

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL PETITION NO.4986 OF 2019

BETWEEN:

1. K.H. KHAN
AGED ABOUT 67 YEARS
S/O LATE SRI. N.A. KHAN

2. SMT. SHAHEDA BEGUM
AGED ABOUT 63 YEARS
W/O K.H. KHAN

BOTH ARE RESIDING
AT NO.26 (OLD NO.425),
9TH CROSS, JAYANAGAR
2ND BLOCK
BENGALURU-560011.

3. KARAR AHMED
AGED ABOUT 63 YEARS
S/O LATE SRI. N.A. KHAN
R/AT NO.50, 8TH MAIN
2ND CROSS, ROSHAN COLONY
TILAK NAGAR
BENGALURU-560011.

...PETITIONERS

(BY SRI. M.T. NANAIAH, SENIOR COUNSEL FOR
SRI. M.R.C.MANO HAR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY KENGERI POLICE STATION, BENGALURU
REP. BY STATE PUBLIC PROSECUTOR
HIGH COURT COMPLEX
BENGALURU-560 001.

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA

2. K. CHANNAPPA
AGED ABOUT 64 YEARS
R/AT NO.1250/15/5
KANCHANA NILAYA
1ST MAIN ROAD, 1ST CROSS
KENGARI UPANAGARA
BENGALURU-560060.

...RESPONDENTS

(BY SRI. MOHAMMED AYUB ALI, ADDL. SPP FOR R1;
SRI. C.G.SUNDAR, ADVOCATE FOR R2 [ABSENT])

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.8921/2019 (CRIME NO.11/2018) REGISTERED BY KENGARI POLICE STATION, BENGALURU, FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 406, 420 AND 120-B R/W SECTION 149 OF IPC, AGAINST THE PETITIONER WHO ARE ARRAYED AS ACCUSED NO.4, 5 AND 6 RESPECTIVELY AND CASE IS NOW PENIDNG ON THE FILE OF IV ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, BENGALURU.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 28.09.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

CAV ORDER

Heard learned Senior counsel appearing for the petitioners and learned Additional SPP for respondent No.1/State. This Court had issued notice to respondent No.2-complainant and though respondent No.2 is represented through counsel, but counsel did not turn up.

2. This petition is filed by petitioners, who are arraigned as accused Nos.4, 5 and 6 praying this Court to

quash the entire proceedings in C.C.No.8921/2019 arising out of Crime No.11/2018 registered by the Kengeri Police Station, Bengaluru, for offences punishable under Sections 406 and 420 read with Section 149 of IPC against the petitioners pending in the Court of IV Additional Chief Metropolitan Magistrate, Bengaluru City.

3. The factual matrix of case of respondent No.2-complainant before respondent No.1 is that he was a (retired) Deputy Superintendent of Police and in his written complaint, he has alleged that his daughter by name Dr. Deepa C.V. along with his son-in-law by name Dr. Nandakishor went near Mysuru Road, Kengeri site office and both of them have witnessed Arena No.134/5 advertisement board and demo house. On enquiry, they came to know that petitioners have entered into Joint Development Agreement ('JDA' for short) for construction of multi-storied residential apartments with the developers with M/s. Era Land Mark Limited Company in Sy.No.137/6, Sy.No.140 and Sy.No.139 totally measuring 2,65,826 sq. ft. and obtained BBMP khatha in respect of those two sites on 10.05.2011. It is contented that these petitioners are the owners of said property and in terms of JDA, Power of Attorney and Addendum agreement, flats will be built by Parinda

Buildcon Private Limited and the amount can be paid by installments. Accordingly, Smt. Anjana Sundar, Unit No.31-604, has entered into an agreement with them to buy the flat and the same was shown to respondent No.2 and later made enquiry regarding payment of installments and collected the broacher and after seeing the demo house and the construction on 06.06.2011, respondent No.2, his daughter and son-in-law went together and paid a sum of Rs.1,02,575/- which has been paid by daughter of respondent No.2 through Cheque in favour of M/s. Era Land Mark Limited Company and receipt has been obtained in the site office of Parinda Buildcon Private Limited. That on 25.06.2011, the said company has sent a welcome letter to the daughter of respondent No.2 and rate of Rs.2,400/- per square feet is fixed and flat was also allotted. In pursuance of the same, on 05.01.2012, a demand letter has been sent to the daughter of respondent No.2 to pay Rs.6,39,253/-. Accordingly, the daughter of respondent No.2 paid Rs.6,04,640/- along with service tax through Cheque of SBI Bank and receipt is also obtained.

4. It is further alleged that the Sales Executive one Prasanna having given his cell number had assured that he will get the signature of Senior Officers of the company on behalf of

the company in the agreement, saying so he has taken the signature of daughter of respondent No.2 on the agreement and even inspite of making several visits to the site office, the said Prasanna has not got the signatures of the officers of the company. Hence, respondent No.2 called the site office phone, but nobody responded. On enquiry, they came to know that office was closed and locked and no officials were there, only security personnel were there. That on enquiry through the security personnel, respondent No.2 came to know that only the foundation has been laid and security guards were appointed. On enquiry with the guards, they told the land owners Upkar Developers and Era Company have stopped civil works. The said companies have collected crores of rupees from the public by assuring to build the flats and allot them to the customers, but they cheated the general public. On enquiry, he came to know that name of Era company has been changed and also the persons, who are present there told him that they will construct the flats and give it to the customers after talking to Upkar Developers. It is alleged that that the said Era Group and Upkar Developers deliberately given an advertisement to build apartment and will allot it to the public. That by saying so, they cheated the daughter of respondent No.2 and the

respondent No.1, after completing the investigation has filed the charge sheet. Hence, present petition is filed.

5. The main contention of learned Senior counsel appearing for the petitioners is that no dispute with regard to the fact that these petitioners being the owners of land in Kangeri Village entered into Collaboration Agreement (Joint Development Agreement) with one M/s. Era Developers, the Delhi Based Company on 05.07.2008. Simultaneously, the petitioners also executed General Power of Attorney in favour of M/s. Era Developers. So also, the petitioners have executed an Addendum to the Collaboration Agreement on 28.10.2009 (by making title changes in the agreed terms in the development agreement). On 25.01.2010, M/s. Era Developers have executed assignment agreement in favour of M/s. Parinda Buildcon Private Limited. However, these petitioners have not executed any General Power of Attorney in favour of M/s.Parinda Developers. It is contended that on 14.07.2010, petitioners have issued legal notice calling upon developers to clear the loan amount of Rs.14.50 crores along with interest and penalty which was obtained by the petitioners from HUDCO for development of the property. But, developers failed to comply with the terms of the agreement. Hence, as a result of

failure and breach of terms of agreement by the developer as agreed, cancelled the agreement and General Power of Attorney executed in favour of the developers dated 05.07.2008. The petitioners do not have any personal knowledge about receipt of the amount by the developer from respondent No.2 and termination notice was also issued on 17.02.2012 and 22.02.2012 which was also published in the local newspaper.

6. It is also the contention of the petitioners that on 05.05.2011, BMICAPA issued notice stating that assignee M/s.Parinda Buildcon Private Limited, developers alone has signed the application for sanctioned plan without any authority and called upon them to furnish the signatures of the owners. But, complaint was registered and police have investigated and registered the case against Directors of M/s. Era Land Marks Limited and M/s. Parinda Buildcon Private Limited and these petitioners have been arraigned as accused. When already BBMP cancelled the license granted by them for construction and developers have not done any developmental work, question of filing the charge sheet against these petitioners does not arise. The counsel would contend that these petitioners have not received any amount and there is no

previty of contract between these petitioners and respondent No.2-complainant and when the notice was issued and license was cancelled, question of arraigning these petitioners as accused does not arise and neither the daughter and son-in-law of respondent No.2-complainant nor the respondent No.2-complainant met the petitioners in connection with allotment of flat No.803-1 and being the owners of the land entered into a JDA and there was no intention to cheat the customers, much less the respondent No.2. Hence, there cannot be any criminal prosecution. The counsel also contend that respondent No.2 has claimed in his complaint the amount of Rs.7,41,828/- has been paid through Cheques in favour of the builders and this clearly indicate that alleged amount has been credited to the account of builder and not to the accounts of the petitioners and at no point of time, the builders have informed the petitioners about collecting the said amount. The counsel also contend that respondent No.2 being the (retired) Deputy Superintendent of Police, Human Rights Commission have not contacted the petitioners at any point of time before filing the complaint and the present complaint was also not filed by the aggrieved person. The respondent No.2 being the Police Officer by taking undue advantage of his official position has managed

to register a false case. Hence, there cannot be any criminal prosecution.

7. Learned Additional SPP appearing for respondent No.1/State would vehemently contend that the Court has to take note that in pursuance of JDA and execution of General Power of Attorney in the year 2008 as well as Addendum in 2009, all powers are given to the developer and in pursuance of the same, the complainant made payment and the same is not denied by the petitioners. The fact that they have executed the documents of JDA, Power of Attorney and also subsequent document of Addendum is also not disputed. The counsel also contend that payments are made when these agreements and Power of Attorney were in existence and notices are issued subsequently and cancellation of agreement, if any subsequent to payments will not create any right in favour of the petitioners to seek quashing of the proceedings. The transaction has taken place prior to cancellation and that too, in pursuance of giving all powers in favour of the developer and in terms of power given to the developer and subsequent to executing the document in favour of M/s. Parinda Buildcon Private Limited by the developer, payments are made in the month of January 2012 itself and documents are very clear that

work was undertaken to build the flats and advertisement was also given and based on the advertisement itself, the complainant and their family members have visited the spot and inspected the sites where they intend to put up construction and thereafter, advanced the money. The complainant having paid the money, could not start construction work. The counsel also would contend that the very contention of learned Senior counsel appearing for the petitioners that agreement was cancelled and also case was registered against the developer at the instance of the petitioners cannot be accepted and the same is not a ground to discharge these petitioners from the criminal case. The specific allegations are made that all of them joined together and after collecting the amount, cheated the general public as well as the complainant. Hence, contention of learned Senior counsel appearing for the petitioners cannot be accepted.

8. Having heard learned Senior counsel appearing for the petitioners and learned Additional SPP appearing for the respondent No.1/State and considering the pleadings of the petitioners in the petition, it is not in dispute that these petitioners are the owners of the property. It is also not in dispute that Collaboration Agreement dated 05.07.2008 was

executed and apart from that, Power of Attorney was executed on the same day and so also, petitioners not dispute the fact that Addendum (Supplementary) to Collaboration Agreement dated 05.07.2008 was executed on 28.10.2009 i.e., 1½ year of earlier document of JDA and Power of Attorney. It is also not in dispute that, in the said Addendum, some minor changes were made as pleaded by the petitioners.

9. It is also to be noted that complainant gave the complaint against these petitioners as well as the JDA holder stating that they made the payment in the month of June 2011 itself. The contention of the petitioners that they gave termination notice in the year 2012 i.e., on 17.02.2012 and 22.02.2012 to the land developer and also M/s. Parinda Buildcon Private Limited and there was no cancellation prior to the said date of transaction of collecting the money from complainant. But, payments are made based on the earlier JDA, Power of Attorney and Addendum and claim of the respondent No.2-complainant is also that payments were made prior to the said cancellation. The cancellation was also made by giving notice and paper publication as contented by the petitioners. It is important to note that the transaction has taken place prior to cancellation and payments are also not

disputed and respondent No.2 also relied upon documents as well as welcome letter addressed to the daughter of the complainant to M/s. Era Land Marks Family by the developer which has taken place prior to cancellation. When such being the case and when the project did not come through and executing the document of JDA and Power of Attorney and showing the same itself, the developer had collected the money even though there was no direct transaction between the petitioners and also the complainant and petitioners themselves have not disputed the fact that they have entered into JDA and executed the Power of Attorney and other documents and based on those documents, power was given to the developer to collect the money from the prospective purchasers and transaction has taken place. The accusation made in the charge sheet is also very clear that there was an agreement between these petitioners and accused Nos.1 to 3 and also public advertisement was given and payments are also made on 06.06.2011 and 25.06.2011 i.e., prior to cancellation.

10. Having received the money, they sent a letter and even additional payment was also made on 05.01.2012 in pursuance of the demand and even obtained the signature of daughter of complainant No.2, but did not get the signature of

company. Hence, an allegation was made that there was conspiracy and cheating and the fact that amount was received on the guise of transaction between these petitioners and also other accused persons, but did not execute any document for having received money and specific allegation is made that all of them joined together and project did not come through, but the fact that the amount was received is not in dispute. Hence, I do not find any error on the part of police in investigating the matter and filing the charge sheet and there was no privity of contract and the same cannot be considered at this stage and all these are the defence before the Trial Court whether there was any conspiracy and whether there was an intention to cheat at the time of collecting the money. However, if there is any dispute between the land developer and owner, the same should not affect the prospective purchasers and filing of charge sheet against the developer at the instance of the petitioners is an inter-se dispute between them and merely because case was registered against the land developer and others and the same will not come in the way in respect of the complainant. The payment made by the complainant, in pursuance of the said project and agreement and hence, the proceedings cannot be quashed and the matter requires trial.

11. In view of the discussion made above, I pass the following:

ORDER

The criminal petition is ***dismissed.***

**Sd/-
(H.P.SANDESH)
JUDGE**

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