



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION No.1053 OF 2019

BETWEEN:

H GOPAL
S/O LATE HANUMANTHARAYAPPA
AGED ABOUT 39 YEARS
R/O S P G COLONY
TAVAREKERE VILLAGE
MAGADI MAIN ROAD
BENGALURU SOUTH TALUK

...PETITIONER

(BY SRI. A N RADHA KRISHNA, ADVOCATE)

AND:

THE STATE OF KARNATAKA
BY LOKAYUKTHA POLICE
RAMANAGARA
RAMANAGARA DISTRICT
REPRESENTED BY THE
SPECIAL PUBLIC PROSECUTOR
FOR LOKAYUKTHA
HIGH COURT BUILDINGS
BENGALURU-560001

...RESPONDENT

(BY SRI CHETHAN.C FOR SRI B.S.PRASAD, ADVOCATES)

THIS CRIMINAL REVISION PETITION IS FILED UNDER SECTION 397 R/W 401 CODE OF CRIMINAL PROCEDURE PRAYING TO SET ASIDE THE ORDER DATED 04.05.2019, PASSED BY THE LEARNED PRINCIPAL DISTRICT AND SESSIONS JUDGE AND SPECIAL JUDGE, RAMANAGARA IN SPL.CASE NO.50/2016 CONSEQUENTLY ALLOW THE APPLICATION FILED BY THE PETITIONER UNDER SECTION 239 OF CR.PC AND DISCHARGE THE ACCUSED NO.3 FOR THE OFFENCE PUNISHABLE UNDER SECTION 7, 8, 13(1)(d) R/W SECTION 13(2) OF P.C ACT.


Digitally
signed by R
MANJUNATHA
Location:
HIGH COURT
OF
KARNATAKA



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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

Heard Sri A.N.Radhakrishna, learned counsel for the revision petitioner and Sri Chethan C, advocate for Sri B.S.Prasad, learned counsel for the respondent.

2. Accused No.3 in Special Case No.50/2016 is the revision petitioner challenging the dismissal of application filed under Section 239 of the Code of Criminal Procedure seeking him to discharge from the case.

3. Facts in the brief which are utmost necessary for disposal of the present petition are as under:

3.1 Lokayuktha Police, Ramanagara District, registered a case in Crime No.4/2014 for the offences punishable under Sections 7, 8, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988.

3.2 The role assigned to the present petitioner is that he received the money for and on behalf of Smt.Mala, President of Grama Panchayath, Thavarekere.



3.3 Bribe amount of Rs.2,50,000/- was recovered from the hands of the present petitioner which has been received at the behest of the accused No.1.

3.4 Accused No.2 is the brother-in-law of the present petitioner and accused No.1 is member of the Grama Panchayath. From the hands of accused No.2 sum of Rs.1,00,000/- is recovered.

4. After registering the case, Lokayukta police thoroughly investigated the matter and filed the charge sheet.

5. Presence of the petitioner/accused was secured by the learned Special Judge after taking cognizance.

6. When the case was about to be posted for framing of charge, application under Section 239 of the Code of Criminal Procedure came to be filed by the present petitioner seeking discharge contending that he is no way connected with the incident and he cannot be proceeded for the offence under the Provisions of Prevention of Corruption Act.



7. Application was opposed by the prosecution by filing detailed written objections.

8. Learned Special Judge took into consideration rival contentions of the parties and after hearing the arguments dismissed the application *inter alia* holding in Paragraph Nos.13 and 14 as under:

"13. In support of its contention, the prosecution placed before this Court the pre-trap and trap mahazar and also stated that informant had recorded the conversation with the accused in his mobile, which was copied in the CDs marked as Article 17 and voice sample of accused No.3 was tallying with the voice found in Article 17, which was identified as that of accused No.3. The currency notes recovered from accused No.3 at the time of trap, his hand wash and the CDs were sent to examination to FSL and the report sent by FSL discloses that the hand wash of accused No.3 tested positive for the pholphthalein powder and one of the voice recorded in Article 17 was tallying with the sample voice of accused No.3 recorded in Article 21.

14. Sec.239 of Cr.P.C. deals with discharge of accused in warrant cases when the Magistrate considers the charge against the accused to be groundless. On perusal of the charge sheet and the materials annexed thereto, there are sufficient



material against accused No.3 to prima-facie show his involvement in commission of the offence. It cannot be said at this stage that the charge against accused No.3 is groundless. It is pertinent to note that accused No.3 had never denied his relationship with the President of the Grama Panchayath as contended by the prosecution. The contention taken up by accused No.3 that he is an innocent person without having any role in showing the official favour to the informant, was falsely implicated in the case, cannot be accepted to discharge him before trial."

9. It is settled principle of law and requires no emphasis that even a non-public servant can be proceeded with, in the same criminal case, where the allegations are made against the public servant for the offences punishable under the provisions of Prevention of Corruption Act.

10. Further, contentions urged on behalf of the accused are in the form of defence which cannot be taken into consideration at the time of framing the charge, in view of the principles of law enunciated in the case of ***State of Orissa vs. Debendra Nath Padhi*** reported in ***(2005)1 SCC 568***.



11. Accordingly, expressing any opinion on merits of the matter would hamper the rights of the parties during the trial one way or the other.

12. Thus, this Court does not find any good grounds to interfere with the order of the learned Special Judge.

13. Hence, the following:

ORDER

- i. Revision petition is ***dismissed***.
- ii. All the contentions are kept open to be urged in the pending trial, in accordance with law.

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

kcm
List No.: 2 Sl No.: 63