



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION NO. 1088 OF 2022

BETWEEN:

SRI. A.R. HALAPPA
S/O. A. RUDRAPPA,
AGED ABOUT 76 YEARS,
PRESENTLY RESIDING AT
DOOR NO. 103, VINAYAKA LAYOUT,
3RD MAIN ROAD, 3RD CROSS,
BEHIND AYYAPPA SWAMY TEMPLE,
CHIKKABANAVARA POST,
BANGALORE- 560 090.

...PETITIONER

(BY SRI. MURALI B.S., ADVOCATE)

AND:

STATE OF KARNATAKA
BY DAVANAGERE RURAL POLICE STATION,
DAVANAGERE,
REP. BY THE STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BANGALORE.

...RESPONDENT

(BY SRI. K. NAGESHWARAPPA, HCGP)

THIS CRL.RP IS FILED U/S. 397 R/W 401 CR.P.C BY THE
ADVOCATE FOR THE PETITIONER PRAYING THAT THIS
HONOURABLE COURT MAY BE PLEASED TO SET ASIDE THE
JUDGMENT DATED 14.06.2022 PASSED BY THE LEARNED II





ADDITIONAL DISTRICT AND SESSIONS JUDGE, DAVANAGERE
IN CRL.A.NO.1/2018., AND ETC.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

1. Heard Sri. B.S. Murali, learned counsel for the revision petitioner and Sri. K. Nageshwarappa, learned High Court Government Pleader.

2. Revision petitioner is the accused who suffered an order of conviction in CC No.993/2006 confirmed in Criminal Appeal No.1/2018 for the offences punishable under Section 420, 421, 422, 423, 424 of the Indian Penal Code.

3. Trial Magistrate after due trial convicted the accused for the aforesaid offences and sentenced as under :

*For the offence punishable under section 420 of IPC
Accused is sentenced to undergo Simple Imprisonment
for period of 2 years and shall also pay fine of Rs.5000/-:*



In default of payment of fine amount he shall undergo Simple Imprisonment for further period of 1 month.

Further for the offence punishable under section 421 of IPC Accused is sentenced to pay fine of Rs. 1000/-. In default of payment of fine amount he shall undergo Simple Imprisonment for period of 1 month.

Further for the offence punishable under section 422 of IPC. Accused is sentenced to pay fine of Rs.1000/-. In default of payment of fine amount he shall undergo Simple Imprisonment for period of 1 month.

Further for the offence punishable under section 423 of IPC Accused is sentenced to pay fine of Rs.1000/-. In default of payment of fine amount he shall undergo Simple Imprisonment for period of 1 month.

Further for the offence punishable under section 424 of IPC Accused is sentenced to pay fine of Rs. 1000/-. In default of payment of fine amount he shall undergo Simple Imprisonment for period of 1 month.

Bail bonds of accused and his surety shall stand cancelled.

Bail bonds of accused and his surety 437(A) of Cr.P.C., shall be inforce for 6 months.

4. Being aggrieved by the Order of conviction and sentence, accused filed an appeal before the District Court



in Criminal Appeal No.1/2018. Same is dismissed on merits by considered judgment dated 14.06.2022. Thereafter accused is before this Court.

5. Facts in the nutshell which are utmost necessary for disposal of the present petition are as under :

5.1 Davanagere Rural Police filed a charge sheet against the accused for the offence punishable under Sections 109, 114, 420, 421, 422, 423, 424 of the Indian Penal Code.

5.2 In the charge sheet, it is mentioned that based on the complaint, that accused stood as a guarantor to the loan obtained by Mrs. Lakshmi Poultry Farm from KSFC to the tune of Rs.19,17,000/- created a charge over his property bearing Municipal No.3922/133, Site No.27, situated at Anjaneya Badavane, Davanagere by mortgaging the said property with KSFC, Haveri.



5.3 To clear the debt which the firm was due to KSFC, accused was in need of funds for the same and he agreed to get the said property registered in favour of the complainant herein for agreed sale consideration amount of Rs.3,17,000/- and as such entered into an agreement of sale dated 05.10.1998. As per the agreement, registered sale deed is to be executed within a period of tow years from its date i.e. on and from 05.10.1998 after clearing the loan and also after getting the property free from encumbrances.

5.4 Believing the words of accused, complainant came forward to purchase the said property and agreed to pay sum of Rs.4,00,000/- over and above sum of Rs.3,17,000/-.

5.5 Complainant said to have paid sum of Rs.7,17,000/- to KSFC, Haveri vide Cheque bearing No.006292 on 29.09.1998.



5.6 Soon after clearing the said amount, as per the agreed terms, when the complainant approached the accused seeking execution of the registered sale deed in his favour, accused went on postponing the same on one pretext or the other.

5.7 The legal notice was issued in this regard on 07.08.2003 calling upon the accused to execute the sale deed in favour of the complainant. But there was no compliance to the callings of said notice. Therefore, complainant was constrained to file a civil suit seeking specific enforcement of the agreement to sell dated 05.10.1998 in O.S.No.282/2003 before the Civil Judge (Senior Division) Ranebennur, which was re-numbered before the First Additional Civil Judge (Senior Division) Davanagere in O.S.No.279/2009 on transfer.

5.8 When the matter stood thus, accused entered into agreement of sale in favour of his relative Smt. Nagarathamma and clandestinely sold the property in



favour of Smt. Nagarathamma and therefore criminal complaint was filed which was investigated and charge sheet came to be filed.

5.9 Learned Trial Magistrate after securing the presence of the accused framed the charges and accused pleaded not guilty. Therefore trial was held.

5.10 In order to bring home the guilt of the accused, ten witnesses were examined as PW1 to 10 and thirty four documentary evidence were placed on record which were exhibited and marked as Exhibits P1 to P34.

5.11 During the course of cross-examination of PW3 and PW4, contradictory statements made by them is elicited which were marked as Exhibit D1 and Exhibit D2.

5.12 Thereafter, learned Trial Magistrate recorded the statement of the accused as is contemplated under Section 313 Code of Criminal Procedure, wherein accused has denied all the incriminatory circumstances.



5.13 Subsequently thereto learned Trial Magistrate heard the arguments of the parties and convicted the accused and sentenced as referred to supra.

6. Being aggrieved by the same, accused filed an appeal before the District Court in Criminal Appeal No.1/2018.

7. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties and on re-appreciation of the material evidence on record, dismissed the appeal.

8. Being further aggrieved by the same, accused is before this Court.

9. At the outset, Sri. B.S. Murali by reiterating the grounds urged in the revision petition would contend that accused is innocent person and he has been tricked to signed the agreement of sale on 05.10.1998 by the complainant and not knowing the consequences thereof



when the accused was in need of money he has sold the property in favour of Smt. Nagarathamma and there was no intention to cheat the complainant or anybody and therefore sought for allowing the revision petition.

10. Alternatively, Sri. Murali would contend that taking note of the age of the revision petitioner being 82 years as on today, and he being the first time offender, this Court may consider the request that sentence of imprisonment for the offence under Section 420 of the Indian Penal Code be set-aside by enhancing the fine amount reasonably.

11. Per contra, Sri. K. Nageshwarappa, learned High Court Government Pleader, supports the impugned judgments by contending that knowing fully well that there was a suit pending, accused has clandestinely sold the property in favour of his own relative namely Smt. Nagarathamma, which clearly makes out all ingredients to attract the offence under Section 420 of the Indian



Penal Code namely wrongful loss to the complainant and wrongful gain to the accused.

12. He would further contend that payment of Rs.7,17,000/- was cleared by way of Cheque bearing No.006292 drawn on Hirekarur Urban Co-operative Bank by the complainant to KSFC, Haveri to clear the dues of M/s. Lakshmi Poultry Farm is established by placing documentary evidence on record. Therefore the argument put forth on behalf of the accused that there is no intention to cheat the complainant, cannot be countenanced in law and sought for dismissal of the revision petition.

13. Sri. Nageshwarappa also contended that the material evidence placed on record could not warrant showing any lenience to the petitioner inasmuch as during the pendency of the suit, he has sold the property in favour of Smt. Nagarathnamma and therefore, only on the ground that accused is aged 82 years, no mercy can be shown to



him and sought for dismissal of the revision petition in *toto*.

14. Having heard the arguments of both sides, this Court perused the material law on record meticulously.

15. On such perusal of the material law on record, loan borrowed by M/s. Lakshmi Poultry Farm from KSFC Haveri is not in dispute.

16. The principal borrower is none other than the son-in-law of the petitioner herein. Towards the security, property of the accused was given. When the loan was to be cleared, complainant has come forward to clear the dues of KSFC, Haveri and purchased the property as referred to supra.

17. A sum of Rs.7,17,000/- was paid by way of cheque bearing No.006292 drawn on Hirekarur Urban Co-operative Bank to KSFC, Haveri and all the encumbrances for the aforesaid property got cleared by the complainant only with an intention to get the property registered in his



name. When the accused failed to register the property in favour of the complainant even after the dues of KSFC in a sum of Rs.7,17,000.- is cleared, complainant was constrained to file the civil suit seeking specific performance of the agreement to sell dated 05.10.1998.

18. During the pendency of the suit, clandestinely accused has sold the property in favour of his own relative namely Smt. Nagarathnamma. These aspects of the matter is established by the prosecution by placing not only oral evidence of the complainant and other witnesses but also by placing necessary documentary evidence on record.

19. Thus, the element of cheating is established by the prosecution with cogent and convincing evidence on record. Further, having sold the property in favour of Smt. Nagarathnaamma, after getting the loan of Rs.7,17,000/- of M/s. Lakshmi Poultry Farm got cleared by payment of money from complainant, ingredients namely wrongful



loss to the complainant and wrongful gain to the accused stands established by placing overwhelming evidence on record.

20. Thus, the Order of conviction passed by Trial Magistrate confirmed by the First Appellate Court needs no interference.

21. Having said so, accused is now aged 82 years. Admittedly, he is a first time offender. Insofar as the agreement to sell date 05.10.1998, suit is decreed and the matter is pending before this Court in the Regular First Appeal No.331/2014.

22. Parties can very well work out their remedy in the pending First Appeal.

23. Taking note of these aspects of the matter, if the accused is directed to undergo simple imprisonment for the day till the rising of the Court and to pay enhanced fine amount Rs.2,00,000/- which can be paid as



compensation to the complainant, ends of justice could be met.

24. Accordingly, following order:

ORDER

- (i) Criminal Revision Petition is allowed in part.
- (ii) While maintaining the conviction of the accused for the offence punishable under Section 420 of the Indian Penal Code, two years imprisonment ordered by the Trial Magistrate confirmed by the First Appellate Court is hereby modified by directing the accused to undergo simple imprisonment for the day till the rising of the Court and to pay enhanced fine amount of Rs.2,00,000/- on or before **20.04.2026.**
- (iii) On receipt of the enhanced fine amount of Rs.2,00,000/-, the same shall be paid to the dependents of the complainant-PW3 under due identification.



- (iv) In the event the petitioner fails to make payment of enhanced fine amount in a sum of Rs.2,00,000/- on or before **20.04.2026**, sentence ordered by the Trial Magistrate confirmed by the First Appellate Court stands restored automatically.
- (v) Office is directed to return the Trial Court Records with copy of this Order forthwith for issue of modified conviction warrant.

Sd/-
(V SRISHANANDA)
JUDGE

SNC
List No.: 1 Sl No.: 34