NC: 2025:KHC:812
CRL.P No. 12944 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR JUSTICE S.R.KRISHNA KUMAR

CRIMINAL PETITION NO. 12944 OF 2024 (482(Cr.PC) / 528(BNSS)

BETWEEN:

MR MAHADEVA J M
SON OF LATE MARIMADEGOWDA
AGED ABOUT 55 YEARS,
RESIDENT OF JAKKANAHALLI VILLAGE,
SRIRANGAPATNA TALUK,
MANDYA DISTRICT – 571 807.

…PETITIONER

(BY SRI. SHANKAR H S, ADVOCATE)

AND:

THE STATE BY GEOLOGIST
MINES AND MINERALS DEPARTMENT,
OFFICE OF SENIOR GEOLOGIST,
MANDYA DISTRICT,
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BANGALURU-560 001.

…RESPONDENT

(BY SRI. VINAY MAHADEVAIAH, HCGP)

Digitally signed by LEELAVATHI S R
Location: High Court of Karnataka

THIS CRL.P IS FILED U/S 482 CR.PC (FILED U/S 528 BNSS) PRAYING TO QUASH THE ENTIRE CRIMINAL PROCEEDINGS IN C.C.NO.322/2024 (PURSUANT TO PCR NO.26/2024) PENDING ON THE FILE OF THE PRL.CIVIL JUDGE AND J.M.F.C SRIRANGAPATNA FOR THE ALLEGED OFFENCE P/U/S 4(1),4(1A),21(1) R/W S 22 MMDR ACT AND SEC.3(1),42,43,36(3) OF KMMC RULES 1994 R/W RULE 44 OF KMMC RULES (AMENDMENT ACT 2020) AND FURTHER BE PLEASED.

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

CORAM: HON'BLE MR JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

In this petition, petitioner – accused seeks quashing of the impugned proceedings in C.C.No.322/2024 on the file of the Prl. Civil Judge & JMFC, Srirangapatna, for the alleged offences punishable under Sections 4(1), 4(1A), 21(1) r/w Section 22 of the MMDR Act and Rules 3(1), 42, 43, 36(3) of the KMMC Rules r/w Rule 44 of the KMMC Rules (Amendment), 2020 and for other reliefs.

2. Heard learned counsel for the petitioner and learned counsel for the respondent and perused the material on record.

3. A perusal of the material on record will indicate that the impugned proceedings are pending before the learned Magistrate which is impermissible in law since the private complaint has to be necessarily filed before the Special Court constituted under Section 30(B) of the MMDR Act and not before the learned Magistrate as held by this Court in the case of ***Sundaresha H.K. and another Vs. the State of Karnataka – Crl.P.No.10780/2023 dated 19.04.2024 (***Annexure D) wherein it is held as under:

> *"Petitioners are before this Court with a prayer to quash the entire proceedings in C.C.No.136/2023 pending before the Court of Civil Judge and JMFC, Sringeri arising out of PCR No.26/2023*

registered for the offences punishable under Sections 4(1), 4(1a), 9, 23C(1)(2) & 24(1) R/w 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 (for short, MMRD Act) .

2. Heard the learned counsel for the parties

3. Learned counsel for the petitioners submits that there is no compliance of Section 30(B) of the MMRD Act in the present case. The private complaint is required to be filed in special courts and the learned Magistrate has no jurisdiction to entertain the same. He submits that this Court in identical circumstances in Crl.P.No.100525/2017 disposed of on 22.3.2017 has considered this aspect of the matter and has quashed the proceedings.

4 Per contra, learned HCGP who has opposed the petition, however does not the dispute that there is no compliance of Section 30(B) of the MMRD Act in the present case.

5. The material on record would go to show that private complaint has been filed against the petitioners herein for the aforesaid offences before the court of Civil Judge and JMFC, Sringeri. Learned Magistrate has taken cognizance of the alleged offences and thereafter case was registered against the petitioners in C.C.No.136/2023. The Coordinate Bench of this Court in Crl.P.No.100525/2017 at the paragraph Nos.3 and 4 has observed as follows:-

> *"3. The provision under Section 30B of the Mines and Minerals (Development and Regulation) Act, 1957, ('the MMDR Act', for short) confers special status on the Special Courts and the Governments have to establish Special Courts for the purpose of trying the offences under the MMRD Act. There is no doubt so far as the above aspect is concerned. Section 30B of the MMDR Act reads as under:-*

> ***"30B.Constitution of Special Courts.-****(1) The State Government may, for the purposes of providing speedy trial of offences for contravention of the provisions of sub-section (1) or sub-section(1A) of section 4, constitute, by notification,*
>
> *as many Special Courts as may be necessary for such area or areas, as may be specified in the notification.*
>
> *(2) A Special Court shall consist of a Judge who shall be appointed by the State Government with the cocurrence of the High Court.*
>
> *(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is or has been a District and Sessions Judge.*
>
> *(4) Any person aggrieved by the order of the Special Court may prefer an appeal to the High Court within a period of sixty days from the date of such order."*

4. In view of the above said provision, in order to deal with the matters under the above said enactment, the Government has issued notification constituting Special Courts for the purpose of dealing with the offences under the MMRD Act. As per Section 30B of the MMDR Act, the Principal District and Sessions Judge of every district have been designated as the Special Judge. In view of Section 30B of the MMDR Act and the notification issued, as noted above, it is crystal clear that the Judicial Magistrates of First Class, have no right to entertain any complaint where the allegations fall under the MMDR Act or the Rules thereunder and with allied offences. The factual matrix of this case shows the Geologist- respondent No.3 ha filed a private complaint before the learned Civil Judge (Sr. Dn.) & Ranebennur, against the petitioner for the offences punishable u/S 4(1), 4(1-A) and 21 of MMRD Act, 1957 Rules 3(1), 36, 42, 44(1) of KMMCR Rules, 1994 and under Rules 3-B and 3-C of Karnataka Regulation of Stone Crushers Rules, 2012 read with Section 16(1) of Karnataka Regulation of Stone Crushers Act, 2011. The learned Civil Judge (Sr. Dn.) & JMFC, Ranebennur,

after receiving the complaint ha taken cognizance and issued summons to the accused vide orders dated 02.11.2016 by regitering a Criminal Case in C.C. No. 692/2016. The said registration of the case in C.C. No. 692/2016. The said registration of the cae taking of cognizance and issuing of process is without jurisdiction by the Magistrate. In this background, as rightly submitted by the learned counsel for the petitioner, the learned JMFC could not have entertained the complaint, taken cognizance and issued summons to the petitioners herein. Therefore, the said order requires to be quashed. The complaint averments discloses the specific allegations of petitioners having committed offences under Sections 4(1), 4(1A) of the MMDR Act, under Section 3(1), 36, 42 of the Karnataka Minor Mineral Concession Rules, 1994, under Section 3(1), 6-A(2) of the Karnataka Regulation of Stone Crushers Act, 2011, and under Section 3B and 3C of the Karnataka Regulation of Stone Crushers Rules, 2012."

6. Under the circumstances, the impugned criminal proceedings pending before the Court of Civil Judge & JMFC, Sringeri for the offences punishable under Sections 4(1), 4(1a), 9, 23C(1)(2) & 24(1) R/w 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 cannot be sustained.

7. Accordingly, the petition is ***allowed****.*

The entire proceedings in C.C.No.136/2023 pending before the Court of Civil Judge and JMFC, Sringeri arising out of PCR No.26/2023 registered for the offences punishable under Sections 4(1), 4(1a), 9, 23C(1)(2) & 24(1) R/w 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 is hereby ***quashed"***

4. The issue in controversy involved in the present petition is directly and squarely covered by the judgment of the Co-

ordinate Bench of this Court in *Sundaresha's case supra* and consequently, the impugned proceedings deserve to be quashed.

5. In the result, I pass the following:

ORDER

(i) The petition is hereby allowed.

(ii) The impugned proceedings in C.C.No.322/2024 on the file of the Prl. Civil Judge & JMFC, Srirangapatna, in so far as the petitioner is concerned, is hereby quashed.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

BMC/SV
List No.: 1 Sl No.: 61