HC-KAR

NC: 2026:KHC-K:1919
CRL.P No. 201725 of 2025

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 25TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 201725 OF 2025
(482(Cr.PC)/528(BNSS)

BETWEEN:

1. DHIRENDRACHARA
   AGED ABOUT 60 YEARS
   OCC: BUSINESS
   S/O SHESHAGIRICHAR
   R/AT 222/2, 3RD MAIN
   PJ EXTN, DAVANAGERA,
   DAVANAGERE, KARNATAKA-577002

2. NIKHIL D PAPPU
   AGED ABOUT 30 YEARS
   OCC: BUSINESS
   S/O DHIRENDRACHAR PAPPU
   R/AT NO. 41 DHANVANTHRI NILAYA
   5TH MAIN RAGHAVENDRA COLONY
   CHAMARAJAPETE
   BANGALORE SOUTH
   BENGALURU KARNATAKA-560018

3. SRIPAD D PAPPU
   AGED ABOUT 27 YEARS
   OCC: BUSINESS
   S/O DHIRENDRACHAR PAPPU
   R/AT NO. 41 DHANVANTHRI NILAYA
   5TH MAIN, RAGHAVENDRA COLONY
   CHAMARAJAPETE
   VTC BANGALORE SOUTH
   PO CHAMRAJPET

DISTRICT BENGALURU
STATE KARNATAKA PIN CODE-560018

...PETITIONERS

(BY SMT. NEEVA M. CHIMKOD, ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY VIJAYAPURA CEN
CRIME POLICE STATION
REP. BY ITS STATE PUBLIC PROSECUTOR
HIGH COURT COMPLEX
KALABURAGI-585103

2. SIDDAPPA BALAGOND
S/O DUNDAPPA
AGED ABOUT 60 YEARS
R/AT NO.KOLHAR
TQ: KOLHAR, VIJAYAPURA
KARNATAKA-586210

...RESPONDENTS

(BY SRI JAMADAR SHAHABUDDIN, HCGP FOR R1;
SRI R. S. LAGALI, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED U/S 528 OF BNSS (NEW), U/S.482 OF CR.P.C.(OLD), PRAYING TO QUASH THE FIR AS AGAINST THE PETITIONERS IN CRIME NO.59/2025 REGISTERED BY RESPONDENT NO.1 VIJAYAPURA CEN CRIME POLICE STATION PENDING ON THE FILE OF 3RD ADDL. CIVIL JUDGE (JR.DN) AND JMFC COURT, BIJAPUR DIST, BIJAPUR FOR THE OFFENCES PUNISHABLE UNDER SECTION 406, 409, 420 OF IPC 1860 AND S 66(D) OF IT ACT, 2008.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

This Criminal Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to quash the FIR against the petitioners/accused Nos.1 to 3 in Crime No.59/2025 dated 11.10.2025, registered by Vijayapura CEN Police Station, for the offences punishable under Sections 406, 409, 420 of Indian Penal Code, 1860 and Section 66(D) of Information Technology Act, 2008 presently pending on the file of the III Additional Civil Judge and JMFC, Vijayapura.

2. The factual matrix of the case is, complainant/respondent No.2 owns landed property to an extent of 160 acres at Dodihal, Masooti Ronihala villages of Kolhar Taluk, Vijayapura District. In the year 2016, he came in contact with one Suresh Asangi (accused No.4) and one Iranna Kalasagond of the same village and they informed the respondent No.2 that they are the

representatives of a Company known as EPDC Project Private Limited and the said Company proposed to establish a Solar Power Generation Project and investors can earn monthly income from solar energy generation. Later the said Suresh and Iranna had introduced petitioners/accused Nos.1 to 3 and they assured that respondent No.2 would earn good returns, if he invests in the Company. Accordingly, they floated a limited liability partnership company in the name and style of "Mahatma Eco Power LLP" and opened a Bank account at Canara Bank. The Petitioners/accused Nos.1 to 3 i.e., the Managing Directors of the EPDC Project Private Limited informed respondent No.2 that in order to generate one Megawatt electricity, they have to spend Rs.80,00,000/- and for which respondent No.2 has to initially invest Rs.10,00,000/- and the balance amount would be invested by the Company and once the said amount was invested, respondent No.2 would get income of Rs.2,50,000/- per month. Believing their words, respondent No.2 requested petitioners to start 20 megawatt solar plant, for which, pettioners demanded respondent No.2 to invest Rs.1,00,00,000/-. For which, respondent No.2 agreed and transferred the amount to the Bank Account of petitioners on different dates to the tune of Rs.1,37,13,000/- from the year 2016 to 2018 with the assurance of petitioners that once they receive the amount from respondent No.2, they will start the project by purchasing materials and installing the same in the landed property of respondent No.2. However, petitioners kept on postponing the purchase of materials as agreed by them for setting up solar power project for one or the other pretext till October, 2025. Though respondent No.2 insisted the petitioners either for installation of the power project or to return the payment made by him, they failed to do so. As such, left with no other option, he lodged the complaint before respondent No.1-Police on 11.10.2025. On the strength of said complaint, FIR came to be registered in Crime No.59/2025 against four persons by arraigning the petitioners as accused Nos.1 to 3 for the aforementioned offences. Aggrieved by the registration of FIR, the petitioners filed this petition to quash the FIR.

3. Heard learned counsel for the petitioners, learned High Court Government Pleader for respondent No.1 and learned counsel for respondent No.2.

4. Apart from urging several contentions, learned counsel for the petitioners contended that on perusal of the FIR and complaint materials, *prima facie* it disclose that the dispute arise out of commercial transaction between the partnership Company and respondent No.2. She further contended that, at no point of time, the petitioners had any culpable intention of cheating respondent No.2. According to her, respondent No.2 voluntarily entered into the agreement with the petitioners' Company and paid the amount from the year 2016 to 2018. Though the petitioners made their best efforts to install the solar project in the field of respondent No.2, due to situation beyond their control, they were

unable to install the same. By relying on the agreement executed between the petitioners and respondent No.2, she contended that there is an arbitration clause, as such, the remedy available to respondent No.2 is to file a dispute before the Arbitrator. As such, the complaint is filed by respondent No.2 with an ulterior motive and the same cannot be sustained under law.

5. Relying on the judgment of the Hon'ble Apex Court in the case of ***Delhi Race Club (1940) Ltd. & Ors. vs. State of Uttar Pradesh & Anr.*** passed in ***Criminal Appeal No.3114/2024 dated 23.08.2024*** she contended that the offences invoked against the petitioners i.e., 406 and 420 of IPC cannot go hand in hand as held by the Hon'ble Apex Court. In such circumstance, she prays to allow the petition by quashing the FIR. To buttress her arguments, she relied on the following judgments:

(i) Suchil Sethi and another vs. State of Arunachal Pradesh and others (2020) 3 SCC 240;

(ii) *Arshad Neyaz Khan vs. State of Jharkhand and another passed in Special Leave Petition (Criminal) No.3606/2024 dated 24.09.2025;*

(iii) *Ashok Kumar Jain vs. The State of Gujarat and Another passed in SLP (Criminal) No.1850/2022 dated 01.05.2025*

6. *Per contra*, learned counsel for respondent No.2 submits that respondent No.2 being a farmer, believing the words of petitioners, invested huge sum of Rs.1,37,13,000/- in the Company of the petitioners. From the inception of the agreement executed between the petitioners and respondent No.2, there was a clear intention on the part of the petitioners to cheat respondent No.2 by inducing him. The complaint averments disclose that petitioners assured him that if he invests Rs.1 crore, he would get Rs.25,00,000/- return per month. Upon such assurance, respondent No.2 invested with the petitioners' Company. Moreover, the petitioners assured him that they are the Managing Directors of the Company and they have contact with the Director, DRE Solar

Division, Railway Board, New Delhi. As such, respondent No.2 invested the money. However, till today, the petitioners neither installed the machinery nor returned the amount paid by respondent No.2. As such, the intention could be gathered from the act of the petitioners. He also contented that, the petitioners have admitted the receipt for having received the amount of Rs.1,37,13,000/- from respondent No.2, on the guise of installing the solar power project. As such, according to learned counsel, there is a clear inducement and cheating on the part of the petitioners.

7. By placing the private complaints filed by three other companies against the petitioners/accused Nos.1 to 3, he submits that, the petitioners are habitually involved in similar kind of offences with the same modus operandi. In those cases, the aggrieved parties have initiated private complaints for the offence punishable under Section 138 of N.I Act. He also contended that, since the case is in the crime stage and investigation is still under progress, at

this stage, this petition under section 528 of BNSS cannot be entertained. Accordingly, he prays to dismiss the petition.

8. Learned HGCP also opposed the prayer by adopting the argument of learned counsel for respondent No.2.

9. I have given my anxious consideration both on the submissions made by the learned counsel for the respective parties and the documents made available on record.

10. As could be gathered from records, on perusal of the complaint averments, it is clear that, petitioners/accused Nos.1 to 3 through accused No.4 introduced themselves to respondent No.2, who is a farmer and induced him that, if he invests the amount in their Solar Power Project Company, he would get good returns. Upon such inducement, they made him to invest a sum of Rs.1,37,13,000/- with a clear assurance that he

would get Rs.25,00,000/- per month. After receiving the huge amount, the petitioners neither executed the agreement by installing the power project for a period of 6 years nor repaid the amount of respondent No.2.

11. No doubt, there is an arbitration clause in the agreement. However, on careful perusal of the complaint averments, it *prima facie* reveals that the petitioners executed the agreement by floating a Company with an ulterior motive for unlawful gain. The culpable intention of the petitioners is clearly forthcoming with their act, after receiving the huge sum from respondent No.2 for a period of 7 years, they have not acted upon the agreement, though the time to complete the project is prescribed in the agreement for a period of 5 years. Further, the documents placed by respondent No.2 clearly depicts that the petitioners were involved in similar kind of acts and there are multiple cases have been filed against them by the other aggrieved persons under the provisions of Section 138 of N.I. Act.

12. It is contended by learned counsel for respondent No.2 that the petitioners have cheated the poor farmers in and around Bagalkot and Vijayapur Districts and thereby, illegally obtained Rs.11,00,00,000/-

13. On perusal of the records of the case, the same is at a premature stage and the investigation has not proceeded, except some preliminary effort taken on the date of registration of the case and evidence has to be gathered after a thorough investigation and the same has to be placed before the concerned Court and on the basis of which, the Court can come to a conclusion one way or another on the plea of false implication or malafide. Further, if the allegations are bereft of truth and made falsely, the investigation will reveal the same.

14. Hence, at this stage, when there are *prima facie* allegations forthcoming against these petitioners for the commission of the offences under Section 420 of IPC and other provisions, this Court cannot anticipate the result of the investigation and render findings on the question of

false implication on the materials presently available. No doubt, the Hon'ble Apex Court in the case of ***Delhi Race Club*** *(supra)* held that the offence under Section 406 and 420 of IPC cannot go hand in hand, however, the same has to be considered after filing of the charge sheet.

15. At this stage, it cannot be presumed that respondent No.1-Police will invoke all the provisions against the petitioners in the charge sheet. Therefore, it cannot be said that the complaint should be thrown overboard on the ground that Section 406 and 420 of IPC are invoked in the FIR. Even assuming that the complaint is falsely filed for an illegal gain, that by itself will not be a ground to discard the complaint containing serious allegations of cheating and if, there was serious allegation of cheating, the same has to be tested and weighed after the evidence is collected by the Investigation Officer.

16. In such circumstances, I am of the considered view that, at this stage, FIR cannot be quashed against

the petitioners/accused Nos.1 to 3. Accordingly, the petition lacks merits and the same is ***dismissed***.

Sd/-
(RAJESH RAI K)
JUDGE

SWK,THM
List No.: 1 Sl No.: 22
CT-BH