i.e., Joint Development

Agreement as well as the Memorandum of Agreement of Sale. When such agreements are executed between the parties and with consensus, the documents came into existence, if any default or any violation and not acted upon in terms of the said documents, ought not to have invoked the criminal jurisdiction and ought to have invoked the dispute resolution and the same is not done. When the alternative resolution is provided under the Agreement between the parties, the same was not invoked.

21. The counsel also would submit that under the Joint Development Agreement made the payment of Rs.3 Crore and the same also cannot be considered in a case of criminal prosecution and while invoking criminal jurisdiction, there cannot be a criminal colour to the civil dispute between the parties, if any such violation and not acted upon in terms of the Joint Development Agreement as well as Memorandum of Agreement of Sale. The counsel also brought to notice of this Court that if any criminal breach of contract, there cannot be criminal prosecution as laid down in the judgments referred supra. The Apex Court also in the judgment in *Delhi Race*

Club's case also made the distinction with regard to criminal breach of trust as well as fraud is concerned.

22. Though learned High Court Government Pleader appearing for the State would vehemently contend that there was fraud having received the money and not done the work and in order to invoke Section 420 of IPC, there must be an ingredient that, at the inception, there was an intention to cheat. But, in the case on hand, the terms and conditions are referred in the agreement i.e., both of Joint Development Agreement and also the Memorandum of Agreement of Sale . If any such violation, ought to have invoked the dispute resolution and instead, invoked the criminal jurisdiction. When such being the case, in view of the principles laid down in the judgments referred supra, if any monetary transaction and if any violation of the agreement between the parties, either in respect of the Joint Development Agreement or Memorandum of Agreement of Sale which has taken place between the parties and complainant is also a party to the said agreements, he cannot knock the jurisdiction of the police to recover the money by filing a complaint before the police and the police

have investigated the matter and filed a charge sheet and failed to take note of the transaction between the parties and the entering into the agreement of Joint Development Agreement as well as Memorandum of Agreement of Sale between the parties while filing the charge sheet.

23. No doubt, learned counsel appearing for the petitioners would submit that, in order to prove the allegation of fraud, when the documents disclose that there were two witnesses and they have not been cited as witnesses and at the time of proving the fact that at the inception, there was an intention to cheat also, as rightly pointed out by learned counsel appearing for the petitioners that the parties, who are the attesting witnesses to those documents have not been cited as witness to the charge sheet and in the absence of statement of those witnesses also, there cannot be proving of the fact that at the inception of transaction, there was an intention to cheat.

24. Having considered the material available on record, particularly the documents of Memorandum of Agreement of Sale and Joint Development Agreement, if any violation with regard to terms and conditions of the said agreements, ought

to have resolved the dispute through dispute resolution by referring the matter to sole arbitrator as stated in paragraph No.34 of the Memorandum of Agreement of sale and the same is not invoked. Hence, if the Court fails to invoke Section 482 of Cr.P.C., it amounts to an abuse of process when the criminal colour was given to civil dispute between the parties.

25. In view of the discussion made above, I pass the following:

ORDER

The criminal petitions are allowed.

The proceedings in C.C.No.10121/2019; in FIR in Cr.No.97/2018 filed in C.C.No.10124/2019 and in C.C.No.10128/2019 for the offences punishable under Sections 120B, 420 read with Section 34 of IPC are hereby quashed.

Sd/-
(H.P.SANDESH)
JUDGE

SN,ST
List No.: 1 Sl No.: 12