



CNR: KAHC010595662024

NC: 2026:KHC:55686
CRL.RP No. 1367 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MRS. JUSTICE GEETHA K.B.

CRIMINAL REVISION PETITION NO. 1367 OF 2024

(397(Cr.PC) / 438(BNSS))

BETWEEN:

1. SRI. NAGENDRA @ NAGENDRA PRASAD S
S/O SIDDAPPA
AGED ABOUT 42 YEARS,
RESIDING AT KAJISONNENAHALLI,
KANNAMANGALA POST, BANGALORE 560 067
...PETITIONER
(BY SRI. BHASKAR C R.,ADVOCATE)

AND:

1. STATE BY AVALAHALLI P.S.
REP BY STATE PUBLIC PROSECUTOR
OFFICE OF THE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BANGALORE 560 001.
...RESPONDENT
(BY SRI.VINAY MAHADEVAIAH, HCGP)

THIS CRL.RP IS FILED U/S 397 R/W 401 CR.PC (FILED U/S 438 R/W 442 BNNS) BY THE ADVOCATE FOR THE PETITIONER PRAYING TO SET ASIDE THE ORDER DATED 28/03/2023 PASSED BY THE HONBLE IX ADDL. DISTRICT AND SESSIONS JUDGE, BANGALORE RURAL DISTRICT, BANGALORE

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IN SC NO. 47/2019 NOT ALLOWING THE APPLICATION UNDER SECTION 227 OF CR.P.C. AND THEREBY ALLOW THIS PETITION AND GRANT SUCH OTHER RELIEVES.

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

CORAM: HON'BLE MRS. JUSTICE GEETHA K.B.

ORAL ORDER

1. Even though this case is at the stage of admission, with the consent of both sides, heard arguments on merits.

2. This is the Revision Petition filed under Section 397 r/w 401 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.'), by the revision petitioner/accused No.9 by name Nagendra @ Nagendra Prasad.S to set aside the order dated 07.08.2024 passed in S.C.No.47/2019 on the file of IX Additional District and Sessions Judge, Bengaluru Rural District, Bengaluru (in short, 'the Trial Court'), and to discharge accused No.9.

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3. Parties would be referred with their ranks, as they were before the trial Court, for the sake of convenience and clarity.

4. After investigation, the Investigating Officer has filed the charge-sheet in Crime No. 355/2018 of Avalahalli Police Station against 11 accused persons alleging the offences punishable under Sections 120-B, 302, 201, 465, 468, 471, 417, 419 and 420 Indian Penal Code, 1860 (in short 'the IPC'). Accused No.10 was shown as absconded in the charge-sheet.

5. After appearance of accused No.9, he has filed the application under Section 227 of Cr.P.C., praying to discharge him from the case.

6. It is stated in the application that no case is made out against accused No.9 in the charge-sheet for the offences alleged against him in the charge-sheet. While deciding the application under Section 227 Cr.P.C., the Court has to look into the charge-sheet and its annexures and not into the defence of the accused. Accused may take



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several defences during trial but those defences cannot be a ground to allow or reject the discharge application. The only thing to be decided is whether there is any *prima facie* material alleged against the accused in the charge-sheet and its annexures or not.

7. The learned counsel Sri Bhaskar C.R., appearing for the revision petitioner would submit that the only allegation against accused No.9 in the charge-sheet is that he handed over the deed issued by the Mysuru Maharaja of 1925-26 to accused No.1 and thereby became a party to the alleged Conspiracy, on the basis of which the certified copy of the sale deed was allegedly concocted. According to the learned counsel, these allegations are based solely on the voluntary statements of accused Nos.7 and 11. It is further submitted that the voluntary statement of accused No.11 was recorded on 23.09.2018 in Crime No.353/2018, whereas the FIR in the present case was registered on 22.09.2018 purportedly on the basis of the said statement. Thus, the allegations in the



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present case were manipulated and concocted to suit the convenience of the Investigating Officer. It is contended that these material aspects were not considered by the Trial Court while dismissing the discharge application and, therefore, the impugned order requires interference.

8. The learned HCGP Sri Vinay Mahadevaiah, for the respondent would submit that the allegation against accused No.9 in the charge-sheet is under Section 120-B of IPC i.e. Conspiracy. Hence, mere presence at the time of Conspiracy itself is sufficient to invoke the offences alleged against other accused persons also against accused No.9. Hence, there are sufficient materials to proceed against accused No.9. Thus, accused No.9 is not entitled for discharge.

9. Having heard arguments of both sides, verifying the revision petition papers, charge-sheet and its annexures, the point that arises for consideration is:

"Whether the rejection of application under Section 227 of Cr.P.C., on behalf of accused No.9 by

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the trial Court is grossly erroneous, perverse and not in accordance with law?"

10. The finding of this Court on above point is in **Negative** for the following:

REASONS

11. On careful perusal of the order passed by the trial Court; on perusal of the charge-sheet averments and its annexures, it is to be noted here that, the serious allegations are made against other accused persons. The first allegation made against accused No.9 is that he has given the old deed of Mysuru Maharaja's period to accused No.1 and others and based on it, they have concocted a certified copy of sale deed in respect of Sy.No.81 measuring 1 acre 08 guntas situated at Belathuru Village, East Taluk, Bengaluru; the second allegation against the accused No.9 is that, he was present at the time of Conspiracy made by other accused persons to commit the offences alleged in this case and the third allegation is that he has given the car to other accused persons, which was

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used to commit the offences and thus, facilitated other accused persons to commit the offence.

12. In the statements of several witnesses, i.e., Pawan @ Pawankumar, Venkatesh s/o Lakshmayya, Vedheshkumar @ Vedhi, Bijay Mathew s/o T.T.Madhew and statements of other witnesses, there is specific allegation that the old deed of Maharaja's period was used to concoct the deed in respect of Sy.No.81 measuring 1 acre 8 guntas and the said deed was furnished by accused No.9 to accused No.7 who in turn, handed over it to accused No.1. Not only in the voluntary statements of some of the accused persons but also in the statements of the above persons, there is recital about presence of the accused No.9 in the Conspiracy that has taken place in respect of commission of offence and the same is *prima facie* made out in the annexures to the charge-sheet.

13. Furthermore, as stated above, there is some allegation that accused No.9 handed over the car to accused No.1 and others, which was used for commission

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of the offence. The said car may not be standing in the name of the present accused No.9 and it may be the statement of the RC owner that he handed over the said car to the brother of accused No.9, but it is stated in the annexures to the charge-sheet that accused No.9 handed over the car to other accused persons, which was used for commission of the offence. Under these circumstances, there is *prima facie* material against accused No.9 to proceed.

14. Whether the statement of accused No.11 was recorded on 23.09.2018 or it was recorded on 22.09.2018 cannot be decided in an application filed for discharge. It is a matter of trial. Only after conclusion of the trial, whether the entire case was manipulated against accused No.9 or not, could be ascertained.

15. In view of the above, there is *prima facie* material against accused No.9 to proceed with the case and he is not entitled to discharge. Thus, the rejection of



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the discharge application by the trial court is not erroneous and requires no interference.

16. Accordingly, this Court passes the following:

ORDER

The Criminal Revision Petition *is dismissed.*

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**(GEETHA K.B.)
JUDGE**

SPV
List No.: 2 Sl No.: 11