



CNR: KAHC010533872019

NC: 2026:KHC:45597
CRL.P No. 8496 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL PETITION NO. 8496 OF 2019

BETWEEN:

SMT. A. SUMITHRA
D/O LATE T KRISHNAPPA,
AGED ABOUT 53 YEARS,
R/AT NO.244/36, OLD NO.244,
11TH CROSS, 15TH MAIN,
R.M.V. EXTENSION, 1ST STAGE,
SADASHIVANAGARA,
BENGALURU - 560 080.

...PETITIONER

(BY SRI. VIVEK S. REDDY, SR. COUNSEL A/W
SRI. N.DILLI RAJAN, ADVOCATE)

AND:

SRI. GIRIMALLA
S/O RAMANNA,
AGED ABOUT 41 YEARS,
R/AT NO.33, 5TH CROSS,
VINAYAKA LAYOUT,
KUVEMPU NAGARA,
MANDYA CITY - 571 401.

...RESPONDENT

(BY SRI. BASAVARAJU B, ADVOCATE)

THIS CRL.P IS FILED U/S 482 OF CR.P.C. PRAYING TO
QUASH THE IMPUGNED ORDER DATED 07.11.2019 IN

Digitally
signed by
ANNAPURNA
G
Location: High
Court of
Karnataka



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C.C.NO.2069/2017 PASSED BY THE PRINCIPAL CIVIL JUDGE
AND J.M.F.C., MANDYA VIDE ANNEXURE-A.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

Challenging order dated 07.11.2019 passed in
C.C.no.2069/2017 by Principal Civil Judge and JMFC, Mandya,
at Annexure-A, to pass an order to transfer proceedings in
same to VII ACMM, Bengaluru, and to conduct trial along with
Crime no.86/2017, this Petition is filed.

2. Sri Vivek S.Reddy, learned Senior Counsel
appearing for petitioner submitted that on 12.07.2017 noticing
several cheques belonging to petitioner were stolen by her
sister Nagamma and Girimalla, who had access to her house,
complaint was filed and registered as Crime no.86/2017 by
Sadashivanagar Police Station and reported to VII ACMM,
Bengaluru, for offences punishable under Sections 379, 420,
120B and 468 read with Section 34 of Indian Penal Code, 1860
(**IPC**).



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3. It was submitted that respondent-complainant had presented stolen cheques for collection and on its dishonour due to '*Insufficient funds*' got issued statutory notice dated 17.07.2017, which was served on petitioner on 19.07.2017, to which a reply was issued. Thereafter respondent had filed a private complaint in PCR no.576/2017 on file of Prl. Civil Judge & JMFC, Mandya on 10.08.2017 in which, an order was passed on 07.11.2019 for registration of proceedings and for issuance of summons. Consequently, proceedings was registered as C.C.no.2061/2017. Assailing said order and seeking for transfer of said proceedings to be tried along with Crime no.86/2017, this petition was filed.

4. It was submitted that subject matter of Crime no.86/2017 and C.C.no.2069/2017 was cheque, which petitioner herein alleged to be stolen by respondent and not issued towards any legally enforceable debt. It was submitted that in case both were not tried together, petitioner's opportunity to defend himself in proceedings would be diluted and there would be possibility of conflicting opinions. Therefore, prayer for transfer of proceedings in C.C.no.2069/2017 to file



of VII ACMM, Bengaluru, before whom proceedings in Crime no.86/2017 were pending.

5. It was submitted that petitioner would co-operate for early conclusion of investigation and proceedings. It was further submitted that Hon'ble Supreme Court in ***Pareshbhai Amrutlal Patel and Others v.State of Gujarat and Another*** reported in **(2020)12 SC 569** had under similar circumstances ordered for clubbing of proceedings to avoid contradictory judgments and example could be followed.

6. On other hand, Sri B.Basavaraju, learned counsel for respondent-complainant opposed petition. It was submitted that on registration of complaint in Crime no.86/2017, Investigating Officer had forwarded cheques for Forensic testing and report received that signature on cheques was that of petitioner herein. Based on same, a 'B' report was filed. Though same was challenged in CrI.R.P.no.832/2018, same was allowed and matter remitted back for providing opportunity to cross-examine Authority, which had issued FSL report, there was no further proceedings in same. It was submitted that proceedings in C.C.no.2069/2017 were for offence punishable



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under Section 138 of Negotiable Instruments Act, 1881 (**NI Act**) and would be summary proceedings, whereas proceedings in Crime no.86/2017 would be regular summons trial, which was likely to take time and therefore, stalling of proceedings under Section 138 of NI Act would not be justified.

7. It was further submitted that FSL report would virtually vindicate futility of defence and filing of complaint would be only to dilate proceedings under Section 138 of N.I. Act. Therefore, there was no merit in petition and sought for dismissal of petition.

8. Heard learned counsel and perused material on record.

9. This petition is by accused in proceedings initiated under Section 138 of N.I. Act for quashing of order taking cognizance as well as for issuing process and for transfer of said proceedings. In course of hearing, it was noted that complaint filed by petitioner herein claimed to be filed on '12.07.2017' was dated '13.07.2017'. However, FIR at Annexure-D mentioned date of registration of receipt of



complaint as 12.07.2017. Therefore, Station House Diary for said dates was called for.

10. On perusal, it was noted that even date mentioned on complaint by hand by SHO and in Station House Diary date mentioned was '13.07.2017', but entered on '12.07.2017'. Though same was sought to be explained as due to inadvertence same would raise eyebrows. However, instead of delving on same, at this stage, in this proceedings, it is found appropriate to make a note of it and relegate same to be examined by trial Court itself.

11. Taking note of order passed by Hon'ble Supreme Court in ***Pareshbhai Amrutlal Patel's*** case (*supra*) and as subject matter of Crime no.86/2017 as well as C.C.no.2069/2017 would be cheque and stand of petitioner insofar as said cheque would be that it was stolen, subject matter of both proceedings would appear same. It is, therefore, found appropriate that both matters be proceeded with together before same Court to avoid conflicting opinion/judgment.



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12. Insofar as order dated 07.11.2019, non-mentioning of words '*cognizance taken*' would not be fatal. Learned Trial Judge has mentioned in impugned order that on perusal of complaint, sworn statement and documents produced, it was *prima facie* found fit to proceed against accused. Hon'ble Supreme Court in ***CREF Finance Ltd. v. Shree Shanthi Homes Pvt. Ltd. and Another*** reported in **(2005) 7 SCC 467** as well as ***Mehmood Ul Rehman v. Khazir Mohammad Tunda and Others*** reported in **(2015) 12 SCC 420** held, there would be no need for use of expression '*cognizance taken*' and absence would make no difference, would prompt this Court to find no fault with order dated 07.11.2019.

13. Consequently, Petition is ***allowed in part*** only insofar as directing continuation of proceedings in Crime no.86/2017 presently on file of VII ACMM, Bengaluru and C.C.no.2069/2017 on file of Prl. Civil Judge & JMFC, Mandya, before same Court which is '*Prl. Civil Judge & JMFC, Mandya*'.

14. In peculiar facts and circumstances of this case, it is found fit to direct learned Magistrate to monitor further



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progress in Crime no.86/2017 so that same would not delay proceedings in C.C.no.2069/2017.

15. In view of disposal of petition, pending applications are dismissed as unnecessary.

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

HNM
List No.: 1 Sl No.: 2