HC-KAR

NC: 2026:KHC:61393
CRL.P No. 4849 of 2025

CNR: KAHC010217732025

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. 4849 OF 2025 (482(Cr.PC) / 528(BNSS)-)

BETWEEN:

BALA JAGAN DORAI
SON OF S.S DORAI,
AGED ABOUT 46 YEARS,
RESIDING AT NO. N-4, 4TH FLOOR,
ASSETZ, 27TH AVENUE, 13TH CROSS,
24TH MAIN ROAD, I SECTOR,
HSR LAYOUT, BENGALURU - 560 102

...PETITIONER

(BY SRI. ANKITH S REDDY.,ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY HALASURU POLICE STATION,
HAVERI, DHARWAD
REP. BY STATE PUBLIC PROSECUTOR.
HIGH COURT OF KARNATAKA
AT BENGALURU-560001

2. ASHA SHIVAKUMAR
AGED ABOUT 55 YEARS,
WIFE OF MUNIDEVARAO SHIVAKUMAR,
RESIDING AT NO.5/1, 2ND CROSS,
DODDAKATTAPPA ROAD, HALASOOR,
BANGALORE 560008

...RESPONDENTS

(BY SRI. RANJITH KUMAR., HCGP FOR R1;
SRI. AKASH R. RAO., ADVOCATE FOR R2)

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THIS CRIMINAL PETITION IS FILED U/S 482 CR.PC (FILED U/S 528 BNNS) PRAYING TO QUASH THE PROCEEDINGS IN C.C NO. 54023/2024 BEFORE THE 10TH ADDL. CHIEF METROPOLITAN MAGISTRATE, MAYOHALL BENGALURU AND QUASH THE FIR CRIME NO. 208/2022 LODGED BY THE HALASURU POLICE STATION, BENGALURU, FOR OFFENCES PUNISHABLE UNDER SECTIONS 420, 506, 504 AND 34 OF THE INDIAN PENAL CODE, 1860.

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 proceedings in C.C No. 54023/2024 before the 10th Addl. Chief Metropolitan Magistrate, Mayohall Bengaluru and quash the FIR Crime No. 208/2022 lodged by the Halasuru Police Station, Bengaluru, for offences punishable under sections 420, 506, 504 and 34 of the Indian Penal Code, 1860.*

2. Respondent No.2 lodged a complaint on 28.09.2012, on the basis of which Crime No.208/2022 came to be registered by Halasuru Police Station for the offences punishable under Sections 506, 34, 504 and 420 of the Indian Penal Code, 1860. Upon completion of the investigation, a charge sheet was filed on 06.03.2024 for the aforesaid offences. It is challenging the

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registration of the FIR and the subsequent proceedings arising therefrom that the petitioner is before this Court.

3. A perusal of the complaint indicates that, in the year 2013, respondent No.2 intended to purchase a residential site. Since her husband was unwell, she was referred to the petitioner, who was stated to be developing a layout near Hosur under the name and style of Aishwarya Rosewood Gardens.

4. Initially, respondent No.2 was informed that the cost of the site would be approximately ₹250/- to ₹300/- per square foot. Accordingly, an agreement came to be entered into on 07.06.2015 for purchase of a site measuring 1,350 square feet for a consideration of ₹3,37,500/-. Certain amounts were paid initially and, as agreed, the balance consideration was paid in equated monthly instalments. It is alleged that, after the final payment of ₹1,87,000/- was made through cheque, the petitioner informed respondent No.2 that a site measuring 1,350 square feet was not available and that a larger site measuring 2,885 square feet could be provided. For this purpose, a further amount of ₹4,17,000/- was demanded and paid from time to time.

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5. Thereafter, a further demand was made for ₹2,30,280/- towards obtaining layout sanction. It is alleged that respondent No.2 paid a further amount of ₹6,25,000/-. In all, respondent No.2 claims to have paid a sum of ₹17,00,000/- to Aishwarya Developers, of which the petitioner is stated to be a Director and one Ranjith Kumar was the Marketing Manager.

6. Despite the payments having been made, the sale deed was not executed in favour of respondent No.2. When respondent No.2 attempted to contact the petitioner, the petitioner was allegedly not available and could not be contacted. In the meantime, the said Ranjith Kumar is stated to have commenced his own business under the name and style of Ashwa Surya Realities. When respondent No.2 approached him, he allegedly disowned any responsibility in relation to the transaction and also threatened respondent No.2. It is in these circumstances that respondent No.2 lodged the complaint, which resulted in registration of the aforesaid crime.

7. Sri Ankith S. Reddy, learned counsel for the petitioner, makes the following submissions:

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7.1. The dispute between the parties is essentially civil in nature. Respondent No.2 had approached the petitioner for purchase of a property and the petitioner had agreed to sell the same. If respondent No.2 has any grievance on account of non-execution of the sale deed, the remedy would be to institute a suit for specific performance and not to initiate criminal proceedings.

7.2. Learned counsel further submits that the petitioner had acted bona fide. In support of this contention, he relies upon a legal notice dated 24.07.2019 issued by the petitioner through counsel to respondent No.2. In the said notice, the petitioner is stated to have explained that, although the plots had been assured to be made ready and registered before August 2017, the registration could not take place because of the order passed by the Hon'ble Madras High Court on 15.06.2017 in W.P. No.19566/2015.

7.3. It is contended that the said order clarified that plots in unapproved layouts, being panchayat lands, which had already been registered before

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21.10.2016, except those registered during the intervening period when a ban imposed by the Court was in force, could be considered for further sale and registration.

7.4. Learned counsel further submits that statutory provisions and rules had subsequently been brought into force by the State Government for regularisation of unauthorised plots. He relies upon the directions of the Hon'ble Madras High Court concerning registration of plots in accordance with Section 22-A of the Registration Act and the Tamil Nadu Regularisation of Unapproved Layouts and Plots Rules, 2017, as well as the Tamil Nadu Change of Land Use (from Agriculture to Non-Agriculture Purposes in Non-Planning Areas) Rules, 2017.

7.5. It is submitted that, on account of the aforesaid legal developments and the order passed by the Hon'ble Madras High Court, the petitioner could not execute the sale deed. In that background, the petitioner had offered to obtain approval of the layout and execute the sale deed if respondent No.2 paid a further

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amount calculated at ₹230/- to ₹280/- per square foot. Learned counsel submits that the petitioner had also offered an alternative arrangement, namely, to provide revenue land in and around Ullatti Village, Shoolagiri Taluk, Krishnagiri District.

7.6. According to learned counsel, the legal notice dated 24.07.2019 demonstrates the bona fides of the petitioner. Respondent No.2 could have accepted the proposal or considered the alternative arrangement offered by the petitioner. Having failed to do so, respondent No.2 could not have subsequently initiated criminal proceedings. It is also contended that the complaint was lodged belatedly in the year 2022, despite the legal notice having been issued in 2019.

7.7. Learned counsel places reliance on the decision of the Hon'ble Supreme Court in **Radheshyam and Others v. State of Rajasthan and Another**, particularly paragraphs 8 and 9 thereof, which read as follows:

"8. Thus, cheating forms an essential ingredient to constitute an offence under Section 420, IPC. Further, to

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constitute cheating as defined under Section 415, IPC, it is necessary that a fraudulent or dishonest inducement is done and the deceived person is made to deliver any property owing to the fraud. Section 415, IPC, defines 'cheating', as:

'Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat".'

9. From the bare perusal of the FIR, it is evident that there was no act of cheating, that is, the complainant was nowhere fraudulently induced or dishonestly deceived by the appellants. A commercial transaction took place between the parties during which the parties consensually agreed for the sale of the property of the appellants and respondent no. 2 paid the part consideration. The default in payment of their loan dues on part of the appellants is not reflective of their deceitful intention towards the complainant. Mere non-registration of the sale or its refusal cannot amount to cheating. The delivery of the advance payment towards consideration was made in furtherance of an Agreement to Sell and it is not the case of the respondent that he was in anyway deceived or duped to make such payments to the appellants. It is a civil dispute and gives rise to the complainant's right to resort to the remedies provided under civil law by filing a suit for specific performance."

7.8. Relying upon the above decision, learned counsel submits that mere non-registration of a sale deed or refusal to execute the same would

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not constitute an offence under Section 420 of the IPC. According to him, the present case is also one of non-execution of a sale deed, for which respondent No.2 has an appropriate remedy under civil law.

8. Sri Akash R. Rao, learned counsel for respondent No.2, opposes the petition and makes the following submissions:

8.1. The entire layout has not been formed. The petitioner and the said Ranjith Kumar are alleged to have collected money from several persons on the representation that sites would be allotted to them. However, none of the purchasers was allotted a site. Though the legal notice dated 24.07.2019 was received by respondent No.2 and other purchasers, they were unable to contact the petitioner, who was allegedly absconding and did not respond to their requests.

8.2. Learned counsel further submits that a WhatsApp group was formed by the persons who had paid money for the sites, with the object of collectively contacting the petitioner and seeking redressal. It was in this

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background that respondent No.2, having learnt that accused No.2, Ranjith Kumar, had commenced a separate business under the name and style of Ashva Surya Realities, approached his office, where Ranjith Kumar allegedly threatened respondent No.2.

8.3. Learned counsel submits that the petitioner did not have an approved layout plan at the time of entering into the transaction. The amounts were collected from respondent No.2 on the false representation that sites would be formed and allotted. Despite collecting substantial amounts, the petitioner failed to obtain the necessary approval or execute the sale deed. It is, therefore, contended that the allegations and the material collected during the investigation disclose the commission of the offences alleged, and the matter requires adjudication before the trial Court.

9. Heard Sri Ankith S. Reddy, learned counsel for the petitioner, Sri Akash R. Rao, learned counsel for respondent No.2, and Sri Ranjith Kumar, learned High Court Government Pleader for respondent No.1. Perused the papers.

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10. The submissions made on behalf of the petitioner and respondent No.2, as noticed above, disclose that the principal defence of the petitioner is that the non-execution of the sale deed was occasioned by the legal position arising out of the order passed by the Hon'ble Madras High Court on 15.06.2017 in W.P. No.19566/2015.

11. On enquiry by this Court as to whether the petitioner had obtained sanction for the layout or had even submitted an application seeking such sanction, learned counsel for the petitioner submits that no layout plan had been sanctioned and that no such application had been made.

12. If that is so, the reliance placed on the order of the Hon'ble Madras High Court does not satisfactorily explain the petitioner's inability to execute the sale deed. The order relied upon by the petitioner cannot, by itself, explain why the petitioner entered into the transaction without having obtained the requisite layout approval or taken steps to secure such approval.

13. The petitioner's own submission that no layout plan had been sanctioned or even applied for assumes significance. In the absence of any application for

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approval, the petitioner cannot attribute the failure to complete the transaction solely to the order passed by the Hon'ble Madras High Court.

14. The order of the Hon'ble Madras High Court dated 15.06.2017, as relied upon by the petitioner, is stated to have clarified the position concerning registration of plots in unapproved layouts. The layout proposed to be developed by the petitioner was admittedly not approved. No approval had been obtained even after the lapse of considerable time. This assumes further significance in the light of the allegation that the petitioner had collected an amount of ₹2,30,280/- from respondent No.2 towards obtaining layout sanction.

15. The petitioner seeks to contend that the subsequent offer made to respondent No.2, namely, that approval would be obtained and the sale deed executed upon payment of a further amount calculated at ₹230/- to ₹280/- per square foot, demonstrates bona fides. This contention cannot be accepted at this stage.

16. Firstly, an amount had already been collected from respondent No.2 towards obtaining layout sanction. Secondly, the petitioner, having undertaken to

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provide an approved site, cannot seek to justify the continued non-performance of that obligation by demanding further amounts from the purchaser on account of the absence of the very approval which the petitioner was required to obtain.

17. The offer, therefore, does not, by itself, establish the bona fides of the petitioner. On the contrary, when considered along with the allegation that substantial amounts had already been collected and that no steps had been taken even to apply for layout approval, the offer raises questions which cannot be resolved in favour of the petitioner in proceedings under Section 482 of the Code of Criminal Procedure.

18. It is also relevant that, even as on the date of consideration of this petition, the petitioner is unable to demonstrate that an approved site is available for transfer to respondent No.2. The petitioner's defence that the transaction could not be completed solely because of the order of the Hon'ble Madras High Court, therefore, cannot be accepted as sufficient ground to quash the proceedings.

19. The alternative proposal referred to in the legal notice was to provide revenue land in and around Ullatti Village, Shoolagiri Taluk, Krishnagiri District.

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Such an offer is not equivalent to providing the residential site which respondent No.2 had originally intended to purchase. Respondent No.2 had approached the petitioner for a site in a layout with the object of constructing a house and not for acquisition of revenue land.

20. Further, the material placed before this Court indicates that, even after receipt of the legal notice, respondent No.2 and other purchasers were unable to contact the petitioner. The formation of a WhatsApp group by the purchasers to collectively pursue their claims is also relied upon by respondent No.2 in explaining the circumstances in which the complaint came to be lodged.

21. The contention of the petitioner that the complaint is belated, therefore, requires consideration in the context of the entire chronology. The transaction commenced in 2015. The difficulty in completing the transaction is stated to have arisen in 2017 and was communicated to respondent No.2 by the legal notice dated 24.07.2019. Thereafter, respondent No.2 claims to have made efforts to contact the petitioner and pursue the matter, before ultimately lodging the complaint.

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22. The delay cannot be examined merely by calculating the period from the date of the agreement of sale. The explanation offered by respondent No.2 and the surrounding circumstances are matters which would have to be considered on the basis of the evidence. In the circumstances, the mere passage of time does not furnish a ground to quash the proceedings at this stage.

23. The decision relied upon by the learned counsel for the petitioner in **Radheshyam and Others v. State of Rajasthan and Another** reiterates that mere non-registration of a sale deed or refusal to complete a sale transaction would not, by itself, constitute cheating. The essential requirement is dishonest or fraudulent inducement at the inception of the transaction.

24. The principle laid down in the said decision is not in dispute. However, the facts of the present case, as disclosed in the complaint and the charge-sheet material, require consideration on their own terms.

25. In the present case, the allegation is not confined to the mere failure to execute a sale deed after receipt of part consideration. Respondent No.2 alleges that the petitioner entered into an agreement for sale of a

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site in a proposed layout without having obtained layout approval or even having applied for such approval. It is further alleged that substantial amounts were collected towards the site and subsequently towards obtaining layout sanction, but neither was the layout approved nor was the agreed site made available for registration.

26. The petitioner, on enquiry, has not been able to demonstrate that any application for layout approval had been made. The allegation that the petitioner had no intention or ability to provide the agreed site at the time of entering into the transaction, when considered along with the subsequent collection of amounts and the absence of any steps towards obtaining approval, raises a prima facie question of dishonest intention at the inception.

27. The absence of layout approval, viewed in isolation, may not necessarily establish an offence of cheating. However, the absence of approval, the alleged failure even to apply for it, the collection of substantial amounts towards obtaining such approval, and the continued inability to provide the agreed site are circumstances which, taken together, cannot be disregarded at this stage.

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28. The allegations and the material collected during investigation, therefore, disclose circumstances which require examination at trial to determine whether the petitioner had a dishonest intention when the transaction was entered into and when the amounts were collected. The defence of the petitioner that the matter is purely civil in nature, or that the failure to execute the sale deed was attributable to subsequent legal developments, would have to be considered by the trial Court on the basis of the evidence.

29. This Court is, therefore, of the considered opinion that the material on record does not warrant quashing the proceedings for the offence punishable under Section 420 of the IPC.

30. Insofar as the offences punishable under Sections 504 and 506 of the IPC are concerned, the allegations, as noticed from the complaint and the charge-sheet material, are directed against accused No.2 and not against the petitioner, who is arrayed as accused No.1. In the absence of any specific allegation attracting the ingredients of the said offences against the petitioner, it is unnecessary to examine those offences in the present petition.

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31. The proceedings in respect of the offence punishable under Section 34 of the IPC are consequential to the substantive offences alleged and would have to be considered by the trial Court in the context of the material against the petitioner and the other accused.

32. In the above circumstances, this Court is of the considered opinion that no ground is made out to quash the proceedings insofar as the petitioner is concerned. The Criminal Petition is, accordingly, dismissed.

ORDER

i. The Criminal Petition is **dismissed.**

ii. The petitioner is at liberty to urge all permissible grounds of defence before the trial Court, which shall consider the same in accordance with law and on the basis of the material placed before it.

iii. The observations made in this order are confined to the consideration of the petition for quashing and shall not influence the trial Court in its independent assessment of the evidence or the merits of the case.

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(SURAJ GOVINDARAJ)
JUDGE

LN, List No.: 1 Sl No.: 31