HC-KAR



CNR: KAHC010545162024

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 6TH DAY OF NOVEMBER, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE RAJESH RAI K**

**CRIMINAL PETITION NO. 10285 OF 2024**

**BETWEEN:**

SRI SHIVAKUMAR .M
S/O MADDURAPPA
AGED ABOUT 43 YEARS,
R/AT NO. 86
NEAR VASANTHAPURA TEMPLE,
SUBRAMANYAPURA POST,
BENGALURU CITY,
KARNATAKA-560 061

ALSO AT
NO. 786, 17TH CROSS,
2ND BLOCK, KUMARASWAMY LAYOUT,
BENGALURU -560 078

...PETITIONER

(BY SRI. MAHESH NAIK, ADVOCATE)

Digitally signed by PANKAJA S
Location: HIGH COURT OF KARNATAKA

**AND:**

1. THE STATE OF KARNATAKA
BY KUMARASWAMY LAYOUT POLICE STATION,
BENGALURU CITY
REPRESENTED BY ITS SPP,
HIGH COURT, BENGALURU-560 001

2. SMT. MAADEVI M
W/O NAGA NAYAK
AGED ABOUT 43 YEARS,
R/AT NO. 3310, 1ST FLOOR,

40 FEET ROAD,
CHANDRANAGARA
K.S LAYOUT, BENGALURU
KARNATAKA -560 078

…RESPONDENTS

(BY SRI. MAHESHA P, HCGP FOR R1,
SRI. SHREEDHAR KOTRASHETTI, ADVOCATE FOR
SRI. RAJENDRA DESAI, ADVOCATE FOR R2)

THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO QUASH THE ENTIRE PROCEEDINGS AGAINST PETITIONER (I.E. ACCUSED NO. 1) IN CRIME NO. 320/2022 NOW NUMBERED AS CC NO.30485/2023 PENDING ON THE FILE OF HONBLE IV ADDL. CHIEF METROPOLITAN MAGISTRATE AT BENGALURU FOR THE ALLEGED OFFENCES PUNISHABLE UNDER SECTION 406 AND 420 OF IPC AND PASS ANY SUCH ORDER.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

**ORAL ORDER**

This petition is filed under Section 482 of Cr.P.C to quash the proceedings against the petitioner/accused No.1 in C.C.No.30485/2023, arising out of Crime No.320/2022, registered by Kumaraswamy Layout Police, for the offences punishable under Sections 406 and 420 of IPC, pending on the file of IV Addl. Chief Metropolitan Magistrate, Bengaluru.

2. The brief facts of the case are, respondent No.2 lodged a complaint before respondent No.1-Police on

02.11.2022 against the petitioner/accused No.1 and accused No.2 alleging that the petitioner and his sister Meenakshi M. i.e., accused No.2 were the owners of residential building bearing No.3310 situated at 40 Feet Road, Chandranagar, Kumaraswamy Layout, Bengaluru. The petitioner, after obtaining an amount of Rs.3,20,000/- from respondent No.2, leased one house in the said building to respondent No.2 vide Agreement dated 03.08.2016. After expiry of the lease period, accused No.2 once again leased the said house to respondent No.2 by adjusting the lease amount obtained by accused No.1. Subsequently, it came to the knowledge of respondent No.2 that the building was mortgaged to Karnataka State Co-operative Apex Bank Limited and as accused Nos.1 and 2 failed to repay the loan amount, the Bank seized the said building. When respondent No.2 requested the petitioner and accused No.2 for refund of her lease amount, they failed to repay the same and threatened her.

3. On the strength of the said complaint, FIR came to be registered against the petitioner and accused No.2 in Crime No.320/2022 dated 02.11.2022 by respondent No.1-Police for

the aforementioned offences. Subsequently, respondent No.1-Police investigated the case and laid charge sheet against the petitioner and accused No.2 for the aforesaid offences. Accordingly, learned Magistrate took cognizance of the offences. Aggrieved by the same, the petitioner/accused No.1 preferred this petition.

4. Heard the learned counsel for the respective parties.

5. The primary contention of learned counsel for the petitioner is, the petitioner being accused No.1, no way connected to the alleged cheating or breach of trust as alleged in the complaint or in the charge sheet, since initially the lease agreement was executed between the petitioner and respondent No.2 and subsequently the lease was renewed and the amount which was obtained by the petitioner was adjusted for the subsequent lease agreement executed by accused No.2 in favour of respondent No.2. As such, the offences charge sheeted do not attract against the petitioner. He further contended that the entire dispute between the parties is civil in

nature and in order to give criminal colour to the civil dispute, a false complaint has been lodged by respondent No.2 against the petitioner. In order to buttress his arguments, he relied on the following judgments:

i. Naresh Kumar and Another vs. The State of Karnataka and Another - 2024 INSC 196;

ii. Shailesh Kumar Singh Alias Shailesh R. Singh vs. State of Uttar Pradesh and Others - 2025 INSC 869;

iii. Lalit Chaturvedi and Others vs. State of Uttar Pradesh and Another - SLP (Crl.) No.13485 of 2023;

iv. Mitesh Kumar J. Sha vs. State of Karnataka and Others - (2022) 14 SCC 572.

Accordingly, he prays to allow the petition.

6. The prayer of the petitioner is opposed by learned counsel for respondent No.2 and learned HCGP for respondent No.1 on the ground that now the charge sheet has been filed and the statement of material witnesses clearly reveals that the petitioner and accused No.2 being brother and sister have cheated CWs.2 to 7 in similar manner by executing the lease deeds for the said building, which was mortgaged to the Bank.

In such circumstances, with a clear intention of defrauding respondent No.2, the petitioner and accused No.2 received the amount knowing fully that the building would be seized by the Bank. Accordingly, they submitted that the proceedings cannot be quashed against the petitioner at this stage since he committed cheating and breach of trust. With these submissions, they pray to dismiss the petition.

7. I have given my anxious consideration to the submissions and perused the FIR, charge sheet and other documents made available before this Court.

8. On careful scrutiny of the complaint and charge sheet averments, undisputedly the petitioner and accused No.2 are the owners of building bearing No.3310 situated at 40 Feet Road, Chandranagar, Kumaraswamy Layout, Bengaluru. It is also not in dispute that initially this petitioner executed a lease deed in favour of respondent No.2 by obtaining a lease amount of Rs.3,20,000/-. Subsequently the said lease was renewed by accused No.2 by executing a separate lease deed in favor of respondent No.2 by adjusting the amount received by the

petitioner from respondent No.2. The charge sheet averment also discloses that the petitioner with the similar modus operandi cheated CWs.2 to 7 and the statement of CWs.2 to 7 also reveals the similar allegation against the petitioner.

9. The learned HCGP submitted that the petitioner being the habitual offender and accused No.2 being the sister of the petitioner, they both knowing well each other that the building would be seized by the Bank, with a clear intention of inducement, defrauded respondent No.2. The submission of learned HCGP is supported by the statement and other documents available in the charge sheet. In such circumstance, when there is serious allegation of cheating and breach of trust not only to respondent No.2 but also to CWs.2 to 7, it cannot be said that respondent No.2 has to file a civil suit for recovery of amount. This case cannot be construed as civil in nature and as such, the judgments cited by the learned counsel for the petitioner is distinguishable. On over all perusal of the entire charge sheet materials, I am of the considered view that the statement of CWs.1 to 7 has to be tested in a detailed trial. Hence, at this stage, the proceedings against the

petitioner/accused No.1 cannot be quashed. The petition, being devoid of merits, is accordingly ***dismissed***.

**SD/-**
**(RAJESH RAI K)**
**JUDGE**

HKV
List No.: 2 Sl No.: 3