



CNR: KAHC010060562021

NC: 2026:KHC:36614  
CRL.P No. 1274 of 2021

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

**DATED THIS THE 16<sup>TH</sup> DAY OF JULY, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE RAVI V HOSMANI**

**CRIMINAL PETITION NO. 1274 OF 2021 (482(Cr.PC) /**  
**528(BNSS))**

**BETWEEN:**

MR CHANDAN H S  
EMP NO.704380  
AGED 32 YEARS,  
ASST MANAGER JMGS-I  
BYLAKUPPE BRANCH,  
PERIYAPATNA TALUK  
R/AT C/O DR SURESH  
HOUSE NO.270,  
7<sup>TH</sup> B MAIN ROAD,  
1<sup>ST</sup> STAGE HEBBAL  
MYSURU - 570 016.

...PETITIONER

(BY SRI. ISMAIL MUNEEB MUSBA.,ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA  
BY BYLAKUPPE PS  
REPRESENTED BY PUBLIC PROSECUTOR  
HIGH COURT BUILDING  
HIGH COURT OF KARNATAKA  
BAHNGALORE.
2. SYNDICATE BANK  
BYLAKUPPE BRANCH  
PERIYAPATNA TALUK  
MYSURU DISTRICT  
BY ITS SENIOR MANAGER.

Digitally signed  
by ANUSHA V  
Location: High  
Court of  
Karnataka



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...RESPONDENTS

(BY SRI. JAVEED S.,HCGP FOR R2;

SRI. NAVEEN TAO.,ADVOCATE FOR R2 (ABSENT))

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO A. SET ASIDE THE ORDER DATED 03.01.2020 IN PCR.NO.3/2020 PASSED BY THE HONBLE ADDITIONAL CIVIL JUDGE (Sr.Dn) AND CJM COURT, PERIYAPATNA, MYSORE DISTRICT U/S 156(3) OF CRPC REFERRING THE MATTER FOR INVESTIGATION, PRODUCED HERETO AS ANNEXURE-A.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

### **ORAL ORDER**

Challenging order dated 03.01.2020 passed by Senior Civil Judge and JMFC, Periyapatna, in PCR.No.3/2020 as well as for quashing of FIR in Crime no.11/2020 for offences punishable under Sections 406, 408, 409 and 415 of Indian Penal Code, 1860 ('IPC' for short), this petition is filed

2. Sri Ismail Muneed Musab, learned counsel for petitioner submitted that a private complaint was filed by respondent no.2 against petitioner alleging that, while working as Assistant Manager from 25.05.2015 to 18.02.2018, accused had committed fraud, cheating and had misused authority and misappropriated amount of Rs.2,32,975/- from customers'



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accounts etc. It is further submitted that on said complaint, learned Magistrate directed investigation by Circle Police, Piriapatna, but order sheet in PCR.No.3/2020 would not bear signature of Presiding Officer. However, in pursuance of same, Bylakuppe Police Station had registered FIR in Crime no.11/2020 against accused. It was submitted that entire proceedings in private complaint would be untenable due to non-compliance with requirement of filing of affidavit in support of complaint held mandatory by Hon'ble Supreme Court in case of **PRIYANKA SRIVATSAVA AND ANOTHER v. STATE OF UTTAR PRADESH AND OTHERS** reported in **(2015) 6 SCC 287**. It was further submitted that Hon'ble Supreme Court in case of **MAKSUD SYED v. STATE OF GUJARAT AND OTHERS** reported in **(2008) 5 SCC 668** has held an order directing investigation by police, would require application of mind by learned Magistrate. Whereas contents of order dated 03.01.2020 would not bear any indication of application of mind. Though complainant had stated that prior to filing of private complaint before learned Magistrate, complainant had approached Bylakuppe Police with all records, but complaint



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was not registered. Complainant has not stated about any efforts made to approach jurisdictional Superintendent of Police. Same would amount to non-compliance with Section 154(3) of Code of Criminal Procedure ('Cr.P.C.' for short). On above ground, learned counsel prayed for quashing said proceedings.

3. Sri Javeed S., learned High Court Government Pleader for respondent no.1 submitted that non-filing of affidavit though held mandatory by Hon'ble Supreme Court in ***PRIYANKA SRIVATSAVA's*** case would be curable upto stage of taking cognizance. However, he was unable to controvert contentions of learned counsel for petitioners about non-compliance with Section 154(3) of Cr.P.C. Insofar as contention about order sheet not bearing signature of Presiding Officer, it was submitted that same was too technical and not sufficient for quashing of proceedings and prayed for dismissal of petition.

4. Heard learned counsel for parties and perused material on record.



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5. This petition is by accused challenging entire proceedings wherein petitioner has urged a specific contention about non-filing of affidavit in petition. Till date, no objections are filed controverting said contention. Even contention about requirement of application of mind at time of directing investigation, is also not controverted. Non-filing of affidavit would be fatal in view of ratio in **PRIYANKA SRIVATSAVA's** case. Likewise, non-compliance with requirement of Section 154(3) of Cr.P.C would also be fatal to private complaint.

6. Perusal of copy of private complaint appended to petition would indicate that there is no assertion about refusal by SHO, Police Station to register complaint and complainant approaching jurisdictional Superintendent of Police unsuccessfully. There is bare assertion about approaching jurisdictional Police Station. Besides above, order sheet dated 03.01.2020 does not bear signature of Presiding Officer. Endorsement on private complaint cannot be taken as part of order sheet.

7. For above reasons, proceedings would be defective.  
Hence, following:



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**ORDER**

- i) Petition is ***allowed***.
- ii) Proceedings in Crime no.11/2020 pending before Additional Civil Judge (Sr. Dn.) and C.J.M., Court, Periyapatna for offences punishable under Sections 406, 408, 409 and 415 of IPC stands quashed.

**Sd/-  
(RAVI V HOSMANI)  
JUDGE**

PHM  
List No.: 1 Sl No.: 29