



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

**DATED THIS THE 14<sup>TH</sup> DAY OF JULY, 2026**

**BEFORE**

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

**CRIMINAL PETITION NO.4024 OF 2019**

**BETWEEN:**

ILYAS  
S/O AHMED KUTTY  
AGED ABOUT 43 YEARS  
R/AT KANNOORAKANNI HOUSE  
KIYOKATH VILLAGE  
VELIYAPARAMBA POST  
KODUVALLI TALUK  
CALICUT DISTRICT  
KERALA - 673 572.

...PETITIONER

(BY SRI SHAKEER ABBAS M., ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA  
THROUGH GUNDLUPET P.S.  
CHAMARAJANAGAR, THROUGH  
THE STATE PUBLIC PROSECUTOR  
STATE OF KARNATAKA  
HIGH COURT BUILDING  
BANGALORE - 560 001.
2. BALAKRISHNA H.N.  
AGED ABOUT 37 YEARS  
CPI GUNDLUPETE CIRCLE  
GUNDLUPETE TALUK  
CHAMRAJNAGAR - 571 111.

...RESPONDENTS

(BY SMT.SOWMYA R., HCGP FOR R1 & R2)

Digitally signed  
by ANUSHA V  
Location: High  
Court of  
Karnataka



THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING THAT TO SET ASIDE THE ORDER DATED 23.11.2018 PASSED BY THE PRINCIPAL CIVIL JUDGE AND J.M.F.C., GUNDLUPET, CHAMARAJANAGAR IN C.C.NO.1012/2018 PRODUCED HERETO AS ANNEXURE-A IN SO FAR AS THIS PETITIONER CONCERNED.

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 proceedings in CC no.1012/2018 on file of Principal Civil Judge and JMFC., Gundlupet, Chamarajnagar, this petition is filed.

2. Sri Shakeer Abbas M., learned counsel for petitioner submitted that petitioner was accused no.1 in complaint filed by respondent no.2 (complainant) on 19.02.2018 alleging that at 11:00 p.m. on 18.02.2018, he received credible information about immoral trafficking at Hawa Farm Resort (**Resort**). Immediately, complainant informed Deputy Superintendent of Police (**DySP**), obtained permission for conducting search and at 11:30 p.m., along with other police personnel and panchas, raided Resort. At that time, it was found that Manager - Ilyas



(accused no.1), room boy - Shajir (accused no.2) and Kumar (accused no.3) were operating Resort and in one of rooms, Shajeed (accused no.4) and Nausad T.K. (accused no.5) two persons were found in a compromising position with a woman named Sofiya.

3. On enquiry, Sofiya stated that manager and office boys had called her for immoral trafficking and offered such services to accused no.4 and 5. Inside room they found Rs.5,000/- in cash and unused condom packets. After apprehending accused, seizure mahazar was drawn and articles seized. And after returning to police station, complaint was registered for offences punishable under Sections 3 to 8 of Immoral Traffic (Prevention) Act, 1956 (**Act**) read with Sections 370, 370 (A) and 371 of Indian Penal Code, 1860 (**IPC**) as FIR.

4. It was submitted that initiation of prosecution suffered from various defects. Firstly, complainant was Circle Inspector, whereas Section 13 of Act mandated that only a Special Police Officer (**SPO**) appointed by State Government or a Trafficking Police Officer (**TPO**) appointed by Central Government would be authorized to investigate offences under



Act. Therefore, impugned proceedings set in motion by Police Inspector would be contrary to law. In support of his submission, he relied upon decision of this Court in Criminal Petition no.101909/2023 [**2025:KHC-D:15258**] (**Mirija's** case).

5. It was secondly contented that complainant himself had conducted investigation i.e. he raided premises, arrested accused, drew seizure, panchanama and also recorded statements which were essential features of investigation and therefore on account of bias, impugned proceedings were liable to be quashed. It was thirdly submitted that an offence under provisions of Act, would be cognizable. Indisputably, Police Inspector registered FIR after coming back to police station which would be contrary to ratio laid down by Hon'ble Supreme Court in **Lalita Kumari v. Government of Uttar Pradesh and Ors.**, reported in **(2014) 2 SCC 1**. On said grounds sought for quashing of proceedings.

6. On other hand, Smt.Sowmya R., learned HCGP for respondent no.1 - State opposed petition. It was submitted, on receipt of credible information and after obtaining permission



for conduct of search and seizure from his Superior Officer, complainant had conducted raid. Search had revealed commission of serious offences under provisions of Act. After apprehending accused, Police officer had returned to police station and registered FIR. It was submitted, same would be in nature of preliminary enquiry and would not amount to investigation by relying upon decisions of Hon'ble Supreme Court in cases of **RAH Siguran v. Shankare Gowda @ Shankara and Anr.**, reported in **(2017) 16 SCC 126** and **Anjan Dasgupta v. State of West Bengal and Ors.**, reported in **(2017) 11 SCC 222**.

7. In order to buttress contention that initiation of proceedings was by incompetent person, learned HCGP relied on decision of Hon'ble Supreme Court in **Mukesh Singh v. State (Narcotic Branch of Delhi)** in SLP (Criminal) Diary no.39528/2018, wherein it was held that initiation of proceedings by an incompetent officer would be an irregularity and unless prejudice was demonstrated, same would not be a good ground for quashing of proceedings. On said ground sought for dismissal.



8. Heard learned counsel and perused material on record.

9. This petition is by accused no.1 assailing proceedings initiated by respondent for offences under Act. Main ground of challenge are that initiation of proceedings was by Police officer who was not SPO or TPO. Though, learned counsel for petitioner has relied on decision in **Mirija's** case (supra), in said decision, there is no reference to **Mukesh Singh's** case (supra).

10. Question involved in **Mukesh Singh's** case (supra) was:

*"8. The question which is referred to the larger Bench is, whether in case the investigation is conducted by the informant/police officer who himself is the complainant, the trial is vitiated and in such a situation, the accused is entitled to acquittal?"*

11. Same is answered as follows:

*"12 (II). In a case where the informant himself is the investigator, by that itself cannot be said that the investigation is vitiated on the ground of bias or the like factor. the question of bias or prejudice would depend upon the facts*



*and circumstances of each case. Therefore, merely because the informant is the investigator, by that itself the investigation would not suffer the vice of unfairness or bias and therefore on the sold ground that informant is the investigator, the accused is not entitled to acquittal. The matter has to be decided on a case to case basis. A contrary decision of this Court in the case of Mohan Lal v. State of Punjab (2018) 7 SCC 627 and any other decision taking a contrary view that the informant cannot be the investigator and in such a case the accused is entitled to acquittal are not good law and they are specifically overruled."*

12. It is held that unless case of bias or prejudice was established, conduct of investigation by informant himself would not be a ground for quashing. In view of decision in **Mukesh Singh's** case, judgment in **Mirija's** case cannot be accepted as good law.

13. However, submissions of learned HCGP that conduct of search and seizure, arrest of accused, drawing up of mahazar and seizure of article used for commission of offences cannot be stated to be in nature of preliminary enquiry. Core idea of investigation is to collect material/evidence, whereas



purpose of enquiry is only to ascertain commission of offence. There is no dispute that offences alleged herein are cognizable. Further, Hon'ble Supreme Court in **Lalita Kumari's** case (supra) had held one of aspects of protection of personal liberty of individuals is on receipt of information of cognizable offence, recipient of information would be required to register an FIR and thereafter proceed with investigation. In instant case, very complaint mentions that FIR was registered after completion of search and seizure and coming back to police station. Same would transgress ratio in **Lalita Kumari's** case. On said ground, petition would succeed.

14. Hence, petition is **allowed**, proceedings in CC no.1012/2018 on file of Principal Civil Judge and JMFC., Gundlupet, Chamarajnagar stand **quashed** insofar as petitioner (accused no.1).

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

GRD  
List No.: 1 Sl No.: 20