(2026) 08 KAR CK 2151

In the Karnataka High Court, Bengaluru Bench

Case No : CRIMINAL PETITION No.2169 OF 2025

Miss.Dayeena Banu APPELLANT

Vs

State Of Karnataka & Ors. RESPONDENT

Date of Decision : 05-08-2026

Acts Referred:

BNSS — Section 528
BNS — Section 318(4), 318, 318(1)
IPC — Section 302 r/w Section 149, 420, 415
CrPC — Section 482, 173, 173(2)

Citation : (2026) 08 KAR CK 2151

Hon'ble Judges : M. Nagaprasanna, J

Bench : Single Bench

Advocate : Sri Hashmath Pasha, Sr.Advocate, Sri Mohammed Mubarak, Sri B.N.Jagadeesha, Sri Madhukar Deshpande, Sri Chetan V.

Final Decision : Dismissed

Judgement

The petitioner, accused No.1 is before the Court calling in question registration of a crime in Crime No.117 of 2024, for offence punishable under Section 318(4) of the BNS.

2. Facts, in brief, germane are as follows: -

2.1. A complaint comes to be registered by the High Court of Karnataka through its Registrar General before the Vidhana Soudha Police Station alleging that one V.Vishnu Devan was arrested in Crime No.206 of 2021 for offence punishable under Section 302 r/w Section 149 of the IPC on 14-11-2021. He was remanded to judicial custody. His mother was trying to get him released and, in that connection, meets a lady by name Miss Marina Fernandes near Mayo Hall Court, who is said to have asked ☐ 10/- lakhs to get her son released. It is the case of the mother/Smt. Theresa that in spite of payment of the said amount to Miss Marina Fernandes, her son was not released. She asked for return ☐ 10/- lakhs, in exchange of which Miss Marina Fernandes is said to have issued three cheques of □ 3/- lakhs each, which were not encashed.

2.2. But, the efforts of the mother to get her son released did not stop. She again meets Miss Merina Fernandes. This time she is introduced to one lady Aarathi, who assures that she is close to the Judge and she will do the work of getting her son released and through Miss. Marina Fernandes, the mother is said to have paid □ 72,000/- initially to Aarathi. Again, bail was not granted. Smt. Theresa/mother of V.Vishnu Devan is said to have verified before this Court whether a bail application is filed even. The bail application was filed and pending, but the Advocate had not appeared before the Court on the day the bail application was listed. It is then, the mother is said to have contacted the lady Aarathi, who is said to have hurled abuses against the mother and shouted at her alleging who asked her to contact the Advocate and then asked her give □ 1/- lakh so that they would give it to the Judge and get the accused released. It is then, the petitioner -Miss. Dayeena Baanu, an advocate enters the fray and conveys to Smt. Theresa that a huge amount is to be paid to the Judge of the High Court to secure an order of release of her son. Smt. Theresa went and lodged a complaint before the Bar Council alleging that Aarathi and Miss Marina Fernandes have cheated her by taking the money to give it to the Judge of the High Court. Then the mother of the Accused, Smt. Theresa is said to have directly approached the High Court with a letter on 18-12-2024 stating that the Advocate is asking money to give it to the Judge.

2.3. The Hon’ble Judge is said to have secured the records of the criminal petition and directed registration of a crime through the Registrar General of the High Court. It is then that a complaint is registered, which becomes a crime in Crime No.117 of 2024 for offence punishable under Section 318(4) of the BNS against several accused. The petitioner/Miss.Dayeena Banu, an Advocate who had not appeared on the date when the bail application was listed, is drawn as accused No.1. The petitioner filed an application seeking her release on bail, which comes to be rejected. The rejection of which has driven the present petitioner to this Court seeking quashment of the FIR itself on the ground that the offence of cheating is not even made out in the case at hand.

3. Heard Sri Hasmath Pasha, learned senior counsel appearing for the petitioner, Sri B.N. Jagadeesha, learned State Public Prosecutor-1 appearing for respondent No.1, Sri. Madhukar Deshpande, learned counsel appearing for respondent No.2 and Sri Chetan V, learned counsel appearing for respondent No.3.

4. The learned senior counsel Sri Hasmath Pasha would vehemently contend that the petitioner, a practicing Advocate, is already facing proceedings before the Bar Council of India. There is no offence committed by the petitioner that could become the ingredients of the offence of cheating. Same story is projected before the learned Judge who directed registration of the complaint and the complaint is registered without any preliminary enquiry even. He would submit that the crime should be quashed on the score that the ingredients of the offence alleged are not made out.

5. *Per contra*, the learned counsel Sri Madhukar Deshpande appearing for respondent No.2 – the Registrar General of the High Court would submit that he is the informant pursuant to the order passed by a coordinate Bench of this Court that the impugned crime is registered.

6. The learned State Public Prosecutor Sri B.N.Jagadeesha, appearing for respondent No.1 – State would however put up vehement opposition contending that if such cases are entertained where the litigants are openly talking about bribe, it would cause serious damage to the integrity of the institution. He would submit that the coordinate Bench should not have entertained the petition and released some persons on grant of interim bail. The learned State Public Prosecutor – 1 submits that on the crime being registered, the present petition is preferred and stay is granted. Therefore, investigation is yet to commence in full swing. It is his submission that if this does not require investigation, he would fail to understand as to what else would require investigation.

7. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

8. The afore-narrated facts and link in the chain of events are all a matter of record. The issue at this juncture lies in a narrow compass. A complaint comes to be registered by the Registrar General of the High Court based upon a direction issued by a coordinate Bench of this Court in Criminal Petition No.11259 of 2024. This forms the fulcrum of the complaint. The complaint forms the fulcrum of the crime. I therefore, deem it appropriate to notice the complaint dated 20-12-2024. It reads as follows:

> "From:
>
> The Registrar General, High Court of Karnataka, Bengaluru.
>
> To Station House Officer, Vidhana Soudha Police Station, Bengaluru.
>
> Sir, Sub: Lodging of complaint against Smt. Dayeena Baanu, Advocate, before the Vidhana Soudha Police Station, Bengaluru – reg.
>
> Ref: (1) Order dated 18-12-2024 in Crl.P.No.11259/ 2024 (Crl.P.FR No.11157/2024) on the file of this Hon'ble Court.
>
> (2) Letter dated 18-12-2024 from Smt. Theresa V.P., R/at No.N.4/2A, Krishna Murthy Extension, 9th Cross, New Byappanahalli, Bengaluru.
>
> ***** Smt. Theresa V.P., No.4/2A, Krishna Murthy Extension, 9thCross, Byappanahalli, Bengaluru in her letter dated 18-12-2024 which is addressed to the Registrar General, High Court of Karnataka, Bengaluru has stated that her son Sri Vishnu @ Vishnudevan, aged 24 years is in jail from last 3 years. One Smt. Marina Fernandis, Advocate, came to her and said that, if Rs.10,00,000/- is given to the officer i.e., Sri Mallikarjuna CCH-20, Mayo Hall Unit, Bengaluru, the bail will be granted and the case will be dismissed and as such she has given Rs.10,00,000/- to Smt. Marina Fernandis. However, when her son was not released, she insisted for return of money. Later, the Advocate Marina Fernandis gave 3 cheques for Rs.9,00,000/- and instructed not to present the cheque to the bank and said that she will pay in cash. However, she has not returned the cash and she is cheating people in this manner.

Further, Smt. Marina Fernandis introduced one Smt. Aarathi, who told that she knows Hon'ble Justice Sri H.P. Sandesh and took Rs.72,000/- for getting bail. Even after 3 months, there was no reply from Smt. Aarathi. Therefore, when she enquired in the Court, it was informed that the Advocate has not complied objections. Again, the Advocate asked for Rs.1,00,000/-stating that the Hon'ble Judge Sri H.P. Sandesh, demanded the same. Further, Smt. Dayeena Banu, Advocate has stated that, the Hon'ble Judge will not accept Rupees one lakh or two lakhs and accepts Rs.50,00,000/- and above. Hence, she has requested to close the case Crl.P.(FR) No.11157/2024 and grant permission to file bail petition through another Advocate.

Further, the Hon'ble Court vide Order dated 18-12-2024 in Crl.P.No.11259/2024 (Crl.P.FR No.11157/2024) has made the following order. The extract of the para 2 of the Order reads as under:

"This Court has secured the records of Crl.P.No.11259/2024 suo moto in view of submission and on verification, on the previous occasion, the matter was listed before this Court on 30-10-2024 and counsel was absent, this Court directed to post the matter immediately after compliance and till date, the counsel has not complied with the office objections. Hence, it appears that the advocate had indulged in demanding money from the client to give the same to this Court which affects the very credibility of the institution and the Advocate who indulged in such act should not be spared. If it is spared, this type of practice would be encouraged to unethical practice and the people would loose confidence reposed on this institution."

The Hon'ble Court has directed the Registrar General to initiate proceedings against Smt. Dayeena Baanu.

Therefore, I, the undersigned, on behalf of the Registrar General, High Court of Karnataka, Bengaluru, hereby requested to register the case and investigate the matter and file the appropriate challan before the jurisdictional Court.

Yours faithfully,

Sd/-

(M.RAJESHWARI)

Date: 20-12-2024 Joint Registrar, Bengaluru High Court Legal Cell.

Encl: 1. Order dated 18-12-2024 in Crl.P.No.11259/2024 (Crl.P.FR No.11157/2024) on the file of this Hon'ble Court.

2. Original letter dated 18-12-2024 along with pen drive furnished is enclosed.

3. Copy of Affidavit dated 16-12-2024 of Smt. Theresa V.P. and Xerox copies of Cheque bearing No.297392 for Rs.6,00,000/-, SBI Cheque bearing No.704130 for Rs.1,00,000/- and Axis Bank cheque No.379332 for Rs.2,00,000/-."

(Emphasis added)

The registration of the crime leads to apprehension of the accused.

9. Quashment of the FIR is now sought at the hands of this Court on the score that it does not amount to an offence under Section 318(4) of the BNS. Section 318(4) of the BNS is Section 420 of the earlier regime IPC, which deals with offence of cheating.

Section 318 of the BNS reads as follows:

> **318. Cheating.—(1) Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to cheat**.
>
> **Explanation.—A dishonest concealment of facts is a** deception within the meaning of this section.
>
> **Illustrations**
>
> (a) A, by falsely pretending to be in the Civil Service, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.
>
> (b) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.
>
> (c) A, by exhibiting to Z a false sample of an article intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats.
>
> (d) A, by tendering in payment for an article a bill on a house with which A keeps no money, and by which A expects that the bill will be dishonoured, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.
>
> (e) A, by pledging as diamonds articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.
>
> (f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.
>
> (g) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.
>
> (h) **A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.**
>
> (i) A sells and conveys an estate to B. A, knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z, without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z. A cheats.
>
> (2) Whoever cheats shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
>
> (3) Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to

a person whose interest in the transaction to which the cheating relates, he was bound, either by law, or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

(4) **Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”**

(Emphasis supplied)

Section 318(4) of the BNS punishes a person who cheats any other by dishonestly inducing the person to deliver any property. Section 318(4) of the BNS has its ingredients in Section 318(1) of the BNS, which describes the ingredients of cheating to be fraudulently or dishonestly inducing a person so deceived to deliver any property to any person with a dishonest intention from the inception. The ingredients of Section 318(4) of the BNS, which was earlier Section 420 of the IPC is akin to what is found in Section 415 of the IPC.

Section 415 of the IPC reads as follows:

“415. **Cheating**.—**Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat”**.

Explanation.—A dishonest concealment of facts is a
deception within the meaning of this section.

Illustrations

(a) *A*, by falsely pretending to be in the Civil Service, intentionally deceives *Z*, and thus dishonestly induces *Z* to let him have on credit goods for which he does not mean to pay. *A* cheats.

(b) *A*, by putting a counterfeit mark on an article, intentionally deceives *Z* into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces *Z* to buy and pay for the article. *A* cheats.

(c) *A*, by exhibiting to *Z* a false sample of an article, intentionally deceives *Z* into believing that the article corresponds with the sample, and thereby dishonestly induces *Z* to buy and pay for the article. *A* cheats.

(d) *A*, by tendering in payment for an article a bill on a house with which *A* keeps no money, and by which *A* expects that the bill will be dishonoured, intentionally deceives *Z*, and thereby dishonestly induces *Z* to deliver the article, intending not to pay for it. *A* cheats.

(e) *A*, by pledging as diamonds articles which he knows are not diamonds, intentionally deceives *Z*, and thereby dishonestly induces *Z* to lend money. *A* cheats.

(f) *A* intentionally deceives *Z* into a belief that *A* means to repay any money that *Z* may lend to him and thereby dishonestly induces *Z* to lend him money, *A* not intending to repay it. *A* cheats.

(g) *A* intentionally deceives *Z* into a belief that *A* means to deliver to *Z* a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces *Z* to advance money upon the faith of such delivery, *A* cheats; but if *A*, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

(h) ***A* intentionally deceives *Z* into a belief that *A* has performed *A*'s part of a contract made with *Z*, which he has not performed, and thereby dishonestly induces *Z* to pay money. *A* cheats.**

(i) *A* sells and conveys an estate to *B. A*, knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to *Z*, without disclosing the fact of the previous sale and conveyance to *B*, and receives the purchase or mortgage money from *Z. A* cheats."

(Emphasis supplied)

The issue now would be, whether the investigation should be permitted or otherwise in the teeth of the aforesaid offence.

10. The traditional interpretation of the offence of cheating that one should induce the other with a dishonest intention from the inception for release of a property or otherwise is blurred today in the light of emerging crime. Cheating has developed into various facets. Therefore, the law being dynamic, the interpretation of law must also to be dynamic. The inducement and release of property is clearly made out in the case at hand as the mother of Vishnu Devan is induced in parting money for the purpose of arranging bail to her son, which ostensibly would be with a dishonest intention right from the inception. Therefore, the submission of the learned senior counsel that the ingredients of offence of cheating is not even met to its semblance is to say the least, is preposterous. It is on the face of it made out.

11. The aforesaid allegation is now registered as a crime in Crime No.117 of 2024. The matter is still at the stage of investigation. It is trite that FIR is not an encyclopedia of offences. At the stage of FIR generally what is required to be noticed is, whether the allegation meets the threshold bar of a cognizable offence.

11.1. The Apex Court in the case of **NEEHARIKA INFRASTRUCTURE (P) LTD. v. STATE OF MAHARASHTRA1,** has held as follows:

"…. …. ….

33.12. **The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating**

officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure."

(Emphasis supplied)

11.2. The Apex Court in the case of **STATE OF MADHYA PRADESH v. KUNWAR SINGH2**, has held as follows:

"…. …. ….

8. Having heard the submissions of the learned counsel appearing on behalf of the appellant and the respondent, we are of the view that the High Court has transgressed the limits of its jurisdiction under Section 482 of CrPC by enquiring into the merits of the allegations at the present stage. The fact that the respondent was a signatory to the cheques is not in dispute. This, in fact, has been adverted to in the judgment of the High Court. The High Court has also noted that a person who is required to approve a financial proposal is duty bound to observe due care and responsibility. There are specific allegations in regard to the irregularities which have been committed in the course of the work of the 'Janani Mobility Express' under the National Rural Health Mission. **At this stage, the High Court ought not to be scrutinizing the material in the manner in which the trial court would do in the course of the criminal trial after evidence is adduced. In doing so, the High Court has exceeded the well-settled limits on the exercise of the jurisdiction under Section 482 of CrPC. A detailed enquiry into the merits of the allegations was not warranted. The FIR is not expected to be an encyclopedia, particularly, in a matter involving financial irregularities in the course of the administration of a public scheme. A final report has been submitted under Section 173 of CrPC, after investigation.**"

(Emphasis supplied)

11.3. The Apex Court in the case of **SOMJEET MALLICK v. STATE OF JHARKHAND**,**3** has held as follows:

"…. …. ….

15. Before we proceed to test the correctness of the impugned order, we must bear in mind that **at the stage of deciding whether a criminal proceeding or FIR, as the case may be, is to be quashed at the threshold or not, the allegations in the FIR or the police report or the complaint, including the materials collected during investigation or inquiry, as the case may be, are to be taken at their face value so as to determine whether a prima facie case for investigation or proceeding against the accused, as the case may be, is made out. The correctness of the allegations is not to be tested at this stage.**

16. To commit an offence, unless the penal statute provides otherwise, mens rea is one of the essential ingredients. **Existence of mens rea is a question of fact which may be inferred from the act in question as well as the surrounding circumstances and conduct of the accused**. **As a sequitur, when a party alleges that the accused, despite taking possession of the truck on hire, has failed to pay hire charges for months together, while making false promises for its payment, a prima facie case, reflective of dishonest intention on the part of the accused, is made out which may require investigation. In such circumstances, if the FIR is**

quashed at the very inception, it would be nothing short of an act which thwarts a legitimate investigation.

17. **It is trite law that FIR is not an encyclopaedia of all imputations. Therefore, to test whether an FIR discloses commission of a cognizable offence what is to be looked at is not any omission in the accusations but the gravamen of the accusations contained therein to find out whether, prima facie, some cognizable offence has been committed or not. At this stage, the court is not required to ascertain as to which specific offence has been committed.**

18. **It is only after investigation, at the time of framing charge, when materials collected during investigation are before the court, the court has to draw an opinion as to for commission of which offence the accused should be tried.** Prior to that, if satisfied, the court may even discharge the accused. Thus, **when the FIR alleges a dishonest conduct on the part of the accused which, if supported by materials, would disclose commission of a cognizable offence, investigation should not be thwarted by quashing the FIR.**

19. **No doubt, a petition to quash the FIR does not become infructuous on submission of a police report under Section 173(2)CrPC, but when a police report has been submitted, particularly when there is no stay on the investigation, the court must apply its mind to the materials submitted in support of the police report before taking a call whether the FIR and consequential proceedings should be quashed or not. More so, when the FIR alleges an act which is reflective of a dishonest conduct of the accused.**"

(Emphasis supplied)

In the light of the principles laid down by the Apex Court in the afore-quoted judgments, the prayer *qua* obliteration of the crime cannot be entertained and the investigation in the case at hand is a must in the least.

12. What is alleged in the case at hand is a litigant coming before the coordinate Bench of this Court with a letter that the Advocate and the cohorts of the Advocate have taken money on the ground that they would secure a bail by giving the Hon'ble Judge certain money. Therefore, the complaint is registered on the basis of a direction in a criminal petition to investigate and bring in the perpetrators of such allegation. The allegation, if found to be true, would cut at the root of the integrity of the Institution. Therefore, in such cases investigation is a must as the question involved is Institutional integrity. The offence of cheating allegedly committed by an individual in the normal circumstance becomes an institutional concern when such cases are projected. Therefore, there can be no question of interdiction of investigation on any ground whatsoever unless investigation would ensue and a final report is filed before the concerned Court.

13. Finding no merit in the petition, the petition stands rejected. Interim orders/ protective orders granted by the coordinate Bench of this Court in these proceedings shall stand dissolved.

FOOTNOTES

1. **(2021) 19 SCC 401**
2. **2021 SCC OnLine SC 3668**
3. (2024) 10 SCC 527

