



NC: 2026:KHC:31775
CRL.P No. 2194 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL PETITION No. 2194 OF 2019

BETWEEN:

KANTHARAJA G.,
S/O GURUSIDDAPPA,
AGED ABOUT 36 YEARS,
R/O CHIKKATHEKALAVATTI VILLAGE,
HOSADURGA TALUK-577527,
CHITRADURGA DISTRICT.

...PETITIONER

(BY SMT. BHAVANA T.S., ADVOCATE FOR
SRI. R. SHASHIDHARA, ADVOCATE)

AND:

THE STATE OF KARNATAKA
BY CHITRAHALLI GATE POLICE STATION,
HOLALKERE TALUK,
PIN-577526,

REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BANGALORE-560 001.

...RESPONDENT

(BY SMT. SOWMYA R., HCGP)

THIS CRL.P. IS FILED UNDER SECTION 482 OF CR.P.C
PRAYING TO QUASH THE COGNIZANCE TAKEN BY THE PRINCIPAL
CIVIL JUDGE AND J.M.F.C., HOLALKERE IN C.C.No.187/2018 AND
ALSO FILING OF CHARGE SHEET BY THE RESPONDENT POLICE IN
CR.No.209/2017 AND ALL FURTHER PROCEEDINGS IN
C.C.No.187/2018 ON THE FILE OF PRINCIPAL CIVIL JUDGE AND
J.M.F.C., HOLALKERE FOR THE OFFENCE P/U/S 32 AND 34 OF
KARNATAKA EXCISE ACT, 1965.

Digitally
signed by
ANUSHA V
Location:
High Court of
Karnataka



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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

Challenging charge sheet and entire proceedings in C.C. no.187/2018 on file of Principal Civil Judge and JMFC, Holalkere, based on registration of Crime no.209/2017 by Chitrahalli Gate Police Station, this petition is filed.

2. Smt.Bhavana T.S., learned counsel appearing for Sri R. Shashidhara, learned counsel for petitioner submitted that petitioner was accused no.3. As per prosecution case, at 10.00 a.m. on 06.12.2017, complainant-PSI Chitrahalli Police Station received credible information about sale of liquor by some persons illegally near Durugamma Temple at Nagaragatta Village, Holalkere Taluk. Immediately after registration of complaint as Crime no.209/2017, raid was conducted, wherein accused no.1 and 2 were found to have stored liquor bottles in a carton box and selling to public for profit without any licence. Upon apprehending accused no.1 and 2, seizure of materials and investigation, charge sheet was filed. Though there was no mention of name of petitioner in complaint, he was arraigned



as accused no.3 in charge sheet apparently on no other basis than confessional statement of accused no.1 and 2 that they had purchased liquor from petitioner.

3. It was submitted, entire proceedings were liable to be quashed on two grounds. Firstly, that prosecution of petitioner-accused no.3 was solely on confessional statement of co-accused which would not form substantive evidence. Secondly, on ground of violation of mandatory procedure under Sections 53 and 54 of Karnataka Excise Act, 1965 (**Act**) insofar as requirement of obtaining permission from Magistrate for conducting search and seizure. It was submitted that, even if it were claimed to be under Section 54 of Act, same would fail on ground of non-recording of reason for proceeding without complying Section 53 of Act. On said two grounds, she sought for quashing of proceedings and relied on decision of this Court in ***Rajashekar v. Ulsoor Police Station*** (Criminal Petition no.4724/2012, disposed of on 17.01.2013).

4. On other hand, learned High Court Government Pleader for respondent-State sought to oppose. It was submitted that on receipt of credible information and after registering complaint, raid was conducted wherein accused



no.1 and 2 were found to be in possession of liquor and its sale to public with a view to earn profit, even though they did not possess any licence under Act. Illegal liquor was seized by drawing mahazar and statement of complainant, mahazar witnesses etc. were recorded. Thus, there was sufficient material for proceeding with trial. On said grounds, she sought for dismissal of petition.

5. Heard learned counsel on both side and perused material on record.

6. This petition is by accused no.3 challenging entire proceedings on two grounds. Firstly, non-complying with mandatory procedure under Section 53 and violation of Section 54 of Act. Secondly, charge sheet being based only on confessional statements of co-accused.

7. This Court in **Rajshekar's** case, after adverting to provisions of Sections 53 and 54 of Act had referred to decision in **K.L Subhaya v. State of Karnataka** reported in **AIR 1979 SC 711** and noted mandatory nature of provisions of Excise Act, providing valuable safeguard for protecting liberty of citizens. It also referred to decision of this Court in **L. Srinivas**



HC-KAR

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v. Authorised Officer and Superintendent of Excise-Bangalore Rural District, Bangalore reported in **1999 (4) Kar.L.J 302** wherein resort to Section 54 of Act was held unsustainable in absence of recording of reasons that compliance with Section 53 of Act and provision of opportunity to offender was likely to lead to concealing of evidence. Perusal of complaint as well as charge sheet reveal absolutely no reasons are mentioned for non-compliance with Section 53 of Act. Therefore, there is no recording of reasons for invoking Section 54 of Act, rendering entire process of search and seizure illegal.

8. Apart from above, it is seen that charges against petitioner-accused no.3 is based on no other material than confessional statements of co-accused. This Court in **Badrul Muneer v. State of Karnataka** (Criminal Petition no.4263/2020 disposed of on 13.01.2021) under similar circumstances held continuation of proceedings would be futile and quashed. In view of ratio decisions in **Rajashekar, L. Srinivas and Badrul Muneer's** cases (supra), petition would succeed.



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9. Accordingly, petition is ***allowed***. Proceedings against petitioner-accused no.3 in C.C.no.187/2018 on file of Principal Civil Judge and JMFC, Holalkere, based on registration of Crime no.209/2017 by Chitrahalli Gate Police Station, stands quashed.

Sd/-
(RAVI V HOSMANI)
JUDGE

MV
List No.: 1 Sl No.: 13