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.5257 OF 2022

BETWEEN:

SRI. K.N. VENKATESH
S/O NARASIMHA SHASTRY
AGED ABOUT 46 YEARS
NO.28/29, 1/1A, 6TH CROSS
BRINDAVAN LAYOUT
PADMANABHA NAGAR
BENGALURU - 560 061

...PETITIONER

(BY SRI. H.V. NAGARAJA RAO, ADVOCATE)

AND:

SMT. KALPANA
W/O R.K. BALARAJ
MAJOR IN AGE
NO.401, 7TH MAIN
AVALAHALLI, BDA LAYOUT
BANGALORE - 560 085
REPRESENTED BY GPA HOLDER
H.M.SHIVALINGAIAH

...RESPONDENT

(BY SRI. SRINIVASA D.C., & SMT. JYOTHI S.K, ADVOCATES)

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE PROCEEDINGS IN C.C.NO.235/2020 ARISING OUT OF A PRIVATE COMPLAINT REGISTERED IN PCR NO.5812/2018 TAKING COGNIZANCE OF THE PRIVATE COMPLAINT PUNISHABLE UNDER SECTIONS 406,

420 AND 468 OF IPC, NOW PENDING ON THE FILE OF THE 4TH A.C.M.M, BENGALURU CITY, AGAINST THE PETITIONER AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 12.11.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

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

CAV ORDER

This petition is filed praying this Court to quash the proceedings in C.C.No.235/2020 arising out of a private complaint in PCR No.5812/2018 taking cognizance of the offences under Sections 406, 420 and 468 of IPC pending on the file of 4th ACMM, Bengaluru.

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

3. The factual matrix of case of the complainant/respondent in the private complaint filed before the court that there was a transaction of hand loan of Rs.3,50,000/- from P N Ravi through the accused. Later, accused by colluding with said B N Ravi created an

agreement of sale dated 26.08.2012 and also issued a legal notice dated 18.12.2013 to the complainant for specific performance of contract i.e., for sale agreement. The said property belongs to the complainant and the same is worth more than Rs.2.5 crores, but accused alleged that the complainant had agreed to sell the property only for sale consideration of Rs.30,00,000/-. The complainant had issued a suitable reply notice to the accused denying the alleged agreement of sale. The complainant contend that accused had adopted blackmailing tactics to invoke Section 138 of N.I. Act demanding to pay a sum of Rs.26,00,000/- and in this regard, a private complaint was also filed in PCR No.22/2015 and the accused has misused the signed blank cheques. The accused had kept all the original documents of the above said property belongs to the complainant with him and fraudulently approached the complainant's father Sri H M Shivalingaiah (GPA holder herein) and stated that loan of Rs.3,50,000/- has become Rs.15,00,000/- including the interest and made the claim. When accused stated that P N Ravi is demanded Rs.15,00,000/-, to the said amount, created the documents and a promise was made to get the

loan to the tune of Rs.23,89,000/- to the complainant. The accused informed the complainant that there is some difficulty in getting the loan from the bank that the bank will grant the loan of Rs.23,89,000/- but, loan amount will be given to the persons who supplied the materials and the bank will not hand over the loan to the complainant directly. Accordingly, complainant was forced to make a representation to the bank stating that DD for an amount of Rs.14,89,000/- should be paid to the accused and DD for an amount of Rs.9,00,000/- should be paid to Smt. Usha who is none other than the wife of P N Ravi. Having received the money, fails to repay the amount of Rs.9,00,000/- hence, complaint was given but police fails to register the case and NCR was issued. Allegation made in the complaint that petitioner has played fraud on the complainant. Hence, filed the complaint for the offences under Sections 406, 420 and 468 of IPC.

4. The Trial Court proceeded to take cognizance and recorded the sworn statement and issued the process having taken note of sworn statement as well as documents produced. The specific case of the complainant that she had

obtained a loan of Rs.3,50,000/- but accused fraudulently presented the cheques and also got created agreement and the accused has induced the complainant to obtain loan from the bank and played fraud. Having considered the material on record, the Trial Court issued process. Hence, the present petition is filed before this court.

5. The main contention of the counsel for the petitioner before this court is that the entire complaint discloses existence of certain civil transaction involving sale of immovable property and consequential civil dispute. Having perused the allegation, it is very clear that several other persons like P. N. Ravi, his wife Smt. B.N. Usha, N. V. Nagesh and others were also involved in the same civil transaction but complainant had deliberately not involved them in the present complaint. When conspiracy alleged against others, ought to have been involved them also. The entire transaction of agreement of sell, the subsequent conduct of not honoring the same and issuing the cheque in discharge of the advance amount are civil in nature. The complainant having settled the dispute initiated by the present petitioner in C.C.No.554/2014, now come up with

the present private complaint with mala fide intention. It is contended that the offences invoked will not attract the ingredients of the said offences. Hence, prays this court quash the proceedings.

6. This complaint was filed on 28.04.2018. The counsel brought the notice of this court that a compromise was entered between the parties in the criminal proceedings earlier which was initiated in PCR No.22/2015 wherein complaint is filed by this petitioner against the respondent and the said case was compromised in view of the memo filed on 29.06.2015 wherein 138 proceedings was initiated against the complainant/respondent and copy of the order sheet and also the complaint is produced along with the memo and so also, the sworn statement copy of PCR No.22/2015 and also the document of Ex.P2 to P5 and legal notice in support of his claim. The counsel would vehemently contend that filing of present complaint after the settlement is nothing but an abuse of process.

7. Per contra, the counsel appearing for the respondent did not dispute the fact that earlier cheque

bounce case was filed by the present petitioner against the complainant/respondent. But specific accusation is made in the complaint for having indulged in creation of document and forging of the signature. Trial Court also not committed any error in taking cognizance and detailed order has been passed. Hence, it does not require any interference.

8. Having heard the learned counsel appearing for the respective parties and also on perusal of the material on record, the point that would arise for the consideration of this case is:

1. Whether the petitioner has made out a ground to quash the proceedings initiated against him?
2. What order?

Point No.1:

9. Having heard the learned counsel appearing for the respective parties and also on perusal of the material on record, no doubt, allegations are made invoking the offences under Sections 406, 420 and 468 of IPC. In view of the recent judgment of Apex Court in the case of **DELHI RACE**

CLUB (1940) LTD. AND OTHERS vs STATE OF UTTAR PRADESH AND ANOTHER ([2024] 10 SCC 690, it is held that there cannot be invoking of both the ingredients of the offence of 406 and 420 since both are distinct offences. But specific accusation made in the complaint that accused was known to the complainant and the complainant is the absolute owner of the property and he was intending to put up a compound wall and hence, he was in need of money and availed a loan of Rs.3,50,000/- from one P.N. Ravi through accused for interest. It is also a specific case that at the time of getting the loan, all originals with two blank signed cheques of the complainant also obtained and also the the blank stamp paper as security for the loan transaction. But it is the case of the complainant that accused colluding with the said P.N. Ravi created the sale agreement dated 26.08.2012 by forging the signature of the complainant and issued legal notice for specific performance stating that he had agreed to sell the property for Rs.30,00,000/-. But the property is worth about Rs.2.5 crores. In addition, the accused with a mala fide intention to extract huge amount from the complainant, issued a legal

notice dated 19.08.2014 under Section 138 of N.I.Act demanding to pay some of Rs.26,00,000/-. When the original documents were withheld and demanded Rs.15,00,000/-, the complainant had approached the accused for settlement for Rs.15,00,000/- and at that time entered into an agreement dated 06.04.2015 and later assured the complainant to grant the loan of Rs.23,89,000/- and reiterated the contents of the complaint having made him to pay an amount of Rs.15,00,000/- to Ravi and an amount of Rs.9,00,000/- to his wife, but committed fraud and did not repay the amount of Rs.9,00,000/- as agreed in terms of the agreement. The learned Magistrate taking note of specific accusation and also the specific grounds urged in the complaint comes to the conclusion that when he had availed the loan of Rs.3,50,000/-, he was circumvented to enter into an agreement and also agreement dated 06.04.2015 came into existence. But the petitioner has not produced that document of agreement before this Court to show that whether he had agreed to pay the amount of Rs.9,00,000/- which was paid in favour of the wife of P. N. Ravi. These are the materials to be considered during the

course of trial. Hence, the question of invoking the offence under Section 406 does not arise. But the offence of Section 420 and forging of signature is concerned, the same requires to be tested in trial. Hence, I do not find any grounds to quash the proceedings in entirety. But this Court can quash the proceedings for the offence punishable under Section 406 of IPC since the ingredients of Section 406 does not attract having considered the factual aspect of the complaint. Hence, answered the point as partly affirmative.

Point No.2:

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

ORDER

The petition is allowed in part.

The issuance of process for the offence under Section 406 of IPC is set aside and the petition in respect of the offences under Sections 420 and 468 of IPC is rejected.

Sd/-
(H.P.SANDESH)
JUDGE

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