



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 29<sup>TH</sup> DAY OF SEPTEMBER, 2023**

**BEFORE**

**THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR**

**CRIMINAL PETITION NO.6012 OF 2023**

**BETWEEN:**

SRI. GIRISH CHANDRA  
S/O SRI VEERABHADRAYYA G  
AGED ABOUT 56 YEARS,  
WORKING AS SENIOR SUB REGISTRAR,  
OFFICE OF SUB REGISTRAR,  
BIDARAHALLI,  
BANGALORE - 560 049

NOW AT OFFICE OF INSPECTOR OF  
GENERAL OF REGISTRATION (IGR)  
8<sup>TH</sup> FLOOR,  
KANDAYA BHAVANA,  
BANGALORE - 560 009

...PETITIONER

(BY SRI. VIVEK REDDY, SENIOR COUNSEL FOR  
SRI. RAJESH GOWDA, ADVOCATE)

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MAHENDRAKUMAR  
Location: High Court  
of Karnataka

**AND:**

1. STATE OF KARNATAKA  
BY VARTHUR POLICE STATION,  
BANGALORE - 560 036  
REPRESENTED BY  
SPP HIGH COURT COMPLEX,  
BANGALORE - 560 001
2. SRI G N ASHWATH REDDY  
S/O LATE NANJUNDAPPA,  
AGED ABOUT 84 YEARS,  
R/AT GUNJUR VILLAGE,  
VARTHUR HOBLI,



BANGALORE EAST TALUK,  
BANGALORE - 560 067

...RESPONDENTS

(BY SMT. WAHEEDA M M, HCGP FOR R1;  
SRI. E.VENKATARAMI REDDY, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.PC PRAYING TO QUSH THE FIR CRIME NO.177/2023, FOR THE PUNISHABLE UNDER SECTIONS 120B, 149, 418, 420, 465, 468, 471 OF IPC, IN CRIME NO.177/2023, PENDING ON THE FILE OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE (ACJM) BANGALORE RURAL DISTRICT AT BANGALORE, CASE REGISTERED BY VARTHUR POLICE STATION AT BANGALORE / RESPONDENT NO.1, IN THE ABOVE CASE, IN THE INTEREST OF JUSTICE.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

### **ORDER**

The petitioner/accused No.10 is before this Court challenging the registration of the FIR for the offences punishable under Sections 120B, 149, 418, 420, 465, 468 and 471 of IPC. Respondent No.2 lodged the FIR stating that the subject property originally belonged to one late Munivenkatappa, which was his self acquired properties, and during his lifetime, he partitioned the properties among his first wife's son P.Nanjundappa and his second wife late Kempamma and their four children under the partition deed dated 12.01.1936. Smt. Kempamma @ Kempakka's 2<sup>nd</sup> son Sri.Mariyappa sold his share in the property to one Rayappa on 27.08.1946 through a



registered sale deed and in turn, Nanjundappa purchased the same on 03.06.1951 and the other three sons of said Kempakka sold their respective shares to Nanjundappa under the sale deeds.

2. Nanjundappa had eight children through Smt. Rangamma and after their demise, their children became the owners of the properties. In the year 2005, they entered into a registered partition deed and they are in possession of their respective shares. Nanjamma and her children filed a suit in O.S.No.1064/2007 and the said suit, which came to be dismissed for non prosecution, was restored and the same is pending consideration before the jurisdictional Civil Court. The children of late Mariyappa, except Venkatamma, to defraud the complainant's right as owners of the property and the other accused executed registered release deed dated 09.03.2022 in favour of one Shashikala and in turn, she entered into an agreement of sale with accused No.6. The allegation against the petitioner is that he as the Sub-Registrar without verifying the document and also conspiring with the other accused, registered the aforesaid document.

3. Heard Sri. Vivek Reddy, learned Senior Counsel for the petitioner, HCGP for the State and learned counsel for respondent No.2.



4. The release deed was executed in favour of accused No.1 by other family members of accused No.1. In turn, accused No.1 entered into an agreement of sale with accused No.6 and the execution of the aforesaid document was subject to the outcome of the pending suit in O.S.No.1064/2007.

5. In identical circumstances, a coordinate Bench of this Court in W.P.No.55725/2016 at paragraph Nos.5 and 6 has held as follows:

*"5. A reading of the complaint indicates that a sale deed relating to the immovable property belonging to the complainant was presented for registration before the petitioner on 13.10.2015. I have perused the copy of the said sale deed at Annexure-C. Except registering the said document, there is nothing in the said document to show that the petitioner herein has identified either the executant or the purchaser of the property. On the other hand, the endorsement made in the document clearly discloses that the executant was identified by the witnesses by name Alakh Narayana Singh and Lawrence D'Cruz. The petitioner has not taken up the responsibility of identifying any one of the executant or the purchaser of the property. Therefore, in the absence of any material to show that the identity of the parties was known to the petitioner, no knowledge of alleged forgery or impersonation can be imputed to the petitioner. Rule 73 of the Karnataka Registration Rules, 1965 casts a duty on the Registering Officer to register the documents presented before him, unless the registration thereof is objected by any person on the grounds specified therein. It reads as under:*

*"73. Duties of the Registering Officer:-*



*(i) It shall form no part of the Registering Officer's duty to enquire into the validity of a document brought to him for registration or to attend to any written or verbal protest against the registration of a document, provided execution is duly admitted; but in case of executants who are unable to read, the document shall be read out and if necessary explained to them. If the document is in a language which they do not understand it must be interpreted to them.*

*(ii) If registration is objected to by any person on any of the following grounds, viz.,*

*(a) that a person appearing or about to appear before the Registering Officer as an executant or claimant professes to be, or that he is a minor, an idiot, or lunatic;*

*(b) that the instrument is forged;*

*(c) that the person appearing as a representative, assignee or agent has no right to appear in that capacity;*

*(d) that the executing party is not really dead, as alleged by the party applying for registration;*

*Such objections shall be duly weighed by the Registering Officer and if they are substantiated, registration shall be refused but under sub-section (2) of Section 58, if execution be admitted, registration should take place even if the executant refuses to sign the Registering Officer's endorsement of admission."*

*6. It is not the case of the complainant that registration of the alleged document was objected to either by the complainant or any other person on the ground of impersonation or fraud. In this context, it may be useful to refer to the decision*



*relied on by the learned counsel for the petitioner in the case of S.Sreenivasa Rao V/s Sub Registrar reported in ILR 1990 KAR 3740. Considering the similar issue raised before this Court as to the duties of the Sub Registrar, the Division Bench of this Court at para 6 of the said order has observed as under:*

*"6. Coming to the next question as to whether the Registrar of Societies could have issued a direction to the Sub-Registrar not to register a particular document, learned Counsel for the respondents - 3 to 5, 7 and 10, could not point out any provision either in the Karnataka Societies Registration Act, 1960 or the Rules framed thereunder or in the Registration Act, 1908, which authorised the Registrar of Societies to make such a direction. We also find no provision in the Registration Act, 1908 which obliges the Sub-Registrar to act upon any such direction and/or to investigate at the stage of registration of a document itself, the title of the party executing the document. We are, therefore of the view that if a document is presented for registration by the executant, and in doing so, the executant complies with all the provisions of Registration Act, 1908, it is not open to the Sub-Registrar to refuse registration of the document unless he exercises that discretion pursuant to any provision in the Registration Act, 1908 or any other law or Rule having the force of law. The mere registration of a document is by itself not a proof of its validity, neither does it follow that the executant had title to the property, he seeks to dispose of under the document. Matters such as relating to title have to be decided before the appropriate forum. If any person is interested in contending that any particular document executed and registered under the Registration Act, 1908 is invalid or illegal for any reason whatsoever, he is certainly at liberty to question the validity of the document, the title of the executant, and such other questions before the proper forum*



*in an appropriate proceeding. Similarly, if it is sought to be contended in the instant case that the Trust Deed has been executed in contravention of the provision of the Karnataka Societies Registration Act, 1960 any person aggrieved may challenge the validity of the Trust Deed in a duly constituted proceeding. There is, however, no warrant for the proposition that the registration of the document itself can be prevented by directing the Sub-Registrar not to register the document. We are therefore of the view that the learned Single Judge was in error in holding that the direction issued by the Registrar of Societies to the Sub-Registrar was competent and consequently Annexure-D was also valid."*

6. From the above proposition, it follows that when the document is presented for registration, the Sub Registrar is not required to investigate into the title of the parties executing the document nor it is open to Sub Registrar to refuse registration of the document, unless the presentation thereof is objected to on the ground mentioned therein.

7. In the present case, there is no allegation that the accused herein conniving with others created or forged the document and by impersonation registered the documents and the registration of the document was subject to the pending suit between the parties. Therefore, the petitioner as the Sub-Registrar cannot be prosecuted to the aforesaid offences in the absence of any essential elements to constitute the commission of aforesaid



offences and if the said allegations are accepted, utmost it tantamounts to dereliction of the duties and not the commission of offences alleged against the petitioner. Therefore, continuation of criminal proceedings will be an abuse of the process of law.

8. Accordingly, Criminal Petition is allowed.

9. The impugned FIR in Crime No.177/2023 registered by the Varthur Police Station insofar as it relates to accused No.10 stands quashed.

10. However, this order will not come in the way of Police investigating the allegations against the other accused in accordance with law without being influenced by any observation made in this order.

**Sd/-**  
**JUDGE**