IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF DECEMBER, 2020

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO.6391 OF 2020

BETWEEN:

SRI.SHASHIKUMAR,
S/O LATE VENKATASOMAPPA,
AGED ABOUT 38 YEARS,
RESIDENT OF HETHAKKI VILLAGE,
NANDAGUDI HOBLI,
HOSAKOTE TALUK,
BANGALORE RURAL DISTRICT – 562 122.

... PETITIONER

(BY SRI AMARESH A ANGADI, ADVOCATE)

AND:

STATE OF KARNATAKA,
BY NANDAGUDI POLICE,
NANDAGUDI CIRCLE,
BANGALORE RURAL DISTRICT.

... RESPONDENT

(BY SRI.K.NAGESHWARAPPA, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C. PRAYING TO QUASH THE CASE IN C.C.NO.20561/2018 PENDING ON THE FILE OF THE III A.C.M.M., BANGALORE FOR THE OFFENCES P/U/S 498A, 323 OF IPC AND SECTION 3, 4 OF D.P. ACT AND ETC.,

THIS CRIMINAL PETITION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

O R D E R

1. Sri. Nageshwarappa.K, learned High Court Government Pleader accepts notice for respondent.

2. Sri. Amaresh.A.Angadi, learned counsel for the petitioner seeks for two weeks time to comply with office objections. However, he requests for the matter to be taken up for hearing pending compliance due to urgency.

3. The office objections not coming in the way of consideration of the above matter. His request is acceded to and the matter is taken up for hearing.

4. The petitioner is before this court for quashing of proceedings in C.C.No.1236/2017 of Mamdagudi Police Station, Hosakote for the offences punishable under Sections 21(1) and 21(2) of MMRD Act and Section 379 of IPC and Section 192 of KLR Act, now

pending on the file of the Additional Civil Judge and J.M.F.C., Hosakote arising out of Crime No.352/2016.

5. Sri. Amaresh A. Angadi, learned counsel for the petitioner submits that the said crime has been registered by the Respondent-Police on the basis of the complaint filed by the Inspector of Police, Hosakote Taluk, there being a bar under the provisions of Karnataka Minor Mineral Concession Rules, 1994 and Mines and Minerals Regulation of Development Act, 1957, the Police Inspector could not have registered a complaint, since it is the notified Authorized Officer, who is required to file private complaint under Section 200 of Cr.P.C.

6. Having regard to the decision of this Court in case of **Vivek v. State of Karnataka in Crl.P.No.6279/2017 dated 15.11.2017** reported in **ILR 2018 KAR 1497** and applying the same here, the said Police Inspector could not have registered the said complaint for the offences under the KMMC

Rules and MMRD Act. As such, the proceedings under the said Act and Rules are hereby quashed.

7. Having regard to the decision of the Hon'ble Apex Court in case of ***Jayant Etc. Vs. State of Madhya Pradesh*** reported in ***Criminal Appeal Nos.824-825 of 2020***, the proceedings against the petitioner for the offence punishable under Section 379 of IPC and Section 192 of KLR Act would continue. Liberty is however reserved to the respondent to initiate the proceedings under the MMRD Act and KMMC Rules by following the guidelines prescribed in ***Jayant***'s case (quoted supra).

8. With the above observations, the petition is ***disposed off***.

Sd/-
JUDGE

ssb