

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF FEBRUARY , 2024

BEFORE

THE HON'BLE MR JUSTICE K.NATARAJAN

CRIMINAL PETITION NO. 2132 OF 2023

BETWEEN:

- 1 . DR. H. R. NAGENDRA
AGED ABOUT 79 YEARS,
S/O. LATE. VENKATARAMANA RAMA RAO,
R/AT NO.50, 4TH MAIN ROAD,
SUHRUDHA POLY CLINIC,
CHAMARAJPET,
BENGALURU - 560 018.
- 2 . SMT. NAGARATHNA RAGHURAM
AGED ABOUT 78 YEARS,
C/O. RAGHURAM N V,
R/AT NO.14294,
PRESTIGE FALCON CITY,
KANAKAPURA ROAD,
KONANAKUNTE CROSS,
ANJANADRI LAYOUT,
BENGALURU - 560 062.
- 3 . RAMA HONGASANDRA RAMARAO
AGED ABOUT 72 YEARS,
C/O. NO.231, 20TH CROSS,
K.R.ROAD, BANASHANKARI 2ND STAGE,
BENGALURU - 560 070.
- 4 . PADMALATHA VENKATARAM
AGED ABOUT 60 YEARS,
W/O. LATE. RAMARAO VENKATARAM,
R/AT. NO.513, PRAMA, 47TH CROSS,

5TH BLOCK, JAYANAGAR,
BENGALURU - 560 041.

- 5 . SMT. AGARA THIPPAIAH SUMANGALA
AGED ABOUT 77 YEARS,
R/AT AGARAM THIPPAIAH SUMANGALA,
201, 2ND FLOOR, 76,
VANIVILAS ROAD,
NEXT TO GIRIYAS,
BASAVANGUDI,
BENGALURU - 560 004.
- 6 . A.T.SRINIVAS MURTHY
AGED ABOUT 76 YEARS,
S/O.LATE A.V.THIPPAIAH,
R/AT NO.9/2, APEKSHA 3RD CROSS,
NEAR NATIONAL COLLEGE,
SWIMMING POOL,
SHANKARAPURA,
BASAVANAGUDI,
BENGALURU - 560 004.
- 7 . VINUTHA A T
AGED ABOUT 73 YEARS,
W/O C. M. PHANI KUMAR,
R/AT NO.101, VAASTU RESIDENCY,
KANAKAPURA ROAD,
YELACHENAHALLI,
J.P.NAGAR,
BENGALURU - 560 078.
- 8 . SMT. RAJINI NARSIMHA MURTHY
AGED ABOUT 61 YEARS,
W/O H.N. NARSIMHA MURTHY,
R/AT NO.125, 3RD MAIN,
BENGALURU INTERNATIONAL SCHOOL,
BHCS LAYOUT,
UTTARAHALLI MAIN ROAD,

CHIKKALASANDRA SUBRAMANYAPURA,
BENGALURU - 560 061.

- 9 . SMT. SOWBHAGHYA.R
AGED ABOUT 65 YEARS,
W/O V. RATHNAKAR,
R/AT NO.113, 6TH CROSS,
3RD MAIN, HIG, RMV 2ND STAGE,
BENGALURU - 560 094.
- 10 . SRI. SUBBARAO CHUDANATHRAO BALEKAI
AGED ABOUT 61 YEARS,
S/O LATE B.K.CHUDANATH RAO,
R/AT NO.C-106, VICTORY HARMONY,
4TH CROSS, SSA ROAD,
SUMANGALI SEVA ASHRAM,
ANAND NAGAR,
BENGALURU - 560 024.
- 11 . B. K. NAGENDRA
AGED ABOUT 77 YEARS,
S/O.LATE. KRISHNA RAO L. BALEKAI,
R/AT NO.2038, 26TH CROSS,
BANASHANKARI 2ND STATE,
BEHIND SEVAKSHETHRA HOSPITAL,
BSK 2ND STAGE,
BENGALURU - 560 070.
- 12 . SRI. BALEKAI KRISHARAO RAMACHANDRA
AGED ABOUT 72 YEARS,
S/O. LATE BALEKAI KRISHNARAO,
R/AT NO.203, ADITHYA HOMES,
8TH MAIN, 14TH CROSS,
JUDICIAL LAYOUT, G.K.V.K,
BENGALURU - 560 065.

...PETITIONERS

(BY SRI. M.T.NANAIAH, SENIOR ADVOCATE FOR
SRI. PRABHUGOUDA B. TUMBIGI, ADVOCATE)

AND:

- 1 . THE STATE OF KARNATAKA
BY GOVINDAPURA POLICE STATION,
BENGALURU, REPRESENTED BY ITS
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU - 560 001.
- 2 . ANJANEYULU PRATHIPATI
AGED ABOUT 71 YEARS,
S/O. LATE SUBBAIAH,
R/AT NO.525, 11TH CROSS,
5TH MAIN ROAD,
OPPOSITE CANARA BANK,
DOLLARS COLONY,
RMV 2ND STAGE,
BENGALURU - 560 094.

...RESPONDENTS

(BY SRI. VENKAT SATYANARAYANA A., HCGP FOR
R1/STATE;
SRI. S. SHANKARAPPA, ADVOCATE AND
SRI. KARTHIK SHANKARAPPA, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION
482 OF CR.P.C. PRAYING TO QUASH THE FIR AND
COMPLAINT IN CR.NO.28/2023 REGISTERED BY 1ST
RESPONDENT POLICE GOVINDARAJPURA POLICE STATION,
FOR THE OFFENCE P/U/S 406, 409, 417, 418, 419, 420,
423, 465, 468, 120(B) R/W 149 OF IPC, NOW THE CASE IS
PENDING ON THE FILE OF IV ADDL.C.M.M., BENGALURU.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND
RESERVED FOR ORDERS ON 09.02.2024 THIS DAY, THE
COURT PRONOUNCED THE FOLLOWING:

ORDER

This petition is filed by the petitioners/accused No.1 to 12 under Section 482 of Cr.P.C., for quashing the FIR in Crime No.28/2023 registered by Govindapura police station, Bengaluru, for the offences punishable under Sections 406, 409, 417, 418, 419, 420, 423, 465, 468, 120B and 149 of IPC, pending on the file of IV Additional Chief Metropolitan Magistrate Court, Bengaluru.

2. Heard the learned senior counsel appearing for the petitioners, learned counsel for the respondent No.2. and learned HCGP for the State.

3. The case of the prosecution is that, on the complaint of respondent No.2 on 28.1.2023, alleging that he is the absolute owner of the land measuring 38 acres in various Sy.Nos.1 to 5, 6/2, 7109, 11, 12, and 102 situated at Nellukunte village, Jala Hobli, North Taluk, Bangalore acquired by him, by sale deed dated 16.6.2005, 29.10.2005, 10.6.2005, 07.11.2005, 7.10.2005, 10.10.2005 and 23.3.2006 and 17.6.2005 registered before the Sub-

Registrar office, Yelahanka and he is in possession of the property for last 17 years. All the revenue records, he has got it in his name. However, he came to know on 16.1.2023, that some illegal and fraudulent transactions are happening in respect of sale properties in Sub-registrar office, Bengaluru. He has applied EC and came to know, there were sale agreement registered in respect of his property from the unknown person who were strangers to the properties. The Sub-Registrar office documents reveals, some of the Officers also colluded and committed fraud in collusion with the accused persons and they created the documents by impersonating the complainant and trying to sell the properties. The sale agreement reveals the names of this petitioners/accused persons. It is further alleged that, there were fraudulent sale agreements which were entered without paying any stamp duty, which came to the knowledge of this complainant. The officials of the Sub-registrar office also conspired with the accused persons in creating the documents. The approximate value of the land was Rs.3 crores and overall property were valued

approximately at Rs.114 crores. The accused persons were trying to cheat the complainant by creating the false documents by forging the signatures and impersonating the respondent. Hence, prayed for taking action against these petitioners. After receiving the complaint, the police registered the FIR, which is under challenge.

4. The learned senior counsel appearing for the petitioners has contended the dispute between the parties are purely civil in nature. The other persons also filed the complaints to the Chikkajala police station, where the Chikkajala Police instructed them to approach the Civil Court and closed the FIRs. Therefore, the question of investigating by the police, does not arises. The respondent required to approach the Civil Court for declaring the ownership of the land and cancelling the agreement. The offences under Sections 406 and 409 of IPC, which are not attracted. Even sections 419 and 420 of IPC, are not attracted. There is no clarity in the complaint, as to who sold the property to whom, there is no overt act found in

the FIR. One of the petitioners is Vice Chancellor of the Deemed University, his wife also implicated. The dispute regarding forgery must be decided by the Civil Court. Therefore, prayed for quashing the FIR.

5. Per contra, learned counsel appearing for respondent No.2 has seriously objected the petition, by filing the statement of objections with documents and contended that the erstwhile owner Sri.Balekai Krishnarao Ramachandra sold the partitioned property by settlement on 28.11.1961 itself. All the legal heirs got their shares. Subsequently, one of the legal heir Sathyanarayana sold the property through his brother Nagendra, who was GPA holder and the said Nagendra and his sister also sold the entire property on 22.10.1963 itself. Subsequently, there were various sale deeds which were executed in respect of the said property. Thereafter, the complainant had purchased the property in the year 2005. There were so many purchasers in the possession of the property, but by suppressing all the facts, a false documents were created by

the accused persons with intention to cheat the owners of the property. Previously, the petitioners also filed an appeal before the Assistant Commissioner who had allowed their application for setting aside the revenue entries. Subsequently, in the revision filed by the respondent a stay has been granted. The property value is more than Rs.80 crores, but the accused persons purchased the stamp papers for only Rs.20,000/- by showing the lesser amount, on the ground there is no possession delivered on the agreement which reveals they are not in possession of the property. They are trying to cheat the entire persons who had purchased the property. There is a legal opinion given by the advocate which reveals there were 57 persons who were holding the lands by suppressing all these material facts, they purchased the property only to cheat the complainant with criminal intention. Therefore, matter is required for investigation. Hence, prayed for dismissing of the petition.

6. Learned counsel for the petitioners also contended that the other purchasers had filed the complaint to the

Chikkaljala police station, where the police stated that already this complaint is filed and is pending for investigation in Govindapura Police. Therefore, they issued endorsement that already investigation is conducted. Hence, they should approach the Civil Court, hence prayed for dismissing the petition.

7. Having heard the arguments, perused the records. On perusal of the records, the main allegation against the petitioners are that, they have agreed to sell the property in question, in various survey numbers, situated at Nellugunte village measuring 38.16 guntas. The respondent No.2 purchased the same in various sale deeds in 2005 to 2006. The petitioners have agreed to sell these properties, even though they are not in possession of the property, those property are sold to various persons in the year 1963 itself. Subsequent purchasers have sold the properties to some other persons and finally the respondent No.2 purchased the property in the year 2005 and 2006. After 60 years of selling the property, even though they lost the possession, the revenue records were mutated in the name of the

petitioners by suppressing the same. The petitioners entered into agreement of sale for crores of rupees for alienating the property of the respondent. Ofcourse, they are the erstwhile owners of the property, whose father Balekai was the owner of the property, he has executed the partition deed or settlement deed in favour of his children. He said to be paying taxes to the British government for 360 acres and Balekai said to have died in the year 1965, but the petitioners/accused approached the revenue court for change of names in the year 2022 and they are trying to sell the property to the developers or real estate developers behind the back of the owners of the property. They also managed with the Assistant Commissioner and changed the names of the petitioners in the revenue entry, where it is stayed by the Deputy Commissioner in revision petitions filed by the respondent.

8. On careful perusal of the allegations, it cannot be said it is a civil litigation. Whereas the petitioners have knowing fully have sold the property in the year 1963 itself.

But very same property, once again they are selling, to some other party after 60 years of their execution of the sale deed. Even though there were various persons were named in the revenue records, almost 57 persons, but inspite of the same, once again the petitioners have executed the sale deed, where the advocate also given an illegal opinion for selling the property. The matter is required for detailed investigation by the higher investigation agency, than the concerned police.

9. As regards to the various complaints filed by the other owners, the Chikkajala Police given endorsement stating that there is already case registered by the Chikkajala Police Station in Crime Nos.69/2023, 71/2023 and 82/2023, they are investigating the matter. Therefore, for the similar allegation, it is not required for any further complaints, for the same investigation, but that does not mean there is criminal case registered against the petitioners.

10. Considering the records, the petitioners have not made out any good grounds for quashing the FIR. On the other hand, the matter is required for detailed investigation by the police. If required the Superintendent of Police/Commissioner of police may direct the CID police or CCB police to investigate the present case and file final report, as there is chances of interfering the investigation by the petitioners side, is not ruled out.

Accordingly, the criminal petition filed by the petitioners/accused Nos.1 to 12, are hereby ***dismissed***.

**Sd/-
JUDGE**

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CT:SK