

**IN THE COURT OF LXIX ADDITIONAL CITY CIVIL
AND SESSIONS JUDGE (CCH 70)**

Present: Sri Rajesh Karnam K., B.Sc.,LL.B.,LL.M.,
LXIX Additional City Civil and
Sessions Judge,
Bengaluru.

Dated this the 14th day of February,2023

Crl. R.P.No.355/2019

Petitioner: Mr. Adnan Ateeqh Turabi
aged about 35 years,
S/o Ateeqh Turabi,
R/o No.1, 5th C Cross, 16th Main,
MCHS Colony, BTM 2nd stage,
Bengaluru-560076.

(By Sri.M.K.M., Advocate)

Vs.

Respondent: Mr. A. Mohammed Haneef
aged about 51 years,
S/o Mr. Ameersab,
R/o No.50/1, S.R.K Garden,
Tilak Nagar, Jayanagar,
Bengaluru-560011.

**ORDER ON PETITION FILED U/SEC. 397 OF
CR.P.C.**

This Petition is filed being aggrieved by the order of dismissal of complaint filed by the petitioner by accepting the B report filed in Cr No.245/2017, dated 17.09.2017

of Hulimavu PS on the board of 5th Addl Metropolitan Magistrate which is impugned in this appeal.

2. The appellant submits he is the complainant before the trial court who filed complaint that the accused forged and executed sale deed dated 15/06/2017 while revision petitioner was not in Bengaluru, residing at Dubai. The document sale deed No.2244/17-18 in respect of flat No.503 executed infavour of Sri. M.T. Nagabhushan and Smt. K.G. Bharathi which is bogus and fictitious. The complainant immediately after coming to know did complained before the jurisdictional Hulimavu police who registered Cr.No.245/2017. On investigation IO for the offences P/U/s 506, 504, 420, 468, 471 and 465 of IPC, has filed B report.

3. The complainant submits being aggrieved by the same he filed protest petition before the trial court on 02/02/2019 order has been passed by the trial court

accepting the B report and rejecting the prayer of the applicant. Accordingly aggrieved by the same he has come up with this Criminal revision petition.

4. The grounds of appeal are as follows; The trial court erred in dismissing the complaint, the lower court has erroneously failed to consider that the investigation officer in above crime had issued a notice dated 27.12.2017 to the complainant has replied the notice, along with that replay dated 27.01.2018. He has furnished all the necessary documents sought by the IO even though the IO has failed to conduct proper investigation, and has not considered any of the documents furnished along with the said reply and also some other documents produced separately to help the prosecution of the accused in the above crime, the same fact was brought before court below that none of the documents were referred in reaching final decision by the IO but the court below did not appreciated the genuine

efforts of the complainant.

5. The offences punishable Under Section 420, 465, 468, 475, 504 and 506 of IPC whereas on page No.2 in para 3 of the impugned order it has been mentioned as for the offences punishable under Section 420, 465, 468, 475, 504 and 506 of IPC. That on page 3 in para 5 in “points for determination” of the impugned order it is mentioned as for the offences punishable under Section 420, 465, 468, 475, 504 and 506 of IPC the trial court instead of 471 it has been mentioned as, 475.

6. The trial court in its reasoning at page 3 has answered the points for consideration in the affirmative but however has accepted the B report and rejected the protest petition which is against the facts and law. Infact trial court instead of reasoning for offence punishable under Section 471 of IPC has taken up 475 of IPC which is a wrong committed by the trial court. The trial court has considered the Special Power of Attorney but instead

has further mentioned in the reasoning as GPA but complainant had given Special Power of Attorney executed at Dubai concerning his flats in Bengaluru. Therefore the trial court has wrongly considered facts and come to a wrong conclusion. The petitioner submits the trial court has considered, illusory dated 01/30/2017, and another date 01/03/2013, in para 4 of its order which is non existing or not concerned to the facts involved in the case. Therefore on all these grounds and other grounds that may be argued herein before, argues of arguments petition is to be allowed.

7. Heard the arguments.

8. The points that arise for my consideration for decision of this revision petition are as under:

- i. Whether petitioner proves petition is allowed as prayed?
- ii. What order?

9. My finding on the above points are as follows:

- i. Point No.1: In the negative
- ii. Point No.2: As per final order on the following

REASONS

10. **Point No.1**; The appellant submits he is the complainant before the trial court who filed complaint that the accused forged and executed sale deed dated 15/06/2017 while revision petitioner was not in Bengaluru, residing at Dubai. The document sale deed No.2244/17-18 in respect of flat No.503 executed infavour of Sri. M.T. Nagabhushan and Smt. K.G. Bharathi which is bogus and factitious. The complainant immediately after coming to know did complaint before the jurisdictional Hulimavu police who registered Cr.No.245/2017. On investigation IO for the offences P/U/s 506, 504, 420, 468, 471 and 465 of IPC, has filed B report.

11. The trial court has considered in its reason mentioning offence punishable under Section 475, the offence punishable under Section 475 deals with the counterfeit a device or not mark used for authenticating

the document as described in 467 of IPC. However 471 of IPC is concerning forging of document which is known to be forged.

12. In the case on hand trial court has filed to considered that it has decided with regard to forged sale deed as per the complainant it has mentioned as B report filed concerning the office P/U/s 475 of IPC which is opposed to facts and law.

13. The trial court the complainant has specifically stated against complaint when he came to know that accused has sold certain facts in the building which was owned by the complainant. The complainant has submitted his joint owner along with accused as such issued Power of attorney to lodged complaint. It is considered debts as GPA dated 10/03/2017 as per certified copy of sale deed dated 15th June 2017 accused has executed sale deed on behalf of complainant as his SBA holder. The Special power of attorney has been

placed on record which is executed on March 2017 in the Special power of attorney the flats number has mentioned as 104, 204, 304, 404, 405, 504, 502, 503, 601 and 505. However the complaint has been made with regard flat Number in all incomplete property. The alienation has been made with regard to flat No.503 as per the sale deed dated 15th June 2017 in the Special power of attorney placed by the complainant he has mentioned concerning the flat No.503 has not been received any consideration. Infact the complainant has not placed the GPA of 23.05.2015 to execute the sale deed by accused, in the sale deed is mentioned the accused has represented the present complainant by way of GPA holder however it is mentioned that Special power of attorney has been executed by the complainant on 23/05/2015. The same power of attorney has not been placed by the complainant before the trial court. Therefore when the Special power of attorney being

executed by the complainant infavour of the accused dated 23/05/2015 being not placed before the trial court, the trial court has not considered the same so as to come to the conclusion that the power of attorney executed by the complainant infavour of the accused. The complainant has not placed enough material to take cognizance that there is no any power of attorney being executed by the complainant infavour of the accused when he made complaint before the trial court. When there is no any Special power of attorney being executed which is duty of the complainant to placed the same on what basis the alienation has been made by the accused infavour of third persons. Under these circumstances the discrepancies appeared in the trial court order by mentioning the dated and mentioning the Special power of attorney of the complainant has been mentioned GPA by the trial court is wrong but the reasoning given by the trial court in considering the materials and accepting the

B report finds no any discrepancies. The trial court order the point for consideration is answered in affirmative but the trial court has dismissed the complaint by accepting the B report. May be considered as a typographical error considering the entire reasoning of the trial court. Under these circumstances this court finds no any merit in the complaint made by the complainant. When the complainant has not placed the GPA executed by him dated 23/05/2015. The complainant allegation that accused has committed fraud cannot be considered. Under these circumstances this court finds no any reasons to consider the matter, by allowing the protest petition and the acceptance of B report as incorrect cannot be accepted. Accordingly Criminal Revision Petition is to be dismissed as not maintainable. Accordingly point for consideration is answered in negative. Hence I proceeds to pass the following;

ORDER

Revision Petition filed u/sec. 397 of Cr.P.C.
by the Revision Petitioner is hereby dismissed.

(Dictated to the Stenographer on computer, script corrected, signed and pronounced by me in open court on this the 14th day of February, 2023)

(Rajesh Karnam.K)
LXIX Addl.C.C. & Sessions Judge,
Bengaluru.

