HC-KAR
NC: 2026:KHC:60529
CRL.P No. 124 of 2020
CNR: KAHC010564222019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF OCTOBER, 2026

BEFORE

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

CRIMINAL PETITION NO.124 OF 2020

BETWEEN:

1. A.K. SURESH,
   S/O P.K.K. PILLAI,
   AGED ABOUT 63 YEARS,
   HOUSE NO.333, "ANJANEYAM",
   PARAKKATTU TEMPLE ROAD,
   CHEMBUMUKKU, TRIKKAKARA P.O.,
   ERNAKULAM-682021, KERALA.

…PETITIONER

(BY SRI. S.G. BHAGAVAN, ADVOCATE)

AND:

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

1. THE STATE OF KARNATAKA,
   BY THE STATION HOUSE OFFICER,
   SAMPIGEHALLI POLICE STATION,
   BENGALURU-560045.

2. SRI. CHANDRAKANTH,
   S/O LATE M.R.VENKATESH,
   AGED ABOUT 40 YEARS,
   NO.816, 2ND CROSS, 5TH MAIN,
   AGRAHARA LAYOUT, YELAHANKA,
   BENGALURU-560064.
   (AMENDED VIDE COURT ORDER DATED 14.10.2026)

…RESPONDENTS

(BY SRI. SUHAS GOWDA M., HCGP FOR R1;
SRI. HAREESH BHANDARY, ADVOCATE FOR R2)

CNR: KAHC010564222019

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.PC PRAYING TO QUASH THE PROCEEDINGS IN THE ORDER DATED 16.11.2019 PASSED BY THE COURT OF THE LX ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-61) IN CRL.RP.NO.943/2017 REJECTING IT AND THEREBY CONFIRMING THE ORDER DATED 02.12.2017 PASSED BY THE COURT OF THE CHIEF METROPOLITAN MAGISTRATE, BENGALURU, IN C.C.NO.10747/2012 REJECTING HIS PRAYER FOR DISCHARGE AND CONSEQUENTLY TO DISCHARGE HIM.

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

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

ORAL ORDER

Heard the learned counsel for the petitioner, the learned High Court Government Pleader appearing for respondent No.1/State and the learned counsel for respondent No.2/complainant.

2. An application is filed before the Trial Court by the petitioner/accused No.5 for discharge, stating that he is not aware of any conspiracy between accused Nos.1 to 4 and he had discharged his duty as Manager in sanctioning the loan based on the opinion obtained from an advocate and the advocate gave the opinion that the borrower is having a title over the property and hence, loan was advanced.

3. The learned counsel for the petitioner relies upon the document No.6, opinion given by the advocate, that the borrower has got a title and hence, loan is sanctioned. The learned counsel also submits that the petitioner was not aware of any impersonation in obtaining the sale deed. The learned counsel would submit that the Trial Court committed an error in observing in paragraph No.17 that accused No.5 without ascertaining the documents had sanctioned the loan. CW2 to CW8 in their statements have specifically stated that accused Nos.5 and 6 have assisted other accused in sanctioning the loan on the property of complainant. The learned counsel also contend that even the Revisional Court also did not apply its judicious mind and particularly in paragraph No.14 it is observed that there are sufficient grounds to proceed against accused and it is not a case for discharge of accused, at this stage and the Court cannot probe into the matter while considering the discharge application. The reasoning given by the Revisional Court is erroneous.

4. Per contra, the learned counsel for respondent No.2/complainant would vehemently contend that loan was

sanctioned without verifying the title records and hence, the petitioner also had indulged in conspiring with accused Nos.1 to 4 in sanctioning the loan. The Trial Court and the Revisional Court also rightly taken note of the same.

5. The learned High Court Government Pleader appearing for respondent No.1/State would submit that it is a matter of trial and the matter has to be considered before the Trial Court.

6. Having heard the learned counsel appearing for the respective parties, the points that would arise for the consideration of this Court are:

(i) Whether the Trial Court committed an error in rejecting the discharge application and the Revisional Court in affirming the said order and whether it requires interference of this Court?

(ii) What order?

Point No.(i):

7. Having heard the learned counsel appearing for the respective parties, an allegation is made against this petitioner that he had indulged in sanctioning the loan. The main

contention of the learned counsel for the petitioner is that legal opinion was taken in terms of document No.6 before sanctioning the loan and title was also verified. The description of the documents are also taken note of that hakkupatra was issued by the Tahsildar, Bangalore North Taluk in favour of Sri C.Krishnappa and Katha was also issued in his name and property tax was also paid for the year 2006 issued by Municipal Council, Yelahanka. Encumbrance Certificate for the period from 01.06.1989 to 31.03.2005 issued by the Sub-Registrar, Central Registry, Bangalore was also taken note of. Having taken the opinion from the concerned legal advisor, the petitioner sanctioned the loan. It is not the case of the prosecution that this petitioner also indulged in creation of documents and only invoked the offence under Sections 415 and 420 of IPC and while invoking Sections 415 and 420 of IPC, though allegation is made that loan was sanctioned without verification of the document, the Trial Court committed an error in making such an observation in paragraph No.17. Even the Revisional Court also did not apply its mind while considering the ground which has been urged for discharge and there must

be ingredients of the offence under Sections 415 and 420 of IPC and question of cheating does not arise. Though witnesses CW2 to CW8 in their statements have specifically stated that accused Nos.5 and 6 have assisted other accused in sanctioning the loan, but the Court has to take note of the fact that when the title deeds are produced before the bank and opinion is taken from the advocate, the Bank Manager being the head of the bank relied upon the opinion of the legal advisor and proceeded to sanction the loan. Hence, that cannot be termed as that he was hand in glow with the other accused persons in sanctioning the loan. Both the Courts failed to take note of the said fact into consideration. The Bank Manager proceeded based on document No.6 i.e., opinion given by the legal advisor who had examined the title and if any such impersonation as alleged is against accused Nos.1 to 4 and not against this petitioner. Hence, it is a fit case to exercise the power under Section 482 of Cr.P.C. to quash the proceedings or otherwise it leads to miscarriage of justice and it is nothing but an abuse of process implicating the Bank Manager as accused No.5. Hence, I answer point No.(i) in the affirmative.

Point No.(ii):

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

ORDER

(i) The petition is allowed.

(ii) The order of the Trial Court dated 02.12.2017 passed in C.C.No.10747/2012 in rejecting the discharge application is set aside.

(iii) The order of the Revisional Court dated 16.11.2019 passed in Crl.R.P.No.943/2017 is also set aside.

(iv) Consequent upon setting aside both the orders, the application filed by the petitioner under Section 239 of Cr.P.C. is allowed.

Sd/-
(H.P.SANDESH)
JUDGE

MD
List No.: 1 Sl No.: 20