



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

WRIT PETITION NO.43755 OF 2019 (GM-RES)

BETWEEN:

1. SRI M VIJAYANNA
S/O. LATE GANGAIAH,
AGED ABOUT 55 YEARS,
ELECTION TAHSILDAR,
OFFICE OF THE DEPUTY COMMISSIONER,
MANDYA - 574 401.
2. SMT. GEETHA PATTAR
W/O. SHASHIDHAR PATTAR,
AGED ABOUT 49 YEARS,
VILLAGE ACCOUNTANT,
YALAHANKA, TALUKA OFFICE,
BANGALORE - 560 064.
3. SRI CHANNEGOWDA
S/O LATE MUNIVENKATE GOWDA,
AGED ABOUT 67 YEARS,
RETIRED VILLAGE ACCOUNTANT,
6TH CROSS, JAYANAGAR, KOLAR - 563 101.

...PETITIONERS

(BY SRI TIGADI VEERANNA GADIGEPPA, ADVOCATE)

AND:

1. SMT. MUDDAMMA T V.,
W/O GANDALAHALLI VENKATESHAPPA,
AGED ABOUT 61 YEARS,
R/O THOTLI VILLAGE,
SUGATUR HOBLI,
TALUK & DIST: KOLAR - 563 101.

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



2. STATE OF KARNATAKA
REP BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BENGALURU - 560 001.

...RESPONDENTS

(BY SRI RAJENDRA S., ADVOCATE FOR
SRI CHIDAMBARA G S., ADVOCATE FOR R1;
SMT. SOWMYA R., HCGP FOR R2)

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF THE
CONSTITUTION OF INDIA, PRAYING TO QUASH ANNEXURE-A
THE COMPLAINT AND ANNEXURE-E THE ORDER DATED
4.06.2019 TAKING COGNIZANCE OF THE OFFENCES
PUNISHABLE U/S 465, 468 AND 420 INDIAN PENAL CODE
AGAINST THE PETITIONERS IN CRIMINAL CASE NO.227/2018
PENDING ON THE FILES OF THE LEARNED I ADDITIONAL CIVIL
JUDGE AND JUDICIAL MAGISTRATE FIRST CLASS, KOLAR.

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 complaint at Annexure-A and order dated
04.06.2019 passed by I Additional Civil Judge and J.M.F.C.,
Kolar in CC no.353/2019 for offences punishable under Sections
465, 468 and 420 of Indian Penal Code, 1860 (**IPC**), this
petition is filed.



2. Sri Veeranna G. Tigadi, learned counsel for petitioners submitted that petitioners were accused no.2, 3 and 5. Complaint in PCR no.18/2016 filed by respondent no.1 - complainant alleging tampering of Government records. It was submitted, as per direction in private complaint, Police had conducted investigation and filed 'B' report. However, learned Magistrate failed to comply with procedure mandated by this Court in **Dr.Ravikumar v. Mrs.KMC Vasantha and Anr.**, reported in **ILR 2018 KAR 1725**, without examining contents of 'B' report and without passing any specific order rejecting it straightaway examining contents of protest petition and material placed on record. On said ground seeks for quashing.

3. It was further submitted, claim of complainant with regard to land in question was subject matter of OS no.698/2019 on file of Principal Civil Judge and JMFC, Kolar, filed for declaration of title, permanent injunction and for other reliefs, which came to be dismissed. Even appeal in RA no.83/2019 filed thereagainst was dismissed on 20.12.2021. Thus Courts had concurrently rejected complainant's claim. Therefore, for want of *locus standi*, complaint was liable to be quashed.



4. On other hand, Smt.Sowmya R., learned HCGP for respondent no.2 and Sri Rajendra S., learned counsel appearing for Sri Chidambara G.S., advocate for respondent no.1 opposed petition. It was submitted, though there was no specific order of rejection of 'B' summary report, learned Magistrate had applied mind and took cognizance on finding sufficient material. Therefore, no interference was warranted. Insofar as contention regarding *locus standi*, it was submitted that judgment and decree passed by trial Court and first appellate Court were challenged in second appeal and same was pending.

5. Heard learned counsel, perused impugned complaint and order.

6. At outset, insofar as *locus standi*, though suit for declaration filed by complainant and appeal appears to have been dismissed, but second appeal filed thereagainst stated to be pending before this Court. Until final conclusion of said proceedings, it may not be appropriate to hold complainant lacking *locus standi*.



7. Insofar as other grounds urged, perusal of judgment in **Dr.Ravikumar's** case reiterate as follows:

"5. The procedure followed by the Learned Magistrate is not in accordance with law. It is well recognized principle of law that, once the Police submit 'B' Summary Report and protest petition is filed to the same, irrespective of contents of the protest petition, the Court has to examine the contents of 'B' Summary Report so as to ascertain whether the Police have done investigation in a proper manner or not and if the Court is of the opinion that the investigation has not been conducted properly, the Court has got some options to be followed, which are,-

- i) The court after going through the contents of the investigating papers, filed u/s 173 of Cr. P.C., is of the opinion that the investigation has not been done properly, the court has no jurisdiction to direct the Police to file the charge sheet however, the Court may direct the Police for re or further investigation and submit a report, which power is inherent under section 156(3) of Cr. P.C., but before taking cognizance such exercise has to be done. This my view is supported by the decisions of the Hon' ble Apex Court in a decision reported in between **ABHINANDAN JHA V. DINESH MISHRA** [AIR 1968 S.C. 117.] (para 15) and also Full Bench decision of Apex Court in between **Kamalapati Trivedi v. State of West Bengal** [(1980) 2 SCC 91.] (second head note.)
- ii) If the court is of the opinion that the material available in the 'B' Summary Report makes out a cognizable case against the accused and the same is sufficient to take cognizance, and to issue process, then the court has to record its opinion under Sec. 204 of Cr. P.C., and the Court has got power to take cognizance on the contents of 'B' Summary Report and to proceed against the accused, by issuance of process.
- iii) If the court is of the opinion that the 'B' Summary Report submitted by the Police has to be rejected, then by expressing its judicious opinion, after



applying its mind to the contents of 'B' report, the court has to reject the 'B' Summary Report.

- iv) After rejection of the 'B' Summary Report, the court has to look into the private complaint or Protest Petition as the case may be, and contents therein to ascertain whether the allegations made in the Private complaint or in the Protest Petition constitute any cognizable offence, and then it can take cognizance of those offences and thereafter, provide opportunity to the complainant to give Sworn Statement and also record the statements of the witnesses if any on the side of the complainant as per the mandate of Sec. 200 Cr. P.C.
- v) If the court is of the opinion that the materials collected by the police in the report submitted under section 173 of Cr. P.C. are not so sufficient, however, there are sufficient materials which disclose that a cognizable offence has been committed by the accused, the court can still take cognizance of the offence/s under Section 190 read with 200 Cr. P.C. on the basis of the original complaint or the protest petition as the case may be. After taking cognizance and recording sworn statement of the complainant and statements of witnesses if any and also looking into the complaint/Protest Petition and contents therein, if the Magistrate is of the opinion that, to ascertain the truth or falsity of the allegations further inquiry is required and he thinks fit to post pone the issue of process he can still direct the investigation under section 202 of Cr. P.C., to be made by a Police officer or by such other officer as he thinks fit, to investigate and submit a report, for the purpose of deciding whether or not there is sufficient ground for proceeding against the accused. In the above eventuality, care should be taken that, the case shall not be referred to the Police under section 156(3) of Cr. P.C., once the magistrate takes cognizance and starts inquiring into the matter himself.
- vi) After taking such report under section 202 of Cr. P.C., and looking to the entire materials on record, if the magistrate is of the opinion that there are no grounds to proceed against the accused, then the



Magistrate is bound to dismiss the complaint or the Protest Petition u/s. 203 of Cr. P.C. as the case may be.

- vii) If in the opinion of the Magistrate there are sufficient grounds to proceed against the accused, on examination of the allegations made in the Protest Petition or in the complaint, as the case may be and also after perusal of the sworn statement, then he has to record his opinion judiciously, and issue summons to the accused by exercising power u/s. 204 of Cr.P.C."

8. In instant case, after filing 'B' report, learned Magistrate provided opportunity to complainant to file protest petition and thereafter recorded sworn statement and produced material. On traversal of further material placed on record by complainant, learned Magistrate proceed to take cognizance. But, there is no specific consideration of 'B' report.

9. As held in **Dr.Ravikumar's** case (supra) on filing of 'B' report, learned Magistrate is required to apply mind and pass judicious order based on contents of 'B' report and express whether case requires further investigation or re-investigation. In case, Court were to come to conclusion that 'B' report requires to rejected, Court has to pass a specific order applying mind and assigning reasons for rejecting 'B' summary report. Only thereafter, learned Magistrate would be justified in referring to further material placed on record by complainant



and express opinion whether same disclose any offence for taking cognizance. Impugned order proceeding to consider further material produced by complainant without examining 'B' report and passing orders thereon would be in violation of procedure laid down in **Dr.Ravikumar's** case.

10. Accordingly, petition is ***allowed***, order dated 04.06.2019 passed by I Additional Civil Judge and J.M.F.C., Kolar in CC no.353/2019 for offences punishable under Sections 465, 468 and 420 of IPC is ***set aside***.

Matter is remitted back to learned Magistrate to pass appropriate orders on 'B' report as per direction of **Dr.Ravikumar's** case.

All contentions of both parties are kept open.

Sd/-
(RAVI V HOSMANI)
JUDGE

GRD
List No.: 1 Sl No.: 14