



**IN THE COURT OF II ADDL. DISTRICT & SESSIONS
JUDGE, AT MANDYA.**

Dated this the 18th day of May 2026.

PRESENT

Smt. Sayeedunnisa, M.A., LL.B.,
II Addl. District & Sessions Judge,
Mandya.

Crl. Appeal No.247/2021

APPELLANT : Sri H.S. Chalugaraju,
S/o Late Seetharam,
Aged about 45 years,
Sub-Registrar,
Presently working in
Sringeri, Chikmagalur District.

Permanent R/o No.3644,
TAPCMS Cross Road,
Nizam Mohalla, Hunasuru.

(By Sri Nishitkumar Shetty, Advocate)

-Vs-

RESPONDENT : State by Mandya West Police Station.

(By Learned Public Prosecutor, Mandya)

* * *

J U D G M E N T

This is an appeal filed by the appellant/accused No.1 in CC No.1067/2009 aggrieved against the conviction judgment passed by the I Addl. Civil Judge and JMFC., at Mandya on 20.03.2021 and sentencing him on 29.03.2021 for the offences punishable under section 166, 409 and Section 420 of IPC.

2. *Parties to the appeal are referred to as per the ranking assigned to them before the trial Court. The appellant herein is the accused no.1, hereinafter, appellant is referred to as accused no.1.*

3. *The accused no.1 has challenged the impugned judgment on the following grounds.*

Grounds of appeal :

- 1) *The I Additional Civil Judge and JMFC, Mandya has erred in convicting the accused no.1 for the offences punishable under Section 166, 409 and Section 420 of IPC.*
- 2) *The judgment passed by the learned Magistrate is erroneous on the face of it, the same is capricious, illegal, and is liable to be set aside.*

- 3) *The judgment passed by the learned Magistrate is on the basis of assumptions and presumptions without any proof.*
- 4) *The trial Court has failed to consider the fact that at the time of verification of challan by the accused No.1, the challan along with counterpart was not forged. Since the accused No.1 has neither registered the document nor made any certificate under Section 10(A) of Karnataka Stamp Act on the registered document on the basis of the alleged forged challan, the accused No.1 is nowhere concerned regarding the alleged offences. The trial Court's judgment is not sustainable.*
- 5) *The trial Court has failed to consider that the charge framed under Section 166 of IPC is not properly framed. There is no breach of any particular direction or law in the charge.*
- 6) *The offence alleged under Section 409 of IPC is committed only if the property is entrusted or in dominion of the property, dishonestly misappropriates or disposes that property for his own use. The ingredients are missing. The trial Court has failed to consider the fact that the alleged lapses in the discharge of official duty may be due to inadvertence,*

negligence or overwork, it cannot be considered as criminal breach of trust.

- 7) The trial Court has failed to consider that there was no dishonest intention on the part of the accused No.1.*
- 8) While considering the charge against the accused No.1 the trial Court ought not to have relied on the order of the disciplinary authority to hold that the offences have been proved. The trial Court has failed to see that the order passed by the disciplinary authority will not prove any offence alleged against the accused No.1.*
- 9) The trial Court has acquitted the accused persons in Case No.1281/2009. The same reasons ought to have been applied in this case and ought to have acquitted the accused No.1.*
- 10) The trial Court has failed to consider that at the time of verification the amount mentioned in the challan as well as in its counterpart is same and this accused No.1 has already complained and reported regarding the alleged misuse way back on 17.02.2006 to the higher authorities.*
- 11) The learned Magistrate has failed to properly appreciate the evidence on record and has failed to*

see that the prosecution has miserably failed in proving the case beyond reasonable doubt. The trial Court has not considered the fact that most of the witnesses examined by the prosecution have turned hostile.

12) The trial Court has not at all considered the facts and the material elicited from the mouth of the witnesses during the course of cross-examination. If the trial Court ought to have scrutinize the entire evidence of the witnesses, definitely the same would not have inspired the confidence of the court to convict the accused.

13) The impugned judgment passed by the learned Magistrate is opposed to law and principles of natural justice and the same is liable to be set aside.

14) The impugned judgment suffers from irregularities and capriciousness, the same is liable to be set aside.

Accordingly, on all these grounds, the accused No.1 has prayed for setting aside the impugned judgment dated 20.03.2021 and sentence dated 29.03.2021 passed by the I Addl. Civil Judge and JMFC., at Mandya in C.C. No.1067/2009 against the accused no.1 by allowing the appeal.

4. *On filing of this appeal, notice was issued to the respondent. The learned Public Prosecutor has taken notice of the same and has contested the appeal.*

5. *TCR was called and received.*

6. **Written submissions/arguments :**

a) *Counsel for accused no.1 has filed written argument stating that as per the case of the prosecution, the purchasers of various lands, in order to get their property registered under sale deeds before the Sub-Registrars, have made registration through sale deeds which were written by the deed writers. In order to get their sale deeds registered, they visited the office of the Sub-Registrar for the purpose of registration. The deed writers wrote the challan and the same was presented before the Sub-Registrar. The Sub-Registrar/Accused no.1 has put his signature on voucher and the same was remitted to the bank. Thereafter the accused no.1 along with other accused colluding with each other forged the counterpart of the challan/voucher and submitted before the accused no.1 along with the deed and got it registered. The paid voucher/challan amount was not tallied with the challan which was presented before Sub-Registrar at the time of registration. Thereby, the accused persons*

are alleged to have committed the offences punishable under Section 465, 468, 471, 166, 420 r/w 34 of IPC by defrauding the state treasury.

b) The accused no.1 was an in charge Sub-Registrar of Mandya from 12.12.2004 to 25.03.2005. He has to affix his signature after verifying the payable fee for registration of deed as per Karnataka Registration Act. In the present case he has acted as per the procedure prevailing and laid down by the government at the time of alleged offences alleged to have been committed. The appellant/accused no.1 has put his counter signature on the challan by verifying the deed which was presented before him. But by the time registration of the deed, the accused no.1 was not able to verify whether the presented challan before him was forged or not, because there was no such procedure laid down by the government to make verify its genuineness. There was high possibility of changing the deed at the time of registration which was presented in the earlier occasion. For counter signature the deed and challan which was presented for registration before the appellant was tallied with each other as according to payable fee, there was no way to find out the deed which was presented before him at the time of

registration was earlier one and not which was presented at the time of verification of challan.

- c) *The prosecution has not produced any material to show that the deed which was presented before the Sub-Registrar at the time of determination of stamp duty and the deed which was presented after the payment of stamp duty was one and the same which was verified by the appellant earlier for determination of stamp duty.*
- d) *The prosecution has not produced any material to show that deed which was presented before the Sub-Registrar at the time of determination of stamp duty and the deed which was presented after the payment of stamp duty was one and the same deed which is verified by the accused no.1 earlier for determination of stamp duty. It has been admitted by PW-1 Narasimhaiah in his cross-examination that it was the duty of the banker to mention amount in words which has been received by the bank along with denominations of the notes received by the banker. If such acknowledgment would have been done by the banker there is no room for forgery and it is also admitted by PW-1 in the cross-examination that while looking into Ex-P1 to Ex-P28 one cannot see any correction. The trial Court has observed that the*

person who has signed the challan is only responsible for the whole act and with that observation, the court has acquitted the Sub-Registrar who has only registered the deed including the accused no.1 in one case. If that is the case, if he colluded with the deed writer, when the challan and deed were presented for registration, the Sub-Registrar who has registered the deed would notice the same. But they have registered the deed without noticing the same, because there was no such facility or procedure to find out the alleged forgery. Only on assumption the court came to the conclusion that the accused no.1 without verifying the actual fee payable to the government had signed the challan. Thereby, he is involved in the forgery. But no evidence to show that the challan was forged at the time of verification. On the other hand, the prosecution has not shown any evidence to prove that Sub-Registrar should sign the challan after verifying the deed. There is no evidence on part of the prosecution that the accused no.1 have not signed the challan without looking into the deed. PW-1 has in the original case in his examination-in-chief has not stated anything about the procedure which should have been followed for registration. The court below only based on his evidence treated him as expert and came to the conclusion that accused no.1 is guilty.

Since the evidence regarding method should be followed and how the accused no.1 has committed the offences not available, his evidence cannot be treated as expert evidence. PW-1 may have worked as Sub-Registrar, merely because he worked in very same post, it cannot be considered him as expert without supporting cogent evidence. The accused has been convicted for the offence under Section 166 of IPC along with Section 409 and 420 of IPC, the same is not at all sustainable under law. There is no evidence to show that the appellant being public servant has disobeyed the law. The ingredients of Section 166 of IPC to constitute an offence is clearly missing in the case of the prosecution. The Sub-Registrar cannot be prosecuted if anything done in good faith. Section 86 of Karnataka Registration Act provides that the Registering Officer is not liable for a thing bonafidely done or refused in his official capacity.

- e) *The accused no.1 was a public servant and the prosecution has not obtained prior sanction to prosecute against the accused no.1 as provided under Section 197 of Cr.P.C. The Hon'ble Apex Court in **Srinivasalu Vs. State represented by the Inspector of Police 2023 SCC online SC 900** has held that, previous sanction is necessary to prosecute offence*

against the public servant while discharging his official duty even in case of criminal conspiracy to commit offence under Section 420 of IPC. In the said case, the Apex Court has elaborately discussed at para 29, 30, 34, 35, 38, 39, 49, 50 and 51 about obtaining of previous sanction. Accused no.1 was discharging duty and performing his official duty when the alleged offences are claimed to have been committed. The trial Court has not considered the said fact and further the accused no.1 has not committed any offence alleged against him. He is the victim of circumstances. As per the voluntary statement of accused no.2 and 3, they have committed the offence and money accrued by such deception by causing loss to the Estate Exchequer is paid into his KFC loan account of accused no.3. The accused no.1 has discharged his duties with due diligence and has not committed any misconduct in his entire service. He has explained under what circumstances he has been implicated when he was giving answers under Section 313 of Cr.P.C. The accused is entitled for the acquittal from the hands of this Court.

Accordingly, the counsel for accused has prayed for acquitting the accused for the offences under Sections 166, 409 and 420 of IPC.

7. On the other hand, Learned Public Prosecutor representing the State argued that during the departmental inquiry, the accused no.1 has been found guilty and he has paid the amount to the government and further the documents produced before the court such as vouchers and the challans clearly established that, it has been forged and manipulated. The accused no.1 being the Sub-Registrar is duty bound to verify the records wherein he in collusion with the other accused have committed the offence. The trial Court has considered the entire material on record and has rightly convicted the accused. Accordingly, the prosecution prays for confirming the judgement of conviction passed by the Learned Magistrate.

8. Heard and perused the entire material on record.

9. The points that would arise for my consideration are :

1. Whether the judgment passed by the trial Court is in accordance with law and facts of the case ?
2. If, not whether the interference of this Court is required in the impugned judgment passed by the trial Court ?
3. What order ?

10. *My answer on the aforesaid points are as under:-*

*Point No.1 : In the **Negative**.*

*Point No.2 : In the **Affirmative**.*

*Point No.3 : As per the final order,
for the following:-*

REASONS

11. **POINT Nos.1 & 2** : *Both these points are interrelated, they have been taken up for consideration together in order to avoid repetition of facts and evidence.*

Brief background of the case :

12. *On perusal of entire trial Court records produced in this case, it is evident that initially complaint has been given by Narasimhaiah/PW-1 a Sub-Registrar on 27.04.2006, against the then eight Sub-Registrars/in-charge Sub-Registrars by name 1. Chalvaraju, 2. Smt. Leelavathi, 3. P.V Veera Rajendra Urs, 4. Vijay, 5. Smt. S.N.Prabha, 6. M.Umesh, 7. Smt. A.C. Sunanda, 8. M.Sreenivasalu working as Sub-Registrars/in-charge Sub-registers at Mandya from 01.04.2003 to 02.05.2005 alleging that they have forged challans/vouchers and documents/sale deeds have been registered on the basis of altered vouchers by showing higher amount as if the registration stamp charges have been paid correctly,*

though lesser stamp duty than the actual stamp duty has been deposited with the bank and have cheated the government by causing loss to a tune of ₹.16,41,000/- as per the audit report conducted towards the reconciliation of the vouchers from 01.04.2003 to 31.12.2005.

13. *The said complaint was on the basis of Letter/ direction dated 30.12.2005 issued by Director of Treasury, Government of Karnataka and Memorandum of letter issued by Commissioner of Stamps and Registration and Report dated 27.02.2006 given by Assistant Director of Stamps and Registration.*

14. *On filing of complaint, initially case was registered in Cr.No.67/2006 against the then eight Sub-Registrars for the offences punishable under Section 465, 467, 471, 166 of IPC.*

15. *Records further reflects that after completion of investigation, 156 separate charge-sheets were filed against the accused persons including Sub-Registrars, deed writers separately on the basis of separate challans/ vouchers and registered sale deeds.*

16. *The records discloses that originally the first charge-sheet filed was registered in C.C. No.643/2008*

wherein all original documents were produced. The trial court has taken cognizance of the offences, after framing the charges when the accused have not pleaded guilt, has recorded the evidence of the witnesses and original documents pertaining to all the 156 cases have been marked.

17. *In the remaining 155 cases, the trial Court has marked certified copies of relevant vouchers, sale deeds/ documents, complaint, audit report. Further the court has recorded the evidence of witnesses common to all the cases, apart from the relevant witnesses of each individual case.*

18. *Trial Court records would reflect that in this case, Prosecution has led the evidence of PW-1 to PW-14 and has got marked as many as 27 documents and further the records discloses that the relevant vouchers and the sale deed pertaining to this case has been marked as ExP13 and Ex.P14. Original vouchers pertaining to this case are marked as Ex-P260 and Ex-P261 in CC No.643/2008*

19. *Trial court after completion of the evidence led by the prosecution has recorded the statement of accused No.1 under Section 313 of Cr.P.C. Thereafter trial Court*

has passed the judgment on 20.03.2021 convicting the accused no.1 for the Offence punishable under Section 166, 409 and 420 of IPC and accused no.2 and 3 have been convicted for the offences punishable under Section 465, 468, 471 and 420 of IPC.

20. *Further trial court has passed the sentence on 29.03.2021 sentencing the accused no.1 to pay fine of ₹.5,000/- for the offence under Section 166 of IPC in default of payment of fine amount, he has been sentenced to undergo further simple imprisonment for a period of 3 months.*

21. *Further for the offence under Section 409 of IPC, accused no.1 has been sentenced to undergo simple imprisonment for a period of 2 years and fine of ₹.10,000/- and in default of payment of fine he has been sentenced to undergo further simple imprisonment for a period of 6 months.*

22. *Further for the offence punishable under Section 420 of IPC, the accused no.1 has been sentenced to undergo imprisonment for a period of 2 years and fine of ₹.10,000/-. In default of payment of fine he has been sentenced to undergo further simple imprisonment for a period of 6 months.*

23. *The said conviction judgment passed by the trial Court has been challenged by the accused no.1 in this appeal. This Court, being the appellate court, is duty bound to look into the entire material on record and reassess the evidence on record to come to conclusion whether the trial court has rightly convicted the accused or not or whether the interference of this court is necessary in the judgment passed by the trial court.*

24. *The offences for which the accused has been convicted are under Section 166, 409 and 420 of IPC.*

25. *In order to attract the offence under Section 166 of IPC the prosecution shall prove that accused no.1 is a public servant, there was a direction of law governing his conduct, he knowingly disobeyed such direction, such disobedience was with intention to cause injury or knowing that injury was likely to be caused.*

26. *In order to attract the offence under Section 409 of IPC, entrustment of property or dominion over the property is most essential and the prosecution must prove that the Sub-Registrar was entrusted with the money or had dominion over the stamp duty, and he dishonestly misappropriated or converted it.*

27. *Further, in order to attract the offence under Section 420 of IPC, the prosecution must prove that the deception was from the inception, the dishonest or fraudulent intention on the part of the accused no.1 and inducement causing loss or wrongful gain.*

28. *In the background of settled position of law, this Court has to look into the evidence on record to come to conclusion whether the prosecution has proved the offences alleged against the accused no.1. The main ground on which the conviction judgment has been challenged is, the trial Court has not appreciated the evidence on record. The trial Court has not at all considered the cross-examination directed to the witnesses and the material evidence elicited from the mouth of the witnesses.*

29. *The records disclose that there is no dispute regarding the fact that accused no.1 is a public servant and was in charge Sub-Registrar of Mandya from 12.12.2004 till 25.03.2005. Even it is not in dispute that, the sale deed in issue was registered when he was working as such. Even there is no dispute that pre-deposit voucher in issue bears his signature.*

30. *Evidence on record would show that PW-1 is the complainant he has deposed that on the basis of of audit report and direction given by his higher authorities to take action he has given the complaint, he is not having personal knowledge about the allegation of forgery, cheating etc. If his entire evidence is scrutinize carefully, it is evident that no where in his evidence he has stated as to what was the settled procedure which ought to have been followed by the Sub-Registrar what is the said procedure accused no.1 did not follow during his tenure of service as Sub-Registrar at Mandya.*

31. *During the course of his cross-examination he has admitted that apart from the Sub-Registrar there will be other clerical staff members who verify the correctness of the stamp duty payable on the document. Further he has admitted that only after the document and the stamp duty payable is scrutinize by the concerned clerk it will be placed before the Sub-Registrar for the counter signature.*

32. *He has also admitted that previous to the stamp duty started collecting through vouchers. The stamp duty used to be collected through the stamp papers and later the government stopped collecting the stamp duty through the stamp paper and started collecting the stamp duty through vouchers. The evidence given by PW-1 in this regard can be read at his cross-examination as follows.*

ಕಚೇರಿಯಲ್ಲಿ ಉಪನೋಂದಣಾಧಿಕಾರಿಯಲ್ಲದೆ ಇನ್ನೊಬ್ಬ ಗುಮಾಸ್ತಾ ಸಹ ದಾಖಲೆಗಳು ಸರಿಯಾಗಿ ಇದೆಯಾ ಎಂದು ಪರಿಶೀಲಿಸಿರುತ್ತಾರೆ ಅಂದರೆ ಸರಿ. ಮೊದಲು ಅವರು ಪರಿಶೀಲಿಸಿದ ನಂತರ ದಾಖಲೆ ನಮ್ಮ ಬಳಿ ಬರುತ್ತದೆ ಅಂದರೆ ಸರಿ. ದಾಖಲೆಯಲ್ಲಿ ಎಷ್ಟು ಮುದ್ರಾಂಕ ಶುಲ್ಕ, ನೋಂದಣಿ ಶುಲ್ಕ, ಸ್ಯಾಟಿಂಗ್ ಚಾರ್ಜ್ ಇತ್ಯಾದಿ ಪಾವತಿಸಬೇಕೆಂದು ನಮೂದಿಸಿರುತ್ತಾರೆ ಅಂದರೆ ಸರಿ.

33. *Further, PW-1, during his cross-examination has deposed that ;*

ನಮ್ಮ ಕಚೇರಿಗೆ ಸಾಮಾನ್ಯವಾಗಿ ದಸ್ತಾವೇಜು ನೋಂದಣಿಗಾಗಿ ಬರಹಗಾರರು ಹಾಗೂ ಕೆಲವೊಮ್ಮೆ ವಕೀಲರು ಬರುತ್ತಾರೆ ಅಂದರೆ ಸರಿ. ಆ ರೀತಿ ಬರುವಾಗ ಅವರೇ ದಸ್ತಾವೇಜು ತಯಾರಿಸಿಕೊಂಡು ಚಲನ್ ತುಂಬಿಸಿ ನಮ್ಮ ಬಳಿ ಬರುತ್ತಾರೆ ಅಂದರೆ ಸರಿ. ಅವರು ಬರೆದ ಹಣ ಸರಿ ಇದೆಯಾ ಎಂದು ಪರಿಶೀಲಿಸಿ ನಾವು ಮೇಲು ರುಜಿ ಹಾಕಿ ನೀಡುತ್ತೇವೆ ಅಂದರೆ ಸರಿ. ಚಲನ್ನಲ್ಲಿ ಪ್ರತಿಯೊಂದು ನೋಟುಗಳ ಮುಖಬೆಲೆ ಹಾಗೂ ಎಷ್ಟು ಹಣ ಪಾವತಿಸಿರುತ್ತಾರೆ ಎಂದು ಬರೆಯಬೇಕು ಅಂದರೆ ಸರಿ. ಬ್ಯಾಂಕಿನವರು ಹಣ ಪಡೆದು ಎಷ್ಟು ಹಣ ಪಡೆದಿರುತ್ತಾರೆ ಎಂದು ಅಕ್ಷರಗಳಲ್ಲಿ ಬರೆಯಬೇಕು ಅಂದರೆ ಸರಿ. ನಿಶಾನೆ ಪಿ-2 ರಲ್ಲಿ ಬ್ಯಾಂಕಿನವರು ಎಷ್ಟು ಹಣ ಪಡೆದಿರುತ್ತಾರೆ ಎಂದು ಅಕ್ಷರದಲ್ಲೇ ಬರೆದಿರುವುದಿಲ್ಲ ಅಂದರೆ ಸರಿ.

34. *Further, PW-1 most importantly has admitted in his cross-examination as follows :*

ಸದರಿ ದಾಖಲೆಯನ್ನು ನಮ್ಮ ಮುಂದೆ ಹಾಜರಪಡಿಸಿದಾಗ ಅದರಲ್ಲಿ ಬ್ಯಾಂಕ್ ಹಾಗೂ ಖಜಾನೆಯ ಸಹಿ ಹಾಗೂ ಮೊಹರ್ ಇರುವ ಕಾರಣ ಅದನ್ನು ನಿಜ ಎಂದು ನಂಬಿ ಅವರು ಸರ್ಕಾರಕ್ಕೆ ಪಾವತಿಸಬೇಕಾದ ಮುದ್ರಾಂಕ ಶುಲ್ಕ ಹಾಗೂ ನೋಂದಣಿ ಶುಲ್ಕ ಪಾವತಿಸಿರುತ್ತಾರೆ ಎಂದು ನಂಬಿ ನಾವು ಅದರ ಆಧಾರದಲ್ಲಿ ದಸ್ತಾವೇಜು ನೋಂದಣಿ ಮಾಡುತ್ತೇವೆ ಅಂದರೆ ಸರಿ. ಹಾಜರುಪಡಿಸಿದ ದಾಖಲೆಯನ್ನು ಸರಿ ಇದೆಯಾ ಎಂದು ಪರಿಶೀಲಿಸಲು ನಮಗೆ ಬೇರೆ ಯಾವುದೇ ದಾಖಲಾತಿಗಳು ಇರುವುದಿಲ್ಲ.

ಹಾಗೂ ಆ ಕಾರಣ ನಾವು ಸದರಿ ದಾಖಲೆಯನ್ನು ನಂಬಿ ನೋಂದಣಿ ಮಾಡಬೇಕಾಗುತ್ತದೆ ಅಂದರೆ ಸರಿ.

35. *Further, during the course of cross-examination, PW-1 has deposed that after the stamp duty is deposited with the bank only one challan will be produced before the Sub-Registrar. After verification that the proper stamp duty has been paid, on the basis of the said voucher, they registered the document and he has also admitted that the staff pertaining to the Sub-Registrar Office does not visit the bank for the verification regarding the payment of challan and they will not be having any mechanism to know the correct amount deposited by the concerned towards the stamped duty.*

36. *The said evidence given by PW-1 can be read as follows ;*

ಬ್ಯಾಂಕಿಗೆ ಶುಲ್ಕ ಪಾವತಿಸಿದ ನಂತರ ನಮ್ಮ ಮುಂದೆ ಕೇವಲ ಒಂದೇ ಚಲನ್ ಹಾಜರುಪಡಿಸಿರುತ್ತಾರೆ. ಆ ಚಲನ್ನಲ್ಲಿ ಸರ್ಕಾರಕ್ಕೆ ಪಾವತಿಸಬೇಕಾದ ಮುದ್ರಾಂಕ ಶುಲ್ಕ ಸರಿ ಇರುತ್ತದೆ ಅಂದರೆ ಸರಿ. ಮುದ್ರಾಂಕ ಶುಲ್ಕ ಪಾವತಿಸಲು ನಾವು ಅಥವಾ ನಮ್ಮ ಸಿಬ್ಬಂದಿಗಳು ಬ್ಯಾಂಕ್ ಗೆ ಹೋಗುವುದಿಲ್ಲ ಅಂದರೆ ಸರಿ. ಬ್ಯಾಂಕಿನಿಂದ ನೇರವಾಗಿ ಟ್ರಿಪರಿಗೆ ಹೋಗುವ ಚಲನ್ನಲ್ಲಿ ಎಷ್ಟು ಹಣ ಪಾವತಿಸಲಾಗಿದೆ ಎಂಬುದು ನಮಗೆ ಗೊತ್ತಾಗುವುದಿಲ್ಲ ಅಂದರೆ ಸರಿ. ಬ್ಯಾಂಕಿಗೆ ಮುದ್ರಾಂಕ ಶುಲ್ಕ ಪಕ್ಷಗಾರರೇ ಪಾವತಿಸಿ ಚಲನ್ ನಮ್ಮ ಮುಂದೆ ಹಾಜರುಪಡಿಸಿರುತ್ತಾರೆ. ದಾಖಲೆ ನೋಂದಣಿ ಮಾಡುವ ಸಮಯದಲ್ಲಿ ಬ್ಯಾಂಕಿಗೆ ಹಾಜರುಪಡಿಸಿದ ಚಲನ್ನಲ್ಲಿ ಎಷ್ಟು ಹಣ ತುಂಬಿಸಿ ಚಲನ್ ಕಟ್ಟಿರುತ್ತಾರೆ ಎಂದು ನಮಗೆ ಗೊತ್ತಾಗುವುದಿಲ್ಲ ಅಂದರೆ ಸರಿ.

37. *Further in unequivocal terms, he has admitted that none of the members from the office of Sub-Registrar visits the bank to deposit the stamp duty, wherein he has deposed as follows :*

ಯಾವುದೇ ಉಪನೋಂದಣಿ ಅಧಿಕಾರಿಗಳ ಕಚೇರಿಗಳಲ್ಲಿ ಉಪನೋಂದಣಿ ಅಧಿಕಾರಿಯನ್ನು ಒಳಗೊಂಡಂತೆ ಯಾವುದೇ ನೌಕರರು ಚಲನ್ ಹಣ ತುಂಬಲು ಬ್ಯಾಂಕಿಗೆ ಹೋಗುವುದಿಲ್ಲ ಅಂದರೆ ಸರಿ. ದಸ್ತಾವಿಜನ್ನು ನೋಂದಣಿಗೆ ಹಾಜರುಪಡಿಸುವ ಪಕ್ಷಕಾರರೇ ಚಲನ್ ಹಣ ಬ್ಯಾಂಕಿಗೆ ತುಂಬಿ ನೋಂದಣಿ ಅಧಿಕಾರಿಗಳ ಕಚೇರಿಗೆ ಚಲನನ್ನು ಹಾಜರುಪಡಿಸಿರುತ್ತಾರೆ ಅಂದರೆ ಸರಿ.

38. *Further, he has deposed in his cross-examination that*

ನಮ್ಮ ಮುಂದೆ ಹಾಜರುಪಡಿಸುವ ಚಲನ್ನಲ್ಲಿ ನಿಗದಿತ ಹಣ ನಮೂದಾಗಿದ್ದರೆ ನಾವು ದಸ್ತಾವಿಜನ ನೋಂದಣಿ ಮಾಡುತ್ತೇವೆ ಅಂದರೆ ಸರಿ.

39. *From the entire cross examination of PW-1, it is evident that there is no mechanism available before the Sub-Registrar to know what is the exact amount/stamp duty deposited by the purchaser/deed writer at the bank except the voucher having seal of bank and further he has clearly admitted that in the voucher produced before the Sub-Registrar the bank has failed to mention the denomination of the notes received as well as they have failed to mention the amount in words through which the*

Sub-Registrar can make out as to what is the exact amount deposited by the purchaser in the bank to the treasury.

40. *Apart from the evidence of PW-1, there is an evidence of the bank manager by name Mythili/PW-7. During the course of her cross-examination, she has admitted that she has not mentioned amount in words received by the bank. The said evidence given by Mythili/PW-7 can be read as follows.*

ನಮ್ಮ ಕಚೇರಿಯ ಉಪಯೋಗಕ್ಕೆ ಎಂದು ಬರೆದಿರುವ ಭಾಗದಲ್ಲಿ ಹಣದ ಮೊತ್ತವನ್ನು ಪದಗಳಲ್ಲಿ ಬರೆಯಲು ತೊಂದರೆ ಇರಲಿಲ್ಲ. ಸಾಕ್ಷಿ ಮುಂದುವರೆದು ಬ್ಯಾಂಕಿನಲ್ಲಿ ತುಂಬ ರಶ್ ಇದ್ದ ಕಾರಣ ಬರೆಯಲು ಆಗಿರುವುದಿಲ್ಲ ಎನ್ನುತ್ತಾರೆ. ನಾವು ಎಲ್ಲಾ ಸರ್ಕಾರಿ ಕಚೇರಿಗಳಿಂದ ಬರುವ ಚಲನ್ ಗಳಲ್ಲಿ ಹಣದ ಮೊತ್ತವನ್ನು ಪದಗಳಲ್ಲಿ ಬರೆಯುವುದಿಲ್ಲ. ಯಾವುದೇ ಉಪನೋಂದಾಣಾಧಿಕಾರಿ ಹಣ ಕಟ್ಟಲು ಬಂದಿರುವುದಿಲ್ಲ ಅಂದರೆ ಸರಿ.

41. *Manager/official of the bank has admitted that though it is mandatory to mention the amount in words and the denomination of the notes in the voucher, they have not mentioned the same. He gives the excuse that due to rush of work he has not mentioned the same. When such being the fact, the Sub-Registrar on the basis of the voucher produced before him definitely cannot ascertain as to what exactly the stamp duty deposited by the purchaser in the bank. He can rely only on the voucher produced*

before him. He cannot make out whether the voucher produced before him is corrected or forged one. He is not a person who is depositing the amount to the treasury or to the bank. The purchaser or any agent on his behalf any mediator will fill the voucher and deposit the amount. There are every chances that the person who has deposited the amount through voucher to the bank might have manipulated and has produced the same before the Sub-Registrar. Since the Sub-Registrar is not having any mechanism to ascertain regarding the correct amount of stamp duty paid by the purchaser to the bank, in a good faith he might have registered the deed.

42. *PW-1 has clearly admitted that none of the voucher prima-facie reflects that it has been altered. PW-1 has admitted that only after verification that the stamp duty mentioned in the voucher is the correct stamp duty on the document, the Sub-Registrar registers the sale deed.*

43. *Apart from the evidence of the Bank Manager/official, the prosecution has led the evidence of Accountant of District Treasury by name Ashokkumar/PW-11. During his evidence he has deposed that, after the receipt of challans from the bank, he separates the challans pertaining to the particular departments and tallies the same with the challans and scrolls every day,*

he mention the same by talling the challans in the schedule, every end of the month challans as well as the schedule copy will be submitted to the AG.

44. Now the question is if the challans were verified i.e., pre-deposit challan as well as the challan sent by the Sub-Registrar after registration were verified and tallied. When at the end of every month it was sent to the AG, then why it was not come to their notice that such discrepancies have been taken place. why the same was not brought to the notice of Sub-Registrar.

45. It is not the case of prosecution that once the stamp duty is deposited by the purchaser/deed writer at the bank to the treasury account, immediately the bank authorities will inform directly to the Sub-Registrar regarding the amount received by the bank towards the stamp duty to treasury code.

46. In coming to the conclusion that the accused has committed the offence of cheating or forgery, the trial Court has not at all assigned reasons as to on what basis the trial Court say that the accused has committed the offence. The trial Court has not at all discussed the evidence on record.

47. *The trial Court in its judgment has discussed about the plea of alibi. This Court failed to understand on what basis trial Court consider that accused no.1 has taken the defence of alibi. It is not at all the case of the accused no.1 or defence of the accused no.1 that, he was not present at the Sub-Registrar Office or he was not working in the Sub-Registrar Office, Mandya as on the alleged date of registration of sale deed in issue or it is not at all his defence that, he has not signed the voucher in issue. The trial Court has failed to understand the meaning of alibi.*

48. *If the statement given by accused no.1 at the time of recording of statement under Section 313 of Cr.P.C. is perused, it is evident that the accused no.1 has tried to explain under what circumstances his counter signature has been obtained on the pre-deposit vouchers in issue and further he has explained that he was not having any occasion to ascertain about the stamp duty deposited by the purchaser with the bank. Further he has explained that he was in-charge and loaded with pressure of work which was taken undue advantage by the person who has created voucher. It is not at all his claim that he was somewhere in other place when sale deed in issue executed or alleged offence is committed, accused no.1 does admit that fraud has been committed by alteration of*

voucher to suit the proper stamp duty. But he does not say that he has committed the fraud. Merely stating that fraud has been committed, the government has been cheated by alteration of the voucher to make it look like proper stamp duty has been paid does not mean that he has admitted that he has committed the fraud. Wherein he claimed that his situation was misused and his trust has been breached and obtained his counter signatures on pre-deposit voucher to commit fraud by the person who has prepared or the person who has deposited the amount to the bank through the voucher. The explanation given by accused no.1 has mistaken by the trial Court in coming to the conclusion that accused no.1 has admitted the commission of the offence.

49. *it is admitted fact that neither Sub-Registrar has received the stamp duty nor he has deposited the amount to the bank directly and further it is admitted fact that he has not filled the voucher merely because he has countersigned the pre-deposit voucher he cannot be held liable. Moreover, even for obtaining the Counter signature on the pre-deposit voucher, it is the duty of the clerical staff of the Sub-Registrar to scrutinize the document and place the same before the concerned authority and obtained counter signature. Thereby the probability cannot be ruled out that there might have been collusion between*

the clerical staff of the Sub-Registrar and the deed writer or purchaser in obtaining the counter signature of the Sub-Registrar.

50. *Normally, officer in authority works with the assistance of the staff working under them, they would ought to have some trust on the staff. By looking into the material on record, the probabilities cannot be ruled out by taking advantage of the trust on the staff, the staff might have obtained the counter signature of the Sub-Registrar on the pre-deposit voucher, because it is not case of prosecution that the deed writer or purchaser directly come to the Sub- Register and obtains his counter signature on the pre-deposit voucher. Wherein the evidence on record would show that, prior to obtaining the counter signature of the Sub-Registrar, the document/deed will be placed before the concerned case worker/clerk who verify the document and the voucher and thereafter place the same before the Sub-Registrar and obtains his counter signature. When the office claimed to have verified the pre-deposit challan, by believing the action or having trust on the staff he might have signed or countersigned the pre-deposit receipt. There may be negligence on the part of the Sub-Registrar in not verifying the document prior to pre-fixing his counter signature on the pre-deposit voucher. The said negligence may amount to dereliction of his duty,*

that cannot be amount to an offence punishable under IPC or offences alleged against him.

51. *Merely because a public servant countersigned a pre-deposit voucher which was later altered by some third person without his knowledge or consent of the said public servant. When the public servant had no dishonest intention or conspiracy or collusion, he cannot be held responsible for fraud. No doubt there might be some carelessness in verification. At most, as stated earlier he may have to face the departmental or disciplinary enquiry. He cannot be said to have committed the offence alleged against him.*

52. *It appears some team was operating beyond Sub-Registrar Office and may be including one of the official of the Sub-Registrar Office might have taken advantage of the loopholes of the system. The person who has created vouchers by inserting or prefixing numerical in the challan amount (showing higher amount) was well aware of the fact that Sub- Registrar will not come to know about what exact stamp duty has been deposited by the purchaser. The probability cannot be ruled out even bank authorities might have been involved, because in spite of the fact that there is a column in the challan to mention the denomination of the notes received, they have not mention*

the same. Further, they have not mentioned the amount received in words through the challan. If at all the bank would have mentioned the stamp duty received under challan in words and the denomination of the notes received by them definitely the burden and the duty lies on the Registrar to verify the same. If the Registrar without verifying the endorsement of the bank regarding the receipt of amount had executed the sale deed, considering that proper stamp duty has been paid definitely there would have arisen a doubt that the Sub-Registrar is also involved or he has colluded with the purchaser in cheating the government. But it is not the case in hand. Thereby the probability cannot be ruled out regarding involvement of bank officials as well.

53. *There is absolutely no evidence on record to say that accused no.1 knowingly ignored obvious alteration in order to help or facilitate the fraud. Prosecution has miserably failed to prove that accused no.1 had the knowledge of alteration of voucher and he had intentionally accepted or approved and registered the sale deed. The prosecution has absolutely failed to prove that the action of accused no.1 in countersigning the pre-deposit voucher was intentional and he had collusion with other accused persons or purchasers, because purchaser has turned hostile before the court. He has*

stated that he does not know who was the Sub-Registrar as on the date of registration of his deed and further he has clearly stated that he did not pay any amount to the Sub-Registrar. The entire process of getting registration was done by his deed writer.

54. *Mere registration of the sale deed by the Sub-Registrar, believing that proper stamp duty has been deposited on the basis of the corrected voucher produced before him, will not by itself constitute offence under Section 166, 409 and 420 of IPC, unless there is material showing his dishonest intention, knowledge or active participation in the manipulation of the vouchers.*

55. *To attract the offence under Section 166 of IPC, that there must have evidence on record that there was a direction of law governing his conduct. He knowingly disobeyed such direction and such disobedience was with intent to cause injury or knowing that injury was likely to be caused. If the Sub-Registrar honestly believed that a proper stamp duty has already been deposited and the corrected voucher appears genuine. Mere negligence or failure to verify the bank deposit independently would not amount to an offence under Section 166 IPC.*

56. *Prosecution must prove that he knowingly accepted or forged or altered voucher, intentionally ignored obvious discrepancies or acted in collusion with purchaser or others. But here in this case, it is very much clear that the prosecution has miserably failed to prove that the accused no.1 had intentionally ignored any obvious discrepancies. During the course of cross-examination of PW-1, he has clearly admitted that by looking into the altered voucher in issue, one cannot say that it has been altered and there is no prima-facie discrepancies in the said altered voucher unless and until it is compared with the pre-deposit voucher retained by the bank on deposit of stamp duty which has been recovered from the treasury send by the bank. Sub-Registrar/Accused no.1 is not the expert to say that copy of voucher produced by the purchase/deed writer was forged or has been altered.*

57. *In order to attract offence under Section 409 of IPC, entrustment of property or dominion over property is essential. Stamp duty amount was allegedly deposited in the bank by some third person. The Sub-Registrar was not entrusted with that money personally. Therefore unless and until it is shown that Sub-Registrar had dominion over the stamp duty amount and dishonestly misappropriated or converted it, Section 409 of IPC cannot be attracted.*

Mere procedural irregularity or negligence in performance of official duty does not constitute criminal breach of trust.

58. *In order to attract the offence under Section 420 of IPC, prosecution must prove deception from the inception, dishonest or fraudulent intention, and inducement causing wrongful loss or wrongful gain. If the Sub-Registrar himself was deceived by the altered voucher and acted under the belief that correct stamp duty had been paid, the ingredients of cheating against him are absolutely absent.*

59. *The prosecution has to establish prior meeting of minds, intentional felicitation of undervaluation, conscious acceptance of false voucher or sharing of wrongful gain, then only Section 420 of IPC, with common intention or conspiracy, may arise. In the present case in hand, the prosecution has failed to establish that there was any prior meeting of minds or the accused no.1 had intentionally felicitated and has consciously accepted the false voucher to attract the offence under Section 420 of IPC.*

60. *So, mere negligence, omission or failure to verify properly would not amount to offence under Sections 166, 409 and 420 of IPC. prosecution has failed to establish*

knowledge, dishonest intention, collusion or active participation of accused no.1 with other accused persons.

61. *The prosecution has not at all established the procedure which has to be followed by the Sub- Registrar prior to the registration of any document. On the basis of the material placed on record, the procedure can be gathered is that the purchaser/proposed purchaser or a deed writer may have to prepare sale deed and voucher of the proposed stamp duty and place the same before the concerned case worker/clerk working in the Sub Registrar's Office for proper determination of stamp duty payable on the document/deed and the same is said to have been verified by the officials from the Sub-Registrar Office may be SDA or FDA. Thereafter the concerned case worker obtains the counter signature of the Sub-Registrar which is the premature stage of registration of document. On the basis of the said counter signed voucher the deed writer/purchaser or any third person acting as a mediator, proceed to the bank and deposit the less amount and thereafter alleged to have altered the voucher by prefixing one numeric number to show the proper stamp duty has been deposited and present before the Sub-Registrar showing that he has deposited the correct stamp duty. On the basis of the said alleged forged voucher Sub-Registrar has acted and has registered the deed.*

62. *No procedure has been established or elicited by the prosecution to say that the Sub-Registrar had a mechanism to know what is the exact stamp duty deposited by the proposed purchaser at the bank. The Bank Manager who has given evidence before the court in unequivocal terms has accepted that in the voucher they have not mentioned the amount in words/denomination of notes having received by them, except they have put seal and signature on the voucher.*

63. *The prosecution has failed to prove that the Sub-Registrar knowingly disobeyed the procedure and such disobedience was intentional with knowledge to cause wrongful loss to the government or revenue. The counter signature at the premature stage of registration of document was merely a routine practice.*

64. *it is not the case of prosecution that voucher will be prepared by the Sub-Registrar and required stamp duty will be received directly by the officials of Sub-Registrar or sub-registrar and they deposit the stamp duty to the treasury through bank and thereafter they alleged to have altered the voucher by correcting stamp value by mentioning or pre-fixing one numeric and proceed to register the document. it is only an administrative lapse or bonafide mistake without a dishonest intention, when*

such being the facts offence alleged under Section 166 of IPC is not proved.

65. *Counter signing before deposit alone does not automatically establish cheating unless and until it is established before the court that the Sub-Registrar was knowing that the amount has not been actually deposited and he intentionally facilitated production of corrected voucher later, or he acted in collusion with purchaser or staff. Mere premature counter signature does not attract the offence unless and until entrustment or dominion over government money is shown.*

66. *It is not the case of prosecution that the stamp duty directly came into the custody of the Sub-Registrar or his staff and it was deposited directly by him in the bank. Thereby ingredients of criminal breach of trust has not been proved.*

67. *From the above said reasons and discussion, it is very much clear that the trial Court has not at all considered the evidence on record and even has not appreciated the facts in hand in accordance with law and has wrongly come to conclusion that the prosecution has proved the offence against the accused no.1 beyond the reasonable doubt. Thereby, the interference of this Court in the conviction judgment passed by the trial Court against*

*the accused no.1 is necessary. Accordingly, I answer **Point No.1 in the Negative and Point No.2 in the Affirmative.***

68. **Point No.3** : *In view of holding Point No.1 in negative and Point No.2 in Affirmative, I proceed to pass the following:*

ORDER

*The Criminal Appeal filed by the accused no.1 under Section 374 of Cr.P.C. is hereby **allowed.***

The judgment of conviction and sentence passed by the trial Court in CC No.1067/2009 by the I Addl. Civil Judge and JMFC., at Mandya against the accused no.1 is hereby set aside.

Accused no.1 is acquitted for the offences under section 166, 409 and 420 of IPC.

The fine amount deposited by the accused no.1 before the trial Court is ordered to be returned to the accused no.1 after the appeal period is over. His bail bond stand cancelled.

Office is directed to retain the original trial Court records as well as the trial Court records in this case till the disposal of all the other connected appeals pending before this Court.

(Dictated and prepared through Adalat Ai specialized voice transcription software, transcript revised, corrected, signed and then pronounced by me in the Open Court, on this the 18th day of May, 2026)

(Sayeedunnisa)
*II Addl. District & Sessions Judge,
Mandya.*