

17.01.2020
Complainant
For orders

ORDER

Heard counsel for the complainant.

2. It is the case of the complainant that the complainants mother late Sartaj Begum was allotted two apartments bearing No.A 102, B 202. After the death of his mother the khatha was transfered to the name of the complainant. The complainant on obtaining the copy of the documents under RTI was surprised to note that the signature of the complainant is forged and the and the accused have stolen the ID cards of the complainant and his mother and obtained transfer of the khata in his joint name of the complainant and the accused. It is alleged that the accused has committed offences u/s.406, 417, 420, 465, 467, 468, 471 r/w 120(B), 34 of IPC.

3. In order to attract section 406 the complainant should entrust the accused with some property to be used in a specific manner and the said property of the complainant should be misappropriated or converted to own use by the accused.

4. The language of this section has been structured in a manner that it has a wide ambit, however 'entrustment' of the property is an essential element for an offense to be penalized under S.405 of IPC.

5. The essential ingredients of the offense of criminal breach of trust are;

(1) The accused must be entrusted with the property or with dominion over it,

(2) The person so entrusted must misappropriate that property, or;

(3) The accused must dishonestly use or dispose of that property or wilfully suffer any other person to do so in violation,

(a) of any direction of law prescribing the mode in which such trust is to be discharged, or;

(b) of any legal contract made touching the discharge of such trust.

6. Hence section 406 is not attracted to the facts of the case as it is not an entrustment but dispute with respect to family property and case of forgery and cheating.

7. This court is a special court to deal with offences under section 403 to 409 of IPC. Since the offence under section 406 is not attracted this court is not competent to take cognizance of the alleged offences and the complaint has to be returned in view of Sec.201 Cr.P.C. to be presented before the jurisdictional court. Hence, I proceed to pass the following :

ORDER

Office to return the complaint to the complainant to present it before the jurisdictional court competent to take cognizance of the other alleged offences.

IV Addl. CMM, Bengaluru.