HC-KAR
NC: 2026:KHC:63324
CRL.P No. 3103 of 2021
CNR: KAHC010280332020

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF NOVEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO. 3103 OF 2021 (482(Cr.PC) / 528(BNSS))

BETWEEN:

1. PRASHANTH
   S/O R GANGADHAR,
   AGED ABOUT 31 YEARS

2. R GANGADHAR
   S/O RAMAIAH
   AGED ABOUT 62 YEARS

   PETITIONERS NO.1 AND 2 ARE
   R/AT NO.740/2,
   PRASHANTH NILAYA,
   4TH CROSS, PIPELINE ROAD,
   YESHWANTHAPURA,
   BENGALURU-560 022

3. SMT ANITHA SRINIVAS
   W/O SRINIVAS
   AGED ABOUT 54 YEARS

4. SMT AISHWARYA
   W/O PRASHANTH
   AGED ABOUT 30 YEARS

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

PETITIONERS NO.3 & 4 ARE
R/AT NO 76, 9TH MAIN 4TH CROSS,
SARSWATHIPURAM, MYSURU.

…PETITIONERS

(BY SRI. RAVI KUMAR M B., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY THE POLICE OF YESHWANTHPURA
POLICE STATION
BENGALURU-560 022.
REPRESENTED BY
STATE PUBLIC PROSECUTOR.
HIGH COURT BUILDING,
BENGALURU-560 001.

2. SRI MADAPPA GOPAL
S/O LATE M.MADAPPA,
MAJOR IN AGE,
R/AT NO.56/36, 1ST MAIN ROAD,
LOWER PALACE ORCHID,
SADASHIVANAGAR,
BENGALURU- 560 080

…RESPONDENTS

(BY SRI.MOHAMMED AYUB ALI .,ADDL.SPP FOR R1;
SRI. S.S.ZULAPI, ADVOCATE FOR R2).

THIS CRL.P IS FILED U/S 482 OF CR.PC BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONORABLE COURT MAY BE PLEASED TO SET ASIDE THE ORDER DATED 17.04.2017 PASSED BY THE LEARNED IV

A.C.M.M., BENGALURU AND ORDER DATED 10.01.2020 PASSED BY THE HON'BLE SESSIONS JUDGE, BENGALURU IN CRL.RP.NO.545/2017 OF THE YEHWANTHPURA P.S., BENGALURU FOR THE OFFENCE P/U/S 403,406,420 R/W 34 OF IPC AND ALLOW THE APPLICATION UNDER SEC.239 OF CR.PC FILED BY THE PETITIONERS.

THIS PETITION IS COMING ON FOR FINAL HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

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

ORAL ORDER

Heard learned counsel for the petitioners and also the counsel appearing for the respondent No.1-State.

2. Though the complainant was represented by learned counsel, there was no representation on his behalf during the morning session. Hence, the matter was passed over. However, even during the afternoon session, neither the complainant nor the learned counsel appearing for respondent No.2 was present before the Court.

3. The prayer sought in the petition before this court to quash the proceedings initiated against the petitioner for the

offence punishable under Sections 403, 406, 420 r/w 34 of IPC and set aside the order dated 17.04.2017 passed by the learned IV ACMM, Bangalore and order dated 10.01.2020 passed by the Hon'ble Sessions Judge, Bengaluru in Crl.P.No.545/2017.

4. The petitioners are accused Nos.1 to 4 and they have been arrayed as accused and accusation is made in the charge sheet that accused Nos.1 and 2 got introduced to CW1 and accused No.1 is a good cricket player and he gave the power to accused No.1 to make the transaction in MG Traders and Exports Company in China and Hong Kong and collected an amount of Rs.20,00,000/- and accused Nos.3 and 4 are partners and the said power was misused and got transferred the amount on different dates and made use of the said amount for their personal gain and all of them in common intention cheated CW1 to the tune of Rs.35,39,102/-.

5. The learned counsel appearing for the petitioners would vehemently contend that a complaint was lodged on 11.12.2008 against the police officials, alleging that they had

forcibly taken petitioner Nos.1 and 2 to the police station, where they, along with certain rowdy elements acting on behalf of CW-1, exerted pressure on the petitioners to issue cheques towards the alleged clearance of dues. It is further contended that specific and clear averments in this regard were made in the private complaint filed against the Police Inspector on 11.12.2008 itself. The learned Magistrate, upon taking cognizance of the said complaint, recorded the sworn statement and issued process against the accused. The order issuing process was challenged before this Court; however, this Court dismissed the challenge.

6. The learned counsel further submits that after this Court dismissed the earlier challenge to the order taking cognizance and issuing process, the petitioners filed an application seeking their discharge before the trial Court. The said application was rejected, and the order of rejection has been challenged before the Sessions Judge, where the matter is presently pending.

7. The learned counsel appearing for the petitioners would further vehemently contend that the four cheques in question were obtained forcibly from the petitioners in collusion with the Police inspector, who has also been arrayed as an accused in private complaint lodged by the petitioners. It is contended that the present complaint, which was filed on 13.10.2008, is a counterblast to the complaint lodged by the petitioners against the complainant and the police officials. It is further submitted that the police investigated the matter and filed the chargesheet on 17.10.2009. In the meantime, the Police Inspector, who has been arrayed as an accused in the private complaint filed by the petitioners, was also aware of the present proceedings.

8. The learned counsel would further contend that the present complaint was lodged in the very same police station, and the investigation was conducted by the subordinate officer of the Police Inspector, who had already been arrayed as an accused in the private complaint filed by the petitioners. It is therefore contended that in view of the existing dispute and apparent conflict of interest between the complainant and the

petitioners, the investigation conducted by the subordinate officer of the said Police Inspector cannot be considered fair and impartial. Hence, the learned counsel submits that the very initiation and continuation of the criminal proceedings against the petitioners is nothing but an abuse of the process of law. In support of his contentions, the learned counsel also places reliance upon the order passed by this Court in Crl.P.No.1754/2010 dated 13.07.2010, whereby the challenge to the order taking cognizance against the Police Inspector was dismissed. The learned counsel further files a memo along with a copy of the complaint lodged before the Human Rights Commission against the said police Inspector and a copy of the report/order of the Chairperson of the Human Rights Commission dated 25.08.2011, in support of the allegations made by the petitioners.

9. The learned counsel, in support of his contentions, would further vehemently argue that proceedings under Section 138 of the Negotiable Instruments Act and proceedings under Section 420 of the Indian Penal Code cannot be simultaneously initiated and continued in respect of the same transaction.

10. In support of the aforesaid contention, the learned counsel places reliance upon the judgment of the Hon'ble Apex Court in the case of ***J.Vedha Singh v. R.M.Govindan and others***[1] and draws the attention of this Court to paragraphs 7, 8(35), 10 (14), 11 (5), 12, 13, 14 thereof, in support of his submission that proceedings under Section 138 of the Negotiable Instruments Act (for short 'NI Act') and Section 420 of the Indian Penal Code cannot be simultaneously pursued in respect of the same transaction.

11. The learned counsel further draws the attention of this Court to Section 300(1) of the Code of Criminal Procedure, dealing with the principle of double jeopardy and submits that the question as to whether an accused can be prosecuted simultaneously under Section 138 of the Negotiable Instruments Act and the relevant provisions of the Indian Penal Code on the basis of an identical set of allegations would amount to double jeopardy, is a legal issue requiring consideration by a Larger Bench of the Hon’ble Apex Court. and

[1] 2022 SCC Online SC 1010

12. The learned counsel further draws the attention of this Court to the principles governing the doctrine of decisis and the binding effect of the law declared by the Hon'ble Supreme Court under Article 141 of the Constitution of India. In this regard, counsel submits that the question as to whether an accused can be prosecuted under Section 138 of the Negotiable Instruments Act as well as under the relevant provisions of the Indian Penal Code on the basis of an identical set of allegations would amount to double jeopardy, has been referred for consideration by a Larger Bench of the Hon'ble Supreme Court.

13. The specific question referred for consideration is whether the decisions of the Hon'ble Supreme Court in ***Kolla Veera Raghav Rao v. Gorantia Venkateswara Rao***[2], and ***G.Sagar Suri v. State of UP*** [3] lay down the correct position of law, or whether the subsequent decision in ***Sangeetaben***

[2] (2011) 2 SCC 703

[3] (2000) 2 SCC 636

Mahendrabhai Patel v. State of Gujarat[4], states the correct legal position.

14. Accordingly, the learned counsel submits that the issue concerning the applicability of the principle of double jeopardy to simultaneous prosecutions under the Negotiable Instruments Act and the Indian Penal Code requires authoritative determination by a Larger Bench of the Hon'ble Supreme Court.

15. The learned counsel, referring to the discussion contained in paragraphs 12 and 13 of the aforesaid judgment, submits that the Hon'ble Supreme Court has observed that there is a conflict of opinion between the parties on the aforesaid legal issue. Consequently, the Hon'ble Supreme Court formulated the questions of law for authoritative determination and referred the matter to a larger Bench for consideration and adjudication.

[4] (2012) 7 SCC 621

16. The learned counsel, referring to the conflict in the earlier decisions of the Hon'ble Supreme Court, further places reliance upon the judgment in ***Delhi Race Club (1940) Ltd. and Ors. v/s State of UP & another***[5], wherein the Hon'ble Apex Court considered the question of simultaneous invocation of Sections 320 and 406 of the Indian Penal Code, contending that the said provisions deal with distinct offences.

17. The learned counsel also places reliance upon the judgment in ***G.Saminathan & another v. The State represented by the SI & another***, decided on 31.07.2026, wherein reference has been made to the judgments in State of ***State of Haryana v. Bhajan Lal***[6] (as cited in the judgment) and in particular, the learned counsel draws the attention of this Court to the discussion contained in paragraphs 9.1 and 8.9 of the said judgment in support of his contentions.

18. Upon perusal of the records, the material placed on record and the rival contentions, this Court is of the considered opinion that the continuation of the criminal proceedings

[5] Crl.A.No.3114/2024

[6] 1992 Supp (1) SCC 335

instituted against the accused at the instance of the complainant would amount to a sheer abuse of the process of law. On a careful consideration of the allegations made in the complaint and the material collected during the investigation, none of the offences invoked in the complaint or incorporated in the charge sheet appears to be made out against the accused.

19. In this regard, reliance is also placed upon the judgment of the Hon'ble Apex Court in ***G. Sagar Suri v. State of U.P.***[7] which has been discussed in the aforesaid judgment. The learned counsel also draws attention to the discussion in paragraph 8.6, wherein the judgment of the Hon'ble Apex Court in Delhi Race Club(1940) Ltd. & Ors. Vs. State of UP & Another has been considered.

20. Referring to the aforesaid judgments and the principles laid down therein, the learned counsel would vehemently contend that the very initiation and continuation of the criminal proceedings against the petitioners for the offence

[7] (2000) 2 SCC 636

punishable under Section 420 of the IPC is nothing but an abuse of the process of law. Hence, the learned counsel submits that the present case warrants interference by this Court in exercise of its inherent jurisdiction to prevent the abuse of the process of the court and to secure the ends of justice.

21. Per contra, the learned counsel appearing for the State would submit that, though the petitioners had lodged a private complaint two days prior to the filing of the present complaint, the sworn statement was subsequently recorded and, based on the same, the learned Magistrate issued process. However, the filing of such a private complaint would not operate as a bar against the complainant approaching the police and lodging a complaint in respect of the alleged offences.

22. The learned counsel appearing for State does not dispute the fact that the investigation in the present case was conducted by the Police Sub-Inspector attached to the very same police station, against whose Police Inspector allegations

had already been made in the private complaint filed by the petitioners. Nevertheless, it is contended that the present complaint contains specific allegations against the petitioners that they had indulged in cheating the complainant. Hence, the learned counsel submits that, in view of the specific accusations made in the complaint and the material collected during the investigation, this Court would not be justified in exercising its inherent jurisdiction under Section 482 of the Cr.P.C. to quash the criminal proceedings.

23. Having heard the learned counsel appearing for the petitioners and the learned counsel appearing for the State, and upon perusal of the records, it is evident that a complaint was lodged before the police on 13.12.2008. Apart from the same, the learned counsel appearing for the petitioners has brought to the notice of this Court that, even prior thereto, on 11.12.2008, a private complaint had been lodged against the Police Inspector attached to the very same police station, alleging his involvement in the incident at the instance of the present complainant.

24. It is further evident that the investigation into the complaint lodged by the present complainant was conducted by the Police Sub-Inspector attached to the very same police station, whose Police Inspector had already been arrayed as an accused in the earlier private complaint. Thus, the allegations made against the Police Inspector and the present complainant give rise to an apparent conflict of interest, particularly in view of the specific allegation that the petitioners were forcibly taken to the police station and their signatures were obtained on cheques amounting to Rs.20,00,000/- under coercion.

25. It is also relevant to note that the learned Magistrate had already taken cognizance of the private complaint against the Police Inspector as well as the present complainant, and the said proceedings are still pending before the competent Court. The Police Inspector had also unsuccessfully challenged the order taking cognizance before this Court, and the said challenge came to be dismissed. Thus, the private complaint instituted by the petitioners against the Police Inspector and the complainant continues to remain pending.

26. Under these circumstances, the Police Sub-Inspector, being subordinate to the very same Circle Inspector against whom serious allegations had been made, ought not to have proceeded with the investigation without bringing the conflict of interest to the notice of the higher police authorities and seeking appropriate directions for transferring the investigation to an independent officer or another police station. However, no such steps were taken.

27. In the absence of any such measure, the fairness and impartiality of the investigation conducted against the petitioners become questionable. Particularly, the fact that the present complaint was lodged subsequent to the institution of the private complaint by the petitioners assumes significance. Consequently, the manner in which the complaint was entertained and investigated, despite the subsisting conflict of interest, raises serious doubts regarding the fairness of the investigation and the propriety of continuing the criminal proceedings against the petitioners.

28. The learned counsel appearing for the petitioners also brings to the notice of this Court that proceedings under Section 138 of the Negotiable Instruments Act had already been initiated in respect of the very same transaction and that the allegations therein arise out of an identical set of facts. It is further contended that allegations of misuse of police powers have also been raised in connection with the same incident, and a private complaint was filed by the petitioners in that regard. Pursuant to the said private complaint, the learned Magistrate conducted an enquiry and issued process, whereas the charge sheet in the present case came to be filed only on 17.10.2009, nearly one and a half years after the institution of the complaint.

29. The learned counsel places reliance upon the judgment of the Hon'ble Apex Court in *J Vedha Singh* (supra) particularly with regard to the principle of double jeopardy. It is vehemently contended that, when the accusations arise out of the very same transaction concerning the issuance of the cheques, the applicability of Section 300(1) of the Cr.P.C. assumes significance. According to the learned counsel, the

simultaneous prosecution under Section 138 of the Negotiable Instruments Act and the relevant provisions of the Indian Penal Code, arising out of the same transaction, requires consideration in the light of the principle of double jeopardy.

30. It is further contended that, in the facts and circumstances of the present case, the investigation itself lacks fairness and impartiality, particularly in view of the earlier private complaint against the Police Inspector and the alleged involvement of the police officials in obtaining the cheques forcibly from the petitioners. Hence, the learned counsel submits that permitting the criminal prosecution to continue in respect of the very same transaction, without an impartial investigation and despite the pending proceedings arising out of the same incident, would amount to an abuse of the process of law.

31. The learned counsel would further contend that the petitioners are facing proceedings under Section 138 of the Negotiable Instruments Act as well as for the offences punishable under Sections 420 and 406 of the Indian Penal

Code. Placing reliance upon the judgment of the Hon'ble Apex Court in *Delhi Race Club(1940) Ltd*.,(supra), the learned counsel submits that the offences punishable under Sections 406 and 420 of the IPC are distinct offences and that the legal principles governing their simultaneous invocation must be considered in the light of the said judgment.

32. It is further brought to the notice of this Court that, in the proceedings initiated under Section 138 of the Negotiable Instruments Act, the petitioners have already been acquitted by the Trial Court. However, an appeal challenging the said judgment of acquittal is pending consideration before this Court.

33. This Court, without entering into the merits of the said proceedings or expressing any opinion on the pending appeal, has to consider whether the continuation of the present criminal proceedings would amount to an abuse of the process of law and result in a miscarriage of justice.

34. Having regard to the facts and circumstances of the case, particularly the absence of fairness in the investigation

conducted by the Police Sub-Inspector, who was subordinate to the Police Inspector against whom criminal proceedings had already been initiated in respect of the specific allegation of forcibly obtaining the cheques in question, this Court is of the opinion that the continuation of the criminal prosecution against the petitioners would not be justified.

35. Under these circumstances, this Court is of the considered opinion that the present case warrants exercise of the inherent jurisdiction under Section 482 of the Cr.P.C. to prevent abuse of the process of the Court and to secure the ends of justice. Otherwise, permitting the proceedings to continue would result in a miscarriage of justice

36. Hence, I proceed to pass the following:

ORDER

i. The petition is ***allowed***.

ii. The proceedings initiated against the petitioner for the offence punishable under Sections 403, 406, 420 r/w 34 of IPC and the order dated 17.04.2017 passed by the learned IV ACMM,

Bangalore and order dated 10.01.2020 passed by the Hon'ble Sessions Judge, Bengaluru in Crl.P.No.545/2017 is hereby quashed.

Sd/-
(H.P.SANDESH)
JUDGE

AG
List No.: 1 Sl No.: 12