



WP No. 38481 of 2018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF AUGUST, 2022

BEFORE

THE HON'BLE MR JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO.38481 OF 2018 (GM-RES)

BETWEEN:

1. MR. KARTHIEK M MUNUSWAMY,
S/O MEGHRAJ C MUNUSWAMY,
AGE ABOUT 37 YEARS,
RESIDING AT # 08, 2ND CROSS,
RUSTUM BAGH LAYOUT,
BANGALORE – 560 017.

...PETITIONER

(BY SRI YATHISH S ., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
BY THE STATION HOUSE OFFICER,
HALSUR GATE POLICE STATION,
BANGALORE – 562 001.
2. MR. PRAVEEN KUMAR N,
S/O NAGARAJA REDDY,
AGED ABOUT 31 YEARS,
VERTEX SOLUTIONS, 1ST FLOOR,
NEAR DHARMARAYASWAMY TEMPLE,
NAGARATH PET, S.P. ROAD,
BENGALURU – 560 002.

...RESPONDENTS

(BY SRI.SHANKAR H.S., HCGP FOR R1;
SRI.SIDHARTH BABURAO, ADVOCATE FOR R2)





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THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF CR.P.C. PRAYING TO QUASH THE FIR AND COMPLAINT FILED IN CRIME NO.37/2018 INITIATED BY THE HALASURGATE POLICE, ON THE FILE OF THE I-ADDL. CHIEF METROPOLITAN MAGISTRATE AT BANGALORE IN PCR NO.1285/2018 AGAINST THE PETITIONER FOR THE OFFENCES PUNISHABLE OFFENCE UNDER SECTION 120B, 403, 406, 420 OF THE INDIAN PENAL CODE AND UNDER SECTION 65 OF THE INFORMATION TECHNOLOGY ACT 2018 AT ANNEX-A AND B AND ETC.,

THIS W.P. COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. The petitioner is before this Court seeking for the following reliefs:

- a) *"Issue a Writ of certiorari or any other appropriate Writ or Order to quash the FIR and Complaint filed in Crime No.37/2018 initiated by the Halasurgate Police, on the file of the I Additional Chief Metropolitan Magistrate at Bangalore in PCR No.1285/2018, against the Petitioner for the offences punishable under Section 120B 403, 406, 420 of the Indian Penal Code and under Section 65 of the Information Technology Act 2008 at Annexure A and B.*
- b) *Issue any other writ, order or direction as this Hon'ble Court deems fit and proper relief's as this Hon'ble Court deems fit and proper under the facts and circumstances of this case."*



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2. The respondent No.2 had filed a PCR in PCR.No.1285/2018 before the I Additional Chief Metropolitan Magistrate, Bengaluru, against three persons, among whom the petitioner is the second accused. In the said complaint, it has been alleged that the complainant got to know of the first accused, Amith Ramesh Rai Singhani in a Pune Whatsapp Business Group. When he had promised the complainant that he could secure used laptops from Poland at a cheap cost which could be sold in India.
3. It is alleged that the complainant informed the same to his business friend, namely Mr. Raghavendra. In furtherance of which, Mr. Raghavendra had made payment of a huge amount of money to the said Amith through the petitioner, namely Rs.8,00,000/- on 08.10.2017 in cash. It is alleged that it is on account of inducement made by the said Amith that Mr.Raghavendra has made payment of huge amount of money in lakhs by taking bank loans and hand



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loans from his friends and as such, he has incurred huge losses and interest borrowed and he has suffered from cheating. As such, Raghavendra was pressurizing the complainant to arrange and get back his money. In that background, the complaint has been filed.

4. Sri Yathish S., learned counsel appearing for the petitioner would submit that the complainant is not an aggrieved party inasmuch as all the allegations which have been made are relating to the transaction between Raghavendra and Amith. Though an allegation being made that some amounts have been handed over to the petitioner, there is no locus for the complainant to file a complaint because there is no cheating alleged by the complainant against himself, but the allegation in the complaint is that Raghavendra has been cheated.
5. By relying upon the list of witnesses, he submits that he has been shown as a witness and not as a



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complainant. Thus, the complainant having no locus to file the complaint and only being filed on account of Raghavendra pressurising him to get back the money is not sustainable and as such, it has to be quashed.

6. Per contra, Sri Sidharth Baburao, learned counsel appearing for respondent No.2 would submit that introduction of Raghavendra to Amith was made by the complainant-respondent No.2 and much of the money has been handed over by the complainant-respondent No.2 to Amith after having received the same from Raghavendra and as such, the offence being a heinous public economic offence. Hence, the proceedings are required to be continued against the petitioner. On that basis, he submits that the petition is required to be dismissed.
7. Heard Sri Yathish S., learned counsel appearing for the petitioner and Sri Sidharth Baburao, learned



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counsel appearing for respondent No.2 and perused the papers.

8. The allegations and the counter allegations have been reproduced hereinabove. Suffice it to say that the allegation is that Amith had promised to obtain used laptops from Poland for sale in India. It is the complainant was introduced the said Amith to his friend Raghavendra. It is Raghavendra, who had made payments to Amith. There is no allegation made in the complaint as regards the complainant having made payment of any amounts or the complainant being cheated in any manner. There is no offence that the petitioner has alleged to have been committed against the complainant. If at all, the only allegation is that the offence has been committed against Raghavendra and it is because Raghavendra was pressurising the petitioner for the recovery of money, the said complaint has been filed, I am of the considered opinion that such a complaint cannot be filed vicariously or in any



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representative capacity. It is only an aggrieved party who can file a complaint. The complainant not being an aggrieved party, the complaint is not maintainable.

9. In view of the above, I am of the considered opinion that the same cannot be continued against the petitioner herein and as such, I pass the following:

-:ORDER:-

Certiorari is issued, FIR and complaint filed in Crime No.37/2018 initiated by the Halasurgate Police on the file of the I Additional Chief Metropolitan Magistrate at Bangalore in PCR.No.1285/2018 insofar as the petitioner is concerned, is hereby quashed.

**Sd/-
JUDGE**