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C.C.2186/2023

IN THE COURT OF
PRL. SNR. CIVIL JUDGE AND CJM COURT, KARWAR AT KARWAR, UTTARA KANNADA

PRESENT: Smt. Kavita S.Undodi,
B.A. LL.B(Spl)
Prl. Senior Civil Judge & CJM and
1st Addl. M.A.C.T., Karwar.

C.C.No.2186/2023

DATED THIS THE 30th DAY OF JUNE -2026

Complainant : State represented by
Karwar Town P.S.

(Represented by learned Sr.A.P.P.)

-Vs-

Accused: Vikas Vittal Rane,
Age: 55 years,
Occ: Employed in Private Firms,
R/o: Sadashivagad, Karwar,
Uttara Kannada.

(Represented by Miss.P.C.K., Advocate)

:: J U D G M E N T ::

The PSI Town police station, Karwar has filed charge sheet against the accused for the offence punishable under section 406 and 420 of I.P.C.

2. The brief facts of the case of the prosecution is that:-

The accused and CW-1 met in Mumbai jail and accused requested CW-1 to help him to get bail in which Varli Police Mumbai have registered case, accordingly CW-1 has paid an amount of Rs.50,000/- and Rs.75,000/- on 19-11-2022 to pay the said amount as a security of bail to the court. When the CW-1 requested the accused to return the said amount, at that time accused has stated that he is not having money and he will sell the land situated at in Sadashivgad Chittakula to him. Thereafter CW-1 started proceedings of sale deed and on 22-11-2022 the CW-1 has transferred Rs.10,000/- through VIVGPAP and thereafter accused assured that he will transfer the land in the name of CW-1 and accused has demanded Rs.3,91,000/- accordingly CW-1 transferred the said amount to the joint bank account No.03092200140405 of accused and his wife through his ICICI account No.120801501854 on 09-12-2022 through RTGS. Further CW-1 paid Rs.13,000/- to the CW-2 for drafting the sale deed and Rs.140/- towards challen. The accused has totally received Rs.5,26,000/- and Rs.13,140/- towards sale deed charges and challen. Thereafter accused took CW-1 to the office of the Sub-Registrar and accused has put one signature to the sale deed and at the time of registration of sale deed he ran away from the Sub-

Registrar Office and he has not returned the amount received from CW-1. The CW-1 lodged FIS before the police and Karwar Town police have registered the case in their P.S. Crime No.5/2023 for the offence punishable under section 406 and 420 of I.P.C. After registration of the case, the police have conducted spot mahazar, collected the documents, recorded statements of witnesses and after completion of investigation, CW-13 submitted charge sheet to the court.

3. After submission of charge sheet, this court has taken cognizance for the offence punishable under section 406 and 420 of I.P.C. In pursuance of court summons accused appeared before the court through his counsel and got released on bail. The charge sheet copy supplied to the accused as per section 207 of I.P.C. Heard on charge there are sufficient materials to proceed with the case, hence charge framed, read over and explained to the accused and he pleaded not guilty and claimed to be tried.

4. In order to prove the case, the prosecution has examined 13 witnesses as PW-1 to PW-13 and got marked Ex.P-1 to Ex.P-16. After closer of evidence of prosecution side, the statement of accused under section 313 of Cr.P.C. recorded, he denied the incriminating circumstances appeared in the evidence. The accused not stepped into witness box.

5. Heard the arguments of learned Sr. APP and learned counsel for the accused.

6. The following points arises for my consideration:-

<u>: POINTS :</u>

1. **Whether the prosecution proves its case beyond a reasonable doubts that the entrustment of property or dominion over it to the accused and dishonest misappropriation, conversion or disposal of that property of personal use and thereby committed an offence punishable under section 406 of I.P.C.?**

2. **Whether the prosecution further proves its case beyond a reasonable doubts that the accused fraudulently or dishonestly induce the CW-1 to handover the money and thereby committed an offence punishable under section 420 of IPC?**

3. **What order?**

7. My answer to the above points are as under:-

Point No.1 :- In the Negative

Point No.2 :- In the Negative

Point No.3 :- Is as per the final order

for the following:

<u>REASONS</u>

8. **<u>Point No.1 and 2:-</u>** These two points are interrelated to each other to avoid repetition of facts, these points are taken for common discussion.

It is burden on the prosecution to prove that accused was entrusted with property, or entrusted with dominion over property, the accused had dishonestly misappropriated or converted to his own use that property, or dishonestly used or disposed of that property or willful suffer any other person to do so and such misappropriation, conversion, use or disposal should be in violation of any direction of law prescribing the mode in which such trust is to be discharge or of any legal contract which the person as made, touching the discharge of such trust and also it is burden on the prosecution to prove that there should be a fraudulent or dishonest inducement of a person, an intention to deceive and the person cheated must be dishonestly induced to deliver property, handover money to any person or make, alter or destroy valuable security. Further, the prosecution has to prove the intent (mens-Rea) i.e., the dishonest intention must be present right at the beginning of the transaction.

9. PW-1- Helin Takechand Shaha – deposed that in the year 2021 he was in jail and accused was also in jail and they in contact each other. The accused was facing charges for the offence punishable under section 420 of IPC. On 14-05-2021 he got released on bail and after 2 to 3 months, the later accused got released on bail. He has engaged the advocate and paid fees and got released the accused on bail. Further PW-1 stated that the court has ordered to give cash security of Rs.1,50,000/- and he has deposited Rs.75,000/- each in two installments to the court and he has transferred Rs.75,000/- to the account of wife of accused through Google pay and Rs.75,000/- by cash i.e. in the month of June-July. The wife of the accused called him through the phone and requested to pay Rs.75,000/- to get release the accused from the jail. The accused has not repaid the said amount and he assured that he will sell the property which is situated at Sadashivgad. Further PW-1 deposed that he has paid Rs.20,000/- to the accused for travelling expenses to come to Karwar from Mumbai. After release of the accused from the jail, he came to Karwar to see the property. Further PW-1 deposed that he has paid Rs.23,000/- to the accused for shifting of house and totally he has paid amount to the accused about 100 times.

10. Further PW-1 stated that he has paid Rs.3,91,000/- to the joint account of accused and his wife and remaining amount of Rs.3,00,000/- to Rs.4,00,000/- paid on different dates by cash and said amount has been given to get release the accused from the jail and totally he has paid Rs.7,05,000/- to Rs.7,50,000/- and for repayment of the said amount accused assured that he will sell the agricultural land situated at Sadashivagad and he came to Karwar in the year 2023 for purchase of the agricultural land at that time he has paid Rs.3,91,000/- through RTGS. On the same day accused came to put his signature to the sale deed and when the process of registration of sale deed was going on, at that time accused stated that he will not sell the property and he will return the amount. When the accused was going out of the Sub-Registrar office he asked the accused, at that time he has stated that his villagers are not allowing him to sell the property to the outsiders and at that time he requested to return the amount for that accused refused to repay the amount. Thereafter he went to the police station and lodged FIS before the police and police have called accused and they have advised him to return the amount and he admitted the same before the police, but he has not paid the amount and after 2 to 3 days he went to the police station and police have not received the FIS and after 10 days he lodged private complaint before this court and police have conducted mahazar in the Sub-Registrar Office.

The learned Sr.APP treated this witness as partly hostile and cross examined him and he admitted the suggestion made to him.

11. PW-2 - Govindray Talekar- witness to mahazar - deposed that about 2 years back police have called him to Sub-Registrar office with the history that accused has not cooperated for registration of the sale deed and police have conducted the mahazar.

The learned Sr.APP treated this witness as partly hostile and cross examined him, he admitted that on 18-04-2023 at about 11-30 a.m. police have conducted mahazar and he denied that CW-1 showed the spot.

12. PW-3 - Rahul Kotharkar- witness to mazahar, not supported the case of prosecution. The learned Sr. APP treated this witness as hostile and cross examined, but he denied the suggestion made by him.

13. PW-4 - Avinash Rane - PW-5- Suresh Naik - witnesses to mahazar alleged to have conducted in the land of the accused Sadhashivgad, Konkanavada are not supported the case of the prosecution.

The learned Sr. APP treated these witnesses as hostile and cross examined them in length, but they denied the suggestion made to them.

14. PW-6 – Suraj Kotharkar- H.C.- deposed that, on 18-04-2023 on the oral direction of CW-13 he was present at the time of spot mahazar and taken photos and submitted the photos with certificate under section 65(B) of Evidence Act to the IO.

15. PW-7 - Jayalaxmi Patil - ASI - deposed that on 10-01-2023 she received copy of private complaint from the court and registered the case in their P.S.Crime No.5/2023 and sent FIR to the court.

16. PW-8 –Nehal Khan-PSI deposed in respect of investigation conducted by him.

17. PW-9 - Ramesh Nimbaragi - PC- deposed that on 18-04-2023 on the oral direction of CW-13 he was present at the time of spot mahazar and prepared the mahazar and put signature as scribe.

18. PW-10 – Nilesh Modavi - deposed that he came to Karwar to recieve the amount from accused and he put signature in Sub-Registrar office, accused has assured that he will sell the property instead of giving money. On 09-12-2023, sale deed was prepared and presented for registration. After putting the signature, two friends of accused came there and accused has put the signature and went out from the Sub-Registrar office and friends of accused took him along with them.

19. PW-11 - Vinayak Kumtakar – Manager, CICI Bank, Karwar- PW-12 – Smt. Priyadarshini Salunke- Branch Manager, Canara Bank- Sadashivgad- deposed that on the basis of requisition submitted by the IO they have submitted bank statement of CW-1 and accused respectively.

20. PW-13 - Shantanand Durgekar - deposed that on 22-12-2022, CW-1 appeared before him with unregistered sale deed and he got notarized the sale deed copy.

21. In the chief examination PW-1 stated that he has paid Rs.75,000/- to the accused through Google pay and Rs.75,000/- by cash and also he stated that he has paid Rs.20,000/- to the accused for travelling expenses to came to Karwar from Mumbai and for shifting of house of accused he has paid Rs.23,000/-. Further in chief examination stated that he has paid Rs.3,91,000/- and he has transferred the said amount to the joint account of accused and his wife through RTGS and also he deposed that he has paid Rs.3,00,000/- to Rs.4,00,000/- on several times and also he stated that in all he has paid Rs.7,05,000/- to Rs.7,50,000/-. The amount deposed in the chief examination not tally with the case of prosecution. Since as per the prosecution case, the accused has received an amount of Rs.5,26,000/- and for drafting of sale deed and challen for Rs.13,140/-. Hence there is inconsistency between the oral evidence and case of prosecution.

Ex.P-7 is copy of complaint, in para No.3 stated that "the Hon'ble court at Mumbai asked the accused to pay multiple times, but the accused couldn't arrange the amount for the same. The accused and his wife begged and asked the complainant to be present on 19-11-2022 and pay the remaining amount of Rs.75,000/- on Shindewadi Bhorirwada 62nd court, which complainant paid in cash". If this of evidence is taken into consideration there is variation in the amount alleged to have paid as a security of bail.

22. In the chief examination PW-1 stated that he had given amount to the accused 100 times, but he has not deposed the date of advancement of money to the accused. On perusal of Ex.P-11 and Ex.P-12 the amount of Rs.3,91,000/- has been transferred on 09-12-2022 and Rs.10,000/- transferred on 22-11-2022, but the PW-1 has stated that he has paid Rs.7,05,000/- to 7,50,000/- to the accused. Even if the amount stated by the PW-1 it shows that he is not firm how much amount he has paid to the accused.

23. The PW-10 is friend of CW-1 deposed that on 09-12-2023 sale deed was ready and presented for registration of the sale deed at that time accused came out of the Sub-Registrar office. This witness nowhere deposed that CW-1 has paid Rs.5,26,000/- to the accused and accused has assured that he will sell the property belongs to him which is situated at Sadashivgad. Though the PW-1 and PW-10 stated that accused intended to sell the property, but nowhere in the evidence deposed the survey number of the said land. Even in private complaint Ex.P-7 the PW-1 has not stated the survey number or extent of land which accused intending to sell. If they have deposed the survey number then matter would be different. As per the prosecution, the sale deed was ready and accused had put signature, but there is no impediment for the complainant to mention the survey number and extent of land. The main case of prosecution is that accused agreed to execute the sale deed and also received Rs.3,91,000/- through RTGS and Rs.1,50,000/- while getting the bail by the accused, but the complainant has not mentioned the survey number and extent of the land. Ex.P-16 copy of sale deed in schedule shown 4 agricultural lands. Further it creates doubt that accused has agreed to sell those 4 lands for just for Rs/5,26,000/-. Further complainant nowhere stated the market value of the lands prevailing in the Sadashivgad in the year 2022. Hence it creates doubt about the sale transaction.

24. Ex.P-4 is spot mahazar which is alleged to have conducted in the land of accused, but in the Ex.P-4 the I.O. has not mentioned the survey number of the land. But the recitals of the Ex.P-4 is that "ನಾನು ಮುಂಬೈನ ಅರ್ಧರೋಡ

ಜೈಲಿನಲ್ಲಿರುವಾಗ ಎನ್ನುವವನು ಪೋಕ್ಸೋ ಪ್ರಕರಣದ ಆರೋಪಿಯಾದ ಹೆಲಿನ ಶಹಾ ನನ್ನ ಜೊತೆಯಲ್ಲಿ ಜೈಲಿನಲ್ಲಿದ್ದು, ಅವಾಗ ಹೆಲಿನ ಶಹಾ ಇವರ ಪರಿಚಯವಾಗಿರುತ್ತದೆ. ಅವಾಗ ನಾನು ಅವನಿಗೆ ಹಣಕಾಸಿನ ಸಹಾಯ ಮಾಡು ಅಂತಾ ಕೇಳಿದ್ದು, ಅದರಂತೆ ಶಹಾ ಜೈಲಿನಿಂದ ಬಿಡುಗಡೆ ಹೊಂದಿದ ಮೇಲೆ ನನಗೆ ಜಾಮೀನ ಮೇಲೆ ಬಿಡುಗಡೆ ಮಾಡಿಸಲು 1,25,000 ರೂಪಾಯಿಯನ್ನು ಕೋರ್ಟಗೆ ತುಂಬಿದ್ದು ಇರುತ್ತದೆ. ನಂತರ ನಾನು ಜೈಲಿನಿಂದ ಜಾಮೀನಿನ ಮೇಲೆ ಬಿಡುಗಡೆ ಹೊಂದಿದ್ದ ಮೇಲೆ ಹೆಲಿನ ಶಹಾನು ಹಣ ಕೊಡುವಂತೆ ಕೇಳಿದ್ದು, ಅವಾಗ ನಾನು ಮತ್ತು ನನ್ನ ಹೆಂಡತಿ ಭೂಮಿಕಾ ರಾಣೆ ಸೇರಿ ಕಾರವಾರ ಸದಾಶಿವಗಡ ಚಿತ್ತಾಕುಲಾದಲ್ಲಿ ನಮ್ಮದು ಜಮೀನು ಇದ್ದು, ಅದನ್ನು ಒಂದು ವರ್ಷದವರೆಗೆ ಮಾರ್ಟಗೇಜ ಮಾಡಿಕೊಡುತ್ತೇವೆ. ನಮಗೆ ಈಗ ನೀಡಿದ ಹಣಬಿಟ್ಟು ಮತ್ತೆ 1,25,000 ರೂಪಾಯಿ ನೀಡುವಂತೆ ಕೇಳಿದ್ದು, ಅದರಂತೆ ಶಹಾನು ಒಪ್ಪಿಕೊಂಡು ಕಾರವಾರಕ್ಕೆ ಬಂದು ಜಮೀನನ್ನು ನೋಡಿಕೊಂಡು ಒಂದು ವರ್ಷದ ಅವಧಿಗೆ ಮಾರ್ಟಗೇಜಗೆ (ಜಮೀನನ್ನು ಅಡವಿಟ್ಟುಕೊಳ್ಳಲು) ಒಪ್ಪಿಕೊಂಡಿರುತ್ತಾನೆ. ನಂತರ ನನ್ನ ಬ್ಯಾಂಕ ಅಕೌಂಟಿಗೆ ಹೆಲಿನ ಶಹಾ ತನ್ನ ಬ್ಯಾಂಕ ಅಕೌಂಟ ಖಾತೆಯಿಂದ ರೂ.3,91,000/- ವರ್ಗಾವಣೆ ಮಾಡಿದ್ದು, ಅದೇ ದಿನ ನಾನು ಸಿಂಡಿಕೇಟ್ ಬ್ಯಾಂಕಿನಿಂದ ರೂ.2,66,100 ವಿಥಡ್ರಾವಲ್ ಮಾಡಿ ಹೆಲಿನ ಶಹಾನ ಚಾಲಕನಾದ ನಿಲೇಶನಿಗೆ ನೀಡಿದ್ದು ಇರುತ್ತದೆ. ನನ್ನ ಮುಂದೆ ನಿಲೇಶನು ಶಹಾನಿಗೆ ನೀಡಿದ್ದು ಇರುತ್ತದೆ. ನಂತರ ಜಮೀನಿನ ಮಾರ್ಟಗೇಜ ವಿಚಾರವಾಗಿ ಉಪನೊಂದಣಾಧಿಕಾರಿಗೆ ಕಛೇರಿಗೆ ಹೋಗಿ ಅಲ್ಲಿ ಒಂದು ದಾಖಲಾತಿಯನ್ನು ಕೊಟ್ಟು ಮಾಡಗೇಜ ಅಗ್ರೀಮೆಂಟ್ ಬೇಗನೆ ಸಹಿ ಮಾಡು ಅಂತಾ ತಿಳಿಸಿದಂತೆ ನಾನು ಒಂದು ಸಹಿ ಮಾಡಿ ನಂತರ ದಾಖಲಾತಿ ಪರಿಶೀಲಿಸಿ ನೋಡಲಾಗಿ ಅದು ಸೇಲ್ ಡಿಡ್ ದಾಖಲಾತಿ ಎಂದು ಗೊತ್ತಾಯಿತು. ಆಗ ನಾನು ಏನು ಮಾಡುವದು ಅಂತಾ ತಿಳಿಯದೇ ಉಪನೊಂದಣಾಧಿಕಾರಿ ಕಛೇರಿಯಿಂದ ಕೆಳಗೆ ಇಳಿದು ಬಂದಿದ್ದು, ಆಗ ನನ್ನ ಹಿಂದೆಯೇ ಶಹಾನು ಬಂದು ಸಹಿ ಮಾಡಲು ಒತ್ತಾಯ ಮಾಡಿದಲ್ಲದೇ ನನ್ನ ಅಂಗಿಯನ್ನು ಹಿಡಿದು ಎಳೆದಾಡಿದ್ದು ಇರುತ್ತದೆ. ನಂತರ ಅದೇ ದಿನ ಕಾರವಾರ ಶಹರ ಪೊಲೀಸ್ ಠಾಣೆಗೆ ಬಂದು ಹೋಗಿರುತ್ತೇನೆ. ನಂತರ ಪೋನ ಮುಖಾಂತರ ಹೆಲಿನ ಶಹಾಗೆ ಪೋನ ಪೇ ಗೆ 45 ಸಾವಿರ ರೂಪಾಯಿ ವರ್ಗಾವಣೆ ಮಾಡಿದ್ದು

ಇರುತ್ತದೆ. ಎಕ್ಸಿಸ್ ಬ್ಯಾಂಕಿನಿಂದ 60 ಸಾವಿರ ರೂಪಾಯಿಯನ್ನು ವಿಥಡ್ರಾವಲ್ ಮಾಡಿ ಹೆಲಿನ ಶಹಾ ಚಾಲಕನಾದ ನಿಲೇಶನಿಗೆ ನೀಡಿದ್ದು ಇರುತ್ತದೆ. ಬ್ಯಾಂಕಿನ ಸ್ಟೇಟಮೆಂಟ್‌ನ್ನು ಪರಿಶೀಲಿಸಿ ನೋಡಬಹುದು. ಈಗ ನಾನು ಹೇಲಿನ ಶಹಾಗೆ ಕೋಡಬೇಕಾದ ರೂ.20,000/- ಮಾತ್ರ ಇರುತ್ತದೆ. ನಾನು ಒಂದು ವರ್ಷದ ವರೆಗೆ ಹೆಲಿನ ಶಹಾನಿಗೆ ಮಾರ್ಟಗೇಜ್(ಅಡವಿಟ್ಟುಕೊಳ್ಳಲು ನೀಡಬೇಕಾದ) ಮಾಡಬೇಕಾದ ಜಮೀನನ್ನು ನನ್ನ ಜೊತೆ ತೊರಿಸುತ್ತೇನೆ ತಿಳಿಸಿದನು. Further the recitals of the Ex.P-4 is that "ನಂತರ ಒಂದು ಖುಲ್ಲಾ ಜಮೀನನ್ನು ತೋರಿಸಿ ಹೆಲಿನ ಶಹಾಗೆ ಒಂದು ವರ್ಷದ ಅವಧಿಗೆ ಮಾರ್ಟಗೇಜ್ (ಅಡವಿಟ್ಟುಕೊಳ್ಳಲು ನೀಡಿಬೇಕಾದ) ಮಾಡಬೇಕಾದ ಜಮೀನು ಇದೇ ಅಂತಾ ತಿಳಿಸಿದನ್ನು ಈ ಕೆಳಗಿನಂತೆ ಪರಿಶೀಲಿಸಲಾಯಿತು." If the recitals of Ex.P-4 is taken into consideration it shows that the accused alleged to have intending to mortgage the property not intending to execute the sale deed as alleged by the PW-1. The court has referred the matter to the police for investigation, the police alleged to have conducted mahazar on 23-10-2022. The recitals of Ex.P-4 shows that there was transaction between the accused and CW-1 for execution of mortgage deed. Further there is no reference in Ex.P-4 in respect of presence of PW-1 on the spot at the time of mahazar alleged to have conducted in the land of accused. There is no any reasons stated the IO why he has conducted the mahazar in the said land and the said mahazar not disclose the survey numbers of the lands belongs to accused.

25. It is allegation that accused committed an offence of criminal breach of trust under section 406 of IPC. This offence is defined under section 405 of IPC which reads as under:

"Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes off that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or willfully suffers any other person so to do, commits "Criminal breach of trust"."

26. In present case there is no evidence that accused was entrusted with any property by CW-1. The only delivery mode was alleged payment of money. The amount alleged to have paid by CW-1 cannot be said to have been entrusted property with the accused by the CW-1. Merely because the accused has obtained money from CW-1 it does not amounts to misappropriation of amount. Since there was no entrustment of property, the offence of misappropriation of such property and thereby criminal breach of trust cannot be said to be made out. Further PW-10 is not aware about the alleged money transaction between CW-1 and accused, hence ingredients of section 406 of I.P.C. is not made out.

27. Section 420 of I.P.C. reads as under - ***Cheating and dishonestly inducing delivery of property.—Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which***

is capable of being converted into valuable security, shall be punished with imprisonment to seven years and shall also be liable to fine. But in present case there is no evidence that accused destroyed the property nor the PW-1 stated that accused has fraudulent intention to cheat the CW-1 since beginning. Mere breach of contract later on does not amount to cheating.

28. The offence alleged to have taken place on 09-12-2022, though the CW-1 stated that he lodged FIS before the police but they have not registered the case but he has not produced copy of FIS which alleged to have filed before the police. On perusal of the Ex.P-7 it shows that PW-1 lodged private complaint before the court on 16-12-2022. There is delay in filing the complaint before the court. The PW-1 has not stated the reasons for delay in lodging private complaint. Further PW-1 has not stated the steps taken by him when the police have not taken action against the accused.

29. As per the case of prosecution though the sale deed was ready, but the accused came out from the Sub-Registrar office at the time of registration of the sale deed. But on perusal of the Ex.P-4 it shows that the accused agreed to execute the mortgage infavour of CW-1 for a period of one year and when he came to know that he has put signature to the sale deed instead of mortgage deed, therefore he came out from the Sub-Registrar office and also the recitals of Ex.P-4 shows that the PW-1 forced the accused to put the signature and also dragged accused by holding his shirt. Therefore the recitals of Ex.P-4 falsify the case of the prosecution.

30. As per the prosecution accused has put the signature to the sale deed, therefore it shows that sale deed was ready. The PW-1 nowhere stated that accused had intention to cheat him from the beginning. Further the amount mentioned in the sale deed, Ex.P-11 and Ex.P-12 and amount stated by the PW-1 in evidnece are taken into consideration there is inconsistency. If the PW-1 has paid Rs.7,05,000/- to 7,50,000/- he would have deposed specifically and he would have mentioned the amount specifically in Ex.P-7 i.e. private complaint. On perusal of the evidence on record it shows that the transaction between the CW-1 and accused is in civil nature and PW-1 in cross examination admitted that before filling of the private complaint he has filed suit against the accused.

31. There is no evidence that the since beginning accused had intention to cheat the CW-1**.** In a criminal case, the burden is on the prosecution to prove its case beyond a reasonable doubts before the accused is asked to put his defence. It is for the prosecution to travel the entire distance from 'may have' to 'must have'. If the story of the prosecution appears to be improbable or lacks credibility, the benefit of doubt necessarily has to go to the accused. On perusal of the material evidence on record there is no corroborative and cogent evidence to prove the guilt of the accused, hence ingredients of section 406 and 420 of I.P.C. not made out. Hence, it is opinion of the court that the prosecution has failed to prove its case beyond a reasonable doubts, accordingly, **Point No.1 and 2 are answered in the Negative.**

32. **Point No.3:-** In view of above discussion, I proceed to pass the following;

ORDER

Acting under section 248(1) of Cr.P.C the accused is hereby acquitted for the offence punishable under section 406 and 420 of I.P.C.

The bail bond of accused shall stand cancelled after lapse of 6 months.

(Dictated to stenographer on Lap-tap, print out taken by her, corrected and then pronounced by me in Open-Court this the **30th day of June - 2026).**

(Kavita S. Undodi)
Prl. Senior Civil Judge & C.J.M.
Karwar.

ANNEXURE

LIST OF WITNESSES EXAMINED ON BEHALF OF PROSECUTION:-

PW-1 : Sri. Helen Tekchand Shaha
PW-2 : Sri. Govindray Talekar
PW-3 : Sri. Rahul Prakash Kotharkar
PW-4 : Sri. Avinash Rane
PW-5 : Sri. Suresh Naik
PW-6 : Sri. Suraj Kotharakar

PW-7 : Smt. Jayalaxmi Patil
PW-8 : Sri. Nehal Khan
PW-9 : Sri. Ramesh Nimbaragi
PW-10 : Sri. Nilesh Modavi
PW-11 : Sri. Vinay Kumatakar
PW-12 : Smt. Priyadarshini Salunke
PW-13: Shantanand Durgekar

LIST OF DOCUMENTS MARKED ON BEHALF OF PROSECUTION:-

Ex.P-1	:	Spot panchanama
Ex.P-1(a)	:	Signature of PW-2
Ex.P-1(b)	:	Signature of PW-3
Ex.P-1(c)	:	Signature of PW-8
Ex.P-1(d)	:	Signature of PW-9
Ex.P-2	:	Spot Sketch
Ex.P-2(a)	:	Signature of PW-2
Ex.P-2(b)	:	Signature of PW-3
Ex.P-2(c)	:	Signature of PW-8
Ex.P-3	:	Photo
Ex.P-4	:	Spot panchanama
Ex.P-4(a)	:	Signature of PW-4
Ex.P-4(b)	:	Signature of PW-5
Ex.P-4(c)	:	Signature of PW-8
Ex.P-4(d)	:	Signature of PW-9
Ex.P-5	:	Photo
Ex.P-6	:	Certificate under section 65(B) of Evidence Act
Ex.P-6(a)	:	Signature of PW-6
Ex.P-6(b)	:	Signature of PW-8
Ex.P-7	:	Copy of Private Complaint

Ex.P-7(a)	:	Signature of PW-7
Ex.P-8	:	F.I.R.
Ex.P-8(a)	:	Signature of PW-7
Ex.P-9	:	Notice
Ex.P-9(a)	:	Signature of PW-8
Ex.P-10	:	Notice
Ex.P-10(a)	:	Signature of PW-8
Ex.P-11	:	ICICI Bank Account Statement
Ex.P-11(a)	:	Signature of PW-8
Ex.P-12	:	Canara Bank Account Statement
Ex.P-13&14	:	RTC extracts
Ex.P-15	:	Certificate under section 65(B) of Evidence Act
Ex.P-15(a)	:	Signature of PW-8
Ex.P-15(b)	:	Signature of PW-9
Ex.P-16	:	True copy of Sale Deed dated 09-12-2022
Ex.P-16(a)	:	Signature of PW-13
Ex.P-16(b)	:	Signature of PW-13

LIST OF WITNESS EXAMINED AND DOCUMENTS MARKED ON BEHALF OF ACCUSED:-

-NIL-

MATERIAL OBJECTS MARKED ON BEHALF OF PROSECUTION:-

- NIL -

Digitally signed by KAVITA S UNDODI
Location: PRL. SENIOR CIVIL JUDGE AND CJM COURT, KARWAR