



NC: 2026:KHC:47234
CRL.P No. 8915 of 2018

CNR: KAHC010277202018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL PETITION NO. 8915 OF 2018

BETWEEN:

- 1 . D H SOMARAJEGOWDA
S/O LATE HANUMEGOWDA,
AGED ABOUT 70 YEARS,
ASSISTANT GENERAL MANAGER (RETD.,)
PRESENTLY R/AT NO.318,
9TH CROSS,
DUO HEIGHT LAYOUT,
BEGUR, BANGALORE.
- 2 . K MANJUNATH
S/O L KUBENDRA,
AGED ABOUT 52 YEARS,
DEPUTY MANAGER (VRS)
PRESENTLY R/AT
KONANAKUNATE,
BANGALORE.
- 3 . M.K.BALASUBRAMANYA
S/OLATE M.H.KRISHNAPPA,
AGED ABOUT 55 YEARS,
SENIOR MANAGER,
PRESENTLY WORKING AT
KARNATAKA STATE
FINANCIAL CORPORATION,
BRANCH OFFICE, GADAG.
- 4 . T.N. RAGHUVeer
S/O LATE NARAYANA IYANGAR,
AGED ABOUT 72 YEARS,
DEPUTY GENERAL MANAGER (RETD)
PRESENTLY R/AT

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



NC: 2026:KHC:47234
CRL.P No. 8915 of 2018

CNR: KAHC010277202018

MADHUVANA LAYOUT,
SRI. RAMPURA 2ND STAGE,
MYSORE.

- 5 . N.G. CHANDREGOWDA
S/O GUNDE GOWDA
AGED ABOUT 63 YEARS,
ASSISTANT GENERAL MANAGER (RETD)
PRESENTLY R/AT NO.33,
TUNGA ROAD, RAJENDRA NAGAR,
MYSORE.
- 6 . K SHIVKUMAR
S/O LATE MARISWAMY,
AGED ABUOT 56 YEARS,
MANAGER,
PRESENTLY WORKING AS
SENIOR MANAGER,
KARNATAKA STATE FINANCIAL
CORPORATION,
BRANCH OFFICE, MYSORE.
- 7 . KANTHARAJ
S/O RAMASHETTY
AGED ABOUT 55 YEARS,
MANAGER,
PRESENTLY WORKING AS
SENIOR MANAGER,
INTERNAL AUDIT CELL
KARNATAKA STATE FINANCIAL
CORPORATION,
BRANCH OFFICE, KALBURGI.
- 8 . DEVARAJU
S/O ANNAIAH
AGED ABOUT 61 YEARS
RETD DEPUTY GENERAL MANAGER,
PRESENTLY R/AT NO.25,
1ST CROSS, 1ST BLOCK,
NAGARABHAVI, BANGALORE.
- 9 . H.M. VIJAYAKUMAR
S/O H.L.MUDDEGOWDA,
SENIOR MANAGER LEGAL



NC: 2026:KHC:47234
CRL.P No. 8915 of 2018

CNR: KAHC010277202018

AGED ABOUT 55 YEARS
KARNATAKA STATE FINANCIAL
CORPORATION, K.R.ROAD,
SUBHASH NAGAR,
MANDYA - 571 401.

10 . JAYARAJ
S/O LATE MUNIYAPPA,
AGED ABOUT 61 YEARS,
RETD MANAGER,
PRESENTLY R/AT 2871,
3RD MAIN, R.K.LAYOUT,
CHANNAPATNA.

11 . SUKRESH
S/O LATE CHANNAPPA,
AGED ABOUT 61 YEARS,
RETD. ASSISTANT MANAGER,
PRESENTLY R/AT NO.785
10TH MAIN, VIJAYANAGAR,
MYSURU.

...PETITIONERS

[BY SRI BIPIN HEGDE, ADVOCATE (PH)]

AND:

1 . STATE BY MANDYA EAST POLICE STATION
REP BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BANGALORE - 560 001.

2 . RAJKUMAR
S/O LATE RAMASUBBEGOWDA,
AGED ABOUT 40 YEARS,
R/AT KERAGODU,
MANDYA TALUK - 571 446,
MANDYA DISTRICT.

...RESPONDENTS

(BY SRI M.R.PATIL, HCGP FOR R1;
SRI K.R.NAGARAJA, ADVOCATE FOR R2)



NC: 2026:KHC:47234
CRL.P No. 8915 of 2018

CNR: KAHC010277202018

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO QUASH THE ANNEXURE-D ORDER DATED 17.10.2018 PASSED BY THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE, MANDYA IN CRL.RP.NO.116/2018 AND QUASH THE ENTIRE PROCEEDINGS IN P.C.R.NO.535/2018 WHICH IS PENDING ON THE FILE OF II ADDITIONAL CIVIL JUDGE AND J.M.F.C., MANDYA.

THIS PETITION IS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 15.06.2026, THIS DAY, THE COURT, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

CAV ORDER

Challenging order dated 17.10.2018 passed by IV Additional District and Sessions Judge, Mandya in Crl.RP.no.116/2018 and entire proceedings in PCR no.535/2018 pending on file of II Additional Civil Judge & JMFC, Mandya, this petition is filed.

2. Sri Bipin Hegde, learned counsel for petitioners submitted that petitioners were accused no.1 to 11 (**petitioners**) in PCR no.535/2018 filed by respondent no.2 (**complainant**) alleging that as employees of Karnataka State Financial Corporation, Mandya (**KSFC**) between 2000 and 2017, petitioners misused their powers and illegally seized '**M/s.**



CNR: KAHC010277202018

Gurushree Marbles', situated Industrial Estate, Mandya (**Unit**) belonging to complainant's family caused loss by fraud misappropriation and cheating in which accused no.12 to 14 had common intention conspired and abetted commission of offences.

3. In complaint, it was stated that complainant's sister-in-law Late Smt.Leelavathi, allottee of Karnataka State Small Industries Development Corporation Limited (**KSSIDC**) had established granite business with substantial investment along with complainant's mother - Smt.Ningamma in Unit by availing loan to small extent from KSFC with complainant's family members as sureties and their properties as collateral security. That Smt.Leelavathi and her husband died issueless on 16.09.2000 and 14.09.2000 respectively and Smt.Ningamma as their legal heir took over management of Unit under intimation to KSFC and KSSIDC. But when she went to Unit for Ayudha Pooja on 07.10.2000, lock of Unit was broken and replaced with new and unknown persons were stealing movable properties kept outside. On complaint, Police arrived, drew Mahazar of properties kept outside and began investigation but later issued endorsement that as KSFC had



NC: 2026:KHC:47234
CRL.P No. 8915 of 2018

CNR: KAHC010277202018

sealed Unit on 05.10.2000, it was *civil dispute*. Immediately, KSFC was requested to hand over possession of Unit to Smt.Ningamma and for drawing Mahazar or Inventory of assets in presence of complainant's family. But Somarajegowda, Subramanya, Manjunath and other officials of KSFC acted with premeditated intent to misappropriate assets. Family tree furnished for sanction of loan showed Smt.Ningamma as legal heir of lessee. Despite knowing same, they had seized Unit without issuing notice to her. In WP no.24643/2001 filed challenging high-handed seizure, seizure of Unit was held illegal and KSFC directed to restore possession. But on ground that guarantee for loan did not terminate on death of borrower, KSFC continued seizure and aggravated dispute by demanding additional security for covering interest calculated upto 2005. Though in WP no.5496/2006 damages were sought, it was disposed of with liberty to file suit. Hence, Smt.Ningamma through complainant as Power of Attorney filed OS no.15/2009 before Senior Civil Judge, Mandya along with indigent application in Misc.50/2007.



CNR: KAHC010277202018

4. As accused had notified Unit for sale with dishonest intention, applications were filed against misappropriation of assets worth Rs.27,00,000/-. To evade criminal liability false records were created in collusion with officials of KSSIDC. Having stated that assets of Unit were shifted to KSFC godown, Crime no.151/2012 and FIR 278/2012 were stated to be filed alleging theft of assets to mislead Police. Without appointing security guards, Puttaswamy of KSFC created records, illegally debiting expenses to loan account to siphon off money. Later Court Commissioner was appointed and on 01.10.2016, Mahazar of movable and immovable properties of Unit as available were drawn. At that time, M Vijay Kumar, Jayraj, Kantharaj, Devraj officials of KSFC did not inform where assets were stored. Applications for information about missing assets and appeal to Managing Director of KSFC went unanswered. Comparison of assets in Mahazar drawn by Court Commissioner and records of investment in Unit would substantiate dereliction of duty by accused. In WP no.49550/2016, KSFC stated that it had returned land to KSSIDC and sold equipment/machinery to Iqbal Shariff of Sharif Steel Traders, Mysuru. But notice of application for impleading him in suit returned with postal shara



CNR: KAHC010277202018

'no such person, return to sender'. Non-appearance even after Newspaper publication reinforced allegations against accused. And contrary to claim of handing over of Unit to KSSIDC, it was KSFC officials who had keys and opened locks for Court Commissioner, which established manipulation of records.

5. Further, on 28.01.2017 application for sanction to prosecute accused was filed. But there was no response from Chief Secretary to Government of Karnataka and Managing Directors of KSFC and KSSIDC. Complaints were also filed at jurisdictional Police Station and Superintendent of Police, Mandya. But no action was taken due to collusion with accused. On 28.08.2017, police issued endorsement refusing to register FIR. Based on deemed sanction, private complaint was filed. And on 14.06.2018, learned Magistrate directed investigation by Mandya East Police Station. Based on same, FIR in Crime no.108/2018 was registered on 29.06.2018 for offences punishable under Sections 403, 406, 418, 420, 424, 426, 468, 477, 166, 167, 217, 218, 219, 220, 149 of IPC. Though order dated 14.06.2018 was challenged in Crl.R.P.no.116/2018 but dismissed, leading to this petition.



CNR: KAHC010277202018

NC: 2026:KHC:47234
CRL.P No. 8915 of 2018

6. It was submitted as per ratio in **Priyanka Srivastava v. State of U.P.** reported in **(2015) 6 SCC 287**, it was submitted that to ensure credibility and protect interests of justice at pre-cognizance stage itself, learned Magistrate was required to apply mind before directing police investigation under Section 156 (3) CrPC. And in absence of reasons order would be deemed passed without application of mind. Further, simultaneous invocation of offences under Sections 406 and 420 of IPC would be untenable by relying on decisions of Hon'ble Supreme Court in **Delhi Race Club (1940) Ltd. & Ors. v. State of Uttar Pradesh & Anr.** reported in **(2024) 10 SCC 690**; **Inder Chand Bagri v. Jagadish Prasad Bagri & Anr [2025 INSC 1350]**; and **Paramjeet Singh v. State of Himachal Pradesh & Ors [2025 INSC 1118]**.

7. Further, this Court in **Naleen Kumar Kateel v. State of Karnataka** reported in **2024 SCC OnLine Kar 14377** held, only aggrieved person can file complaint. As complainant was neither a borrower, personal guarantor or surety, he lacked *locus standi*. And Section 32 of Securitization and Reconstruction of Financial Assets and Enforcement of



CNR: KAHC010277202018

Security Interest Act, 2002 (**SARFAESI**), explicitly protects secured creditors and their officers from suit, prosecution or legal proceedings for acts done in good faith. Since petitioners acted *bona fide* within official capacity for recovery of institutional dues, they were entitled for statutory immunity.

8. Relying on decisions of Hon'ble Supreme Court in **Paramjeet Batra v. State of Uttarakhand** reported in **2013 (11) SCC 673**, **Usha Chakraborty v. State of West Bengal** reported in **2023 (15) SCC 135**, **Sarabjith Kaur v. State of Punjab** reported in **2023 (5) SCC 360**, wherein it was held that Criminal Courts are not meant to be used for settling scores or pressurise parties to settle civil dispute, it was submitted a 'civil dispute' was given criminal color after filing of OS no.15/2009 by complainant as Attorney of his mother. It was submitted suit was initially dismissed on 25.07.2019 and after remand by this Court in RFA no.2035/2019 it was dismissed again and pending in appeal. Hence, proceedings were untenable and prayed for allowing petition.



CNR: KAHC010277202018

9. Sri MR Patil, learned HCGP for respondent no.1-State opposed petition. It was submitted that matter was under investigation and prayed for dismissing petition.

10. Sri KR Nagaraja, learned counsel for complainant, at outset submitted that complainant as guarantor to loan sanctioned by KSFC had *locus standi* to file complaint. It was submitted, decision in **Priyanka Srivatsava**'s case (supra) was an authority for requirement of filing of affidavit by complainant along with private complaint, which was complied. And, without resort to recovery mechanism under Section 14 of SARFAESI, immunity under Section 32 thereof would not apply. And as learned Magistrate passed order for investigation after examining material, there was no error calling for interference. And lastly, prosecution material contained ingredients for all offences alleged and even if simultaneous invocation of Sections 406 and 420 of IPC was untenable, entire proceedings cannot be quashed. On above grounds, sought dismissal.

11. Heard learned counsel and perused material on record.



CNR: KAHC010277202018

12. This petition is by accused no.1 to 11 challenging order dated 17.10.2018 as well as entire proceedings in PCR no.535/2018.

13. Main grounds urged are, non-application of mind before directing investigation by police under Section 156 (3) of CrPC, relying on **Priyanka Srivastava's** case (*supra*); invocation of Sections 406 and 420 of IPC as untenable, relying on **Delhi Race Club, Inder Chand Bagri and Paramjeet Singh's** cases (*supra*); complainant lacking *locus-standi*, relying on **Naleen Kumar Kateel's** case (*supra*); immunity under Section 32 of SARFAESI and civil dispute given criminal flavor, relying on **Paramjeet Batra, Usha Chakraborty and Sarabjith Kaur's** cases (*supra*).

14. At outset, when material on record shows complainant as guarantor contention about lack of *locus standi* based on decision in **Naleen Kumar Kateel's** case (*supra*) would not sustain. Though unsustainability of simultaneous invocation of Sections 406 and 420 of IPC is held in **Delhi Race Club's** case (*supra*), it is clarified that same would require appreciation by trial Court, whether essential ingredients of



CNR: KAHC010277202018

either of offences are indicated and to take cognizance accordingly. Said exercise would require to be done by learned Magistrate.

15. Likewise, ratio in ***Paramjeet Batra, Usha Chakraborty and Sarabjith Kaur's*** cases (supra) about purely civil disputes being given criminal flavor is well entrenched, it is held in **Mohammed Ibrahim & Ors. v. State of Bihar & Anr.** reported in **(2009) 8 SCC 751** that mere existence of civil and criminal remedies would not be a bar against initiation of Criminal Proceedings, if essential ingredients of offences are established.

16. Insofar as claim of immunity, Section 32 of SARFAESI as it stood prior to amendment of 2016 reads:

"32. Protection of action taken in good faith.

*No suit, prosecution or other legal proceeding shall lie against any secured creditor or any of its officers or manager exercising any of rights of secured creditor or borrower **for anything done or omitted to be done in good faith under this Act.**"*

17. Thus, immunity can be claimed in case of acts/action for recovery measures/proceedings taken under



CNR: KAHC010277202018

SARFAESI. Records do not indicate steps taken by petitioners were under said Act. Hence, protection would not be available.

18. Perusal of order dated 14.06.2018 reveals that on noting presence of complainant, learned Magistrate ordered for registration of private complaint, forwarding records to Mandya East Police Station for investigation and report. Whether such order indicates application of mind is answered by Hon'ble Supreme Court in case of **Anurag Bhatnagar v. State (NCT of Delhi)**, reported in **2025 SCC OnLine SC 1514**, as follows:

"Point (ii): Whether the order dated 01.07.2005 passed by the Metropolitan Magistrate is an order passed without application of mind, irrespective of the fact that it states that the parties were "heard" and the documents were "perused"?"

35.
.....
.....

39. The order of the Magistrate dated 01.07.2005 clearly states that the Magistrate had "heard" the counsel on the application under Section 156(3) and had "perused" the complaint which reveals commission of a cognizable offence. The said order is reproduced below:

"Fresh Complaint received along with application u/s 156(3) Cr.P.C. Be checked and registered. Heard on the application u/s 156(3) Cr.P.C. Ld. Counsel for the complainant has relied upon a judgment of Allahabad High Court which is reported as "2005 CriLJ 2028". The perusal of the



CNR: KAHC010277202018

complaint reveals the commission of cognizable offence and the SHO Police Station Defence colony is directed to get the case registered and investigate the matter u/s 156 (3) Cr.P.C. the compliance report be called for 05.10.2005."

40. *The mere stating in the order that the counsel has been heard and the application and the material produced have been perused, may not be indicative of the fact that the Magistrate had actually applied his mind to the controversy in issue. However, the fact that the perusal of the application and complaint attached to it, satisfied the Magistrate that it discloses a cognizable offence, is very material and relevant which proves the application of mind by him. Once such a satisfaction has been recorded by the Magistrate, even if wrongly, it is not liable to be interfered with in exercise of inherent powers by the higher courts. The powers vested in the court either under Section 482 CrPC or Article 226/227 of the Constitution of India are not for the purposes of appreciating the evidence or examining the correctness of the evidence collected during investigation to record a different conclusion other than recorded by the Magistrate that he is satisfied that a cognizable offence has been disclosed in the application/complaint. Moreover, when information disclosing commission of cognizable offence is conveyed to the police station, the officer-in-charge of the police station cannot refuse to register the FIR. Therefore, if an FIR has not been registered for any reason at the police station and the Magistrate is satisfied that the information discloses a cognizable offence, he can certainly direct for its registration obviously on compliance of the provisions of Section 154(3) of the CrPC. This is exactly what has been done by the Magistrate by way of his order dated 01.07.2005 though ignoring the remedy under Section 154(3) of the CrPC which, as said earlier, amounts to mere procedural irregularity.*



NC: 2026:KHC:47234
CRL.P No. 8915 of 2018

CNR: KAHC010277202018

41. *In these facts and circumstances, for the reason that the Magistrate not only heard the counsel and perused the documents but has even considered the case law cited and has opined that the information discloses a cognizable offence, implies that he has actually applied his mind to the contents of the application before passing the impugned order directing for the registration of the FIR. Therefore, we find no fault with the order of the High Court in refusing to quash the order dated 01.07.2005 on the above score."*

19. In view of above, it is evident that impugned order dated 14.06.2018 passed by learned Magistrate would not meet standards set above. Thus, impugned order dated 17.10.2018 passed by Revisional Court, confirming same would also warrant interference.

20. Consequently, petition ***succeeds in part***, impugned order 14.06.2018 passed by II Additional Civil Judge & JMFC, Mandya in PCR no.535/2018 and order dated 17.10.2018 passed by IV Additional District and Sessions Judge, Mandya in Crl.R.P.no.116/2018 are *quashed*.

Sd/-
(RAVI V HOSMANI)
JUDGE

YKL,AV
List No.: 1 SI No.: 45