



CNR: KAHC010207372021

NC: 2026:KHC:53412
WP No. 10348 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 10348 OF 2021 (GM-RES)

BETWEEN:

1. SRI HARIKUMAR
S/O SRI JAVAREGOWDA,
AGED ABOUT 48 YEARS,
RESIDING AT NINGU NIVAS,
BANNUR RING ROAD,
MANASI NAGAR,
MYSURU – 570 001.
2. SRI VIJENDRA KUMAR
S/O SRI T.NAGARAJU,
AGED ABOUT 54 YEARS,
RESIDING AT
KAPARANA KOPPALU VILLAGE,
SRIRANGAPATNA TALUK,
MANDYA DISTRICT – 571 401.
3. SRI S.N.KANTHARAJU
S/O SRI NARASIMHA NAYAKA,
AGED ABOUT 44 YEARS,
RESIDING AT MANASI NAGAR EXTENSION
HANCHAYA VILLAGE,
MYSURU – 570 001.

...PETITIONERS

(BY SRI L.CHIDANANDAYYA, ADVOCATE)

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Location:
High Court of
Karnataka



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AND:

STATE OF KARNATAKA
REPRESENTED BY
RANGE FOREST OFFICER,
SRIRANGAPATNA RANGE (TOWN)
SRIRANGAPATNA
MANDYA DISTRICT – 571 401.
BY SPP HIGH COURT OF KARNATAKA.

...RESPONDENT

(BY SMT.DEEPTHI ALVA, HCGP)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF THE CR.P.C., PRAYING TO ISSUE AN ORDER, DIRECTION, WRIT IN THE NATURE OF CERTIORARI QUASHING THE CONDITION NO.2 IMPOSED BY THE PRINCIPAL CIVIL JUDGE AND JMFC, SRIRANGAPATNA IN FOC.NO.48/2021-2022 ORDER DATED 19.05.2021 ON THE APPLICATION FILED UNDER SECTION 457 OF CODE DIRECTING THE PETITIONERS TO FURNISH THE BANK GUARANTEE OF RS.10.00 LAKHS FOR THE RELEASE OF EACH OF THE TIPPER LORRIES BEARING REGISTERED NO.KA-09 D 0690 KA-09 D 0691, KA 09 D 0692 KA-11 B 2659, KA-03 D 7928 AND KA-09 D 0689 VIDE ANNEXURE-A; DIRECT THE RESPONDENT TO RELEASE THE LORRIES BEARING REGISTERED NO.KA-09 D 0690, KA-09 D 0691, KA 09 D 0692 KA-11 B 2659, KA-03 D 7928 AND KA-09 D 0689 WITHOUT INSISTING UPON THE PETITIONERS TO FURNISH THE BANK GUARANTEE MUCH LESS BANK GUARANTEE FOR RS.10.00 LAKHS.



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

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

ORAL ORDER

The petitioners are before the Court seeking the following
prayers:

- “(a) **CALL** for the records which ultimately resulted in imposing the Condition No.2 in FOC No.48/2021-22 dated 19.5.2021 on the file of the Principal Senior Civil Judge and JMFC Srirangapatna;
- (b) **ISSUE** an order, direction, Writ in the nature of Certiorari quashing condition No.2 imposed by the Principal Senior Civil Judge and JMFC Srirangapatna in in FOC No.48/2021-2022 order dated.19.5.2021 on the Application filed under Section 457 of Code directing Petitioners to furnish the bank guarantee of Rs.10.00 Lakhs for the release of each of the Tipper Lorries bearing Registered No.KA-09 D 0690, KA-09 D 0691, KA- 09 D 0692 KA-11 B 2659, KA-03 D 7928, and KA-09 D 0689 vide **ANNEXURE-A**
- (c) **ISSUE** an order, direction, Writ in the nature of mandamus directing the Respondent to release the Lorries bearing Registered No.KA-09 D 0690, KA-09 D 0691, KA- 09 D 0692 KA-11 B 2659, KA-03 D 7928, and KA-09 D 0689 without insisting upon the Petitioners to furnish the bank guarantee much less bank guarantee for Rs.10.00 lakhs;
- (d) **ISSUE** such other relief as this Hon’ble Court deems fit in the facts and circumstances of case in the interest of justice.”



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2. Heard Sri L Chidanandayya, learned counsel appearing for the petitioners and Smt Deepthi Alva, learned High Court Government Pleader appearing for the respondent.

3. The petitioners are the owners of the vehicles, which comes to be seized at the hands of the respondent. Petitioners file an application before the concerned Court under Section 457 of the Cr.P.C., seeking release of the vehicles. The concerned Court allows the said application imposing the following conditions:

"....

1. The applicants shall execute the Indemnity bond for a sum of Rs.10,00,000/- each with one surety for the likesum.
2. The applicants shall furnish the bank guarantee of Rs.10,00,000/- each in respect of each seized vehicles in favour of State of Karnataka and the same shall be renewable from time to time till the disposal of the case charged against the seized vehicles.
3. The applicants shall not alienate or transfer the said vehicles in any manner till disposal of this case.
4. The applicants shall not change the colour, model and shape of the seized vehicles till disposal of the case.
5. The applicants shall produce the vehicles as and when directed by the court."



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The first condition is said to be complied with, but the petitioners being aggrieved of condition Nos.2 and 3 have approached this Court in the subject petition.

4. The crime is registered in the year 2021 and we are in 2026. Five years have passed by and the matter is still pending consideration. The vehicles being in custody of the respondent is neither beneficial for the petitioners nor for the prosecution.

5. The learned counsel for petitioners submits that the issue stands answered by the judgment of the coordinate bench of this Court in **W.P.No.200882 of 2019** disposed on **20-02-2019**, wherein the learned Single Judge observed that the condition imposed to furnish bank guarantee was illegal. The coordinate bench holds as follows:

"....

11. This Court in the case of Vivek and another V/s The State of Karnataka by Kunigal Police Station, Tumkur District and another, reported in 2018 (2) KCCR 1239 dealt with filing of the complaint in respect of offences under the provisions of KMMC Rules and MMDR Act and taking of the cognizance of the said offences and the jurisdiction of the Special Court to take cognizance of the alleged offences under the said Act and Rules in detail. This Court has also issued 10 guidelines which should be born in mind by the police, Magistrates and Special Courts



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when a complaint for the offences under the provisions of MMDR Act and KMMC Rules is filed. In para 36 of the order the following guidelines are issued 1 to 10.

"36. (1) The Special Court constituted under the MMDR Act, has no jurisdiction to directly take cognizance of the offences under the MMDR Act and KMMC Rules, even along with any other penal offences unless the case is committed by the jurisdictional Magistrate. It is made clear that the Special Court has no jurisdiction to receive a final, report from the Police u/s. 173 of Cr.PC or to receive any private complaint under the MMRD Act, directly from the authorized officer and take cognizance of the offences either under the MMRD Act or any other penal laws. If any such complaint is erroneously received and pending, the Special Court has to follow the procedure as contemplated under Section 201 of Cr.PC and return the complaint for representation to the proper Court with an endorsement to that effect. Likewise if any police report is received the same has to be transferred to the jurisdictional Magistrate invoking the provisions under Section 228(1) (a) of Cr.PC for appropriate action.

(2) The Police cannot file a final report under Section 173 of Cr.PC for the offences under the MMRD Act & KMMC Rules either to the jurisdictional JMFC Court or to the Special Court. However, they can file the report for the offences under the IPC or any other penal law for the time being in force before the jurisdictional Magistrate.

(3) The jurisdictional Magistrate has no jurisdiction or power to take cognizance for the offence punishable under the MMDR Act & KMMC Rules on the basis of any Police report u/s. 173 of Cr.PC. However, if any penal provisions under the IPC or any other penal laws are available in the final report of the police, if there is no other legal bar; the Magistrate can take cognizance of such offences under the IPC or other penal laws for which he is empowered, except the offences under MMDR Act & KMMC Rules.

(4) A private complaint is only contemplated under the MMDR Act & KMMC Rules and thus it has to be filed u/s. 22 of the Act by the



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competent authorized officer under the MMRD Act & KMMC Rules. Even if other offences under any other penal laws, are also included along with offences under MMDR Act and Rules, the jurisdictional Magistrate, has to take cognizance of the offences under MMDR Act & KMMC Rules only on the basis of the private complaint even though other penal laws are also invoked by the authorized officer and after compliance of relevant provisions of Cr.RC, the Magistrate has to commit the entire the entire case to the Special Court for trial.

(5) The Special Court gets jurisdiction to try the offences under the MMRD Act & KMMC Rules there under including any other offences under any other penal laws for the time being in force only after the case is committed to it for trial by the jurisdictional Magistrate.

(6) If the authorized officer under Section 22 of the MMDR Act, has filed a private complaint, and the Magistrate has taken cognizance of the same, and during the course of inquiry or trial of private complaint, it is made to appear to the Magistrate that an investigation by the police in the same case is pending in relation to the offence which is the subject matter of inquiry or trial held by him then the Magistrate has to stay the proceedings of such inquiry or trial and call for the report on the matter from the police, and thereafter commit both the cases to the special Court, for trial.

(7) If the police have already filed the report under Section 173 of Cr.P.C. for the offences under the MMRD Act and also under Order penal laws, like I.P.C. Motor Vehicles Act or under any other penal law for the time being in force where the Magistrate has taken cognizance of the offences under other Penal laws, during inquiry or trial of such case, if any private complaint is filed as per Section 22 of the said Act, by the authorized officer for the offences under MMDR Act and Rules arising out of same incident, the Magistrate shall stay all further proceedings, and commit both the cases to the special Court for trial of both the cases, as per Section 323 of Criminal Procedure Code, after



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following the procedure as contemplated under Section 202 (2) of Cr.PC.

(8) The Special Court on receipt of the cases as noted at guidelines 6 and 7, relating to the same incident, as the case maybe has to try both the cases together, in accordance with law, adopting the procedure of a sessions trial, in view of the powers vested as per Section 30C of MMDR Act.

(9) The provisions and powers of the Magistrate with regard to the bail and also with regard to the interim custody of the seized properties can be exercised by the Magistrate during the inquiry till the committal of the case to the Special Court.

(10) After committal of the case, the Special Court being the trial Court shall have all the powers of the Sessions Court regarding bail and disposal of the properties involved in the case, as provided under the provisions of the Code of Criminal Procedure.

12. Condition No.1 referred above goes to show that the Special Court Constituted under the MMDR Act has no jurisdiction to directly take cognizance of the offences under the MMDR Act and KMMC Rules, even along with any other penal offences unless case is committed by the jurisdictional Magistrate. It is made clear that the Special Court has no jurisdiction to receive the final report from the police under Section 173 of Cr.PC or to receive any private complaint under the MMDR Act, directly from the authorized officer and take cognizance of the offences either under the MMDR Act or any other penal laws. If any such complaint is erroneously received and pending, the Special Court has to fallow the procedure as contemplated under Section 201 of Cr.PC and return the complaint for presentation to the proper Court with an endorsement to that effect. Therefore, the impugned order under which the learned Prl. District & Sessions Judge / Special Court, Bidar under MMDR Act receiving the private complaint directly and taking cognizance of the alleged offences under the provisions of MMDR Act and KMMC Rules along with Section 379 of IPC and directing the office to register the case against the



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accused and for issue of summons is illegal and without jurisdiction and as such the same is liable to be quashed. Consequently the further order dated 13.12.2018 imposing condition directing the petitioner to furnish bank guarantee for Rs.6,00,000/- for the release of the vehicle to his interim custody is also liable to be relaxed and the said condition to furnish bank guarantee is liable to be set aside.

13. As observed in the case of Sri Vivek and another stated Supra. The impugned order dated 28.01.2019 passed by the learned Prl. District & Sessions Judge, Bidar is liable to be quashed and the complaint filed by the respondent No.2 has to be returned to her with an endorsement to present the same before the proper Court with an endorsement to that effect. Thus the petition deserves to be allowed. Accordingly, I proceed to pass the following...

ORDER

The writ petition filed under Articles 226 & 227 of Constitution of India R/w Section 482 of Cr.P.C. is hereby allowed.

The order dated 28.01.2019 passed in Special Case (MMDR) No.928/2018 on the file of Principal District and Sessions Judge, Bidar vide Annexure-B is hereby quashed.

Consequently the order dated 13.12.2018 passed in the said case directing the petitioner to furnish bank guarantee for a sum of Rs.6,00,000/- for the release of Ashok Leyland Lorry bearing Registration No.KA-38-5040 is hereby quashed and the said condition to furnish bank guarantee is relaxed.

However, Prl. District & Sessions Judge, Bidar is hereby directed to return the complaint to the complainant for presentation to the proper Court with a endorsement to that effect."



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In the light of the order passed by the coordinate bench *supra*, the petition deserves to succeed only in respect of condition Nos.2 and 3 imposed by the learned Magistrate.

6. For the aforesaid reasons, the following:

ORDER

- (i) Writ Petition is **allowed in part.**
- (ii) The conditions 2 and 3 imposed by the Principal Senior Civil Judge and Judicial Magistrate, First Class, Srirangapatna in FOC No.48/2021-22, stand quashed.
- (iii) The vehicles in question shall be released in favour of the petitioners forthwith on compliance with condition No.1 imposed by the learned Magistrate.

Sd/-
(M.NAGAPRASANNA)
JUDGE

BKP
List No.: 1 Sl No.: 0