

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF MAY 2020

BEFORE

THE HON'BLE MR. JUSTICE SREENIVAS HARISH KUMAR

CRIMINAL PETITION No.3354 OF 2019

BETWEEN

Javeed Khan,
S/o. Kaleemulla Khan
Aged about 49 years,
Presently R/at No.65,
1st Cross, Kausar Nagar,
Dinnur Main Raod,
R.T.Nagar Post,
Bengaluru-560032.

...Petitioner

(By Sri. Azeemuddin M. Motekhan, Advocate)

AND

Imshad Pasha,
S/o. Noor Ahmed
Aged about 35 years,
R/at No.B4, Pent House,
Samihite Specie Wood Apartment,
(East Block) BBMP No.10,
6th Main, G.M.Palya,
New Thippasandra Post,
Bengaluru-560075.

...Respondent

(By Sri. M.Ravinson, Advocate)

This Criminal Petition is filed under section 482 Cr.P.C praying to quash the entire proceedings pending on the file of XIII Addl.C.M.M., Bengaluru in C.C.No.34248/2018.

This Criminal Petition coming on for admission this day, the court made the following:

ORDER

This is a petition filed under section 482 Cr.P.C. Heard the petitioner's counsel and perused the complaint.

2. The allegation is that on 6.8.2013, the petitioner's wife entered into an agreement of sale with the complainant, i.e., the respondent herein for selling a vacant site bearing No.1150/D situated at Suryanagar, Jigani Hobli, Anekal Taluk. The petitioner's wife received a sum of Rs.2,00,000/- by way of cash and a sum of Rs.1,00,000/- through cheque. She did not execute the sale deed. When the complainant/respondent demanded execution of the sale deed, it is stated that the petitioner's wife said that she would return the consideration amount and in that regard the petitioner issued a cheque bearing No. 491496 dated 9.2.2018 for a sum of Rs.2,05,000/-. This cheque was dishonoured and therefore the respondent initiated proceeding under section 138 of Negotiable Instruments Act.

3. Learned counsel for the petitioner argues that the actual transaction of sale is between the petitioner's wife and the respondent and that he is in no way involved in the matter. Respondent obtained the cheque forcibly with the help of Byapanahalli Police and therefore there no prima facie materials to proceed against him.

4. It is not disputed that the petitioner issued a cheque. It may be on behalf of his wife. If according to the petitioner, the cheque was obtained from him forcibly, he can take up a defence during trial. Merely on an oral say, it cannot be said that there are no prima facie materials in the complaint made against the petitioner. I do not find prima facie materials to interfere under section 482 Cr.P.C. Petition is dismissed.

**Sd/-
JUDGE**

ckl