

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF OCTOBER, 2026

BEFORE

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

CRIMINAL PETITION NO.6931 OF 2019

BETWEEN:

SRI. BALACHANDRA M.
S/O REVANA SIDDAPPA
AGED ABOUT 71 YEARS
R/O NO.27, 9TH MAIN, 1ST CROSS
RAJMAHAL VILAS EXTENSION
BENGALURU-560080

...PETITIONER

(BY SRI. ATUL K. ALUR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS
DEPUTY SUPERINTENDENT OF POLICE
CID (EOD) SQUAD, CARLTON HOUSE
PALACE ROAD, BENGALURU-560 001
2. THE SUB INSPECTOR OF POLICE
MADIWALA POLICE STATION
HOSUR MAIN ROAD
OPP TOTAL MALL
BENGALURU-560068
3. THE ASSISTANT COMMISSIONER
OF COMMERCIAL TAXES
(LVO-015), (ADDITIONAL) VTK-2
KORAMANGALA
BENGALURU-560047

...RESPONDENTS

(BY SRI. MOHAMMED AYUB ALI, ADDL. SPP FOR R1 AND R2)

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO SET ASIDE THE CHARGE SHEET FILED BY THE RESPONDENT NO.1 DATED 31.05.2016 PENDING BEFORE THE I ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, BENGALURU, IN C.C.NO.15735/2016, FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 465, 468 AND 471 R/W SECTION 34 OF IPC, ORIGINAL FIR IN CR.NO.301/2012 OF MADIWALA POLICE STATION AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 05.10.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

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

CAV ORDER

This petition is filed by accused No.2 praying this Court to quash the charge sheet filed against this petitioner along with accused No.1 for the offences punishable under Sections 465, 468, 471 read with Section 34 of IPC and so also the FIR in Cr.No.301/2012 of Madiwala Police Station.

2. Heard the learned counsel appearing for the respective parties.

3. The factual matrix of case of the prosecution is that the accused have committed the offences under Sections 465, 468, 471 read with Section 34 of IPC and case has been registered in Crime No.301/2012 and police have investigated the matter and filed the charge sheet. The Trial Court also taken the cognizance on 05.07.2016. Though this petitioner was not the accused in FIR, but while filing the charge sheet, he has been arrayed as accused No.2. The specific accusation is made against this petitioner in the charge sheet that when the transaction was taken place between accused No.1 and this petitioner for the period from 10.11.2011 to 16.01.2012, 130 E-sugams were found. In respect of this petitioner is concerned, in serial number 2 of Interim Report in respect of Dath Engineering bearing TIN No.29370844727, purchase value is Rs.5,98,580/- and evading of tax is Rs.23,943/- based on two E-Sugams and claim is found in column number 17 of the charge sheet. Hence, filed the charge sheet.

4. The main contention of the counsel appearing for the petitioner is that there is a provision under Section 80 of

the Karnataka Value Added Tax Act, 2003 (for short 'KVAT Act') wherein it is held that no Court shall take cognizance of any offence punishable under Section 72 and 79 except with the previous sanction of the Joint Commissioner and no Court inferior to that of a Magistrate of the First Class, shall try any such offence.

5. The Counsel also in his arguments vehemently contend that the FIR is registered only against accused No.1 and permission is also granted against accused No.1 to file the case. The matter also referred to CID and an interim report was also submitted and also permission is granted to file charge sheet within 30 days. But the charge sheet was filed belatedly. The counsel also brought a notice of this Court Annexure-J wherein this petitioner categorically denied the transaction. The counsel also brought to notice of this Court the order passed by the competent authority of re-assessment, wherein also drafted the proceedings against the petitioner. The counsel also contend that there is no purchase and no sale and brought to notice of this Court Article 166 of Constitution of India. The counsel would contend that when the time was granted to file charge sheet i.e., within 30 days and the said time was not extended, the same is not filed within 30 days. But it is filed

after 3 years. The allegation is that accused No.1 has created the documents. But this petitioner has not indulged in such act. Hence, question of invoking the offences under Section 465, 468, 471 r/w Section 34 against this petitioner does not arise.

6. The counsel appearing for the State in his arguments would contend that an interim report is also filed wherein the accusation is made. No doubt, there is a provision under the special enactment under Section 80 of KVAT Act that no Court can take cognizance. But that is only in respect of Sections 72 and 79 of KVAT Act and the same has not been invoked against this petitioner. The allegation against this petitioner is that he had indulged in creation of E-sugam and evaded the tax and both accused Nos.1 and 2 have indulged in such act. Hence, sanction is not required. The counsel also would contend that for filing of charge sheet in respect of IPC offences, no period can be fixed. The counsel for the petitioner also not disputes the fact that charge sheet is filed under the IPC offences and not under the special enactment.

7. In reply to this arguments, the counsel appearing for the petitioner brought to notice of this Court Section 42 of KVAT Act. The counsel would contend that there is a provision

for recovery. The counsel also contend that there is an assessment and in the assessment also it is concluded that there is no evasion of tax. The counsel also contend that there is no purchase or sale and no such consideration is paid. Hence, the question of adding this petitioner as an accused does not arise. The counsel would vehemently contend that the charge sheet is also filed belatedly. Hence there cannot be any prosecution against this petitioner.

8. Having heard the learned counsel appearing for the respective parties and also considering the material on record, it discloses that having received the complaint, case was registered against accused No.1 at the first instance and no FIR was registered against the petitioner herein. But while filing the charge sheet, added the name of this petitioner stating that he being the owner of the Dath engineering, indulged in creation of E-sugam and based on 2 E-sugams, purchase was made to the extent of Rs.5,98,580/- and tax was not paid to the tune of Rs.23,943/-. Hence, this petitioner is arrayed as accused No.2 while filing the charge sheet.

9. No doubt, the counsel appearing for the petitioner brought to notice of this Court Annexure-B i.e., order under

Section 39(1), 36 and 72(2) of the KVAT Act, 2003 read with Rule 46(1) of the KVA Rules 2005 and re-assessment order is passed on 06.07.2015 and the same is in respect of the period from April 2010 to March 2011 and the same are deemed to have been accepted and further proceedings are hereby dropped. Though this document is relied upon by the counsel for the petitioner, the same is for the period between April 2010 to March 2011, but the allegation against the petitioner is in respect of the period of November 2011. Hence this document does not come the aid of the petitioner. The counsel also brought the notice of this Court the permission which is granted only in respect of accused No.1 vide Annexure-A. No dispute that at the first instance, the case was registered against accused No.1. The counsel also brought the notice of this Court Annexure-E and the same is in respect of the Interim Report of the Additional Commissioner of Commercial Taxes wherein it is observed that the dealer has also filed police complaint on 14.03.2012 before the Modiwala Police and the FIR was registered that is with regard to the purchasing dealers as the proprietor of this firm. But in the interim report, also included the name of this petitioner. The complaint also filed by accused No.1 as per Annexure-K with regard to the misuse of

M/s Classic Steals user name and password by Azeem Ulla (Auditor) and his staff wherein also, the name of this petitioner and TIN number is mentioned. The police have investigated the matter and filed the charge sheet. While filing the charge sheet, invoked the offences under Sections 465, 468, 471 read with Section 34 of IPC.

10. The very contention of the counsel for the petitioner that the permission is required cannot be accepted if the IPC offences are invoked particularly, with regard to the creation of document and using of the said document i.e., forged document as genuine. The specific allegation against this petitioner is that he evaded the tax and created the document. No doubt, as per Annexure-J, the petitioner has given details stating that they have not done any type of business with M/s Classic Steel and not taken input credit for the same in their monthly return and in support of the same, given the purchase details for the month of October, 2011, November, 2011, December, 2011 and January, 2012 and VAT 240 for the year 2011-12. But the police have investigated the matter and filed the charge sheet considering usage of 2 E-sugam Challans and so also transaction to the tune of Rs.5,98,580/- and the very same TIN number of Dath Engineering belongs to the petitioner

who is the proprietor of the said concern. The specific accusation is also made in Column No.17 of the charge sheet that this petitioner evaded of tax to the tune of Rs.23,943/-. The very contention of the counsel for the petitioner that this petitioner is nowhere connected to this transaction cannot be considered at the time of considering the charge sheet material when the specific accusation is made in the charge sheet arraying this petitioner as accused that transaction was taken place. This Court cannot venture to consider the disputed facts. In the complaint Annexure-K, name of this petitioner is also mentioned and so also in the charge sheet and specific accusation is made while filing the charge sheet against this petitioner. Whether this petitioner had indulged in such act of creation of document and used the same as genuine is a matter of trial.

11. The very contention of the counsel for the petitioner that under Section 42 of KVAT Act, recovery could be made. But it is not the case of recovery. It is a case of creation of document and using of the same as genuine and evading of the tax. Whether such act was done by this petitioner or not is a matter of trial. Hence, I do not find any force in the contention of the petitioner's counsel that charge sheet was not filed

within time. The counsel for the State has rightly pointed out that the offences are invoked under Sections 465, 468, 471 of IPC and the period of 30 days to file the charge sheet as contended by the counsel for the petitioner cannot be accepted when serious allegation was made invoking the offences under Sections 465, 468, 471 read with Section 34 of IPC.

12. The other contention of the petitioner's counsel that this petitioner was not an accused in the FIR and the same cannot be a ground to quash the charge sheet. It is the domain of the Investigating Officer to investigate the matter and even array any of the accused who have indulged in such act in the charge sheet and there is no any prohibition that if the name of the petitioner is not found in the FIR, he cannot be arrayed as an accused. Having perused the material available on record and having considered the documents which have been produced along with the petition including the earlier assessment and also the interim report and also inclusion of this petitioner as an accused at the time of filing of charge sheet, it discloses that the serious allegations are made against the petitioner and the same is a matter of trial. Hence, I do not find any grounds to exercise the powers under Section 482 of Cr.P.C. The Court can exercise the power under Section 482 if

there is no any substance in the allegations made in the complaint and charge sheet and such circumstances is not warranted in the case on hand.

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

ORDER

The petition is dismissed.

**Sd/-
(H.P.SANDESH)
JUDGE**

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