



CNR: KAHC010441152022

NC: 2026:KHC:54282
WP No. 19126 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

WRIT PETITION NO. 19126 OF 2022 (GM-RES)

BETWEEN:

SRI K M DHARMAPPA
S/O LATE K.C.MULLEGOWDA,
AGED ABOUT 70 YEARS,
RESIDING AT SSS MANSION,
1ST CROSS, 1ST MAIN,
BASAVESHWARA NAGAR,
SHIMOGGA – 577 204.

...PETITIONER

(BY SRI M.S.BHAGWAT, SENIOR ADVOCATE FOR
SRI SATISH.K, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
DEPARTMENT OF URBAN DEVELOPMENT
REPRESENTED BY ITS
PRINCIPAL SECRETARY,
VIKAS SOUDHA,
BANGALORE-560001.
2. THE STATE BY KARNATAKA
LOKAYUKTHA POLICE,
REPRESENTED BY ITS
DEPUTY SUPERINTENDENT OF POLICE,
SHIVAMOGGA – 577 204.

...RESPONDENTS

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

BY SRI. B B PATIL, ADVOCATE FOR R2)

Digitally
signed by R
MANJUNATHA
Location:
HIGH COURT
OF
KARNATAKA



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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 CALL FOR RECORDS IN SPL.(PC) CASE NO.2/2013 PENDING ON THE FILE OF THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE AND SPECIAL JUDGE SHIVAMOGGA ANNEXURE-F AND QUASH THE IMPUGNED CHARGE SHEET FILED BY THE R2 IN SPL. (PC) CASE NO.2/2013 (ANNEXURE-E) AND ALL FURTHER PROCEEDINGS PENDING THEREON IN SPL(PC) CASE NO.2/2013 ON THE FILE OF THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE AND SPECIAL JUDGE SHIVAMOGGA ANNEXURE-F 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

ORAL ORDER

Heard Sri M.S.Bhagwath, learned Senior Counsel appearing on behalf of Sri Satish K., counsel for the petitioner, Smt. Waheeda M.M., learned High Court Government Pleader for respondent No.1 and Sri B.B.Patil, learned counsel for respondent No.2.

2. Writ 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:



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"Issue writ or order quashing the impugned charge sheet filed by the respondent No.2 in Spl (PC) Case No.2/2023 (Annexure-E) and all further proceedings pending thereon in Spl.(PC) Case No.2/2013 on the file of the I Additional District and Sessions Judge and Special Judge, Shivamogga (Annexure-F), in the interest of justice and equity."

3. Petitioner is an accused in Special (PC) Case No.2/2013, prosecuted for the offence punishable under Section 13(1)(e) of the Prevention of Corruption Act.

4. Petitioner filed an application seeking discharge. Said application is dismissed.

5. Validity of the said order is under challenge before this Court in this petition.

6. Sri. M.S.Bhagwat would contend that primarily the sanction order is invalid as competent authority which is required to issue sanction order to prosecute the petitioner. In the case on hand, no such sanction order is placed on record and as such a Trial Judge dismissing the application seeking discharge has resulted in miscarriage of justice.



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7. Secondly, he would contend that sum Rs.67,31,099/- is not properly taken into account by the Investigation Agency which he got it from his mother and after her death the said Rs.67,31,099/- has come to him and if that is taken out of the assets, then there is no excess as is claimed by the prosecution and thus no prosecution can continue for the offence under Section 13(1)(e) of the Prevention of Corruption Act and sought for allowing the petition.

8. Per contra, Sri B.B.Patil, learned counsel for respondent No.2 would contend that the validity of the sanction order is to be tried as a point in the trial as per the settled principles of law.

9. In this regard, he places reliance on the judgment of the of ***State represented by Deputy Superintendent of Police, Vigilance and Anti Corruption Chennai City-I Department vs. G. Easwaran***, reported in **2025 SCC OnLine SC 643** and he drew the attention of this Court to paragraph 14 which reads as under:

"14. *Thus, there is no doubt that the High Court committed an error in quashing the prosecution on the ground that the sanction to prosecute is illegal and*



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invalid. In conclusion, we find that the objections raised in the revision petition against the Special Court's order dismissing the discharge application were identical to the grounds raised in the petition under Section 482 Cr. P.C., from which the present appeal arises. Second, apart from being congruent and overlapping, the respondent could not demonstrate any material change in facts and circumstances between the dismissal of the revision petition by the High Court and the filing of the quashing petition under Section 482 Cr. P.C. Third, the validity of the sanction can always be examined during the course of the trial and the problems due to the typographical error as alleged by the State could have been explained by producing the file at the time of trial. Fourth, it is settled that a mere delay in the grant of sanction for prosecuting a public authority is not a ground to quash a criminal case."

10. In reply, Sri M.S. Bhagwat, learned Senior Counsel places reliance on the judgment of the Hon'ble High Court of Madhya Pradesh in the case of **Meenakshi Khare and Another vs. State of Madhya Pradesh, Through Principal Secretary and Others**, reported in 2026 SCC OnLine MP 467 and drew the attention of this Court to paragraph 14 which reads as under:



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"14. Further, the Apex Court in one another decision rendered in the case of State of Karnataka v. S. Subbегowda, (2023) 17 SCC 699 has manifestly dealt with this point and held as under:—

"16. Having regard to the afore stated provisions contained in Section 19 of the said Act, there remains no shadow of doubt that the statute forbids taking of cognizance by the court against a public servant except with the previous sanction of the Government/authority competent to grant such sanction in terms of clauses (a), (b) and (c) to Section 19(1). It is also well settled proposition of law that the question with regard to the validity of such sanction should be raised at the earliest stage of the proceedings, however could be raised at the subsequent stage of the trial also. In our opinion, the stages of proceedings at which an accused could raise the issue with regard to the validity of the sanction would be the stage when the court takes cognizance of the offence, the stage when the charge is to be framed by the court or at the stage when the trial is complete i.e. at the stage of final arguments in the trial. Such issue of course, could be raised before the court in appeal, revision or confirmation, however the powers of such court would be subject to sub-section (3) and sub-section (4) of Section 19 of the said Act."

11. Having heard insofar as the partition, the question of Rs.67,31,099/- is concerned, Sri B.B.Patil would contend



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that as per the language employed under Section 13(1)(e) of the Prevention of Corruption Act, especially the explanation, the sources known to the prosecution and therefore, the learned judge is justified and which is also a matter for trial.

12. This Court noted that question of validity of the sanction is to be decided during the trial as an issue may be as a preliminary point, so as to avoid the drudgery of the trial if an order is passed one way or the other.

13. Insofar as the non-inclusion of Rs.67,31,099/- is concerned, the reasons assigned by the learned Trial Judge cannot be countenanced in law having regard to the peculiarity of the offence, contemplated under Section 13(1)(e) of Prevention of Corruption Act.

14. Therefore, the impugned order needs to be set aside and matter is to be considered afresh in accordance with law.

15. Accordingly, following:

ORDER

- (i) Petition is ***allowed in part.***
- (ii) Prayer to quash the charge sheet is rejected.



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- (iii) Impugned order passed in Special (PC) Case No.2/2013 (Annexure-F), on the file of the I Additional District and Sessions Judge and Special Judge, Shivamogga is hereby set aside.
- (iv) Matter is remitted to the Learned Special Judge for fresh disposal in accordance with law on or before 31.12.2026.
- (v) However, with regard to the validity of the sanction, same cannot be urged as a ground when the matter is heard afresh on the application seeking discharge.

Sd/-
(V SRISHANANDA)
JUDGE

MR
List No.: 1 Sl No.: 85
CT:VRR