



CNR: KAHC010476262019

NC: 2026:KHC:54769
CRL.P No. 7717 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF OCTOBER, 2026

BEFORE

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

CRIMINAL PETITION NO.7717 OF 2019

BETWEEN:

1. SMT. PUTTATHAYAMMA
W/O LATE VENKATESH
AGED ABOUT 60 YEARS

[PETITION IS ABATED AGAINST PETITIONER
NO.1 V/O DT.01.10.2026]

2. SMT. LEELAVATHI
D/O LATE VENKATESH
AGED ABOUT 35 YEARS

3. SRI KARTHIK
S/O LATE VENKATESH
AGED ABOUT 26 YEARS

ALL ARE R/AT NO.638
1ST CROSS, 1ST MAIN ROAD
RANGHANATHPURA
SYNDICATE BANK COLONY
MAGADI ROAD, BENGALURU-79

4. SMT. DEEPIKA
D/O LATE VENKATESH
AGED ABOUT 30 YEARS
R/AT NO.8
MANJUNATHA SERVICE STATION ROAD

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA



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DODDAGOLLARAHATTI
MAGADI MAIN ROAD
BENGALURU-560091

...PETITIONERS

(BY SMT. THANUJA M V, ADVOCATE FOR P2, P2, P4;
PETITION IS ABATED AGAINST P1 V/O DT.01.10.2026)

AND:

1. THE STATE OF KARNATAKA
BY KUMBALAGODU POLICE
REPRESENTED BY SPP
HIGH COURT OF KARNATAKA
BENGALURU
2. SMT. NAGARATNAMMA
W/O LATE GOVINDAPPA
AGED ABOUT 47 YEARS
R/AT BABASABHPALYA
MYSORE ROAD
KENGARI HOBLI
BENGALURU SOUTH TALUK-560060

...RESPONDENTS

(BY SRI MOHAMMED AYUB ALI, ADDL. SPP FOR R1;
SRI SHEIKH SAOUD, ADVOCATE FOR R2)

THIS CRL.P IS FILED U/S 482 OF CR.PC PRAYING TO
QUASH THE ENTIRE PROCEEDINGS AGAINST THE
PETITIONERS IN CR.NO.81/2018 (PCR NO.181/18)
ANNEXURE-C, PENDING ON THE FILE OF THE 2ND A.C.J.M.,
BENGALURU RURAL DISTRICT, BENGALURU FOR THE
OFFENCE P/U/S 416, 418, 420, 463, 466, 468, 470, 471
OF IPC AND ETC.



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

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

ORAL ORDER

This petition is filed praying this Court to quash the proceedings against the petitioners in Cr.No.81/2018 (PCR No.181/2018) pending on the file of 2nd Additional Chief Judicial Magistrate, Bengaluru Rural District, Bengaluru for the offences punishable under Sections 416, 418, 420, 463, 466, 468, 470, 471 of IPC.

2. Heard the learned counsel appearing for the petitioners, the learned counsel appearing for respondent No.2 and so also learned High Court Government Pleader appearing for the State.

3. The factual matrix of the case of prosecution that based on the matter was referred under Section 156(3) of Cr.P.C in view of filing of the PCR No.181/2018, FIR was registered in Crime No.81/2018 wherein an allegation is made



that the property originally belongs to Smt. Venkata Laxmamma i.e., Sy.No.26/1 to the extent of 1 acre 34 guntas and Sy.No.23/1 to the extent of 1 acre 37 guntas and the same came to the mother-in-law of the complainant as per the gift deed. Both the Venkata Laxmamma and her husband Thimmaiah are passed away. The said Venkata Laxmamma and Thimmaiah had children viz., Gangamma, late Venkatesh, husband of the complainant –Govindappa and late Srinivas. This property came to the complainant and accused Nos.1 to 11 joined together and forged the signature of the complainant and obtained the amount from the BDA and thereby they have cheated the complainant. Hence, invoked the aforesaid offences against the petitioners.

4. The counsel appearing for the petitioners while praying this Court to quash the proceedings initiated against these petitioners/accused Nos.1 to 4 would contend that very registration of the FIR is bad in law. The counsel would contend that the very referring of the complaint under Section 156(3) of Cr.P.C by the learned Magistrate is also bad in law since not followed the guidelines laid down by the Apex Court in the case



of **Priyanka Srivastava and others vs State of UP** reported in **(2015) 6 SCC 287**. The counsel would contend that the Apex Court has specifically observed that there should be an affidavit along with supporting documents filed by the complainant narrating that he has exhausted the remedy under Section 154(3) and (4) of Cr.P.C. The counsel also would contend that while referring a private complaint to police for investigation, the Court should see that the complainant has filed an affidavit on both aspects that he has exhausted the remedy under the said provision and he has clearly spelt out the same in the affidavit with necessary documents. The same has not been done in the case on hand. Thus, the Magistrate has not applied his judicious mind while referring the matter to the police for investigation.

5. The counsel also contended that in a similar set of facts and circumstances, this Court also in **Crl.P.No.3592/2017** in **Tarun Varma and others vs State of Karnataka** dated **13.12.2017** has quashed the order referring the matter under Section 156(3) of Cr.P.C.



6. The counsel also contend that recently, the Apex Court in the judgment of **Om Prakash Ambadkar vs The State of Maharashtra and others** in **Crl.A.No.352/2020** dated **16.01.2025** also relied upon the earlier judgment of **Priyanka Srivastava's** case and also the judgment of **Babu Venkatesh vs The State of Karnataka** reported in **(2022) 5 SCC 639**, wherein also **Priyanka Srivastava's** case was also referred and discussed the changes introduced by Section 175(3) of BNSS to the existing scheme of Section 156(3), merely codify the procedural practices and safeguards which have been introduced by judicial decisions and the order passed by the Magistrate directing police investigation under Section 156(3) of Cr.P.C is also set aside.

7. Per contra, the counsel appearing for respondent No.2 contended that there was a gift deed. In spite of the gift deed in favour of the beneficiary, the persons who got the gift also no more and having the children and died intestate leaving behind the children. The complainant husband is also one of the son of original beneficiary of the gift who forged the signature of the complainant and taken the money from BDA. The



counsel would submit that when the cognizable offence was taken place, the matter was referred under Section 156(3) of Cr.P.C and hence, the Trial Court not committed any error and the matter requires to be investigated.

8. The counsel appearing for State also would submit that based on the complaint, a reference was made under Section 156(3) of Cr.P.C and case was registered consequent upon referring the matter.

9. Having considered the order sheet dated 14.03.2018 of the Trial Court, it discloses that complainant is present and complaint is filed in open court and the same is registered as PCR. Having perused the contents of the complaint, the Trial Court observed that the learned counsel for the complainant has produced in all 6 documents and on perusal of all the documents filed by the complainant, the Trial Court passed the order of taking cognizance and directed the office to register PCR and acting under Section 156(3) of Cr.P.C complaint is referred to the SHO, Kumbalagodu Police Station for investigation and directed to report on 16.07.2018.



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10. Having considered the order passed by the Trial Court, question of taking of cognizance does not arise and Magistrate has committed an error in taking of cognizance since referring the matter under Section 156(3) of Cr.P.C is only a pre-cognizance order hence, question of taking of cognizance does not arise. If private complaint is filed under Section 200 of Cr.P.C, if proceed to record sworn statement, the same amounts to taking of cognizance. thus, the Magistrate has committed an error.

11. The other contention of the counsel appearing for the petitioners that in support of the application, an affidavit is not filed as held in the judgment of the Apex Court in the case of **Priyanka Srivastava** referred supra. The counsel in support of the same also produced the said judgment and brought to notice of this Court the principles laid down in the judgment and so also the recent judgment of **Om Prakash Ambadkar** referred supra wherein also the Apex Court relied upon the judgment of **Priyanka Srivastava** case.

12. Having perused the paragraph No.5 of the complaint, it discloses that an averment is made that during



the pendency of the suit in O.S.No.720/2000 wherein declaration and permanent injunction was sought during the lifetime of the Venkatesh and suit was filed against accused Nos.6 to 9 and also against their father late Ramakrishnaiah and the copy of the said plaint also produced as Document No.1. It is stated that during the pendency of the above suit, the legal heirs of Venkata Laxmamma filed a Writ Petition in W.P.No.6311-6344/2010 before the High Court of Karnataka praying to quash the order passed by the Land Tribunal dated 25.10.1979. During the pendency of the above Writ Petition, the above said lands were notified by the BDA for the formation of Kempegowda layout, such being the facts of the case, accused Nos.1 to 9 have colluded among themselves and filed a compromise petition before the High Court by impersonating the complainant and Smt. Gangamma, daughter of Venkata Laxmamma. The complainant and Smt. Gangamma were made parties to the alleged compromise petition and their signatures were forged by the accused for the purpose of unlawful gain. Infact, the complainant and Smt. Gangamma never appeared before the High Court as on the day of alleged compromise



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petition filed by the accused on 31.07.2012. On the basis of the alleged compromise petition filed by the accused, before the High Court, an order has been passed and the copy of the compromise petition also produced as Document Nos.2 and 3. The specific allegations were made that all of them collusively obtained the said order and obtained a consent award dated 18.01.2012 and 31.05.2012 passed by the Land Acquisition Officer, BDA and the same are produced for kind perusal as Document Nos.4 and 5 which was produced along with the complaint.

13. Having perused this complaint, it discloses that nothing is stated in the complaint that before filing the private complaint, they have approached the police with regard to the accusation made in the complainant and there is no any compliance of Section 154(1) of Cr.P.C as observed by the Apex Court and so also under Section 154(3) of Cr.P.C and there must be a said compliance even for referring the matter under Section 156(3) of Cr.P.C. These aspects should be clearly spelt out in the application under Section 156(3) of Cr.P.C and necessary documents to that effect have to be filed. But such



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documents are also not filed for having approached the concerned authority and for compliance. Under such circumstances, the learned Magistrate has not applied his mind even while referring the matter under Section 156(3) of Cr.P.C and the very approach of the Magistrate is erroneous and no affidavit is filed. Hence, the petitioners have made out the grounds to quash the proceedings initiated against them in PCR No.181/2018 and Crime No.81/2018.

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

ORDER

The petition is allowed

The proceedings against the petitioners in Cr.No.81/2018 (PCR No.181/2018) pending on the file of 2nd Additional Chief Judicial Magistrate, Bengaluru Rural District, Bengaluru for the offences punishable under Sections 416, 418, 420, 463, 466, 468, 470, 471 of IPC is hereby quashed. However, liberty is given to the complainant to proceed against



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the petitioners in accordance with law in view of the
observations made by this court.

Sd/-
(H.P.SANDESH)
JUDGE

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