



CNR: KAHC010009592020

NC: 2026:KHC:52869
CRL.P No. 153 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL PETITION NO. 153 OF 2020

BETWEEN:

1. ETHESHAM-UL-HAQ
S/O ABDUL HAFIZ
AGED 51 YEARS,
NO.12, 2ND CROSS,
NEAR RASHEEDIYA MASJID
BAIRAPPA LAYOUT GOVINDPUR
BANGALORE NORTH
BENGALURU-560045.

...PETITIONER

(BY SRI. MOHAMMED TAHIR., ADVOCATE)

AND:

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA

1. STATE BY CHICKMAGALUR POLICE
REP BY STATE PUBLIC PROSECUTOR
HIGH COURT COMPLEX BUILDING,
BENGALURU-560 001.
2. MADHUKUMAR RAJ URS
S/O MALLARAJ URS
AGED ABOUT 45 YEARS
R/AT KANADAL ROAD,
KOTE CHIKKAMAGALORE TOWN,
CHIKKAMAGALURU
KARNATAKA-577 101



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...RESPONDENTS

(BY SRI.MOHAMMED AYUB ALI, ADDL.SPP FOR R1)

THIS CRL.P IS FILED U/S 482 CR.PC BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO QUASH THE FIR AS A ANNEXURE-B i.e IN CR.NO.213/2019 PENDING ON THE FILES OF PRL.CIVIL JUDGE (SR.DN) AND CJM COURT CHIKKAMAGALUR DISTRICT AND THIS PETITIONER IS ARRAYED AS SOLE ACCUSED FOR THE ALLEGED OFFENCE P/U/S 504,505,506 OF IPC.

THIS PETITION IS COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

ORAL ORDER

This petition is filed seeking quashing of the FIR in Crime No.213/2019 on the file of Principal Civil Judge (Sr.Dvn) and CJM Court, Chikkamagaluru District for the offences punishable under Section 504, 505, 506 of Indian Penal Code.

2. Heard learned counsel for the petitioner and learned counsel appearing for the respondent.



3. Learned counsel appearing for the petitioner submits that the offences alleged against the petitioner are non-cognizable offences. Therefore, the police could not have registered the case without following the procedure contemplated under Section 155(1) and (2) of the Code of Criminal Procedure. It is contended that the police, instead of referring the informant to the jurisdictional Magistrate as contemplated under Section 155(1) of the Cr.P.C. and obtaining permission from the Magistrate under Section 155(2) of the Cr.P.C., have proceeded to register the FIR merely by issuing notice as per Annexure-A and thereafter registering the FIR. Hence, there can be no valid prosecution against the petitioners.

4. Learned Additional SPP appearing for the State, on the other hand, submits that the offences invoked against the petitioners are under Sections 504, 505 and 506 of the IPC. However, he does not dispute the fact that the police have not followed the procedure contemplated under Section 155(1) and (2) of the Cr.P.C. before registering the case.



5. Having considered the grounds urged in the petition and the submissions of the learned counsel for the respective parties, it is not in dispute that the offences alleged against the petitioners are non-cognizable offences. In respect of non-cognizable offences, the police cannot commence investigation or register a case without following the procedure contemplated under Section 155(1) and (2) of the Cr.P.C. The statutory requirement is that the informant is to be referred to the jurisdictional Magistrate and the police are required to obtain the permission of the Magistrate before proceeding with the investigation.

6. The Hon'ble Apex Court in the case of ***Lalitha Kumari vs. Government of Uttar Pradesh and ors***¹ has also reiterated the distinction between cognizable and non-cognizable offences and the procedure required to be followed by the police in accordance with law. In the case of non-cognizable offences, the Investigating Officer cannot proceed with the investigation without obtaining the requisite

¹ AIR 2014 SC 187,



permission of the Magistrate as contemplated under Section 155(2) of the Cr.P.C.

7. In the present case, admittedly, the police have not complied with the mandatory requirements of Section 155(1) and (2) of the Cr.P.C. before registering the case and commencing the proceedings against the petitioners. Therefore, the continuation of the proceedings against the petitioners, in the absence of compliance with the mandatory procedure prescribed under law, cannot be sustained.

8. In view of the aforesaid discussion, the proceedings initiated against the petitioners in Crime No.213/2019 are liable to be quashed.

9. Accordingly, I pass the following:

ORDER

- i. The petition is ***allowed***.
- ii. The proceedings initiated against the petitioner in Crime No.213/2019 on the file of the Principal Civil Judge (Sr. Dn.) and Chief



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Judicial Magistrate, Chikkamagaluru District,
for the offences punishable under Sections
504, 505 and 506 of the Indian Penal Code, is
hereby quashed.

Sd/-
(H.P.SANDESH)
JUDGE

AG
List No.: 1 Sl No.: 19