



CNR: KAHC010323362024

NC: 2026:KHC:51545
CRL.P No. 5499 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 5499 OF 2024

BETWEEN:

S.B AJJAIAH
S/O BASAPPA
AGED ABOUT 53 YEARS
R/AT SRI GONI BASAVESHWARA NILAYA
VIDYANAGARA, BEHIND BAMS SAW MILL
MEDEHALLY ROAD, CHITRADURGA 577 501

...PETITIONER

(BY SRI. VIJAYAKUMAR S.C, ADVOCATE)

AND:

1. MAREGOWDA
S/O LATE NINGEGOWDA
AGED ABOUT 51 YEARS
MATHIKUNTE VILLAGE
DODDA MUDDUWADI DHAKLE-562 117
HOROHALLI HOBLI, KANAKAPURA TALUK
RAMANAGARA DISTRICT

2. SENIOR SHERISTEDAR
2ND ADDL CIVIL JUDGE & JMFC COURT
CHITRDURGA-577 501
REPRESENTED BY ITS STATE
PUBLIC PROSECUTOR,
HIGH COURT BUILDING, BENGALURU-560 001

...RESPONDENTS

(BY SRI. MAHESH P, HCGP FOR R2,
R1 NOTICE SERVED BUT UNREPRESENTED)

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



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THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO SET ASIDE THE ORDER PASSED BY THE LEARNED II ADDL.CIVIL JUDGE AND J.M.F.C CHITRADURGA IN C.C.NO.294/2023 DATED 30.03.2024 ON THE APPLICATION FILED BY THE PETITIONER UNDER SEC.301(2) OF CR.PC AS PER ANNEXURE-J.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

1. This petition is filed under Section 482 of Cr.P.C. seeking to set aside the order dated 30.03.2024 passed in C.C.No.294/2023 by the learned II Additional Civil Judge & JMFC, Chitradurga, on an application filed by the petitioner under Section 301(2) of Cr.P.C.

2. The brief facts of the case are that the petitioner filed a private complaint against one Manjunath under Section 200 of Cr.P.C. read with Section 142 of the Negotiable Instruments Act (for brevity, "N.I. Act") for the offence punishable under Section 138 of N.I. Act. In the said proceedings, after recording the sworn statement, the Court has issued summons to the



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accused and thereafter, in C.C.No.95/2021, the accused filed a bail application and offered a surety of one Maregowda i.e., the 1st respondent herein. The said surety was accepted by the learned Magistrate. Subsequently, said Maregowda filed a memo to withdraw his surety. At that point of time, the complainant came to know that said Maregowda filed false documents along with the surety affidavit. As such, he filed an application under Section 340(1) of Cr.P.C., wherein the Trial Court by order dated 07.02.2023 directed the C.M.O. to file complaint against the surety i.e., respondent No.1 herein for the offence under Sections 193 and 196 of IPC Accordingly, the 2nd respondent filed a complaint against the 1st respondent on 09.02.2023 and the same was registered as P.C.R.No.33/2023, based on which, the proceedings were initiated against Maregowda in C.C.No.294/2023. In the said proceedings, the complainant filed an application under Section 301(2) of Cr.P.C. to engage the services of a counsel to assist the prosecution in the said case. The said application was dismissed by the learned Magistrate by the order dated 30.03.2024. The same is challenged in this petition.



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3. The contention of the learned counsel for the petitioner is that in view of the order passed on the application filed by the petitioner under Section 340(1) of Cr.P.C. with regard to false documents produced by respondent No.1 in C.C.No.95/2021 in respect of surety, proceedings were initiated against respondent No.1. Since it was the petitioner who brought to the notice of the Court about false documents produced by respondent No.1, he filed an application under Section 301(2) of Cr.P.C. to assist the prosecution in the said case. Moreover, the accused in C.C.No.95/2021 colluding with the surety i.e., respondent No.1 herein forged some documents. Hence, the petitioner being the original complainant intended to bring those documents to the knowledge of the learned Magistrate by assisting the prosecution. As such, the learned Magistrate has erred in dismissing the application on the ground that the petitioner is not a party to the said case.

4. Learned HCGP, however, opposed the prayer in the petition. Though notice was served to respondent No.1, he remained unrepresented.



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5. I have given my anxious consideration to the submissions of learned counsel for the petitioner and the learned HCGP and perused the material on record.

6. As could be gathered from records, it is clear that on an application made by the petitioner under Section 340(1) of Cr.P.C., the Trial Court by order dated 07.02.2023 directed the C.M.O. to file complaint against the surety i.e., respondent No.1 herein for the offences under Sections 193 and 196 IPC. Accordingly, the 2nd respondent filed a complaint against the 1st respondent on 09.02.2023 and the same was registered as P.C.R.No.33/2023, based on which, the proceedings were initiated against Maregowda in C.C.No.294/2023. Thereafter, the petitioner filed an application under Section 301(2) of Cr.P.C. seeking to appoint a private counsel along with prosecution counsel to assist the court. Though the petitioner is the original complainant, since the entire case depends upon the documentary evidence and that the learned Magistrate opined that the role of the prosecution in conducting the case is enough and that no assistance of a private counsel was necessary to conduct the case, I am of the opinion that the



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learned Magistrate has rightly rejected the application of the petitioner. I find no good ground to interfere with the impugned order. Accordingly, the petition is ***dismissed***.

**SD/-
(RAJESH RAI K)
JUDGE**

PKS
List No.: 1 Sl No.: 0