



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL PETITION NO.10001 OF 2021

BETWEEN:

SRI. H.S.RANGANATH
AGED ABOUT 63 YEARS,
R/AT NO.FR3, CHAITHRASHREE CLASSIC
APARTMENTS,
10TH CROSS, IDEAL HOMES TOWNSHIP,
RR NAGAR, BENGALURU.

...PETITIONER

(BY SRI NITISH KN, ADVOCATE FOR
SRI KV NARASIMHAN., ADVOCATE)

AND:

SRI PUTTASWAMY GOWDA
AGED ABOUT 47 YEARS,
KAGEHALLA DODDI GRAMA,
KASABA HOBLI,
MANDYA.

...RESPONDENT

(BY SRI K.L. SREENIVAS., ADVOCATE - ABSENT)

THIS CRL.P IS FILED UNDER SECTION 482 OF CR.P.C
PRAYING TO ALLOW THIS PETITION AND SET ASIDE THE
ORDER DATED 29.06.2019 AT ANNEXURE-A PASSED BY THE
LEARNED PRL.CIVIL JUDGE AND J.M.F.C., MANDYA IN
C.C.NO.885/2019 AND ETC

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

RAL ORDER

Challenging order dated 29.06.2019 passed by Prl. Civil Judge and JMFC, Mandya in CC no.885/2019, this petition is filed.

2. Sri Nitish KN, learned counsel appearing for Sri KV Narasimhan, advocate for petitioner submitted that petitioner was accused no.3 in PCR no.832/2013 filed by respondent stating that he was a share holder of Mysore Sugar Factory, Mandya (Factory). He alleged that accused no.1 to 4 - office bearers of Factory had misappropriated Government funds released for factory by falsely showing purchase of automatic filling machine from JJ Enterprises (accused no.5) for Rs.57,81,250/-, without any such purchase and by fabrication of records. Thus complaint was filed against accused no.1 to 5. It was alleged that JJ Enterprises did not exist and amount shown as Tax was not paid to authorities. But, after investigation 'B'-report was filed. Respondent filed objections



and impleaded accused no.6 for colluding with accused no.1 to 5. Thereafter, respondent was examined and documents in support of complaint were produced. Thereafter, without passing any order on 'B'-report, learned Magistrate passed order taking cognizance. Contending that same was not inconformity with procedure on filing of 'B'-report as clarified by this Court in **Dr.Ravikumar v. KMC Vasantha and Anr.**, reported in **ILR 2018 KAR 1725**, this petition is filed. It was submitted, learned Magistrate did not pass specific orders on 'B' report nor assigned specific reasons for taking cognizance.

3. It was submitted, petitioner was working as Manger, Account Finance and had no role in alleged misappropriation. There were no specific overt acts alleged against petitioner either in complaint or in protest petition. Therefore continuation of proceedings against petitioner amounted to abuse of process and sought for quashing.

4. On other hand, none appears for respondent.

5. Since matter is of year 2021, it is taken up for disposal.



6. This petition is by accused no.3 challenging order passed on 'B' report and taking cognizance on ground of non-compliance with procedure held mandatory by this Court in **Dr.Ravikumar's** case (supra). In said decision, it is held:

"5. The procedure followed by the Learned Magistrate is not in accordance with law. It is well recognized principle of law that, once the Police submit 'B' Summary Report and protest petition is filed to the same, irrespective of contents of the protest petition, the Court has to examine the contents of 'B' Summary Report so as to ascertain whether the Police have done investigation in a proper manner or not and if the Court is of the opinion that the investigation has not been conducted properly, the Court has got some options to be followed, which are:

- i) The Court after going through the contents of the investigating papers, filed u/s 173 of Cr. P.C., is of the opinion that the investigation has not been done properly, the court has no jurisdiction to direct the Police to file the charge sheet however, the Court may direct the Police for re or further investigation and submit a report, which power is inherent under section 156(3) of Cr. P.C., but before taking cognizance such exercise has to be done. This my view is supported by the decisions of the Hon'ble Apex Court in a decision reported in between *Abhinandan Jha v. Dinesh Mishra* [AIR 1968 S.C. 117.] (para 15) and also Full Bench decision of Apex Court in between *Kamalapati Trivedi v. State of West Bengal* [(1980) 2 SCC 91.]
- ii) If the court is of the opinion that the material available in the 'B' Summary Report makes out a cognizable case against the accused and the same is sufficient to take cognizance, and to issue process, then the court has to record its opinion under Sec.204 of Cr.P.C., and the Court has got power to take cognizance on the contents of 'B' Summary Report and to proceed against the accused, by issuance of process.
- iii) If the court is of the opinion that the 'B' Summary Report submitted by the Police has to be rejected, then by expressing its judicious opinion, after applying its



mind to the contents of 'B' report, the court has to reject the 'B' Summary Report.

- iv) After rejection of the 'B' Summary Report, the court has to look into the private complaint or Protest Petition as the case may be, and contents therein to ascertain whether the allegations made in the Private complaint or in the Protest Petition constitute any cognizable offence, and then it can take cognizance of those offences and thereafter, provide opportunity to the complainant to give Sworn Statement and also record the statements of the witnesses if any on the side of the complainant as per the mandate of Sec. 200 Cr. P.C.
- v) If the court is of the opinion that the materials collected by the police in the report submitted under section 173 of Cr. P.C. are not so sufficient, however, there are sufficient materials which disclose that a cognizable offence has been committed by the accused, the court can still take cognizance of the offence/s under Section 190 read with 200 Cr. P.C. on the basis of the original complaint or the protest petition as the case may be. After taking cognizance and recording sworn statement of the complainant and statements of witnesses if any and also looking into the complaint/Protest Petition and contents therein, if the Magistrate is of the opinion that, to ascertain the truth or falsity of the allegations further inquiry is required and he thinks fit to post pone the issue of process he can still direct the investigation under section 202 of Cr. P.C., to be made by a Police officer or by such other officer as he thinks fit, to investigate and submit a report, for the purpose of deciding whether or not there is sufficient ground for proceeding against the accused. In the above eventuality, care should be taken that, the case shall not be referred to the Police under section 156(3) of Cr.P.C., once the magistrate takes cognizance and starts inquiring into the matter himself.
- vi) After taking such report under section 202 of Cr.P.C., and looking to the entire materials on record, if the magistrate is of the opinion that there are no grounds to proceed against the accused, then the Magistrate is bound to dismiss the complaint or the Protest Petition u/s. 203 of Cr.P.C. as the case may be.



- vii) If in the opinion of the Magistrate there are sufficient grounds to proceed against the accused, on examination of the allegations made in the Protest Petition or in the complaint, as the case may be and also after perusal of the sworn statement, then he has to record his opinion judiciously, and issue summons to the accused by exercising power u/s. 204 of Cr.P.C."

7. Perusal of impugned order reveals that after filing of 'B' report by Police and respondent filing protest petition, trial Court did not examine whether contents of complaint disclosed cognizable offence. It has also not recorded reasons for rejecting 'B' report as held mandatory in above decision. It merely stated that perusal of complaint, 'B' report and protest petition there were sufficient material to take cognizance against accused no.1 to 5 only and respondent had failed to establish offence against accused no.6, proceeded to take cognizance against accused no.1 to 5.

8. Thus there is failure to record opinion judicious for rejection of B Report as well as for taking cognizance by referring to complaint material. On this ground alone petition would succeed, but to extent to remitting matter back to trial Court to proceed with matter afresh on 'B' Report.



9. Accordingly, petition is ***allowed***, impugned order dated 29.06.2019 passed by Prl. Civil Judge and JMFC, Mandya in CC no.885/2019 is ***set aside***, matter remitted back to learned Magistrate to proceed on B report by following procedure laid down in **Dr.Ravikumar's** case (supra).

Sd/-
(RAVI V HOSMANI)
JUDGE

GRD
List No.: 1 Sl No.: 35