

IN THE HIGH COURT OF KARNATAKA

CIRCUIT BENCH AT DHARWAD

DATED THIS THE 23RD DAY OF DECEMBER, 2010

BEFORE

THE HON'BLE MR.JUSTICE JAWAD RAHIM

CRIMINAL PETITION NO. 7259/2010

BETWEEN:

1. MADAN MOHAN
S/O SUBBARAO,
AGE: 60 YEARS, OCC: BUSINESS
R/O H.NO.51, GURUDEV ROAD,
(B T ROAD), RAVINDRANATH NAGAR,
SHIMOGA, DIST. SHIMOGA
2. SMT.SANNKKI LAKSMAVVA
W/O LATE CHITTAWADGEPPA
D/O PENNA HULUGEPPA,
AGE: 80 YEARS, OCC: HOUSEHOLD
R/O 35, WARD, UKKADKERI,
HOSPET, DIST. BELLARY
3. SMT.K.RANGAMMA
W/O LATE K.KUMMARAPPA,
S/O PENNAHULUGAPPA,
AGE: 77 YEARS, OCC: HOUSEHOLD,
R/O 35 WARD, UKKADAKERI,
HOSPET, DIST - BELLARY
4. N.A.KHADEER
S/O ABDUL SATTARSAB
AGE: 55 YEARS, OCC: BUSINESS



R/O KANCHAGANPET
HOSPET, DIST- BELLARY

5. HULUGAPPA
S/O SUNKAPPA
AGE: 40 YEARS, OCC: BUSINESS
R/O KARIGNUR, HOSPET
DIST-BELLARY

6. B.VENKANBATT
S/O SEETARAM BHATTA,
AGE: 60 YEARS, OCC: BUSINESS
R/O HOSPET, DIST - BELLARY

... PETITIONERS

(BY SRI V.P.KULKARNI & SRI AHAMED ALI & SRI
RAHIMAN SHAH, ADVs.,)

AND:

1. STATE OF KARNATAKA
REP. BY HOSPET TOWN,
POLICE STATION,
HOSPET, DIST- BELLARY
THROUGH state P.P., HCCB
DHARWAD

2. C.N.GOVINDAPPA
S/O LATE C.NARAYANAPPA
AGE: 58 YEARS,
OCC: TRANSPORT BUSINESS
R/O MURTUNJAYANAGAR
HOSPET, DIST-BELLARY

... RESPONDENTS

(BY SRI.A.R.PATIL, A.S.P.P FOR R-1,
SRI HANUMANTHAREDDY SAHUKAR, ADV., FOR R2)

THIS CRIMINAL PETITION IS FILED U/S 482 CR.P.C.
PRAYING TO QUASH THE CRIMINAL COMPLAINT IN
P.C.NO.7/2010 ON THE FINE OF THE ADDL. CIVIL JUDGE

for

(JR.DN) & JMFC, HOSPET & FIR NO.25/2010 DATED 18.02.2010 AND ENTIRE PROCEEDINGS ON THE FILE OF HOSPET TOWN POLICE STATION, HOSPET, DIST-BELLARY.

THIS CRIMINAL PETITION HAVING BEEN HEARD FINALLY AND RESERVED FOR ORDER THIS DAY, THE COURT AT PRINCIPAL BENCH AT BANGALORE PRONOUNCED THE FOLLOWING:

ORDER

This petition under Section 482 Cr.P.C. is by the accused seeking to quash the proceeding in P.C.No.7/2010 on the file of the Additional Civil Judge (Jr.Dn) & J.M.F.C., Hospet, and consequently to quash the proceedings in F.I.R No.25/2010 dated 18.02.2010.

2. Heard.

3. The contextual facts are:

The second respondent herein by name Sri C.N.Govindappa filed a private complaint under Section 200 of the Cr.P.C against the petitioners-accused alleging that the first petitioner-Sri Madan Mohan had entered into an agreement to sell immovable property and had received



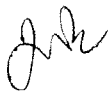
part payment of the sale consideration. It is alleged that despite his willingness to comply with his obligation, the first petitioner failed to complete the transaction. The first petitioner attempted to sell the property in favour of some other person against the interest of the complainant. Thus, he filed O.S NO.297/2006 on the file of the Additional Civil Judge (Jr.DN)., Hospet, for a decree of permanent injunction against the first petitioner. The suit was decreed on 07.12.2007 restraining the first petitioner from alienating the suit property in favour of any other person or creating encumbrance over the suit property by violating the terms of the agreement of sale dated 25.08.2003 till the rights of the second respondent under the said agreement of sale is extinguished. It is alleged that the first petitioner violated the conditions and sold the property to the second petitioner.

The second respondent herein filed a complaint against petitioner Nos.1 & 6 herein for offences punishable under Sections 420, 426, 465, 468, 471, 504 & 506 read with Section 34 of the IPC on the file of J.M.F.C., Hospet.



The jurisdictional Magistrate had referred the complaint registered as P.C.No.102/2007 for enquiry by the jurisdictional police. The investigating officer filed 'B' report showing no case made out against petitioner Nos.1 & 6 herein. It was challenged by the second respondent through his protest memo, which was rejected by the Court. Therefore, the proceedings in P.C.No.102/2007 (Crime NO.58/2007) were terminated for want of sufficient material. Again, the second respondent entered into fresh agreement with petitioner No.1 on 07.12.2007. But, even after fresh agreement, the second respondent failed to comply with the requirements and thereby became disentitled for the specific performance. Despite being defaulter in performing contractual obligations, the second respondent filed another private complaint against petitioner No.1 in P.C.No.7/2009 before the J.M.F.C., Hospet, on the same set of allegations.

It was challenged by petitioner No.1 in Cri.P.No.1132/2009 before this Court. By order dated 23.10.2009, the said criminal petition was allowed and the



proceedings in P.C.No.7/2009 (F.I.R No.20/2009) were quashed.

It is not in dispute that the order passed by this Court in CrI.P No.1132/2009 has reached finality.

4. In this fact situation, again the second respondent has filed private complaint registered as P.C.No.7/2010 on the file of J.M.F.C., Hospet, which is registered in F.I.R No.25/2010 on 18.02.2010.

5. On perusal of the allegations in the complaint (in P.C.No.7/2010) and the averments in the complaint (in P.C.No.7/2009) and the earlier proceedings, I am satisfied the second respondent has indulged in repeated filing of complaint of the same nature having failed in his earlier attempts.

6. The contention of the counsel for second respondent that it was a bona fide attempt could hardly be accepted.



7. It is quite obvious that despite dispute between the parties of civil nature, the second respondent has indulged in pressuring tactics by presenting private complaints raising a charge for criminal offence obviously with intent and purpose of prevailing upon petitioner No.1 to yield to his demands. Taking into consideration what has transpired between the parties and also nature of allegations, I am satisfied that the proceedings in P.C.No.7/2010 is misuse of process of law and thus liable to be quashed. Hence, the order:

Petition is allowed. The criminal complaint in P.C.No.7/2010 on the file of the Additional Civil Judge (Jr.Dn) & J.M.F.C., Hospet dated 06.02.2010 filed against the petitioners-accused Nos.1 to 6 and F.I.R No.25/2010 registered on 18.02.2010 against the petitioner herein are quashed.

**Sd/-
JUDGE**

Shl/-