28ch - 9654/10
27-3-10

Govt. of Karnataka

Form No.3
(Criminal)
Order Sheet
Ch.VIII.R.L(I)18.20(2)
Ch.VIII.R.3

IN THE COURT OF THE IV ADDL. CHIEF METROPOLITAN
MAGISTRATE, BANGALORE CITY

PCR No. 10715/10

Complainant:- Mohammed Iqbal Lodhia

Vs.

Accused:- Front Line Construction. A2 A Aziz Qadar A3 A Majeed e Moshin

Sl. No. of Order	Date of order of proceedings	Order of proceedings signature of presiding officer	Signature of parties or pleaders when necessary.

22-3-10 Sri........K.S. Harish..........

Advocate for complainant has filed a complaint against the accused U/s.200 of Cr.P.C., along with Xerox copies of documents and Vakalath and prays for an order to take the cognizance of the offences punishable U/s 120(B) 403 404 405 & 420 415 r/w 34 of IPC against the accused. For

ORDER

Complainant present. Register the case PCR. The matter is referred for Investigation To Cubbon park PS by 19-6-10

— Sd —
IV ACMM. B'lore
22/3/10

Received on
27.03.10
[illegible]
Advocate.

Copy applied for on the 27-3-10
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Copying Sheets supplied on the ——
Applicant told to Appear on the 19-4-10
Copy ready on 5-4-10
Copy delivered on the 5/4/10
Copied by ...
Examined by ...

IN THE COURT OF THE IV ADDL. CHIEF METROPOLITAN MAGISTRATE AT BANGALORE

P.C.R.   /2010

BETWEEN

Mr. Mohammed Iqbal Lodhia
United States of America .... Complainant

AND

Frontline Constructions
Bangalore and others .... Accused

INDEX

Bangalore

Dated 22.03.2010

Advocate for Complainant

(1)

IN THE COURT OF THE IV ADDL. CHIEF METROPOLITAN MAGISTRATE AT BANGALORE

P.C.R. 10915 /2010

BETWEEN

Complainant to Register a case u/s 47 The matter is ref for investigation to Cubbon Park P.S.

Mr. Mohammed Iqbal Lodhia
Son of Noor Mohammed Lodhia
Major
Resident of 675, Fifteen Mile Drive
Roseville
California 95678
United States of America

.... Complainant

Sy. 19/6
22/3

AND

1. **Frontline Constructions**
   G-7, Silver Oak, Garden Apartments
   Vittal Mallya Road
   Bangalore 560 001

2. **Mr. A. Aziz Qader**
   Son of A. Qader
   Aged about 51 years
   Frontline Grandeur
   No. 14, Walton Road
   Bangalore 560 001

3. **Mr. A. Majeed @ Moshin**
   Son of A. Qader
   Aged about 54 years
   Frontline Grandeur
   No. 14, Walton Road
   Bangalore 560 001

.... Accused

COMPLAINT UNDER SECTIONS 120-B, 403, 404, 405, 420 AND 424 READ WITH SECTION 34 OF THE INDIAN PENAL CODE AND SECTION 190 OF THE CODE OF CRIMINAL PROCEDURE, 1973

The Complainant above named begs to submit as under :

1. The Complainant is the second son of one Mr. Noor Mohammed Lodhia is a resident of United States of America at the address shown in the cause title above. The First Accused appears to be a partnership firm engaged in

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-sd- M. Iqbal Lodhia

the business of constructions/development of properties in Bangalore of which the Second and Third Accused are partners. This case relates to the offences of criminal conspiracy, criminal breach of trust, criminal misappropriation and cheating committed by Accused no. 1 to 3 in relation to various investments made by Mr. Noor Mohammed Lodhia through the Accused in Bangalore.

2. At this stage, the Complainant begs to narrate the background facts. The father of the Complainant Mr. Noor Mohammed Lodhia was an Indian by origin, who was residing and carrying on business at State of New York, United States of America. During his frequent business visits, he developed acquaintance with the Second and Third Accused after being introduced by his associates in India. During early 1995, the Second and Third Accused approached the father of the Complainant representing that they carryon business of constructions/property investments/land development and that of realtors at Bangalore and induced him to make investments in purchase of properties through them promising better returns.

4. On these representations, Second and Third accused arranged for opening of bank account with The Hongkong and Shanghai Banking Corporation Limited, Bangalore (HSBC) for facilitating transfer of funds by Mr. Noor Mohammed Lodhia. In opening the said account, the address of Mr. Noor Mohammed Lodhia is shown as that of the First Accused, which

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-sd- M. Iqbal Lodhia

evidences the nature and extent of involvement of the Second and Third Accused in getting the investment. Copies of the attested bank statement evidencing said facts are produced collectively herewith as ***Document No. 1.***

Thus induced by Accused, the father of the Complainant Mr. Noor Mohammed Lodhia transferred funds to his Indian account with HSBC, which was later paid to the Accused. Certified Copy of the telegram issued by the HSBC confirming receipt of one such transfer of funds to his Indian account is produced herewith as ***Document no. 2.*** In addition, payments were also made to the Accused directly during his visits to India.

5. It is submitted that the following investments on properties in Bangalore were made by Mr Noor Mohammed Lodhia through the First Accused during the year 1995 to 1997, to the knowledge of the Complainant.

i. Rs. 10,00,000 [Rupees Ten Lakhs] was paid for purchase of land measuring 4000 square feet in Land bearing Survey No. 49, "Ashton Park', Whitefield, Varthur Hobli, Bangalore South Taluk;

ii. Rs. 37,75,000 [Rupees Seventy Lakhs Seventy Five Thousand] was paid for purchase of three sites in all measuring 16,620 square feet in Land bearing Survey No. 49, Whitefield, Bangalore South Taluk

iii. Rs. 11,05,650 [Rupees Eleven Lakhs Five Thousand Six Hundred and Fifty] for purchase of Site on Mysore Road, Bangalore

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-sd- M. Iqbal Lodhia

In addition to the above investments, Mr. Noor Mohammed Lodhia had paid another sum of Rs. 25,80,650 [Rupees Twenty Five Lakhs Eighty Thousand Six Hundred and Fifty] to the Second and Third Accused for investment in any other suitable property in Bangalore.

6. The Complainant begs to point out that it was the clear understanding of the parties that the investments made were to be utilized for purchase of properties on behalf of the Mr. Noor Mohammed Lodhia and the properties/accrued returns to be transferred to him. The Accused after receiving the payments had sent two incomplete but signed agreements in relation to the investments made in sl no. (i) and (ii) above and the certified copies of the said documents are produced herewith as ***Document no. 3 and 4.*** However, the Accused failed to provide any document or proof in relation to the two investments of Rs. 11,05,650 [Rupees Eleven Lakhs Five Thousand Six Hundred and Fifty] and Rs. 25,80,650 [Rupees Twenty Five Lakhs Eighty Thousand Six Hundred and Fifty] respectively, inspite of repeated requests.

7. It is submitted that the father of the Complainant Noor Mohammed Lodhia died on 29th April 1998 leaving behind his wife Mrs. Fatima Lodhia, his only daughter Ms. Mehroon Nisa Lodhia and four sons namely [1] Mohammed Rafiq Lodhia, [2] Mohammed Iqbal Lodhia, the Complainant herein, [3] Abdul Razak Lodhia and [4] Mohammed Yousuf Lodhia as his heirs. For completeness, it is submitted that the the mother of the Complainant Mrs. Fatima Lodhia died in the year 2004.

-sd- M. Iqbal Lodhia

8. On the death of Mr. Noor Mohammed Lodhia, the Complainant and his brothers/sister being entitled of the investments of Mr. Noor Mohammed Lodhia made repeated requests to the Accused for providing the details/documents pertaining to the investments made by their father. In response to the various request, the Accused issued communication dated 04.06.1998 addressed to the sister of the Complainant. A copy of the said communication is produced herewith as ***Document No. 5.*** In the said letter, the Second Accused has acknowledged the investments made by the deceased Noor Mohammed Lodhia through them in properties in Bangalore and assured to disclose the details. It is clear from tone of the said communication that the Accused had deliberate intentions to withhold information regarding the investments with ulterior motives of making wrongful gain for themselves and depriving the legal heirs of their entitlement. However, the Accused failed to disclose the particulars of Investment. 47

9. In the above situation, the Complainant and his family again continued to follow up with the Accused by sending repeated request mails and in response to one such, the Second Accused issued a e-mail dated 18.10.2005 requesting the sister of the Complainant to furnish requisition letters for transfer of amount lying with them. A copy of the said mail is produced herewith as ***Document No. 6***. Though the said document was made

-sd- M. Iqbal Lodhia

available, the Accused neither disclosed the details of investments nor transferred any funds as promised.

10. When the requests made by the Complainant/his sister failed to evoke any response, the eldest brother of the Complainant interacted with Second and Third Accused over phone and during the said conversation, it was confirmed by the Second Accused that the last of the investments of Rs. 25,80,650 (Rupees twenty Five Lakhs Eighty Thousand and Six Hundred and Fifty) was never invested by them and when confronted assured to repay the same. The said fact is also evident from the e-mail dated 23.01.2008, A copy of the said communication is produced herewith as ***Document No. 7.*** In the said letter, the Second Accused agreed to repay the said amount but made unreasonable demand for the Complainant, his brothers and sister to open joint account in India. It is submitted that Complainant and his brothers/sister were all residing away from India and in the situation, the Accused fully being aware that it was not practicable for all of them to open a joint account in India made such demands to frustrate the request of the Complainant.

11. In response to the said request, the younger brother of the Complainant Mr. Mohammed Yousuf Lodhia approached and obtained an order dated 22.12.2008 passed by the Surrogate's Court of the State of New York, Queens County for his appointment as the Administrator to the estate

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-sd- M. Iqbal Lodhia

of his deceased father. A copy of the Certificate of appointment of Administrator is produced herewith as ***Document No. 8.***

12. On obtaining the Certificate of Administration, Complainant issued another communication dated 12.03.2009 intimating the Accused about the appointment of his brother Mr. Mohammed Yousuf Lodhia as the Administrator to the estate of his deceased father and requested for transfer of funds to his account. A copy of the said letter dated 12.03.2009 is produced herewith as ***Document no. 9.*** However, the Accused failed and neglected to transfer the funds, which demonstrates that the Accused never had intentions to repay the money.

13. Having regard to the transparent fraud played by the Accused, the Complainant had no option but to issue legal notice dated 5.11.2009 to the Accused. Copy of the legal notice is produced herewith as ***Document no.***

10. In the said notices, the Complainant has explained the fraudulent intentions and actions of Accused. In the light of this, the Complainant requested Accused to pay Rs. 25,80,650 (Rupees Twenty five Lakhs Eighty Thousand Six Hundred and Fifty) to the account of his brother and also to provide details of various investments of his father. The postal receipt for the notice issued to Accused is produced herewith ***Document No. 11.***

14. Having regard to the entirety of facts narrated above, it is submitted that First Accused in collusion with Second Accused has dishonestly induced

-sd- M. Iqbal Lodhia

(8)

the father of the Complainant to part with a large sum of money on the promise of better returns. It is further submitted that Accused have all taken part in the defrauding of the Complainant by not disclosing the details of investments to the Complainant/his family even after the death of Mr. Noor Mohammed Lodhia.

15. It is submitted that Mr. Noor Mohammed Lodhia in view of his familiarity had deposed faith in the Accused in making the investments and the action of the Accused in not disclosing the investments and failure to invest Rs. 25,80,650 in properties, failure to disclose the investment details, failure to refund the amount received as advance would all constitute criminal breach of trust. It is submitted that the Accused have misappropriated the funds and have siphoned the same to their personal needs and thereby have committed the offence of criminal misappropriation. The Complainant begs to point out that Accused have not controverted any of the facts narrated above by the Complainant on receiving the legal notice.

16. It is submitted thus that the conduct of Second and Third Accused demonstrates that they were a part of the criminal conspiracy to commit the offences of criminal misappropriation and cheating by inducing delivery of property and by concealment of details of such property against the Complainant/his family. It is submitted that all the Accused have acted with common intention and the provisions of Section 34 of the Indian Penal Code

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-sd- M. Iqbal Lodhia

apply to the offences committed by the Accused. Accordingly it is submitted that the Accused have committed the offences of criminal conspiracy, criminal breach of trust, criminal misappropriation and cheating .

PRAYER

WHEREFORE it is prayed that this Hon'ble Court may be pleased to :

a. Register a case against the Accused under Sections 120B, 403, 404, 405 and 420, 424 read with Section 34 of the Indian Penal Code, duly try and convict the Accused for the said offences ;

b. Impose maximum punishment including fine ;

c. Out of the fine amount levied and compensate the Complainant for the loss of Rs. 84,61,300 incurred by it plus interests thereon @ 21% per annum and also in defraying the costs of filing and prosecuting this case ; and

d. Such other and further relief as may be just and necessary in interests of justice.

-sd- M. Iqbal Lodhia

Bangalore
Date : 22.03.2010

Complainant

Advocate for Complainant

VERIFICATION

I, Mr. Mohammed Iqbal Lodhia, Son of Noor Mohammed Lodhia, Major Resident of 675, Fifteen Mile Drive, Roseville, California 95678, United States of America now in Bangalore, India, do hereby solemnly declare that the contents of this complaint are true and correct to our knowledge and belief.

-sd- M. Iqbal Lodhia

Complainant

Bangalore
Dated 220.3.2010

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IN THE COURT OF THE IV ADDL. CHIEF METROPOLITAN MAGISTRATE AT BANGALORE

P.C.R.10715/2010

BETWEEN

Mr. Mohammed Iqbal Lodhia
United States of America .... Complainant 147

AND

Frontline Constructions
Bangalore and others .... Accused

LIST OF DOCUMENTS & WITNESSES

1. Bank Statement of HSBC
2. Telegram issued by HSBC
3. Agreement dated 6.11.1995
4. Agreement dated 03.10. 1995
5. E- Mail dated 04.06.1998
6. E- Mail dated 18.10.2005
7. E- Mail dated 23.01.2008
8. Certificate of Administration
9. Letter dated 12.03.2009
10. Legal notice dated 05.11.2009
11. Postal receipts/acknowledgement card

The complainant craves leave produce additional documents if found necessary.

Bangalore
22.03.2010

WITNESSES

1. Mr. Mohammed Iqbal Lodhia
2. Mr. Mohammed Yousuf Lodhia
3. Manager HSBC

The complainant craves leave produce additional witnesses if found necessary.

Bangalore
Date : 22.03.2010

Advocate for Complainant

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Applicant 19-4-10
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