HC-KAR

NC: 2026:KHC:17316
CRL.P No. 8806 of 2018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE R. NATARAJ

CRIMINAL PETITION NO. 8806 OF 2018

BETWEEN:

MRS NAYANA S RAO
W/O SRI N H SREEPADA RAO
AGED ABOUT 45 YEARS,
R/O NISARANI, NISARANI POST
SORABA TLUK, SHIVAMOGGA DISTRICT
SHIVAMOGGA-577434

...PETITIONER

(BY SRI. NARAYAN MAYYAR ADVOCATE FOR
SRI. S.R.HEGDE HUDLAMANE, ADVOCATE)

AND:

1. MR. S.R. RAVIKUMAR
S/O LATE S. RAMARAO
AGED ABOUT 57 YEARS,
R/O NO.51/A, 1ST CROSS,
JAYALAKSHMIPURAM
MYSURU-570012

2. MR. M.B.NAGKUMAR
S/O LATE BASAVARAJAIAH,
AGED ABOUT 58 YEARS,
PROPRIETOR OF M/S PREMIER PROPERTIES
R/O NO.2270/1, CHITTARANJAN MAHAL
VINOBHA ROAD,
JAYALAKSHMIPURAM,
MYSURU-570012.

RESPONDENT NO.2 DELETED VIDE
ORDER DATED 05.08.2019

3. M/S MYSORE PREMIER INVESTMENT COMPANY LIMITED,
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT,
REPRESENTED BY ITS DIRECTOR,
M.B.NAGARAJ
NO.2270/1, CHITTARANJAN MAHAL
VINOBHA ROAD,
JAYALAKSHMIPURAM,
MYSURU-570012.

RESPONDENT NO.3 DELETED VIDE
ORDER DATED 05.08.2019

4. STATE OF KARNATAKA
JAYALAKSHMIPURAM POLICE STATION,
MYSORE
REP BY SPP
HIGH COURT BUILDING
BANGALORE-560 001

...RESPONDENTS

(BY SRI.VENKATESH R BHAGAT ADVOCATE FOR RESPONDENT NO.1 (THROUGH VC);

SRI. MOHD. AYUB ALI, ADDITIONAL STATE PUBLIC PROSECUTOR FOR RESPONDENT NO.4;

VIDE ORDER DATED 05.08.2019 RESPONDENT NOS.2 AND 3 ARE DELETED)

THIS CRL.P IS FILED UNDER SECTION 482 OF THE CODE OF CRIMINAL PROCEDURE, 1973 PRAYING TO QUASH THE CHARGE SHEET PRODUCED AT ANNEXURE-H DATED 12.06.2018 BY THE 4TH RESPONDENT AND ISSUING A PROCESS BY LEARNED IV ADDITIONAL I CIVIL JUDGE AND J.M.F.C., MYSURU DATED 12.06.2018 AGAINST THE PETITIONER AS PER ANNEXURE-J BY EXERCISING THE POWER UNDER SECTION 482 OF CR.P.C.

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

CORAM: HON'BLE MR. JUSTICE R. NATARAJ

ORAL ORDER

The petitioner has challenged the prosecution launched against her by respondent No.1 in P.C.R.No.3051/2017 on the file of the IV Additional I Civil Judge and JMFC, Mysuru, for the offences punishable under Sections 415, 417, 420, 506 read with Section 34 of the Indian Penal Code, 1860 (henceforth referred to as 'IPC').

2. The respondent No.1 filed a complaint in P.C.R.No.3051/2017 alleging that the accused No.1 as a developer of a property belonging to the accused No.3 had executed an agreement of sale and had received a sum of Rs.44,58,001/-. It was alleged that after execution of such an agreement, the accused Nos.1 and 3 had executed a sale deed in respect of the very same flat in favour of petitioner and thereby had committed an offence of cheating. The trial Court referred the private complaint for investigation by respondent No.4/police station, who registered Crime No.0098/2017 for the offences punishable under Sections 415, 417, 420 and 506 read with Section 34 of IPC.

3. After investigation, a charge sheet was filed for the aforesaid offences. The trial Court took cognizance of the offences punishable under Sections 415, 417, 420 and 506 read with Section 34 of IPC and issued summons. The petitioner being the accused No.2 has filed this petition aggrieved by the order taking cognizance and issuing process.

4. (i) The learned counsel for the petitioner contended that the petitioner is a *bona fide* purchaser of the flat in question, as it was represented to the petitioner by the accused No.1 that the property is available for sale. He contends that the property flat in question was earlier proposed for e-auction by the Karnataka State Financial Corporation (henceforth referred to as 'KSFC') and thereafter, KSFC had issued a no-objection to the accused No.1 for sale of the flat in question, following which, negotiations were held with the accused No.1 and the accused No.3 and they executed a sale deed in favour of the petitioner.

(ii) He therefore contended that the petitioner is unaware of the prior transaction between the respondent No.1 and the accused Nos.1 and 3. He contends that the respondent

No.1 has unnecessarily roped in the petitioner so as to harass the petitioner and force her into a settlement. He contends that a perusal of the private complaint filed by the respondent No.1 shows that there was not even a whisper about the involvement of the petitioner in the commission of the alleged offence.

(iii) He also submits that in the charge sheet, the respondent No.4 has stated that it was the accused No.1 and the petitioner who had executed an agreement in favour of the respondent No.1, which is not true as respondent No.1 alleged that accused No.1 and accused No.3 had executed the agreement in favour of respondent No.1. He therefore contends that the impugned prosecution of the petitioner for the aforesaid offences is an abuse of the process of law and deserves to be halted.

(iv) He also contends that the respondent No.1 has approached the Consumer Disputes Redressal Forum against the accused Nos.1 and 3, where it was held that the accused Nos.1 and 3 were alone responsible for repayment of the amount. He thus contends that the impugned prosecution of the petitioner is liable to be quashed.

5. Per contra, the learned counsel for the respondent No.1 submits that a specific allegation was made by the respondent No.1 in the private complaint that the petitioner has colluded with the accused Nos.1 and 2 in bringing about an unconscionable sale deed. He contends that the petitioner was aware of the prior agreement of sale in favour of the complainant and therefore the petitioner has conspired in getting a illegal sale deed executed in respect of the property in question, which was the subject matter of the agreement of sale in favour of the respondent No.1. He thus contends that the question whether the petitioner was innocent of the allegations or not is a matter of trial and therefore this Court should not exercise jurisdiction under Section 482 of Code of Criminal Procedure, 1973 (henceforth referred to as 'Cr.P.C.') to set at nought the prosecution.

6. The learned Additional State Public Prosecutor reiterated the above submissions and submitted that in the sale deed executed in favour of the petitioner, there is no clear

averment as to how she paid the consideration to the accused Nos.1 and 3 and therefore a doubt has arisen regarding the *bona fides* of the sale deed executed in favour of the petitioner. He thus contends that this is a matter that has to be investigated before the Court and not in a petition under Section 482 of Cr.P.C.

7. (i) This Court is aware of the constraints on the exercise of power under Section 482 of Cr.P.C. When it is brought to the notice of the Court that there is palpable misuse or abuse of the process of law and Court in launching a criminal prosecution, the Court would not hesitate to set at nought such prosecution. At the same time, if it is found that there is even the slightest case for prosecuting the accused, the Court would hold its hands before exercising jurisdiction under Section 482 of Cr.P.C.

(ii) Coming to the facts of this case, the complainant claimed that the accused No.1 being the developer of a property belonging to the accused No.3 had entered into an agreement of sale, in terms of which, he had received a sum of Rs.44,58,001/- from the complainant/respondent No.1 and had assured to execute a sale deed. It is alleged that after a few days when complainant/respondent No.1 visited the property, he saw that the petitioner was in possession and on enquiry, he came to know that the petitioner had purchased the flat from the accused Nos.1 and 3. However, there is nothing on record to show that the petitioner was aware of the transaction between the complainant/respondent No.1 and the accused Nos.1 and 3. There is also not even a whisper that the petitioner had conspired with the other accused to bring about a sale deed in respect to the property in question.

(iii) The documents furnished by the petitioner along with the criminal petition would show that a large number of properties were brought for auction by KSFC, which included the subject flat bearing No.111. It also appears that the KSFC thereafter issued a no objection certificate to the accused No.1 permitting him to sell the flat bearing No.111 through private negotiations and accordingly, the accused Nos.1 and 3 have sold the property in question to the petitioner. The petitioner appears to be a *bona fide* purchaser of the property and hence there was no criminality involved in so far as the sale deed executed in favour of the petitioner. At the most, the petitioner could have been cited as a witness in the case and not arrayed as an accused.

(iv) This apart, a perusal of the charge sheet shows that it proceeded on a wrong assumption that the accused Nos.1 and petitioner herein had executed the agreement of sale in favour of the complainant while in fact it was only the accused Nos.1 and 3 who had executed the agreement in favour of the complainant. Therefore, the premise on which the petitioner is sought to be prosecuted is thoroughly faulty and deserves to be interfered lest that would result in perpetuating an abuse of the process of law.

8. In that view of the matter, the following order is passed:

<u>ORDER</u>

i. The criminal petition is ***allowed***;

ii. The prosecution of the petitioner in P.C.R.No.3051/2017 (C.C.No.1984/2018) on the file of the IV Additional I Civil Judge and JMFC, Mysuru, for the offences punishable under Sections 415, 417, 420, 506 read with Section 34 of IPC is quashed. However the criminal proceedings against the other accused shall continue.

Sd/-
(R. NATARAJ)
JUDGE

BKN
List No.: 1 Sl No.: 6