



CNR: KAHC010460182021

NC: 2026:KHC:42979
CRL.P No. 9662 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL PETITION NO. 9662 OF 2021

BETWEEN:

1. MR KUMARASWAMY K S
S/O SIDDIAIAH
AGED ABOUT 60 YEARS
PERMANENT ADDRESS:
R/O AT 'D' GROUP LAYOUT
DR.SAILESH HOUSE ROAD
K R S AGRAHARA
KUNIGAL - 572 130.
2. SMT.TARADEVI
W/O KUMARASWAMY K S
AGED ABOUT 35 YEARS
PERMANENT ADDRESS:
R/O AT 'D' GROUP LAYOUT
DR.SAILESH HOUSE ROAD
K R S AGRAHARA
KUNIGAL - 572 130.
3. VIJAYALAKSHMI
W/O MANJUNATHASWAMY
AGED ABOUT 45 YEARS
OCC: HOUSE WIFE
PERMANENT ADDRESS:
NO.164, BUDDAVILASA
SRIKANTAPURA
BENGALURU - 560 073.
4. N SHIVAKUMAR
S/O NARASIMHAIAH
AGED ABOUT 52 YEARS
PERMANENT ADDRESS:
FOREST QUARTERS

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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SHARADANAGARA
TIPTUR - 572 201.

ALL ARE R/AT NO.154,
SRIKANTAPURA,
PRAKRUTHI BADAVANE,
BEHIND JINDAL,
NAGASANDRA POST,
BANGALORE - 560 073.

...PETITIONERS

(BY SRI SANTOSH B., ADVOCATE)

AND:

NAGARAJU T L
S/O LATE LAKSHMI NARASHIMAIAH
AGED ABOUT 53 YEARS
NO.2, P. STREET, 8TH CROSS
JAGAJEEVANARAMANAGAR
BENGALURU - 560 018.

...RESPONDENT

(BY SRI RG. GOPAL, ADVOCATE)

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO QUASH THE
IMPUGNED COGNIZANCE ORDER DATED 19.08.2021 AND
SUMMONING ORDER DATED 09.09.2021 PASSED BY THE XXXVII
ADDL.C.M.M., BENGALURU IN P.C.R.NO.15834/2021, IN
C.C.NO.28327/2021 DOCUMENT NO.1, AGAINST THE PETITIONER
FOR THE OFFENCE P/U/S 415,420,497,498,504,506 R/W 149 OF IPC
IN SO FAR AS THE PETITIONERS ARE CONCERNED.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI



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ORAL ORDER

Challenging orders dated 19.08.2021 and 09.09.2021 passed by XXXVII ACMM, Bengaluru in CC no.28327/2021 arising out of PCR no.15834/2021 taking cognizance of offence and issuance of process respectively for offences punishable under Sections 415, 420, 497, 498, 504 and 506 read with Section 149 of Indian Penal Code, 1860 (**IPC**), this petition is filed.

2. Sri B. Santhosh, learned counsel for petitioners submitted that petitioners were accused no.4 to 7 in PCR no.15834/2021 filed by respondent (**complainant**) alleging that complainant was husband of accused no.2. Their marriage solemnized in year 1997. From wedlock, they have two children. That accused no.1 introduced himself as Superintendent of Customs and Central Tax working in Kempegowda International Airport, Devanahalli and became well acquainted with complainant's family. He used to frequent house of complainant and gained confidence of his family. Knowing of financial stringency, he had sought to take advantage and assured that he would get job to complainant's son and his son-in-law. He had also gained confidence of



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complainant's wife (**accused no.2**) by promising her a job at Airport. It is also stated in complaint that accused no.1 had introduced accused no.3 and 4 to family of complainant and even they were visiting house of complainant regularly. Accused no.1 and 3 assured to get job to complainant's wife in Airport by telling her that she was smart and beautiful. By taking her mobile number, Aadhar card and other details, they started misusing same and made her yield to their illegal demands. It was alleged that accused were targeting economically weak for cheating.

3. It was stated that accused no.1 had projected that he was affluent and by showering accused no.2 with frequent gifts, developed intimacy. That on 15.12.2019, accused no.1 informed complainant that he had booked a ticket for his sister to go to Andaman and Nicobar Islands with him, but as she was unwell and unable to accompany him, insisted complainant to send his wife along with him. Though complainant refused, accused no.3 assured complainant that it was ladies only tour and convinced complainant for same. Thereafter, on 13.06.2020, when complainant's wife intended to go to her parents house, accused no.1 sent vehicle. Thereafter, wife of



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accused no.1 informed complainant that accused no.1 was staying at Mysore with accused no.2 and sent photographs. When complainant and his sons visited maternal home of accused no.2 and confronted her with photographs of her visit with accused no.1 to Andaman and Nicobar Islands and her stay with accused no.1 at Mysore and advised her to rectify her mistakes for sake of future of her children. Even thereafter accused no.2 continued to speak to accused no.1.

4. It was further alleged that on 06.11.2020, accused no.2 left matrimonial home and went with accused no.1 on pretext of going to temple and when she did not return, complainant had filed a missing complaint with Jagajeevanramanagar Police Station. Thereafter, accused no.1 began harassing complainant. Alleging that accused no.1 deceitfully cheated complainant, took his wife away and knowing that she was wife of complainant had sexual intercourse with her, had committed offences and accused no.4 and 5 had introduced accused no.1 to family of complainant and therefore, they were complacent and guilty of offence punishable under Section 497 of IPC. Likewise, accused no.6 and 7 though having knowledge about above circumstances,



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had failed to inform complainant and encouraged accused no.1 and 2 in commission of offences and therefore, they were guilty of offence punishable under Section 120B of IPC etc., complaint was filed. Based on same, complainant sought action against accused.

5. It was submitted that complaint was filed on 22.07.2021 and on 19.08.2021, after recording sworn statement of complainant and marking of documents as Exhibits C1 to C9, learned Magistrate took cognizance of offences. And on 09.09.2021, passed an order for issuance of summons against accused. Assailing same as well as proceedings, this petition was filed.

6. It was firstly submitted that order taking cognizance of offence was without application of mind especially as entire complaint averments were bereft of any specific overt-acts insofar as petitioners (accused no.4 to 7). Only statement against accused no.4 was about introducing accused no.1 to complainant's family which would not constitute any offence. It was also contented insofar as accused no.6 and 7 that there were absolutely no overt-acts mentioned except stating that



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they had conspired with other accused for commission of offences. It was submitted that though private complaint was accompanied with verifying affidavit, same was defective due to complainant signing as a deponent as well as identifier and there was non-compliance with mandatory requirement of filing of affidavit by complainant as mandated by Hon'ble Supreme Court in case of ***Priyanka Srivastava & Anr. v. State Of U.P.& Ors.*** reported in ***2015 (6) SCC 287***. Said defect was fatal and sought for quashing of proceedings. It was also meekly contended that that complainant had deliberately shown addresses of all accused as one and same address which would indicate abuse of process. On above ground, sought for allowing petition.

7. Sri R Gopal, learned counsel for respondent-complainant opposed petition. It was submitted that grave and material allegations were made against accused as detailed in complaint. Referring to same, trial Court had found fit to take cognizance of offences and issuance of process against accused and same was in accordance with law and did not call for any interference.



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8. Insofar as contention about non-compliance with requirement of filing affidavit, learned counsel humbly submitted that affidavit would be filed. It was further submitted that there were specific allegations against accused no.4 to 7 in para 21 and 22 of private complaint and therefore, challenge was not justified and sought for dismissal.

9. Heard learned counsel and perused impugned orders and material on record.

10. This petition is by accused no.4 to 7 assailing orders taking cognizance of offences and issuance of process respectively as well as for quashing of entire proceedings.

11. Though contention is urged about complaint being barred insofar as accused no.4 to 7 as there were no specific overt-acts alleged as well as about non-application of mind by trial Court while passing orders dated 19.08.2021 and 09.09.2021, contention about non-conformity with requirement of filing of affidavit along with private complaint as directed by Hon'ble Supreme Court in **Priyanka Srivastava**'s case (supra) would go to root of matter. Though submission is made on behalf of complainant that it would be cured, as per decision of



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Hon'ble Supreme Court in ***SN Vijay Lakshmi & Ors. v. State of Karnataka & Anr.*** reported in ***2025 SCC OnLine SC 1575***, requirement is reiterated to be mandatory and curable only upto stage of passing of any substantive orders by trial Court on complaint. There would be no gainsay in noting that order dated 19.08.2021 taking cognizance of offences and order dated 09.09.2021 issuing process would be substantive orders passed on complaint. Thus, non-compliance with requirement of filing of affidavit would come to fore and proceedings would be defective.

12. Consequently, petition ***succeeds*** and orders dated 19.08.2021 and 09.09.2021 passed by XXXVII ACMM, Bengaluru in CC no.28327/2021 arising out of PCR no.15834/2021 and entire proceedings are *quashed* insofar as petitioners (accused no.4 to 7).

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

AV
List No.: 1 Sl No.: 27