HC-KAR
NC: 2026:KHC:61975
CRL.P No. 5667 of 2022
CNR: KAHC010273322022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF NOVEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO.5667 OF 2022

BETWEEN:

1. SMT. HUSNA DARVESH SYED
AGED ABOUT 72 YEARS
W/O SYED DARVESH MOYIYUDDIN
NEAR VYSHALI NURSING HOME
C K PURA 5TH WARD
CHITRADURGA TOWN
CHITRADURGA
KARNATAKA-577501.

2. SMT. NIKHATH FATHIMA
C/O ABDUL REHMAN SUNKAD
AGED ABOUT 51 YEARS
NEAR WATER TANK
VISHWESHWARA NAGAR
BELGAVI, BELGUM
KARNATAKA-590001.

3. MR. AHMED RAZA M. THILUVALLI
AGED ABOUT 40 YEARS
S/O MUSHTAQ AHMED
THILUVALLI, 5TH BLOCK
30TH WARD, C.K.PURA MAIN ROAD,
CHITRADURGA TOWN
CHITRADURGA, KARNATAKA-577501

...PETITIONERS

(BY SRI. P.P.HEGDE, SENIOR COUNSEL FOR
SRI. VENKATESH SOMAREDDI, ADVOCATE)

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

CNR: KAHC010273322022

AND:

1. THE STATE OF KARNATAKA
   THROUGH THE INSPECTOR OF POLICE
   CHITRADURGA TOWN POLICE STATION
   REPRESENTED BY LEARNED SPP
   HIGH COURT OF KARNATAKA
   BENGALURU-560001.

2. MR. SULAIMAN GADDI
   OMAR ALI GADDI
   AGED ABOUT 26 YEARS
   H.NO.369, KASTURBA NAGARA
   LAKSHMI GALLI, SIRSI
   CHIPPAGI UTTARA KANNADA
   KARNATAKA-581402.

…RESPONDENTS

(BY SRI. SUHAS GOWDA M., HCGP FOR R1;
SRI. RENUKA PRASAD, ADVOCATE FOR
SRI. K.GOVINDARAYA KAMATH, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH ENTIRE PROCEEDINGS IN C.C.NO.1876/2021 (ARISING OUT OF PCR.NO.20/2013) PENDING ON THE FILE OF II ADDITIONAL CIVIL JUDGE AND J.M.F.C., CHITRADURGA, AGAINST THE PETITIONERS FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 406, 420, 465, 466, 467, 468, 506 R/W SECTION 149 OF IPC.

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

CNR: KAHC010273322022

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

ORAL ORDER

Heard learned Senior counsel for the petitioners, the learned High Court Government Pleader for respondent No.1 and respondent No.2-complainant through Video Conferencing.

2. The prayer is sought for quashing the proceedings initiated against the petitioner in C.C.No.1876/2021 which is arising out of P.C.R.No.20/2013 on the file of II Additional Civil Judge and JMFC, Chithradurga invoking the offence punishable under Sections 406, 420, 465, 466, 467, 468 and 506 read with Section 149 of IPC.

3. The factual matrix of case of the complainant while filing PCR No.20/2013 is that the original owner of the property Umar Ali died in the year 1998 and there is no question of executing the document on 15.11.2009 and when the very owner was not alive, question of executing the document by accused Nos.1 and 2 does not arise. Based on the complaint, the Trial Court investigated the matter and ordered to investigate the matter under Section 156(3) of Cr.P.C. and as a

result, Crime No.81/2013 was registered and police investigated the matter and filed the 'B' report. Being aggrieved by the 'B' report, protest memo was filed and thereafter, sworn statement was recorded and the Trial Court considering the sworn statement as well as documents which are marked by the complainant, particularly the documents Exs.P1 to P11 i.e., Family Tree, Ex.P2-Property Register Extract, Ex.P3-Encumbrances Certificate, Ex.P4-certified copy of sale deed dated 16.06.1992, Ex.P5-Death Certificate, Ex.P6-Voter ID, Ex.P7- Aadhaar Card, Ex.P8-Voter ID, Ex.P9-Ration Card, Ex.P10- General Power of Attorney, Ex.P10-General Power of Attorney, Ex.P10(a)-notarized copy of GPA and Ex.P11-certified copy of the sale deed comes to the conclusion that having perused the deposition of P.W.1., coupled with Exs.P1 to P11, the father of the complainant Umar Ali died on 22.09.1998 as per Ex.P5. He had purchased the scheduled property vide Ex.P4 during his lifetime. However, after his death i.e., on 15.11.2009, Ex.P10-Special Power of Attorney was created to have been executed in favour of accused No.2. Further, Ex.P11-sale deed was created to have been executed by accused No.2

as the General Power of Attorney holder of the said Umar Ali Gaddi in favour of accused No.1. Having taken note of sworn statement and all these documents, the Trial Court comes to the conclusion that complainant has made out the grounds to invoke the offences and satisfied that there are sufficient grounds to proceed against accused Nos.1 to 7 and passed the order issuing summons. The relief is also sought for quashing the entire proceedings.

4. The main contention of learned counsel appearing for the petitioners before this Court is that the Trial Court while passing such an order has committed an error. The counsel also brought to notice of this Court judgment of this Court in **DR. RAVIKUMAR vs. MRS. K.M.C. VASANTHA AND ANOTHER** reported in **ILR 2018 KAR 1725** held that before proceeding to record the sworn statement ought to have passed an order considering the 'B' final report and then proceed to register a criminal case which is incorrect and without jurisdiction and committed an error and ought to have followed the procedure mandated under Section 200 as well as Section 204 of Criminal Procedure Code and the same has not been complied with. The

complainant is trying to project a pure civil dispute into criminal offence, in order to harass and humiliate the petitioners. The counsel also would submit that the procedure adopted by the learned Magistrate proceeding to record the sworn statement is erroneous and ought not to have proceeded to pass such an order and at the most, it requires reconsideration by the Trial Court and to remand the matter for fresh consideration.

5. Per contra, learned counsel appearing for respondent No.2-complainant would submit that when specific allegations are made in the complaint that document was created subsequent to death of Umar Ali and acted upon based on that document and the Trial Court also taken note of sworn statement and also the documents which have been produced, particularly the document of sale deed which stands in the name of Umar Ali and also the document of General Power of Attorney which is also marked and proceeded to pass such an order.

6. The learned High Court Government Pleader for respondent No.1-State also reiterates the grounds urged by learned counsel for respondent No.2-complainant and brought

to notice of this Court averments made in the complaint in paragraph No.5, wherein specific allegations are made that after the death of Umar Ali, the document dated 15.11.2009 was created and that document was also got notarized with the notary and question of executing the said document does not arise after his death.

7. Having heard the respective counsel and also on perusal of the material on record, particularly the averments made in paragraph No.5 of the complaint, specific averments are made in respect of the very property involved in dispute and the specific accusation made in the complaint is that said Umar Ali died on 22.09.1998 and the document of Power of Attorney was created dated 15.11.2009 and having taken note of said averments made in the complaint and no doubt, police have filed the 'B' report, the 'B' report was not accepted and instead, the Trial Court proceeded to record sworn statement. The very contention of learned counsel appearing for the petitioners that the Trial Court ought to have considered the 'B' report and then would have proceeded further cannot be accepted. This Court in the recent reported judgment passed in

Crl.P.NO.2397/2020 dated **01.10.2026** considering the judgment of ***Dr. Ravikumar's*** case comes to the conclusion that 'B' report, protest memo and also the sworn statement and documents which have been marked at the time of recording sworn statement has to be simultaneously considered referring several judgments of the Apex Court. Hence, the said contention cannot be accepted.

8. However, the Court has to take note of specific averments made in the complaint and specific accusation is also made in the complaint that document was created and the Trial Court also while passing an order and considering the deposition, particularly made an observation that father of the complainant Umar Ali died on 22.09.1998 as per Ex.P5 and he had purchased the scheduled property as per Ex.P4 during his life time. However, document of Ex.P10-Special Power of Attorney was created to have been executed in favour of accused No.2 after his death and also the sale deed was created by accused No.2 as the General Power of Attorney holder of the said Umar Ali Gaddi in favour of accused No.1 and these are the documents which are referred by the Trial Court.

Hence, when there is a registered document that property was purchased by Umar Ali, the contention is that Umar Ali Gaddi has executed General Power of Attorney and such report is given by the Police while filing the 'B' report. When such dispute is between the parties and the same cannot be decided by this Court sitting under Section 482 of Cr.P.C. The disputed fact has to be investigated whether such Umar Ali and Umar Ali Gaddi are different or one and the same which is a matter of trial and the Trial Court passed a detailed order and also satisfied with the contents of the complaint as made out in paragraph No.5 and also the depositions, sworn statement of complainant and also the other documents i.e., Exs.P1 to P11.

9. Hence, these are the materials to be considered and the grounds which have been urged by the petitioners before this Court is a defence to be raised before the Trial Court and this Court cannot conduct a mini-trial and has to only look into whether the learned Magistrate while passing an order and taking cognizance applied his judicious mind and considering his deposition as well as the documents which have been produced and marked as Exs.P1 to P11 proceeded to pass such

an order. Under the circumstances, I do not find any error on the part of the Trial Court in taking cognizance relying upon the deposition as well as documentary evidence. Hence, I do not find any grounds to quash the proceedings initiated against the petitioners and other grounds which have been urged before this Court also to be considered by the Trial Court at the time of trial.

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

ORDER

The criminal petition is ***dismissed.***

Sd/-
(H.P.SANDESH)
JUDGE

ST
List No.: 1 Sl No.: 44