IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF NOVEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO.3748 OF 2022
C/W
CRIMINAL PETITION NO.5666 OF 2022

IN CRL.P NO.3748/2022:

BETWEEN:

1. MRS. RADHIKA VASUDEVAN
   W/O VAUDEVAN
   AGED ABOUT 71 YEARS
   R/AT NO.469
   INDIUM LAKE FOREST
   HEJJALA
   RAMANAGARA-562109.

2. MRS. SANGEETH RAVIKANTH
   W/O MR. RAVIKANTH
   AGED ABOUT 58 YEARS
   NO.12, 1ST CROSS
   SHANKARPURAM
   BENGALURU-560004.

3. SMT. PADMINI NARAYAN
   W/O MR. NARAYAN
   AGED ABOUT 68 YEARS
   NO.4350, "SHIRLENE COURT"
   GROVE CITY, OHIO-3123, U.S.A.
   REPRESENTED BY GPA HOLDER
   AND HER SISTER
   MRS. RADHIKA VASUDEVAN

...PETITIONERS

(BY SRI. BADRI VISHAL, ADVOCATE)

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Location: HIGH COURT OF KARNATAKA

AND:

1. MR. P. MUKUNDAN
   S/O LATE G. PARTHASARATHY
   AGED ABOUT 70 YEARS
   'RESIDENCY APARTMENT'
   NO.19, BAWA RAOD, ALWARPET
   CHENNAI – 600018.

2. MR. P. MURALIDHAR
   S/O LATE G. PARTHASARATHY
   AGED ABOUT 71 YEARS
   "GOPAL", 237/46A
   5TH MAIN, CHAMRAJPET
   BENGALURU-560004.

   (DELETED VIDE ORDER DATED 08.01.2024)

…RESPONDENTS

(BY SRI. RAJADITHYA SADASIVAN, ADVOCATE FOR R1)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.32915/2021 (PCR.NO.1033/2019) ON THE FILE OF THE COURT OF THE HONBLE 4TH ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, BENGALURU, INITIATED BY THE 1ST RESPONDENT.

IN CRL.P NO.5666/2022:

BETWEEN:

1. MRS. RADHIKA VASUDEVAN
   W/O VASUDEVAN
   AGED ABOUT 72 YEARS,
   R/AT NO.469,
   INDIUM LAKE FOREST
   HEJJALA
   RAMANAGARA-562109.

2. MRS. SANGEETH RAVIKANTH
   W/O MR. RAVIKANTH
   AGED ABOUT 61 YEARS,
   NO.12, 1ST CROSS,

SHANKARAPURAM
BENGALURU-04.

3. SMT. PADMINI NARAYAN
W/O MR. NARAYAN
AGED ABOUT 71 YEARS
NO.4350, "SHIRLENE COURT"
GROVE CITY, OHIO-3123, U.S.A.
REPRESENTED BY GPA HOLDER
AND HER SISTER
MRS. RADHIKA VASUDEVAN.

...PETITIONERS

(BY SRI. BADRI VISHAL, ADVOCATE)

AND:

1. MR. LALITHA MUKUNDAN
W/O P. MUKUNDAN
AGED ABOUT 55 YEARS,
'RESIDENCY APARTMENT'
NO.19, BAWA ROAD,
ALWARPET
CHENNAI-600018.

2. MR. P. MURALIDHAR
S/O LATE G. PARTHASARATHY
AGED ABOUT 63 YEARS,
"GOPAL" 237/46A
5TH MAIN, CHAMARAJPET
BENGALURU-560004.

(DELETED VIDE ORDER DATED 08.01.2024)

...RESPONDENTS

(BY SRI. RAJADITHYA SADASIVAN, ADVOCATE FOR R1)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.12764/2020 ON THE FILE OF THE COURT OF THE HONBLE 24TH ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, BENGALURU, INITIATED BY THE 1ST RESPONDENT, FOR THE REASONS STATED THEREIN.

THESE PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 06.11.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

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

CAV ORDER

Heard learned counsel for the petitioners and learned counsel for the respondent No.1 in both the petitions.

2. The petition in Crl.P.No.3748/2022 is filed under Section 482 of Cr.P.C. praying this Court to quash C.C.No.32915/2021 arising out of PCR No.1033/2019 on the file of 4th Additional Chief Metropolitan Magistrate, Bangalore and Crl.P.No.5666/2022 is filed praying to quash C.C.No.12764/2020 arising out of PCR No.2088/2019 pending on the file of 24th Additional Chief Metropolitan Magistrate, Bangalore. The complainant in both the PCR and CC is one and the same.

3. The factual matrix of case of the complainant in the complaint is that these petitioners and also accused No.1, in collusion had indulged in creation of document as alleged in PCR No.1033/2019 that accused Nos.2 to 4 are his sisters and his father had acquired some ancestral properties in the year

1960 and he had partitioned the said properties between his sisters in the year 1960 and in the said partition between both of them, a memorandum of agreement dated 11.06.1986 has been executed by his father and the sisters are also consenting witnesses to the agreement. As per the said memorandum of agreement, 'A' schedule properties have been fallen to his share and 'B' schedule properties have been fallen to the share of accused No.1. By virtue of the said agreement, his father has approached the corporation to divide his properties and two khatas have been given. Later, he has been paying separate taxes to his properties and he is in possession of the properties. Due to various business transactions, he has filed a suit for recovery against his brother i.e., accused No.1 and the Trial Court also decreed the same, but not allowed the interest portion. Hence, he went to the Apex Court and the Apex Court was also pleased to allow the interest and brought the property of his brother for attachment to recover the said amount. In the meanwhile, in the year 2019, he has created a fraudulent relinquishment deed in favour of his sisters when he had to press the attachment for bringing the property to sale and in order to deprive the proceeds of attachment and sale, he has created the document. Hence, it is contended that fraudulent

document came into existence in collusion between all of them and produced the documents in support of his sworn statement i.e., Exs.P1 to P36.

4. The Trial Court having taken note of sworn statement and also the documents which have been produced, issued the process. Hence, the present petition are filed before the Court for quashing the proceedings initiated against the petitioners.

5. The learned counsel appearing for the petitioners in Crl.P.No.3748/2022 have produced the documents Annexure-A-certified copy of the entire order sheet in C.C.No.32915/2021, certified copy of PCR No.1033/2019 is produced as Annexure-B, sworn statement as Annexure-C, plaint in O.S.No.25874/2010 as Annexure-D, written statement and additional written statement of respondent No.1 in the said suit as Annexures-E1 and E4, written statement of defendant No.1 as Annexure-F1, written statement of respondent No.2 as Annexure-F2, written statement of petitioner No.2 herein as Anneuxre-F3, memo dated 22.03.2018 as Annexures-G and G1, memo dated 26.06.2018 filed in Ex.No.58/2016 as Annexure-H, order dated 03.07.2018 in Execution Nos.57/2016, 58/2016 as Annexures-

J1 to J3, relinquishment deed dated 04.07.2018 as Annexure-K, order passed in W.P.No.7992/2021 as Annexure-L, plaint in O.S.Nos.67/2019, 6800/2011, 6468/2013 and 4992/2020 as Annexures-M, N P and Q and so also, the Power of Attorney issued by petitioner No.3 to petitioner No.1 is also produced along with the petition.

6. The counsel referring these documents would vehemently contend in his argument that very initiation of proceedings against the petitioners is only with an intention to harass with an oblique motive. The counsel would submit that relationship between the parties are brothers and sisters. The counsel would contend that O.S.No.67/2019 was filed on 02.01.2019 and the said suit is pending before the City Civil Court, wherein relief is sought for declaration to declare the said relinquishment reed as null and void. But, complaint is filed afterthought on 16.02.2019. The counsel would vehemently contend that private complaint is filed invoking Section 200 of Cr.P.C. and main contention of the counsel is that no affidavit is filed in support of the private complaint in view of the judgment of the Apex Court at ***Priyanka Srivastava's*** case and there is no compliance. The counsel would also vehemently contend that execution petition between

accused No.1 and complainant was closed on account of satisfaction on 26.06.2018. The counsel would contend that the relinquishment deed was executed on 04.07.2018 and complaint is filed invoking the offence of Sections 206, 207 and other offences and the same can be invoked only if there is an attachment of the property and no such attachment and other offences also will not attract. There is no material to show that on the date of execution of relinquishment deed, there was an attachment and after closing the dues itself, relinquishment deed was executed and this complaint is filed only to pressurize the petitioners and the oblique motive for filing this petition is to circumvent the parties by invoking criminal action.

7. The counsel in support of his argument relied upon judgment in HDFC BANK LTD vs. THE STATE OF BIHAR & ORS reported in 2024 INSC 807 with regard to invoking Sections 206 and 207 of IPC requires presence of mens rea and and brought to notice of this Court discussion made in paragraph Nos.25 to 27 that there was no entrustment of any property with the appellant-bank, the ingredients of Section 462 IPC are also not applicable and so also in respect of Section 206, 217 and 201 of the IPC requires mens rea, the ingredients of the said Sections also would not be available against the appellant-

bank and the complaint also does not show that the appellant-bank and its officers acted with any common intention or intentionally cooperated in the commission of any alleged offences. In this judgment, ***Bhajan Lal's*** case was also discussed in paragraph No.28 extracting paragraph Nos.102 and 103 of the said judgment.

8. The counsel also relied upon order passed in **Crl.P.No.6725/2011** dated **16.10.2019** in **BOTLA KOTESWARA RAO vs. STATE OF A.P.,** wherein the counsel brought to notice of this Court dishonest or fraudulent execution of deed of transfer containing false statement of consideration which is discussed in paragraph No.10 and in this judgment, the Court comes to the conclusion that, in order to invoke Sections 206, 423 and 109 of IPC, prima facie, filing of private complaint is nothing but abuse of process of law.

9. The counsel also relied upon judgment in MD. **IBRAHIM & ORS. vs. STAE OF BIHAR & ANR.** reported in **2009 (9) eILR (PAT) SC 1,** equivalent judgment reported in **(2009) 13 (ADDL.) S.C.R. 1254**, wherein also the Apex Court discussed with regard to fraud and the complaint do not make out any offence under Sections 420 and 471 of IPC.

10. The counsel also relied upon judgment of the Apex Court in **S.N.VIJAYALAKSHMI & ORS. vs. STATE OF KARNATAKA & ANR.** reported in 2025 INSC 917 that when there is a civil dispute, it cannot be tainted as criminal. The counsel brought to notice of this Court the documents which have been produced before the Court that there are several suits pending between the parties and hence, there cannot be any prosecution.

11. Per contra, learned counsel for the respondent No.1 in his argument would vehemently contend that no dispute that partition suit was filed. But, relinquishment deed was executed even when the suit for partition was pending and when the property was already divided and katha was standing in their name and also accused No.1 has not made any payment in favour of the complainant, but created the document of relinquishment deed, which clearly shows that there was mens rea in creating the document in collusion. Apart from that, he had executed a gift deed in favour of the children when the document of relinquishment deed was in existence and it clearly shows mens rea. The counsel also would vehemently contend that when the decree was passed in favour of the complainant, he had set up the obstructor and an application

was also filed by obstructor and the same was dismissed. The counsel also would vehemently contend that the document was created only for Rs.61,00,000/-. But, the property is worth more than crores. The counsel also would vehemently contend that only with an intention to defeat the decree passed in favour of the complainant, relinquishment deed was executed and the same was not acted upon. These petitioners have also not taken any action against accused No.1 and during the subsistence of relinquishment deed, the gift deed was executed. The counsel would contend that suit is filed to set aside the relinquishment deed and when the said relief is sought, the same is a lawful remedy to the complainant and mere filing of a suit to declare that the relinquishment deed as null and void will not preclude the complainant to invoke criminal jurisdiction in view of fraudulent act on the part of the petitioners. The civil proceedings will not come in the way in respect of criminal act on the part of the petitioners. The counsel would vehemently contend that the loan amount was also not cleared by the petitioners and also the accused No.1 and only purchasers have paid the money. Hence, execution petition was closed. The counsel would vehemently contend that, in order to invoke Sections 206 and 207 of IPC, it does

not mandate an attachment. But the fact is that when the suit was filed and decreed and interest was not allowed, SLP was filed and notice was also received from the Apex Court and during the pendency of the SLP, the document was created and it attracts Section 421 and 424 of IPC.

12. The counsel in support of his argument would contend that when the prayer is not sought invoking Section 156(3) of Cr.P.C., the question of filing an affidavit does not arise and in support of his argument, he relies upon the judgment reported in **P. NAGARAJU vs. THE STATE AND ORS.** reported in **MANU/KA/1048/2018** passed in **CRL.P.No.1525/2018** dated **07.03.2018** and brought to notice of this Court paragraph No.9, wherein this Court held that in the absence of the application under the specific prayer by the complainant that his case to be referred to the police under Section 156(3) of the Cr.P.C., filing of affidavit not necessary.

13. Learned counsel appearing for the respondent brought to notice of this Court statement of objections filed in detail referring Annexures filed along with statement of objections and mainly pointed out the judgment of the Apex

Court in ***Priyanka Srivastava's*** case is not applicable. The counsel also brought to notice of this Court offences under Sections 206 and 207 of IPC that there was judgment and decree as per Annexures-R1, R2, R3 and R4. Against the said decree, appeals were preferred and the same also came to be dismissed as per Annexures-R5 and R6. The SLP was also filed in terms of Annexures-R7 and R8 and also relied upon Execution Petition Nos.57/2016, 58/2016 and 59/2016 and objector application filed in both petitions as Annexures-R9 to R11 and SLP filed before the Apex Court was also allowed in part granting interest and also produced the gift deed as Annexure- R13. So also, the copy of the final order passed by the Apex Court as Annexure-R14 and though aware of all these aspects, created the document of relinquishment deed and during the subsistence of relinquishment deed, executed the gift deed and property is worth more than Rs.10 crores.

14. The petitioners in Crl.P.No.5666/2022 prayed the Court to quash the initiation of criminal prosecution against the petitioners in C.C.No.12764/2020 and the private complaint is filed by the complainant in PCR No.2088/2019 that she was constrained to file two suits for recovery of money in O.S.Nos.214/2011 and 281/2011 against accused No.1 which

came to be decreed and accused No.1 is therefore to pay a sum of Rs.38,59,132 to the complainant. The accused No.1 had also preferred R.F.A.Nos.90/2016, 91/2016 and 92/2016 before this Court and the said appeals also came to be dismissed and complainant also preferred Special Leave Petition before the Apex Court and similar allegations are made while invoking the said offence. In the said case also, complainant is examined as C.W.1. and he categorically stated that Mrs. Lalitha Mukundan is his mother and she has executed a Power of Attorney to prosecute the said complaint and he is also conversant with the facts of the case and Power of Attorney is marked as Ex.C1 and also got marked the documents Exs.C2 to C13 and reiterated the contents of the complaint. The Trial Court took cognizance and issued process and hence, the present petition is filed by the petitioners.

15. The documents which have been marked in the present petition is also similar to Crl.P.No.3748/2022 Annexure-A is the certified copy of C.C.No.32915/2021, copy of PCR No.2088/2019 as Annexure-B, sworn statement as Annexure-C, plaint in O.S.No.25874/2010 as Annexure-D, written statement and additional written statements filed by respondent No.1 as Annexures-E1 to E4, written statement of

different defendants as Annexures-F1 to F3, Annexures-G and G1 are the memo dated 22.03.2018, Annexure-H is memo filed in Execution No.58/2016. So also, the order passed in Execution Nos.57/2016, 58/2016 and 59/2016 as Annexures-J1 to J3, relinquishment deed as Annexure-K, order passed in W.P.No.7992/2021 as Annexure-L and plaints as Annexures-M to Q. The petitioners have also reiterated the very same grounds for institution of suit by petitioner No.1 in O.S.No.25874/2010 for the relief of partition and also respondent No.1 and her husband have filed O.S.Nos.213/2011, 214/2011 and 281/2011 and also there was a decree and as against the same, RFA was filed and in execution, amount was fully satisfied. Hence, initiation of criminal constitution against the petitioners is baseless. The counsel also reiterates the very same grounds in this petition and common grounds are urged in both the petitions and the very same judgments are relied upon by learned counsel for the petitioners.

16. The statement of objections is also filed by respondent No.1 in the present petition urging the similar grounds as urged in Crl.P.No.3748/2022.

17. Having heard counsel for the petitioners and also the learned counsel for respondent No.1, the points that would arise for consideration of this Court are:

(1) Whether the Trial Court committed an error in taking cognizance and issuance of process against the petitioners and whether it requires interference of this Court by exercising the power under Section 482 of Cr.P.C.?

(2) What order?

Point No.(1):

18. Having heard learned counsel for the petitioners and also learned counsel for respondent No.1 and in both the petitions, sworn statement was recorded and documents are also marked and detailed order has been passed by the Trial Court while issuing summons against the petitioners. The crux of the issue between the parties are that there was a suit for partition filed by petitioner No.1 is not in dispute and during the pendency of the said suit, when the matter was pending before the Apex Court, an allegation is made that these petitioners along with accused No.1 had indulged in creation of document of relinquishment deed. No doubt, there was a decree in favour

of the complainant and the same was partly allowed and as against the said judgment, regular appeals are filed and the same are dismissed and SLP was also pending before the Apex Court. During the pendency of the matter before the Apex Court, when the complainant had initiated the execution petitions, the document came into existence. It is also a specific case of the complainant that sisters are also consenting witnesses to the document of partition between the brothers and father and document also stands in their respective names, but this document came into existence during the pendency of SLP and even though, in the execution petitions, the amount was fully satisfied, when the matter was pending before the Apex Court, the Apex Court also granted the relief in respect of the interest also.

19. The main contention of the complainant is also that an objector application is filed with an intention to prevent the property from bringing to sale and though the sisters were also parties and consenting witnesses to the earlier partition, the document came into existence. It is also the main contention of learned counsel appearing for the respondent No.2 that even during the subsistence of relinquishment deed which came into existence, the very accused No.1 had executed a gift deed as

per Ex.R13 and also Annexure-R12 is the relinquishment deed is also not in dispute. The Court has to take note of intention of the parties in entering into the said documents. Hence, ingredients of the offence under Sections 206 and 207 of IPC is invoked to prosecute the petitioners and so also, Sections 421 and 424 of IPC, when the document came into existence subsequently, the Court has to take note of dishonest intention of the parties that in order to defeat the legitimate claim colluded with each other and indulged in creation of document and documents are also produced and marked before the respective Courts for taking cognizance in the said proceedings and whether having such mens rea or not as contented by learned counsel appearing for the petitioners is a matter of trial.

20. Learned counsel for the petitioners also relied upon judgment in ***HDFC Bank Ltd.'s case*** and would contend that no such mens rea. But, the Court has to take note of relinquishment deed and also the gift deed which came into existence subsequently and whether such an act is done with dishonest intention also to be taken note of while invoking Sections 206 and 207 of IPC and whether there was fraud or not and whether it was an intentional act or not is also a matter

of trial. No doubt, the counsel relies upon the judgment in ***S.N. Vijaylakshmi's*** case that civil dispute cannot be tainted as criminal, but the allegation made is a criminal act and with a dishonest intention to defeat the claim of the complainant, the document came into existence and mere pendency of suit cannot be a ground to quash the proceedings. The fact that petitioner No.1 has filed a suit for partition is not in dispute and what made to enter into a document of relinquishment deed when the suit for partition was also pending also to be taken note of when indulged in creation of document of relinquishment deed.

21. It is also to be noted that execution of gift deed by accused No.1 in favour of his children is also not questioned by these petitioners and during the subsistence of relinquishment deed, the said document came into existence. All these matters are to be considered during the course of trial. With regard to the merits is concerned, matter requires a trial. Hence, I do not find any ground.

22. In respect of other contention that private complaint is not supported by affidavit in view of judgment of the Apex Court in ***Priyanka Srivastava's*** case, this Court has

distinguished the same in ***P.Nagaraju's*** case referred supra in ***Crl.P.No.1525/2018*** and in order to proceed to take cognizance and issue summons, if no prayer for referring the matter under Section 156(3), filing of affidavit is not necessary.

23. This Court would like to rely upon order passed by Kalaburagi Bench of this Court in **Crl.P.No.201319/2019** dated 18.02.2020. In paragraph No.7, it is held that when there is no prayer under Section 156(3), the question of non-filing of an affidavit along with the complaint would not nullify the effect of the complaint or making complaint redundant. An affidavit accompanying the affidavit was mandatory even in the present case, is not acceptable.

24. This Court also would like to rely upon the order passed in **Crl.P.No.2394/2020** dated **28.09.2020,** wherein also, in detail discussed with regard to filing of an affidavit is concerned in paragraph No.8 and regarding compliance of Section 154(1) and 154(3) of the Code. Affidavit is insisted upon with a view to binding the complainant to the allegations that he has made in the complaint and taking action against him in case these allegations turn out to be a false. But there are certain offences in respect of which the aggrieved person

should make a complaint only under Section 200 as prescribed in Section 195, 198 and 199 of the Code; compliance of Section 154(1) and 154(3) is not contemplated, and in respect of such offences, an affidavit in support of the complaint is not required. The complaint under Section 138 of the Negotiable Instrument Act also falls under this category.

25. Having taken note of principles laid down in the judgments referred supra by the learned counsel for the petitioners, the respondent relies upon order passed in ***P. Nagaraju's*** case and subsequent other two judgments and the same will not take away the case of the complainant that there was no affidavit and the same cannot be a ground. Hence, I am of the opinion that having considered the material available on record and grounds which have been urged by the petitioners cannot be sustainable in the eye of law and matter requires investigation in view of ingredients of the offences invoked against the petitioners and it will not come within the purview of judgment of ***Bhajan Lal's*** case and not to wreck vengeance and at the same time, the Court has to take note of the conduct of the parties, even when there was already partition and father was a party to the partition along with brothers, wherein the petitioners are also consenting witnesses and

subsequently, filed a suit and that too, when the decree was passed in favour of the complainant and in order to circumvent the said decree, entered into a document of relinquishment deed and subsequently also, gift deed was executed. Under the circumstances, it does not require any interference by exercising the power under Section 482 of Cr.P.C. and the grounds which have been urged before the Court could be raised at the time of trial before the Trial Court. Hence, I answer point No.(1) accordingly.

Point No.(2):

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

ORDER

The criminal petitions are ***dismissed.***

Sd/-
(H.P.SANDESH)
JUDGE

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