



CNR: KAHC010145572020

NC: 2026:KHC:54554
CRL.P No. 6946 of 2020
C/W CRL.P No. 6935 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF SEPTEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO. 6946 OF 2020

C/W

CRIMINAL PETITION NO. 6935 OF 2020

IN CRL.P No. 6946/2020

BETWEEN:

SMT. N.S. BHUVANESHWARI
W/O SRI. RAMANARAYAN K
AGED ABOUT 66 YEARS
R/AT NO.182, A BLOCK
MILK COLONY, 1ST MAIN,
SUBRAMANYANAGARA
BENGALURU - 560 021.

...PETITIONER

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA

(BY SRI. R. RAJA, ADVOCATE FOR
SRI. R.B. SADASIVAPPA, ADVOCATE)

AND:

SRI. HANUMANTHARAJU
S/O SRI. THIMMAPPAIAH
AGED ABOUT 52 YEARS
R/AT NO.686, PEENYA 1ST STAGE,
LAGGERE MAIN ROAD,
NEAR WATER TANK
BENGALURU - 560 058.

...RESPONDENT

(BY SRI. GOPI N, ADVOCATE)



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THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO QUASH THE IMPUGNED ORDER DATED 06.01.2020 PASSED BY THE LXII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BANGALORE IN CRL.RP.NO.454/2017 CONFIRMING THE ORDER DATED 06.05.2017 PASSED BY THE IV ACMM, BANGALORE IN C.C.NO.31942/2005 ON THE APPLICATION FILED BY THE ACCUSED U/S 245(1) OF THE CRPC AND CONSEQUENTLY DISCHARGE THE ACCUSED/PETITIONER HEREIN.

IN CRL.P NO. 6935/2020

BETWEEN:

SRI. NAVEEN R
S/O SRI. RAMANARAYAN K,
AGED ABOUT 42 YEARS,
R/AT NO.182, A BLOCK,
MILK COLONY, 1ST MAIN,
SUBRAMANYANAGARA,
BENGALURU - 560 021.

...PETITIONER

(BY SRI. R. RAJA, ADVOCATE FOR
SRI. R.B. SADASIVAPPA, ADVOCATE)

AND:

SRI. HANUMANTHARAJU
S/O SRI. THIMMAPPAIAH,
AGED ABOUT 52 YEARS,
R/AT NO.686, PEENYA 1ST STAGE,
LAGGERE MAIN ROAD,
NEAR WATER TANK
BENGALURU - 560 058.

...RESPONDENT

(BY SRI. GOPI N, ADVOCATE)

THIS CRL.P IS FILED U/S 482 OF CR.PC PRAYING TO QUASH THE IMPUGNED ORDER DATED 06.01.2020 PASSED



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BY THE LXII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU CITY IN CRL.RP NO.455/2017 CONFIRMING HE ORDER DATED 06.05.2017 PASSED BY THE 4TH A.C.M.M., BENGALURU IN C.C.NO.31941/2005 ON THE APPLICATION FILED BY THE ACCUSED UNDER SECTION 245(1) OF THE CR.PC AND CONSEQUENTLY DISCHARGE THE ACCUSED/PETITIONER HEREIN.

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

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

ORAL ORDER

Heard learned counsel appearing for the petitioners and learned counsel appearing for the respondent.

2. This Court heard the matter in detail on the previous occasion and these two petitions arised out of an order dated 06.05.2017, rejecting an application filed under Section 245(1) of Cr.P.C. seeking their discharge from the array of accused in C.C.Nos.31941/2005 and 31942/2005, respectively.



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3. The grounds which have been raised in both the cases before the trial Court are that, the proceeding initiated under Section 138 of Negotiable Instruments Act, 1881 against the petitioner – mother in C.C.No.31942/2005 is for an amount of Rs.5,00,000/- and against the petitioner – son in C.C.No.31941/2005 is for an amount of Rs.3,00,000/-. The proceedings against the petitioners were initiated for dishonouring of cheques given to the complainant on 10.07.2005 respectively. The trial Court has taken cognizance in the year 2005. But both of them have filed applications invoking Section 245(1) of the Cr.P.C. for discharging them from the array of the proceedings.

4. Main contention is that, the complainant was charge sheeted by the Malleshwaram Police after a thorough investigation for the offences punishable under Sections 120B, 384, 457, 420, 467, 368, 406 of the IPC in C.C.No.26192/2006. The Malleshwaram Police have also



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invoked Sections 91 and 102 of the Cr.P.C. for search and seizure of the alleged cheques.

5. It is contented that prior to filing of the complaint by the complainant before this Court, the son *i.e.*, accused has approached the Malleshwaram Police and the police have charge sheeted the complainant herein. Taking recourse, the complainant has filed this complaint before this Court as a counter blast. It is also contented that the cheques were misused and there was no legal liability on the petitioners and hence, they may be discharged.

6. The complainant/respondent objected the said application contending that when the cases were set down for recording statement under Section 313 of the Cr.P.C., these application are filed only with an intention to protract the proceedings and on careful perusal of the entire case and documents on record, there is a *prima facie* case made out against the accused and the grounds



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which have been urged in the applications for discharge cannot be considered that too, after the trial.

7. The contention that misuse of the cheques as well as no legal liability has to be considered on its merit, the trial Court considering the grounds urged in the applications in both the criminal cases, considering the statement of objections, taking note of the fact that when the case was already posted for recording the statement of accused under Section 313 of the Cr.P.C. and as the matter is of the year 2005, dismissed the applications.

8. Though, the present accused had preferred criminal petitions earlier, wherein observations are made and liberty was granted to the accused to raise their contentions before the trial Court at appropriate time.

9. The orders of dismissal were questioned before the Revisional Court in Criminal Revision petition Nos.455/2017 and 454/2017 respectively and the Revisional Court also taken note of the reasoning given by



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trial Court and formulated the point as to whether the order passed by the learned trial Judge had committed an error in dismissing the applications. The Revisional Court while taking note of the applications filed under Section 245 of the Cr.P.C. and also the offences invoked against the accused for the offence punishable under Section 138 of N.I.Act and even extracted Section 143 (1) of the N.I.Act. Section 143(1) of the N.I.Act defines 'notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences under this Chapter shall be tried by a judicial Magistrate of the first class or by a Metropolitan Magistrate and the provisions of Sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trials: provided that in the case of any conviction in a summary trial under this Section, it shall be lawful for the Magistrate to pass a sentence of imprisonment for a term not exceeding 1 year and an amount of fine exceeding Rs.5,000/-: "provided further that when at the



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commencement of, or in the course of, a summary trial under this section, it appears to the magistrate that the nature of the case is such that a sentence of imprisonment for a term exceeding 1 year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Magistrate shall after hearing the parties, record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code. The Revisional Court also taken note of Chapter XXI of the Cr.P.C. wherein Chapter XXI of the Cr.P.C. does not speak anything about Section 245 of the Cr.P.C. Section 245 of the Cr.P.C. incorporated under Chapter XIX of the Cr.P.C. Chapter XIX of the Cr.P.C. speaks trial of warrant cases by Magistrate. The Revisional Court also observes that at this stage, on perusal of Chapter XXI of the Cr.P.C., wherein no such passage available for discharge the accused from the charge. When such being the case where there is no



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specific passage to discharge the accused from the charge and accusation levelled against the petitioner is one with punishable under Section 138 of N.I.Act. The Revisional Court has held that the trial Court rightly rejected the applications filed by the petitioners under Section 245 of the Cr.P.C.

10. It is also to be noted here that the Revisional Court also taken note of the order passed in Criminal petition Nos.5565 and 5566 of 2015, in which petitions the petitioners had approached this Court earlier and the orders passed by this Court is also taken note of. The Revision Court also comes to the conclusion that the contention raised by the petitioners would not hold any water. The Revisional Court also held that when the law is rightly appreciated by the learned Trial Court, there is no infirmity seen in the orders of the trial Court and rejected the petitions without interfering with the orders and confirmed the same.



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11. Though the learned counsel appearing for the petitioners, in these two petitions would vehemently contend that both the Courts have committed an error in not allowing the applications filed under Section 245 of the Cr.P.C. and contended that the trial Court has dismissed the applications referring to certain observations made by the Hon'ble High Court. But, failed to note that the Hon'ble High Court has observed that accused should approach the trial Court for discharge and therefore, the accused have approached the trial Court for discharge.

12. Having perused the said orders. Only an observation is made by this Court is that the petitioners are enabled to seek discharge before the Court below at the appropriate stage and it was not for the Hon'ble High Court to interfere at this stage. Accordingly, the petitions are disposed of with liberty to the petitioners to raise appropriate contentions at the appropriate time. But does not mean that the petitioners have to make such



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application when the stage is set forth for recording the statement under Section 313 of the Cr.P.C., which was at the far end of the trial. Therefore, the applications filed invoking the provision under Section 245 of the Cr.P.C. and the same is in respect of trial of warrant cases by the Magistrate as per Chapter XIX of the Cr.P.C. and the same is taken note of by the trial Court and also by the Revisional Court.

13. The trial Court while considering the matter on its merit, the petitioners invoked Section 245 of the Cr.P.C. and raised a contention that there was a charge sheet against the complainant/respondent and other two grounds also were raised that, the cheques were misused and that there is no legal liability. Filing of the charge sheet in a criminal case against the complainant is immaterial to the proceedings initiated under Section 138 of the N.I.Act proceedings and it is nothing but, coming in the way of disposal of the case. The Court has to take



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note of the circumstances under which an application is filed when the case was set down for recording the statement under Section 313 of the Cr.P.C. of the accused. Instead of assisting the trial Court in explaining the incriminating circumstances in 313 statement, the petitioners in both the petitions approached the Trial Court for filing an application for discharge.

14. It has to be taken note of the fact that the proceedings under Section 138 of the N.I.Act is initiated against these petitioners in the year 2005 and for a period of 21 years, the petitioners have not allowed the trial Court to dispose of the matter. That too, a summary proceedings under Section 138 of the N.I.Act. It is a classic case of obstruction in the way of disposal of a case filed under Section 200 of the Cr.P.C., for the offence under Section 138 of the N.I.Act. The petitioners have succeeded in dragging the matter for decades and not allowing the trial Court to proceed with the matter. Even



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without getting an order on the merits of the case, belatedly filed the applications only contending that the cheques were misused and there is no legal liability, then the petitioners have approached this Court by filing these petitions in the year 2020. Hence, it is a case for imposing heavy costs on the petitioners, on the ground that 7 years have elapsed before this Court and the matters were dragged repeatedly before this Court, instead of cooperating before the trial Court for disposal of the case on merits. Both the orders of the trial Court as well as the revisional Court do not suffers any legality and its correctness and also considering the factual aspects which have been urged, cannot be considered in an application for discharge and the same have to be considered on merits regarding misuse as well as legal liability are concerned. It is nothing but an abuse of the process of the law by knocking at the doors of this Court by invoking the provisions of under Section 482 of Cr.P.C., which results in miscarriage of justice. In view of the judgment



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passed in the case of ***Sunil Yadav -vs- Y.C.Manju***
reported in 2025 SCC OnLine Kar 16480 by this Court
even held that disperse 313 statement if accused fails to
co-operate and explain the incriminating circumstances.

15. In view of the discussions made above, I pass
the following:-

ORDER

- i. Petitions are ***dismissed*** with an exemplary costs of Rs.50,000/- each to be payable by the petitioners, within 1 week before the trial Court. If the petitioners fail to pay the costs of Rs.50,000/- each before the trial Court in both the cases, the trial Court is directed to dispense with the recording of the statement of the accused under Section 313 of the Cr.P.C. in view of the judgment referred supra and to include the cost while imposing the time and sentence.



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- ii. The trial Court is directed to dispose of the matter within 1 month from today, in view of the proceedings under Section 138 of the N.I.Act is pending before the trial Court at the instance of the petitioners herein for a period of 21 years.

Sd/-
(H.P.SANDESH)
JUDGE

VS
List No.: 1 Sl No.: 24