



CNR: KAHC010179692020

NC: 2026:KHC:43234
CRL.P No. 1095 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL PETITION NO. 1095 OF 2021

BETWEEN:

STATE OF KARNATAKA
BY KUNDAPURA POLICE STATION,
KUNDAPURA,
REP BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU - 560 001.

...PETITIONER

(BY SRI MAHESHA P., HCGP)

AND:

ARAVINDA SHETTY
S/O BHUJANGA SHETTY,
AGED ABOUT 34 YEARS,
R/O 'ASHA NILAYA',
HEBBAGILUMANE,
MALADY, THEKKATTE VILLAGE,
KUNDAPURA TALUK - 576 201.

...RESPONDENT

(BY SRI K.CHANDRANATH ARIGA, ADVOCATE)

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO ALLOW THE ABOVE PETITION BY SETTING ASIDE THE ORDER DATED 26.02.2019 PASSED BY MOTOR ACCIDENT CLAIMS TRIBUNAL, UDUPI (SITTING AT KUNDAPURA) KUNDAPURA IN CRIMINAL REVISION PETITION 9/2017.



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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 order dated 26.02.2019 passed by Additional District Judge and Additional MACT, Udupi (Sitting at Kundapura) in CrI.RP no.9/2017 on application filed under Sections 399 and 400 of Code of Criminal Procedure, 1973 (**CrPC**), this petition is filed by State.

2. Sri Mahesha P., learned HCGP for petitioner-State submitted that Kundapura Police registered Crime no.168/2016 for offence punishable under Section 420 read with Section 34 of Indian Penal Code, 1860 (**IPC**) on complaint by respondent herein. In course of said proceedings, Police had seized sum of Rs.1,46,436/- under PF no.73 and Rs.1,88,980/- under PF no.74/2016. In complaint, application was filed for release of said amount seized in PF no.73. Under order dated 28.07.2017, trial Court rejected application. Aggrieved applicant filed Revision petition under Section 399 of CrPC in CrI.RP no.9/2017 before Additional District and Sessions Judge, Udupi (sitting at Kundapura). On 02.11.2018, same came to be dismissed. In



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said petition, application was thereafter filed under Sections 399 and 400 of CrPC for review/recall of its earlier order dated 02.11.2018 and to allow Revision. On consideration, learned District Judge passed impugned order allowing application, recalling its earlier order dated 02.11.2018 and directing release of amount seized in PF no.73 of 2016 insofar as currency notes of denomination of Rs.1,000/- and Rs.500/-. Assailing same, this petition is filed.

3. It was submitted that once petition under Section 399 of CrPC was dismissed, there would be no provision in CrPC for entertaining application for review or recall. Since impugned order not only reviewed and recalled its earlier final order, but also allowed application even without consideration of claims of other similar complainants, who had lost money to cheating as complainant herein would not be justified and therefore, sought for allowing petition. It was submitted that consideration of application for release could only be after conclusion of trial, when Court would be in a position to identify to whom money seized belonged to. On said grounds, sought for allowing petition.



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4. Learned counsel for respondent opposed petition. It was submitted that there was no dispute about fact that respondent was complainant and had stated clearly that he was cheated of amount of Rs.10,95,900/-. There is also no dispute about fact that in course of investigation, Police had seized/recovered sum of Rs.1,46,436/- and Rs.1,88,980/- and same were lying in deposit before trial Court in PF no.73 and 74 of 2016. An application filed by complainant for release came to be rejected. It was submitted that denomination of currency seized included currency notes of Rs.1,000/- and Rs.500/- which were discontinued due to demonetization. It was therefore submitted that application was filed for release for purpose of exchanging same, otherwise they would loose their value. Though reason assigned by trial Court was that there was no provision for exchange of currency notes by private persons at time of filing application, said position did not prevail at time of passing of impugned order. Specified Bank Notes Cessation & Liabilities Act, 2017 would provide for exchange of demonetized currency notes by individuals. Taking note of fact that said aspect was not considered while dismissing revision petition on 02.11.2018, application was allowed. Therefore,



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order did not warrant interference. It was also submitted that conclusion of trial and disposal would take considerable time and in case cash were allowed to remain in deposit with Court, same would suffer deterioration in value due to inflation. On said ground, sought for dismissal.

5. Heard learned counsel and perused impugned order and material on record.

6. Registration of complaint in Crime no.168/2016 by Kundapura Police Station on complaint by respondent herein and seizure of sum of Rs.1,46,436/- and Rs.1,88,980/- by Police in course of investigation is not in dispute. Application was filed by complainant for release of same was rejected by trial Court and order of rejection questioned before Sessions Court in revision under Section 399 of CrPC. Indeed, revision petition came to be dismissed by order dated 02.11.2018. But said order was recalled and petition allowed under impugned order dated 26.02.2019. Perusal of order of learned Sessions Judge would indicate that reason assigned by trial Court and Revisional Court earlier was that there was no provision for exchange of demonetized currency notes by individuals would



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not hold good and there was apparent error on face of order. It also noted that in pursuance of direction issued, Official of Bank had appeared before Court on 26.09.2018 and addressed correspondence clearly stating that Reserve Bank of India was ready to exchange currency notes seized by Police in crime, which reason would denude order passed by trial Court and Revisional Court earlier of justification.

7. At time of passing said order, learned Sessions Judge also noted that reasoning by learned Trial Judge that there was no material placed on record by applicant for release to show that he was entitled to interim custody of cash seized was also not correct. Under above facts and circumstances, though there would be sufficient justification for learned HCGP to contend that in normal circumstances, learned District Judge would not have power to review or recall its order and if order impugned were to have been passed in a routine manner, same would be unsustainable and illegal. In facts and circumstances of this case, exercise of power by learned Sessions Judge would be in tune with purpose and spirit behind entrusting Court with power under Section 399 of CrPC, which would be to ensure that there will be no failure of justice.



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8. In view of above, by clarifying position in law that there would be no power to review or recall order passed under Section 399 or 400 of CrPC, but by holding that order impugned in instant case would not call for interference, petition is ***dismissed***.

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

AV

List No.: 1 SI No.: 4