



CNR: KAHC010292542019

NC: 2026:KHC:49729
CRL.P No. 6923 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL PETITION NO.6923 OF 2019

BETWEEN:

MR. S.V. RAMASWAMY
AGED ABOUT 71 YEARS
S/O LATE VIJERAGHAVAN
R/AT NO.358, HIG,
13TH CROSS, 5TH MAIN,
R.M.V. 2ND STAGE,
BENGALURU - 560 094.

...PETITIONER

(BY SRI. NISHANTH A.V, ADVOCATE)

AND:

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA

1. MR. G.R. ITIGI
S/O LATE RAGHAVENDRA ITIGI
AGED ABOUT 60 YEARS,
R/AT NO.774,
10TH D CROSS, 5TH MAIN,
WEST OF CHORD ROAD,
BENGALURU - 560 036.
2. THE STATE OF KARNATAKA
VYALIKAVAl POLICE STATION,
BENGALURU
REP. BY THE OFFICE OF
THE STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDINGS,



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BENGALURU - 560 001.

...RESPONDENTS

(BY SRI. M.R. NANJUNDA GOWDA, ADVOCATE FOR R1;
SRI. SUHAS GOWDA M, HCGP FOR R2)

THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO (a)
QUASH THE ORDER DATED 07.08.2019 PASSED IN
CRL.R.P.NO.496/2014 IN THE COURT OF THE LXV ADDITIONAL
CITY CIVIL AND SESSION JUDGE, BENGALURU CITY (CCH-66)
VIDE ANNEXURE-H.

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

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

ORAL ORDER

Heard the learned counsel for the petitioner and learned
counsel appearing for the respondents.

2. The prayer sought in this petition is to quash the
order dated 07.08.2019 passed in Crl.R.P.No.496/2014,
whereby the order passed by the Trial Court was confirmed, as
well as the order dated 07.05.2014 passed in C.C.
No.13972/2008 and to pass such other order or orders and



grant such other relief as this Hon'ble Court may deem fit in the circumstances of the case.

3. Learned counsel appearing for the petitioner would contend that a private complaint was filed in PCR No.20601/2005 and while filing the complaint under Section 200 of the Cr.P.C., the complainant invoked the offences punishable under Sections 406 and 420 of the IPC. The Trial Court referred the matter for investigation under Section 156(3) of the Cr.P.C. The Investigating Officer registered a case in Crime No.123/2005 for the offences punishable under Sections 405, 406 and 420 read with Section 34 of the IPC. After investigating the matter, filed the charge sheet on 09.07.2008. Upon filing of the charge sheet, the Trial Court took cognizance of the offences and thereafter considered the material on record for framing charges. By order dated 07.05.2014, vide Annexure-C, the Trial Court considered whether there was sufficient material to raise a presumption that the accused has committed the offences punishable under Sections 406 and 420 of the IPC. Consideration of the material on record, the Trial Court came to the conclusion that there



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was no such material to proceed against the accused for the said offences and discharged the accused for the offences punishable under Sections 406 and 420 of the IPC. The said order is challenged before the Revisional Court in Crl.R.P. No.496/2014.

4. Though the Trial Court passed the order on 07.05.2014, the said order was challenged by filing a revision petition before the Revisional Court. The Revisional Court, by its order dated 07.08.2019, considered the question of delay in filing the revision petition and came to the conclusion that the petitioner had shown sufficient cause for condonation of the delay. The Revisional Court thereafter considered whether the order passed by the Trial Court discharging Respondent No.1 from the offences punishable under Sections 406 and 420 of the IPC called for any interference. On consideration of the material on record, the Revisional Court came to the conclusion that no such ground was made out by the petitioner and accordingly, dismissed the revision petition.

5. Being aggrieved by the order of discharge and the order of confirmation, the present petition is filed praying this



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Hon'ble Court that the Revisional Court has committed an error in considering the delay as well as considering the matter. It is further contended that the Revisional Court failed to take note of the fact that the private complaint was filed before the Trial Court and the matter was referred to the police for investigation under Section 156(3) of the Cr.P.C., and after the completion of investigation, a charge-sheet was filed. But while passing the order of discharge, the Trial Court committed an error in discharging the accused without giving any opportunity to the original complainant/de facto complainant. The said order of discharge was confirmed by the Revisional Court.

6. Learned counsel for the petitioner would vehemently contend that the order passed by the Trial Court is erroneous, as the same was passed without giving an opportunity to the original complainant/de facto complainant. The order passed by the Revisional Court, confirming the order of discharge, is also erroneous. According to the learned counsel, the principles of natural justice have not been met while discharging the accused. In support of his arguments, learned counsel for the petitioner places reliance upon the



judgment of the Bombay High Court in the case of ***Prakash C. Sheth Vs. State of Maharashtra and Another¹***.

7. Learned counsel for the petitioner has brought to the notice of this Court that the judgment of the Bombay High Court, wherein, in paragraph No.7, the Court has taken note of the judgment of the Hon'ble Apex Court in ***Sundeep Kumar Bafna Vs. State of Maharashtra*** and has also considered the principles laid down therein. The Bombay High Court has elaborately discussed the said principles in paragraphs Nos.8, 9, 10, 11 and 12. The Court has also discussed the scope of sub-section (2) of Section 401 of the Cr.P.C. and has held that the object behind enacting the said provision is to grant an opportunity of hearing to the affected person and for adherence of the principles of natural justice. In the case on hand also, no opportunity of hearing was given to the complainant, who had filed the private complaint and the complaint is also initiated at the instance of the petitioner herein.

¹ 2020 SCC OnLine Bom 11800



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8. Learned counsel appearing for the respondents would contend that, once a case is registered and the investigation is conducted by the police and once the State takes action on behalf of the de-facto complainant, the question of providing an opportunity of hearing to the de-facto complainant does not arise.

9. Having considered the principle laid down in the case of ***Prakash C. Sheth*** (supra) by the Bombay High Court, which has also referred to the judgment of the Hon'ble Apex Court, Sandeep Kumar, in the instant case was initiated at the instance of the de facto complainant, a private complaint was filed, the matter was investigated by the police and cognizance was taken. The Trial Court ought to have given an opportunity to the complainant, or otherwise it affects the de-facto complainant and the discharging of the accused is giving an end to the proceedings initiated by the complainant or attaining of finality. The said opportunity is not given to the complainant. It is nothing but a clear violation of the principles of natural justice. The Bombay High Court, in paragraph No.10 of the said judgment, has also considered the scope of revision



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as well as the scope and ambit of the Trial Court and also taken note of the violation of the principles of natural justice as observed in the judgment of Apex Court. The further observation made that the object behind enacting the provision is to grant an opportunity of hearing to the affected person and for adherence of the principles of natural justice. Such being the said principles of natural justice is not followed and no opportunity is given to the original complainant, who is the de facto complainant. The State is not the affected party and only a de jure complainant. The de facto complainant is the affected party in view of the order of discharge passed by the Trial Court and the same amounts to finality. The same is questioned before the Revisional Court. However, the Revisional Court also failed to consider the same. Instead of considering the issue involved between the parties, with regard to giving an opportunity of principles of natural justice, the Revisional Court also committed an error magnifying with regard to the delay is concerned as well as dismissal of the revision petition. Thus, the Revisional Court failed to consider the fundamental issue involved between the parties and also fails to consider the



foundational facts of the case and committed an error in dismissing the revision petition. Hence, the order passed by the Trial Court as well as the order passed by the Revisional Court, is liable to be quashed.

10. In view of the discussions made above, I pass the following:

ORDER

- i. The Criminal Petition is ***allowed*** and remanded to the Trial Court.
- ii. The order passed by the Trial Court discharging the accused in C.C. No.13972/2008, dated 07.05.2014 and the order passed by the Revisional Court confirming the same in Crl.R.P. No.496/2014, dated 07.08.2019, are hereby set aside.
- iii. The matter is remitted back to the Trial Court to give an opportunity to the Revision Petitioner and also hear the matter with regard to framing of charge by giving an opportunity. The charge sheet was filed in the year 2008 and nearly two decades have elapsed. Therefore, the Trial judge is



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directed to consider the issue regarding framing of charge within a period of three months also considering the application of discharge.

- v. The respective learned counsel and the parties are directed to assist the Trial Court in considering the same in a time bond direction given by this Court.
- vi. The parties are directed to appear before the Trial Court on **03.10.2026**
- vii. The learned Trial Judge shall take up the matter on 03.10.2026 without fail and proceed with the matter in accordance with law.

Sd/-
(H.P.SANDESH)
JUDGE

AMA
List No.: 1 Sl No.: 35