



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL PETITION NO. 9092 OF 2022

BETWEEN:

MOHAMMED NOWFAL
S/O IBARAHIM
AGED ABOUT 28 YEARS
R/AT 5-123, KONCHAR
MASJID ROAD
NAER BADRIYA MASJHI
BAJPE, MANGALURU TALUK
D K DISTRICT - 574 142
(IN CHARGE SHEET HIS NAGME IS
NOW NOWFAL BAJAPE)

...PETITIONER

(BY SRI LETHIF B., ADVOCATE)

AND:

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka

1. THE STATE OF KARNATAKA
BY KAVOOR POLICE STATION
D K DISTRICT 575015
REP BY SPP
HIGH COURT BUILDING
BANGALORE - 560 001.
2. THE POLICE SUB INSPECTOR
LAW AND ORDER
KAVOOR POLICE STATION
MANGALURU CITY
D K DISTRICT - 575 001.

...RESPONDENTS

(BY SMT. SOUMYA R., HCGP)



THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO QUASH THE CHARGE SHEET IN S.C.NO.12/2022 ON THE FILE OF THE VI ADDITIONAL DISTRICT AND SESSIONS JUDGE AT D.K., MANGALURU FOR THE OFFENCE P/U/S.399 AND 402 OF IPC OF KAVOOR POLICE STATION, D.K., DISTRICT.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

Seeking for quashing of entire proceedings in Special Case no.12/2022 on file of VI Additional District and Sessions Judge at D.K., Mangaluru, for offence punishable under Sections 399 and 402 of Indian Penal Code, 1860 (**IPC**), this petition is filed.

2. Sri Lethif B, learned counsel for petitioner submitted as per prosecution, Sub-Inspector of Police received credible information about cattle theft. Therefore, he along with other police went towards Mudusadya burial ground, where they found a blue Swift car parked by side of road with three persons in it. About 30 feet away, there was another Maruthi Omni car with four people inside. On suspicion, they were confronted. But driver drove away. Police were successful in



apprehending two persons from Swift car. On enquiry, they informed that along with five others named by them, they had assembled with common intention of committing dacoity. On inspection of vehicle, they recovered iron rod, sword, and chilly powder. Based on same, complaint was registered for offences punishable under Sections 399 and 402 of IPC. And after investigation, charge sheet as per Annexure-D was filed. Statements at Annexures - D1 to D4 recorded during investigation would indicate that prosecution of petitioner as accused no.5 was based only on alleged confession statement of accused no.6 and 7. It was submitted, this Court in Criminal Petition no.4263/2020, disposed of on 13.01.2021 (**Badrul Muneer v. State of Karnataka & Anr.**), by referring to ratio laid down by Hon'ble Supreme Court in case of **Surinder Kumar Khanna v. Intelligence Officer, Directorate of Revenue Intelligence** reported in **(2018) 8 SCC 271** had held that conviction based on a confessional statement of a co-accused could not be sustained as such statement would not be a substantive piece of evidence. This Court had held that in absence of other evidence, recovery etc., continuation of prosecution was abuse of process of Court and quashed



proceedings. In instant case also there were no recovery from petitioner. Recoveries were made from accused no.6 and 7. Therefore, ratio laid down in **Badrul Muneer's** case (supra) would squarely apply. It was further submitted, in complaint, information received was about theft of cattle which was cognizable offence. Therefore, for failure to register complaint prior to taking action was in violation of ratio laid down by Hon'ble Supreme Court in **Lalita Kumari v. Government of Uttar Pradesh & Ors.** reported in **(2014) 2 SCC 1**. And under similar circumstances, this Court in Crl.P.no.5689/2018 disposed of on 03.04.2019 (**Pradeep Mendon & Ors. v. State of Karnataka**) quashed proceedings. On said grounds, prayed for allowing petition.

3. Smt.Soumya R., learned HCGP for respondent opposed petition. It was submitted that on receipt of credible information, Police officers visited spot, on finding suspicious assembly of accused, they sought to enquire. But five persons succeeded in running away and two were apprehended. During investigation statements were recorded and based on statements and finding material for prosecuting accused for offence punishable under Sections 399 and 402 of IPC, charge



sheet was filed against all seven persons. It was submitted, evaluation of material based on which charges were sought to be established against petitioner could not be done under Section 482 CrPC.

4. Heard learned counsel and perused material on record.

5. This petition is filed by accused no.5 challenging proceedings initiated against him for offence punishable under Sections 399 and 402 of IPC in Special Case no.12/2022. Prosecution is based on complaint at Annexure - B and charge sheet at Annexure - D is filed. Perusal of same would undisputably indicate that prosecution insofar as petitioner is based on a confessional statement of accused no.6 and 7. There are no recoveries from petitioner. Though another contention about prosecution failing to follow mandatory procedure indicated by Hon'ble Supreme Court in **Lalita Kumari's** case (supra) is urged, first contention urged relying on **Badrul Muneer's** case itself and on taking note as prosecution is relying solely on confessional statement of co-accused, petition would require to succeed.



6. In view of above, petition is ***allowed*** and proceedings insofar as petitioner - accused no.5 in Special CC no.12/2022 on file of VI Additional District and Sessions Judge at D.K., Mangaluru, is *quashed*.

**Sd/-
(RAVI V HOSMANI)
JUDGE**

YKL
List No.: 1 Sl No.: 57