



CNR: KAHC010473542019

NC: 2026:KHC:51911
CRL.P No. 393 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL PETITION NO.393 OF 2020

BETWEEN:

1. YAJMAN SHRI K R KRISHNA MURTHY
AGED ABOUT 88 YEARS
S/O LATE K V RANGAIAH CHETTY
NO.110, EBRAHIM SAHEB STREET
BENGLAURU-560009
2. SRI V K PANDURANGA
AGED ABOUT 82 YEARS
S/O LATE V KRISHNAIAH SETTY
NO.393, 9TH CROSS
2ND BLOCK, JAYANAGAR
BENGALURU-560011
3. SRI R V SRINIVAS MURTHY
AGED ABOUT 55 YEARS
S/O LATE R S VENKATACHALAPATHY SETTY
134/4, JEWELLERS STREET
BENGALURU-560001
4. SRI SARAVANA ESHWAR P KUMAR
AGED ABOUT 49 YEARS
S/O LATE T N PRASANNA KUMAR
G-06, ESHWAR LAYOUT
15TH CROSS, INDIRANAGAR
BENGALURU-560038

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA



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5. SRI D N KRISHNA MURTHY
AGED ABOUT 62 YEARS
S/O LATE D NANJUNDAIAH SETTY
NO.135/3, JEWELLERS STREET
BENGALURU-560001
6. SRI T S RAMPRASAD
AGED ABOUT 54 YEARS
S/O LATE T G SURYANARAYANA SETTY
SURYA JEWELLARY MART
NO.22, JEWELLERS STREET
BENGALURU-560001

...PETITIONERS

(BY SRI. V B SHIVA KUMAR, ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY COMMERCIAL STREET POLICE STATION
BANGALORE-560001
REP. BY HIGH COURT PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU-560001
2. SRI K G S RAVIKUMAR
AGED ABOUT 58 YEARS
S/O LATE K S GOPAL SETTY
NO.142, NARAYANAPILLAI STREET
BHARATHINAGAR
BENGALURU-560001
3. SRI A N NAGESH
AGED ABOUT 47 YEARS
S/O A K NARAYAN
NO.7/2, HOUDIN ROAD
BENGALURU-560042



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4. SRI M N SAI ASHWIN
AGED ABOUT 39 YEARS
S/O M N MOHAN KUMAR
NO.265, NARAYANAPILLAI STREET
BHARATHINAGAR
BENGALURU-560001
5. SRI M K SRINIVAS MURTHY
AGED ABOUT 51 YEARS
S/O LATE M N KRISHNAIAH SETTY
NO.265, NARAYANAPILLAI STREET
BHARATINAGAR
BENGALURU-560001

...RESPONDENTS

(BY SRI SUHAS GOWDA M, HCGP FOR R1;
SRI B R DEEPAK, ADVOCATE FOR R2 TO R4 [ABSENT];
V/O DT.17.08.21, R5 IS REPORTED TO BE DEAD ON 23.10.19)

THIS CRL.P IS FILED U/S 482 OF CR.P.C. PRAYING TO
QUASH THE ORDER PASSED BY THE IV A.C.M.M., BENGALURU
IN ANNEXURE-F P.C.R.NO.2841/2015 DATED 30.03.2019
TAKING COGNIZANCE OF THE PRIVATE COMPLAINT U/S
120(B), 403, 406, 409, 420, 506 R/W 34 OF IPC AND ETC.

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

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH



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ORAL ORDER

Heard the learned counsel appearing for petitioner and the learned counsel appearing for the State. The counsel for the complainants is absent. When the complainants' counsel was absent in the previous occasion, this Court has given an opportunity to appear on the next date of hearing and also made it clear that if fails to appear, the matter will be heard in his absence.

2. The prayer is sought in the petition invoking Section 482 of Cr.P.C that the Trial Court committed an error in entertaining the PCR No.2841/2015 dated 30.03.2019 in taking the cognizance on the private complaint for the offences under Sections 120B, 403, 406, 409, 420, 506 read with Section 34 of IPC.

3. The factual matrix of the case of complainants before the Trial Court that the first accused has recognized the complainants as trustees of the temple; but very strangely no steps has been taken to amend the trust deed



by giving a status of the trustees and so as to discharge the duties in conformity with the registered trust deed. It is also an allegation that the reply letters and the show cause notice further reflects about the attitude of the first accused and as well as the office bearers about the administration of the temple. The complainants further contended that the Samithi is requesting the trust to take over the possession of the temple after registration of the amended trust deed and in their capacity as trustees of the temple has requested the accused who are the office bearers of the trust of the temple to take inventory of the assets and liabilities of the temple both movable and immovable properties right from 19.03.2012. It is submitted that since 2012 till date though several meetings were held, the same has been demanded by the complainants but it has not been placed in the meeting and when the complainants insisted for the same, even they stopped writing the minutes of the book. That itself shows that the accused are acting in contravention of the resolution of the trust deed and it is apparent that the accused have misused their official position and mismanaged



the funds of the temple trust and misappropriated the funds of the public. It is also an allegation that temple is getting rented income approximately around Rs.50 lakh per annum and it had huge assets and liabilities both movable and immovable and apart from collecting donations from the devotees from time to time. Accused have not maintained the accounts and they have not filed any income tax returns and they have not claimed the TDS and even then they have not yet registered under the service tax act which resulted in financial loss to the temple ultimately which is the public money. Therefore an allegation is made in the complaint that they have misused the funds of the temple. Hence, the court has to invoke the offences of 120B, 406, 420 of IPC.

4. Based on this complaint, the Trial Court proceeded to record the sworn statement on 18.02.2017; 22.07.2017 and 16.12.2017. Having considered the contents of the complaint, the Trial Court passed an order considering the Trust Deeds of SNKP Temple and accused Nos.1 to 5 are self-declared trustees of SNKP Temple along



with 6 others and accused No.6 is the general public. Taking note of the statement of witnesses, the Trial Court comes to the conclusion in paragraph 5 that specific allegations are made that they have not maintained the accounts and did not file any income tax returns and they have not claimed the TDS and even they have not registered under the Service Tax Act and taken note of the statements of CW2 to CW4 which have supported the version of CW1 and comes to the conclusion that those statements and also the documents produced shows that investigation is necessary in order to arrive at a conclusion that whether there is sufficient ground to proceed against the accused. Hence, referred the matter for investigation as per the provisions of 202 of Cr.P.C and issued direction to SHO, Commercial Street Police Station to conduct investigation and report. The said order is challenged before the Court.

5. The main contention of the counsel appearing for the petitioners before this court is that criminal colour is given to the civil dispute in respect of the affairs of the



temple. Whether the trust deed terms are complied or not is not a ground to initiate the proceedings against the petitioners and fails to understand the provisions of Section 120A. Section 120A indicates that there shall be an illegal act or an act which not illegal but illegal means such a agreement is designated a criminal conspiracy and the same was not taken note of by the Trial Court while passing such an order and there is absolutely no iota of the material indicating the criminal breach of trust. While invoking Section 420, it must indicates dishonestly inducing delivery of property and the same is also not found. When such ingredients are missing, the question of invoking Section 420 of IPC also does not arise.

6. The counsel in support of his arguments relies upon the judgment in the case of **S.W.Palanikar v state of Bihar (2002 SCC (Cri) 129**, wherein also held that if the complaint does not disclose the ingredients of offence under Section 420 of IPC, there cannot be any prosecution. In the case on hand, the allegation is also that the respondents in



their capacity as trustees of the temple requested the petitioners who are office bearers of the trust to take inventory of the assets and liabilities of the temple from 19.03.2012 and the same has not been complied with and also did not register the same in the Service Tax Act and so also the bald allegation is made that the temple is getting an income of Rs.50,00,000/- per annum and to that effect also nothing is placed on record with regard to the income is concerned and there is no any audit report also to that effect. When such being the case, the question of invoking the criminal jurisdiction does not arise.

7. The complainants/respondents did not pursue the matter inspite of opportunity is given. However, the counsel appearing for the State would submit that when specific allegations are made with regard to the fraud and misusing of the funds, matter requires investigation.

8. Having heard the learned counsel for the petitioners and learned counsel for the State and considering the very contents of the complaint particularly paragraph 17



and the same which is extracted by this Court while referring the case of the complainants wherein specific allegations are made with regard to the mismanagement of the trust. No dispute that there is a trust deed with regard to the running of the temple affairs and no doubt, an allegations of misuse of the funds is also mentioned but the same has not been supported by any documents along with the complaint. Having perused the contents of the complaint also, it disclose that it is nothing but a civil dispute between the parties regarding not properly maintaining the accounts of the temple as well as not giving any account and not paying the tax also. When such dispute is between the parties, the parties can invoke Section 92 as contended by the counsel appearing to the petitioners. They can file a scheme suit with regard to the management is concerned and the same is not done, instead of that approached the court with an allegation of misusing of funds invoking Section 420 of IPC. It has to be noted that when there is a dispute with regard to the affairs of the trust is concerned, the same ought to have been dealt with in civil nature and giving of criminal colour in respect of



the civil dispute is concerned and same is nothing but an abuse of process. There cannot be a criminal prosecution in respect of the civil dispute is concerned the ingredients of Section 420 not attracts. Hence, it is a fit case to exercise the powers under Section 482 of Cr.P.C to quash the same.

9. In view of discussions made above, I pass the following:

ORDER

- (i) The petition is allowed.
- (ii) The order passed in PCR No.2841/2015 dated 30.03.2019 vide Annexure-F taking cognizance fo the private complaint under Sections 120B, 403, 406, 409, 420, 506 read with Section 34 of IPC is hereby quashed.
- (iii) In view of disposal of the main petition, I.A. if any, does not survive for consideration and the same stands disposed of.

**Sd/-
(H.P.SANDESH)
JUDGE**