HC-KAR

NC: 2026:KHC:60127
CRL.P No. 440 of 2025

CNR: KAHC010730262024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO. 440 OF 2025 (482(Cr.PC) / 528(BNSS)-)

BETWEEN:

1. M DEVARAJ RAO
   S/O DEVI PRASAD
   AGED ABOUT 65 YEARS
   R/AT MATPADI ROAD
   BRAHMAVARA POST CHANTHAR
   UDUPI DISTRICT

2. VISHNUMOORTI
   AGED ABOUT 52 YEARS
   S/O KRISHNA MELANTA
   R/AT HOUSE NO.3-170
   HANDIKALLU POST
   CHARA HEBRI UDUPI

...PETITIONERS

(BY SRI. NISHIT KUMAR SHETTY.,ADVOCATE)

AND:

1. STATE OF KARNATAKA
   REP BY SHO
   BRAHMAVAARA POLICE STATION
   REP BY STATE PUBLIC PROSECUTOR
   HIGH COURT BUILDINGS, BANGALORE

2. PADMANABHA BHAT
   S/O LATE SUBHRAMANYA BHAT
   AGED ABOUT 46 YEARS
   R/AT VITTAL SAADANA,
   KIDIYOORU VILLAGE, UDUPI-576103

...RESPONDENTS

(BY SMT. RASHMI PATEL., HCGP FOR R1;
SRI. NITHYANAND.V. NAIK., ADVOCATE FOR R2)

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THIS CRIMINAL PETITION IS FILED U/S 482 CR.PC (FILED U/S 528 BNNS) PRAYING TO QUASH THE ENTIRE PROCEEDINGS AGAINST THE PETITIONERS IN CR.NO.144/2024 OF BRAHMAVAR POLICE STATION FOR THE OFFENCE P/U/S 420, 465, 468, 471 R/W 34 OF IPC, ON THE FILE OF ADDL. CIVIL JUDGE AND JMFC, UDUPI.

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

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. The petitioners are before this Court seeking for the following reliefs:

   a. *Quash the entire proceedings against the petitioners in Cr.No.144/2024 of Brahmavar Police Station for the offence p/u/s 420, 465, 468, 471 r/w 34 of IPC, on the file of Addl. Civil Judge and JMFC, Udupi.*

2. Respondent No. 2 lodged a complaint on 06.06.2024 alleging that the petitioners, who are family members having an interest in the properties bearing Sy. Nos. 109 and 102 of Chara Village, Hebri Taluk, Udupi District, had forged his signature and created a power of attorney dated 22.02.2023.

3. It is further alleged that, acting on the said power of attorney, a partition deed was executed and registered on 03.03.2023. Alleging forgery, respondent No. 2 sought action against the petitioners. Pursuant to the complaint, Brahmavar

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Police registered Crime No. 144/2024 for offences under Sections 465, 468, 471, 420 and 34 of the IPC. The petitioners have filed this petition seeking to quash the said proceedings.

4. Sri Nishit Kumar Shetty, learned counsel for the petitioners, contends that:

4.1. The allegation of forgery of the power of attorney is denied. Alternatively, it is contended that no loss has been caused to respondent No.2.

4.2. No loss has been caused to respondent No.2 by the partition deed dated 03.03.2023. On the contrary, respondent No. 2 has been allotted a share greater than what he was entitled to. Therefore, the ingredients of cheating under Section 420 of the IPC are not attracted.

5. Sri Nithyanand V. Naik, learned counsel for respondent No. 2, submits that the alleged forgery is evident from the disputed signature on the power of attorney and the signature of respondent No. 2 on the complaint. He contends that the matter requires investigation and that respondent No. 2 has suffered loss since his share in the property has been reduced.

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6. Heard Sri Nishit Kumar Shetty, learned counsel for the petitioners, Smt. Rashmi Patel, learned HCGP for respondent No. 1, and Sri Nithyanand V. Naik, learned counsel for respondent No. 2. Perused the papers.

7. The power of attorney alleged to have been forged is an unregistered, notarised document. The partition deed executed pursuant to it is a registered document, executed within 15 days of the power of attorney. The complaint alleges that the petitioners forged the signature of respondent No. 2 on the power of attorney and thereafter used the said document to execute and register the partition deed.

8. Insofar as the offences relating to forgery and use of a forged document are concerned, the genuineness of the power of attorney is the central issue. The petitioners deny the allegation of forgery. However, this Court is of the considered opinion that the disputed signature requires comparison with the admitted signatures of respondent No. 2 through forensic examination. The circumstances in which the power of attorney was created and subsequently acted upon also require investigation. At this stage, this Court cannot conclusively determine whether the

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document is forged or whether the petitioners have committed the offences alleged.

9. Insofar as the offence of cheating under Section 420 of the IPC is concerned, learned counsel for the petitioners contends that respondent No. 2 has suffered no loss under the partition deed and has, in fact, been allotted a share greater than his entitlement. It is contended that the essential ingredients of cheating are therefore not attracted.

10. The complaint, however, alleges that the petitioners forged the signature of respondent No. 2 on the power of attorney and, on the strength of that document, executed and registered a partition deed. Whether the document was created and used without his consent, and whether the transaction resulted in wrongful gain or wrongful loss are matters require investigation. The contention that respondent No. 2 received a larger share does not, by itself, negate the allegation of cheating. The allegations must be examined in the context of the entire transaction and the manner in which the power of attorney was allegedly created and used.

11. The power under Section 482 of the CrPC to quash criminal proceedings must be exercised sparingly and

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with caution. At this stage, the Court must examine whether the allegations in the complaint, taken at face value and accepted in their entirety, disclose the commission of the offences alleged. The Court cannot conduct a mini-trial, appreciate disputed evidence or determine the genuineness of disputed documents while considering a petition for quashing.

12. Where the allegations disclose the ingredients of the offences alleged and the matter requires investigation, the proceedings cannot be quashed merely because the accused disputes the allegations or offers a different explanation. Quashing is warranted where the allegations, even if accepted in their entirety, do not constitute an offence or where continuation of the proceedings would amount to an abuse of the process of law.

13. In the present case, the complaint specifically alleges forgery of the power of attorney and use of that document to execute and register a partition deed including the property of the Complainant, representing the Complainant in the Partition Deed. The genuineness of the document and the circumstances in which it was executed and acted upon require investigation. The petitioners' contention that respondent No. 2 suffered no loss

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does not, at this stage, justify quashing the proceedings.

14. Accordingly, this Court is not inclined to exercise its jurisdiction under Section 482 of the CrPC to quash the proceedings. The petition is dismissed. The petitioners are at liberty to raise all permissible defences at the appropriate stage. The investigating agency shall proceed in accordance with law.

15. In that view of the matter, this Court passes the following;

ORDER

i. Criminal petition stands ***dismissed***.

ii. Respondent No.1 is directed to collect the admitted and disputed documents and refer the documents to the Forensic Science Laboratory, conduct the regular investigation and submit the final report as early as possible.

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(SURAJ GOVINDARAJ)
JUDGE

SR
List No.: 1 Sl No.: 5