



CNR: KAHC010397902024

NC: 2026:KHC:51148
WP No. 19114 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

WRIT PETITION NO. 19114 OF 2024 (GM-RES)

BETWEEN:

1. DR. GAUTHAM BALAJI
SHOWN IN FIR AS GOWTHAM BALAJI
AGED ABOUT 36 YEARS,
S/O ANBAZHAGAN G
NOW RESIDING AT
122, GK NILAYA,
VINAYAK LAYOUT, 2ND STAGE,
VIJAYANAGAR
BANGALORE 560040

2. BHANU
AGED ABOUT 57 YEARS,
W/O ANBAZHAGAN G
NOW RESIDING AT
122, GK NILAYA,
VINAYAK LAYOUT, 2ND STAGE,
VIJAYANAGAR
BANGALORE 560040

...PETITIONERS

(BY SRI SANDESH J. CHOUDA, SENIOR ADVOCATE FOR
SRI. SAMPREETH V, ADVOCATES)

AND:

1. STATE OF KARNATAKA
BY GOVINDARAJ NAGAR POLICE STATION,
REPRESENTED BY THE SPP,
HIGH COURT OF KARNATAKA,
BANGALORE -560001


Digitally
signed by R
MANJUNATHA
Location:
HIGH COURT
OF
KARNATAKA



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2. KUM CHAMUNDESHWARI
D/O PEDDANNA
AGED ABOUT 30 YEARS
R/A NO 16, 1ST MAIN, 2ND CROSS,
OKLIPURAM -560021
GANDHINAGAR, BANGALORE

...RESPONDENTS

(BY SMT.WAHEEDA.M.M, HIGH COURT GOVERNMENT PLEADER
FOR R1;

SRI MANORANJINI THOMAS KUMDAL, ADVOCATE FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA R/W SECTION 482
CODE OF CRIMINAL PROCEDURE PRAYING TO ISSUE A WRIT /
QUASH THE IMPUGNED FIR AND COMPLAINT IN ANNEXURE A
AND B DATED 17.12.2022, COGNIZANCE ORDER IN
ANNEXURE C DATED 28.03.24 AND ALL SUBSEQUENT
CRIMINAL PROCEEDINGS IN SPL.CC.NO.927/2024 IN CRIME
NO.279/2022 FOR OFFENCES PUNISHABLE UNDER 3(1)(P),
3(1)(S). 3(1)(R), 3(1)(S), 3(2)(V-A), OF THE SCHEDULE CASTE
AND SCHEDULE TRIBE (PREVENTION OF ATTROCITIES) ACT,
1989 R/W, 354(A), 420, 506 IPC PENDING ON THE FILE OF
LXX ADDL. CITY CIVIL AND SESSIONS JUDGE AND SPECIAL
JUDGE AT BANGALORE (CCH-71) AND ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY HEARING
IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS
UNDER:

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA



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ORAL ORDER

Heard Sri. Sandesh J Chouta, learned Senior counsel appearing on behalf of Sri Sampreeth V., counsel for the petitioners and Smt. Waheeda M.M., learned High Court Government Pleader for the respondent No.1/State.

2. Present petition is filed under Article 226 and 227 of the Constitution of India read with Section 482 of Code of Criminal Procedure with the following prayer:

"1) To issue a writ/quash the impugned FIR and complaint in Annexure A and B dated 17.12.2022, cognizance order in Annexure C dated 28.03.2024 and all subsequent criminal proceedings in Spl CC No.927/2024 in Crime No.279/2022 for offences punishable under 3(1)(p) ,3(1)(s), 3(1)(r), 3(1)(s), 3(2)(v-a), of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989 r/w 354(A), 420, 506 IPC pending on the file of LXX Additional City Civil and Sessions Judge and Special Judge at Bangalore (CCH-71) in the interest of justice."



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3. Petitioners are accused No. 1 and 2 in Crime No. 279/2022 which is now pending in Special CC No.927/2024.

4. Main grievance of the petitioners is that police after the thorough investigation filed the B final report and without passing any order as to the acceptance or rejection of the B final report, learned Special Judge said to have proceeded with recording the sworn statement of the complainant and witnesses and took cognizance for the offences punishable under Section 354A, 420, 506 of Indian Penal Code and Section 3(1)(r)(s), 3(2)(w)(i) and 3(2)(va) of Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989 and directed the office to register the case, whereby case is now pending in Special CC No.927/2024, which is against the required and established principles of established procedure. Thus, sought for allowing the petition.

5. Sri Sandesh J Chouta, learned Senior Counsel appearing on behalf of the petitioner would submit that there is an issue with regard to procedure lapses which was the subject matter of a case in ***Dr. Ravikumar vs. Mrs. K.M.C. Vasantha and another*** reported in ILR 2018 Kar 1725 and invited the



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attention of this Court to para 5 and 7 of the said judgment which reads as under:

"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.)*



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- 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*



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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*



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judiciously, and issue summons to the accused by exercising power u/s. 204 of Cr. P.C.

7. Issuance of summons to the accused will have a serious repercussion, i.e., calling upon a person to the Court is also a very serious act of the Court. Therefore, the procedure contemplated as noted above has to be very scrupulously and meticulously followed by the Court. The Magistrate has to explore all the options as noted above in accordance with law at right stages, which has not been done in this particular case. The Learned Magistrate has relied upon the contents of the Protest Petition and the sworn statement for the purpose of rejecting the 'B' Summary Report, which is not proper and correct. He has to pass orders on the 'B' Summary report before taking cognizance on the Protest Petition for the reasons already narrated in the earlier paragraphs of this judgment."

6. Per contra, Smt. Waheeda M.M., learned High Court Government Pleader would submit that The procedural lapse should not affect the merits of the matter. Therefore, having regard to the nature of allegations against the petitioners herein, suitable orders be passed.

7. Having heard the arguments of both sides, this Court perused the material on record meticulously including the principles initiated in the case of **Ravikumar** supra.



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8. It is settled principles of law that once the B report is filed by the police, the matter ends with the police/Investigation Agency. Therefore it is called B final report.

9. But, such report is not final for the case. It is only final to the Investigation Agency unless further investigation is ordered by the concerned Magistrate or by the higher courts.

10. After receipt of 'B' report, The complainant is given right as per the scheme of the Code of Criminal Procedure to challenge the correctness of the B final report filed by the Investigation Agency by filing protest petition.

11. When once the protest petition is filed, the procedure contemplated under Section 200 of Code of Criminal Procedure will have to be followed by the jurisdictional Magistrate.

12. But, before passing any orders, subsequent orders with regard to the continuation of the criminal case based on the additional material that has been found by virtue of the sworn statement and material documents that is placed on



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record by the complainant, the Magistrate is duty bound to pass an order rejecting the pre-final report or otherwise.

13. Since, in the impugned order, the learned Special Judge failed to adhere to the said established and requisite procedure, directing the registration of the case as Special Case No.927/2024 and taking cognizance and summoning the accused has thus resulted in miscarriage of justice affecting the rights of the petitioner.

14. Accordingly, following:

ORDER

- (i) Petition is *allowed*.
- (ii) Order taking cognizance in Annexure-C dated 28.03.2024 and all subsequent criminal proceedings in Spl C.C.No.927/2024 in Crime No.279/2022, for the offences punishable under Section 3(1)(p) ,3(1)(s), 3(1)(r), 3(1)(s), 3(2)(v-a) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989 r/w 354(A), 420, 506 of Indian Penal Code, pending on the file of LXX Additional



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City Civil and Sessions Judge and Special Judge at Bangalore (CCH-71) is hereby quashed.

- (iii) The matter is remitted to the Special Court at the stage of hearing on acceptance or rejection of the B final report and pass appropriate orders in accordance with law.

**Sd/-
(V SRISHANANDA)
JUDGE**

MR
List No.: 1 Sl No.: 91
CT:VRR