



CNR: KAHC010264002020

NC: 2026:KHC:46988
CRL.P No. 5208 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 28TH DAY OF AUGUST, 2026
BEFORE
THE HON'BLE MR. JUSTICE RAVI V HOSMANI
CRIMINAL PETITION NO. 5208 OF 2021

BETWEEN:

SRI G V JAGADEESH
S/O Y VENKATAREDDY
AGED ABOUT 40 YEARS
R/O ARURU VILLAGE
MANDIKAL HOBLI
CHIKKABALLAPUR TALUK
CHIKKABALLAPUR DISTRICT - 562 104.

...PETITIONER

[BY SRI PRAKASH B S., ADVOCATE (PH)]

AND:

STATE OF KARNATAKA
BY GUDIBANDE POLICE STATION
GUDIBANDE
REP BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BANGALORE - 560 001.

...RESPONDENT

[BY SMT.SOWMYA R., HCGP FOR RESPONDENT (PH)]

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO QUASH THE CHARGE SHEET VIDE ANNEXURE-D AS WELL AS THE ENTIRE PROCEEDINGS IN C.C.NO.498 OF 2018 ARISING OUT CASE CR.NO.303/2017 OF GUDIBANDE P.S. UNDER SEC.379 OF IPC PENDING ON THE FILE OF THE CIVIL JUDGE AND JUDICIAL MAGISTRATE FIRST CLASS, GUDIBANDE AND ALL FURTHER PROCEEDINGS PURSUANT THERETO AS AGAINST THE PETITIONER.

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

Challenging proceedings in CC no.498/2018, arising out of Crime no.303/2017 of Gudibande Police Station, for offence under Section 379 of IPC, presently stated to be pending on file of Civil Judge and JMFC, Gudibande, and for quashing of all further proceedings pursuant thereto, this petition is filed.

2. Sri BS Prakash, learned counsel for petitioner submitted that petitioner was arraigned as accused no.5 in proceedings initiated on a complaint dated 20.09.2017 filed by District Geologist, Department of Mines and Geology, Chikkaballapura, stating that he was working as Geologist in Mines and Geology Department at Chikkaballapura on deputation since six months. On 20.09.2019, Joint operation was carried out with Deputy Commissioner, Superintendent of Police, Assistant Commissioner, Chikkaballapura, Forest officials, Transport officials, Environment officer, Senior Geologist etc., at Chikkanagavalli, Yalagalhalli and Nandanagenahalli of



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Chikkaballapura Taluk at 01.30 p.m. it was noted that there were several stone crusher units running without obtaining licence in 'C' form using earth moving equipment and transport vehicles. They found that in land bearing Sy.no.43, (New Sy.no.127), there was about 16 metric tons of construction stone in hopper of crusher machine along with one Hyundai Hitachi and four lorries. Said land belonged to petitioner herein. Based on same and alleging that petitioner was extracting mineral with use of Hitachi and lorries for transportation without licence, which would be offence punishable under Section 379 of IPC complaint was filed. It was submitted that on completion of investigation charge sheet was also filed. It was submitted that imputations and prosecution material even if taken on face value would not contain essential ingredients for offence of theft. Relying on judgment of this Court in case of ***M/s.Saraswathi Stone Crusher v. State of Karnataka and Anr.*** (Crl.P. no.1383/2018 disposed of on 13.06.2018), it was submitted that this Court had specifically observed that in order to attract Section 379 of IPC, movement of movable property out of possession of person without said person's consent was



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required to be established. It was observed that mere stocking of material on land would not constitute said offence. On said ground, proceedings were quashed. Drawing a parallel to present case, learned counsel sought for allowing petition.

3. On other hand, Smt.Sowmya, learned HCGP for respondent-State opposed petition. It was submitted that though petitioner had applied for grant of license for stone crusher unit, and had obtained certificate about land situated in safer zone, extraction of building stones was before issuance of licence in Form 'C'. It was submitted that building stone/construction store was a minor mineral covered under provisions of Mines and Minerals (Development and Regulation) Act, 1957 and Karnataka Minor Mineral Concession Rules and would vest in State. By virtue of explanation no.1 to Section 378, mere severance of mineral from earth would attract provision.

4. Heard learned counsel and perused material on record.



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5. This petition is by accused no.5 challenging charge sheet and entire proceedings for offence punishable under Section 379 of IPC. IPC. Said contention is sought to be based on ratio laid down by this Court in **M/s.Saraswathi Stone Crusher's** case while there cannot be any dispute about proposition that this Court had held mere stocking of minor mineral on land would not constitute offence of theft. Specific observations by this Court are as follows:

*"8. On careful perusal of the above said provision, it is clear that in order to attract Section 379 of IPC, there must be movement of any movable property out of possession of any person who is said to be the owner without that person's consent. Any person moves such property in order to such taking, then it amount to committing of theft. **In this particular case, FIR does not disclose any property was found on the spot which was even attempted to be transported, without the consent of the Government and there is no mention of any Government property and Government property was not the subject matter of theft and there is no mention that the petitioners were making arrangements to transport such property.**"*

6. Perusal of charge sheet imputations insofar as petitioner is about operating a stone crusher unit without licence in Form 'C' and usage of Hitachi unit and four lorries for transport. These allegations would take instant case out of



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purview of ratio in ***M/s. Saraswathi Stone Crusher's*** case. Apart from above, in Crl.P. no.1988/2019 [2026 KHC 18827], this Court rejected petition for quashing in respect of accused no.39 to 43 and reserved liberty to petitioners to urge all contentions before trial Court. Said observation is made on ground that there was no explanation offered by petitioners for extracted mineral being found on their land even before issuance of licence.

7. In view of above, contention urged by petitioner is devoid of merit. Consequently, petition is ***dismissed*** with liberty to petitioner to urge contentions before trial Court at appropriate stage.

8. In view of dismissal, pending application stands disposed of.

Sd/-
(RAVI V HOSMANI)
JUDGE

YKL
List No.: 1 Sl No.: 4