



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

CRIMINAL PETITION NO. 9702 OF 2024

Between:

Narayanaswamy G.C.,
Aged about 35 years
S/o Mr. Chandrashekarappa
Civil Police Constable No.1052
Tunganagara Police Station
Shivamogga-577201
Residing at H.No.28,
Behind Government Primary School
Gopashettikoppa
Shivamogga Town
Shivamogga -577201
Native of Gowgihalli, Hollalkere Taluk,
Chitradurga-577501.

...Petitioner

(By Sri. Satyanarayana Chalke S., Advocate)

Digitally signed
by VEERENDRA
KUMAR K M
Location: HIGH
COURT OF
KARNATAKA

And:

1. State of Karnataka
Represented by the SHO
Anti Corruption Bureau Police Station
Shivamogga-577201
Karnataka Lokayukta
Represented by its
Special Public Prosecutor
M.S.Building, Bengaluru-560001.
2. Mr. Abdul Saleem
Aged about 49 years,
S/o Mr. Abdul Jabbar



5th Cross, Left Side,
Tippu Nagar,
Shivamogga-577201.

...Respondents

This Criminal Petition is filed u/s 482 Cr.P.C. praying to set aside the order in Spl.C.No.744/2021 pending consideration on the file of learned I Additional Sessions Judge and Special Judge at Shivamogga dated 11.07.2024 and etc.

This Criminal Petition, coming on for orders, this day, order was made therein as under:

CORAM: HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

ORAL ORDER

In this criminal petition under Section 482 of Code of Criminal Procedure (Cr.P.C), the petitioner has challenged the order dated 11.07.2024 passed by the I Additional Sessions Judge and Special Judge, Shivamogga, dismissing his application under Section 227 of Cr.P.C.

2. Heard the arguments of Sri Satyanarayana S Chalke, learned advocate for the petitioner.

3. The allegation leveled against the petitioner is that he being the police officer at Tunganagar Police Station demanded for bribe of Rs.6,500/- to permit the second respondent to transport sand from Kanehalla. The



first respondent having held investigation filed charge sheet against the petitioner for the offence punishable under Section 7(a) of Prevention of Corruption Act after obtaining sanction from the competent authority. The petitioner, in his application made under Section 227 of Cr.P.C, in order to seek his discharge amongst other grounds, took up main ground of nine months delay in according sanction. Distinguishing the applicability of two judgments of the Supreme Court cited on behalf of the petitioner, the learned trial court Judge held that the issue of delay and other grounds urged by the petitioner were all matters of trial and dismissed the application.

4. Questioning the correctness of the findings of the trial court, Sri Satyanarayana S Chalke, learned counsel argued that delay in granting sanction was fatal. And since the petitioner was not discharging duty as a public servant on the alleged date of demand for bribe as he had gone on leave on that day, Section 7(a) of the Prevention of Corruption Act could not have been invoked. Therefore



there are grounds for entertaining application for discharge.

5. If the impugned order is perused, it does not appear that the trial court's conclusions are wrong. The purport of the principle in ***Dr. Subramanian Swamy*** is that if no decision is taken in regard to granting sanction even after extended time limit, it should be deemed that sanction is accorded. The trial court has rightly comprehended the meaning of the cited decision, and has held that other grounds are all matters of trial.

6. The conclusion taken by the trial court does not appear to be incorrect. If there is delay in granting sanction, to what extent delay does make an impact on the case is a question of fact and law. The argument of petitioner's counsel on this point cannot be accepted.

7. The next ground is petitioner's going on leave. Merely because the petitioner had been on leave, it cannot be said that he ceased to be a public servant during the period of leave. The other grounds taken with reference to factual aspects found in the charge sheet cannot be



decided unless trial is held. Thus seen there are no infirmities in the impugned order. Hence, there are no grounds to admit the petition, and it is dismissed.

Sd/-
(SREENIVAS HARISH KUMAR)
JUDGE

CKL
List No.: 1 Sl No.: 1