IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL PETITION NO.1358 OF 2021

BETWEEN:

1. K.V. RAGHAVENDRA,
S/O VENKATASUBBAIAH,
AGED ABOUT 52 YEARS,
R/AT NO.62, 4TH MAIN,
VINAYAKA LAYOUT,
VIJAYANAGAR,
BENGALURU-560040.

…PETITIONER

(BY SRI. DIWAKAR K., SENIOR COUNSEL FOR
SRI. HITESH GOWDA B.J., ADVOCATE)

AND:

1. UNION OF INDIA,
SOUTH WESTERN RAILWAY,
DIVISIONAL OFFICE,
PERSONAL DEPARTMENT,
CITY RAILWAY STATION,
BENGALURU – 560023.

2. STATE OF KARNATAKA,
INSPECTOR OF POLICE,
BENGALURU CITY RAILWAY POLICE STATION,
REPRESENTATED BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BENGALURU-560001.

…RESPONDENTS

(BY SRI. GOWTHAMDEV C. ULLAL, ADVOCATE FOR R1;
SRI. M. DIVAKAR MADDUR, HCGP FOR R2)

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Location: HIGH COURT OF KARNATAKA

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.16946/2020 REGISTERED BY THE RESPONDENT NO.1 POLICE, PENDING ON THE FILE OF XLI ADDL. CHIEF METROPOLITAN MAGISTRATE, BENGALURU, AGAINST THE PETITIONER WHO IS THE ACCUSED FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 143, 145, 147, 448 AND 353 R/W SECTION 149 OF IPC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 16.10.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

CAV ORDER

Heard the learned Senior Counsel for the petitioner, the learned counsel for respondent No.1 and the learned High Court Government Pleader appearing for respondent No.2/State.

2. The prayer sought in the petition is to quash the entire proceedings in C.C.No.16946/2020, registered by respondent No.1 police against the petitioner for the offences under Sections 143, 145, 147, 448, 353 read with 149 of IPC.

3. The factual matrix of the case of the prosecution i.e., respondent/State by City Railway Police Station is that, this petitioner/accused No.1 is an employee of the South Western Railways and also working as the Divisional Secretary of the South Western Railway Mazdoor Union of Bangalore

Division. A complaint was lodged by Sri Ganesh Bhat and Sri R. Vishwaradhaya that when they were working on 17.03.2016 at 18:40 hours, a group of railway staff entered into the cabin and asked them to vacate the cabin. They further re-entered at 19:45 hours and hence, number of trains were delayed on account of the act of this petitioner and others. Based on the complaint, case was registered and the matter was investigated and charge-sheet was filed against this petitioner and others.

4. The main contention of the learned Senior Counsel appearing for the petitioner is that though the incident was taken place on 17.03.2016, the information pertaining to the delay of the train was not affected on the acts and deeds of the petitioner and the same was on account of technical difficulties. The intra office communication dated 17.03.2016 (Annexure-D) is very clear that it is on account of technical difficulties. The learned counsel also vehemently contend that the department had intimated the respondent police that the delay was due to technical reasons and not man made. Further, the railways have not given any specific name for the delay of trains. The communication Annexure-E series is also relied upon by the learned Senior Counsel for the petitioner. When the railways itself has opined that no individual was responsible for the

delay, there cannot be any criminal prosecution against the petitioner. The learned counsel also relies upon the memorandum of charge taken by Gita Mohapatra as per Annexure-F and the said Gita Mohapatra had taken the charge of the office only on 28.05.2018 subsequent to the alleged incident. The learned counsel also brought to the notice of this Court Annexure-G that the complainants themselves have withdrawn the case as unwarranted on 26.03.2016. The other contention is that the offences defined under Section 146 of the Railways Act and the offences alleged in the charge-sheet are specific offences under Section 174 of the Railways Act and only the competent Railway Officer is authorized to initiate a complaint under Section 179(2) of the Railways Act. The investigation has to be conducted by the Railway Protection Force and not by the Railway Police and the same is against the provisions of law. The learned counsel also vehemently contend that no opportunity was given to the accused before condoning the delay when the application was filed and without the application, the Trial Judge ought not to have proceeded to take the cognizance. The learned counsel would contend that the charge sheet was filed after three years, though complaint was filed earlier. The learned counsel relied upon the judgment

of this Court in the case of **SRI B.S. SURESH AND ANOTHER v. THE STATE OF KARNATAKA AND ANOTHER** passed in **CRL.P.NO.12339/2023** dated **29.08.2024** and **STATE OF MAHARASHTRA v. SHARADCHANDRA VINAYAK DONGRE AND OTHERS** reported in **(1995) 1 SCC 42** and the same will be discussed in detail.

5. Per contra, the learned counsel for respondent No.1 would vehemently contend that there is no need to file any application for condonation of delay. The learned counsel in support of his arguments relies upon the judgment of the Apex Court in the case of **SARAH MATHEW v. INSTITUTE OF CARDIO VASCULAR DISEASES** reported in **(2014) 2 SCC 62** and brought to the notice of this Court the discussion made from paragraph No.35 onwards. The learned counsel also brought to the notice of this Court the discussion made in paragraph Nos.35, 37, 39, 41 and concluding portion of the judgment of the Apex Court, wherein it is categorically held that for the purpose of computing the period of limitation under Section 468 of Cr.P.C., the relevant date is the date of filing of the complaint or the date of institution of prosecution and not the date on which the Magistrate takes cognizance. Hence, the learned counsel would contend that there is no need to file any

application for condonation or delay and hence, the contention that there was a delay cannot be accepted.

6. Having heard the learned Senior Counsel appearing for the petitioner and the learned counsel for respondent No.1 and also considering the principles laid down in the judgments relied upon by both the learned counsel, the points that would arise for the consideration of this Court are:

(i) Whether the petitioner has made out the ground to invoke Section 482 of Cr.P.C. to quash the proceedings on the ground of limitation and other grounds urged in the petition?

(ii) What order?

Point No.(i):

7. Having heard the respective counsel and also the principles laid down in the judgment referred supra by counsel, the main contention urged before this Court is with regard to filing an application under Section 473 of Cr.P.C. that there was delay in filing the charge sheet. However, the Court has taken cognizance, inspite of delay in filing the charge-sheet.

8. Learned Senior counsel for the petitioner in support of his argument relied upon the order passed by this Court in

the case of **B.S. Suresh** (supra) and brought to notice of this Court discussion made with regard to limitation is concerned and relying upon the order passed by this Court would contend that there cannot be any proceedings against the petitioner, wherein discussion was made with regard to ingredients of offence under Section 285 of IPC.

9. The counsel also relied upon judgment of the Apex Court in **Sharadchandra Vinayak Dongre** (supra) and brought to notice of this Court paragraph No.9, wherein detailed discussion was made and direction was given to the Magistrate to proceed further in accordance with law after deciding the application seeking condonation of delay. Learned Senior counsel appearing for the petitioner would vehemently contend that unless the issue of limitation is considered, there cannot be proceedings and cognizance cannot be taken by the Trial Court. Admittedly, an application was filed under Section 473 of Cr.P.C. The counsel also would vehemently contend that cognizance cannot be taken without giving an opportunity to the petitioner and without passing a reasonable judicial order on the application under Section 473 of Cr.P.C. giving an opportunity to the petitioner, there cannot be any prosecution against the petitioner.

10. The counsel also would vehemently contend that Railway Police have no jurisdiction to conduct investigation and filing of charge sheet under Indian Penal Code is legally not sustainable when the alleged acts (unauthorized entry into a Station Master's cabin and disruption of train services) constitute specific offences under Sections 146 and 174 of the Railways Act, 1989 and pursuant to Section 179 (2) of the Railways Act, 1989, investigation and prosecution must be initiated exclusively by an authorized Railway Officer rather than the State Police (SBC Railway PS). Hence, it is a case for quashing the proceedings under Section 482 of Cr.P.C.

11. In keeping the said contention of learned Senior counsel for the petitioner and also the contention of learned counsel appearing for respondent No.1 referring the judgment of **Sarah Mathew** (supra), particularly, the counsel brought to notice of this Court paragraph No.35, wherein detailed discussion was made with regard to limitation arises only for filing of complaint within time, not in respect of taking cognizance and brought to notice of this Court discussion made in paragraph Nos.36, 37 and 39, that the object of the criminal law is to punish perpetrators of crime, which means that a crime never dies. At the same time, it is also the policy of law

to assist the vigilant and not the sleepy and brought to notice of this Court conclusion arrived by Larger Bench of the Apex Court that the purpose of computing the period of limitation under Sections 468 Cr.P.C. is the date of filing of the complaint or the date of institution of prosecution and not the date on which the Magistrate took cognizance and further held in the judgment in **BHARAT DAMODAR KALE vs. STATE OF A.P.** reported in **(2003) 8 SCC 559** which is followed in **JAPANI SAHOO vs. CHANDRA SEKHAR MOHANTY** reported in **(2007) 7 SCC 394**. The Apex Court also made an observation in paragraph No.50 that judgment in **KRISHNA PILLAI vs. T.A. RAJENDRAN** reported in **1990 SUPP SCC 121** will have to be restricted to its own facts and it is not the authority for deciding the question as to what is the relevant date for the purpose of computing the period of limitation under Section 468 of Cr.P.C. The counsel referring this proviso would vehemently contend that application filed under Section 473 of Cr.P.C. is redundant and no need to file such an application in view of this judgment of the Apex Court.

12. Having considered the judgment of this Court referred supra in ***Sri B.S. Suresh's*** case and so also earlier judgment of the Apex Court in ***Sharadchandra Vinayak***

Dongre's, the Court has to take note of Larger Bench judgment of the Apex Court in ***Sarah Mathew's*** case. In this judgment with regard to limitation is concerned, the Apex Court in paragraph No.35 discussed regarding invoking Section 473 of Cr.P.C. and learned Senior counsel appearing for the petitioner made more focus on Section 473 of Cr.P.C. that without giving an opportunity to the accused, cognizance was taken. But, in paragraph No.36, the Apex Court held that the role of the Court acting under Section 473 was aptly described by this Court in **VANKA RADHAMANOHARI VS. VANKA VENKATA REDDY** reported in **(1993) 3 SCC 4,** where this Court expressed that this Section has a non obstante clause, which means that it has an overriding effect on Section 468, wherein also extracted paragraph No.6 of the said judgment. But, those observations indicate scope of Section 473 of Cr.P.C. to examine in the light of legislative intent and meaning ascribed to the term "cognizance" by this Court and it is clear that Section 473 Cr.P.C. postulates condonation of delay caused by the complainant in filing the complaint and not for taking cognizance and it is the date of filing of complaint which is material.

13. In paragraph No.37 of ***Sarah Mathew's*** case, the Apex Court also made an observation that a diligent complainant or the prosecuting agency which promptly files the complaint or initiates prosecution would be severely prejudiced if it is held that the relevant point for computing limitation would be the date on which the Magistrate takes cognizance and detailed discussion was made in paragraph No.37 and held that the Courts functioning under the criminal justice system are created for this purpose. It would be unreasonable to take a view that delay caused by the Court in taking cognizance of a case would deny justice to a diligent complainant. Such an interpretation of Section 468 Cr.P.C. would be unsustainable and would render it unconstitutional. It is well settled that a Court of law would interpret a provision which would help sustaining the validity of law by applying the doctrine of reasonable construction rather than applying a doctrine which would make the provision unsustainable and ultra vires the Constitution referring the judgment of **U.P. POWER CORPN. LTD. vs. AYODHYA PRASAD MISHRA** reported in **(2008) 10 SCC 139.**

14. In paragraph No.38, the Apex Court also observed that the conclusion reached is reinforced by the fact that the

Law Commission in Para 24.20 of its Forty-second Report and Three Judge Bench of the Apex Court in ***Dau Dayal's*** case while dealing with a special Act stated that no prosecution shall be commenced after expiration of one year after the discovery of the offence by the prosecution. In paragraph No.6 of the said judgment discussed that complainant is required to resort to the Court within one year of the discovery of the offence if he is to have the benefit of proceeding under the Act. That means that if the complaint is presented within one year of such discovery, the requirements of Section 15 are satisfied i.e., with regard to limitation and the same is for filing a complaint and not in respect of taking cognizance. It is held that if the complaint is filed within the stipulated period of one year, that satisfied the requirement. The complaint could not be thrown out because of Magistrate's act of issuing process after one year.

15. In paragraph No.39 also, the Apex Court taken note of judgment of ***Bharat Kale's*** case and ***Japani Sahoo's*** case and so also, ***Vanka Radhamanohari's*** case, wherein the Apex Court categorically held that the object of criminal law is to punish perpetrators of crime. This is in tune with the well-known legal maxim *nullum tempus aut occurrit regi*, which

means, that a crime never dies. At the same time, it is also the policy of law to assist the vigilant and not the sleepy. So also, taken note of Chapter XXXVI of Cr.P.C. which provides limitation period for certain types of offences for which lesser sentence is provided draws support from this maxim. But, even certain offences such as Section 384 or 465 IPC, which have lesser punishment may have serious social consequences. The provision is, therefore, made for condonation of delay. Treating date of filing of complaint or date of initiation of proceedings as the relevant date for computing limitation under Section 468 of the Code is supported by the legal maxim *actus curiae neminem gravabit* which means that the act of Court shall prejudice no man. The Apex Court having taken note of the principles comes to the conclusion that for the purpose of computing the period of limitation under Section 468 of Cr.P.C the relevant date is the date of filing of the complaint or the date of institution of prosecution and not the date on which the Magistrate takes cognizance rely upon judgment of the Apex Court in ***Bharat Kale's*** case and ***Japani Sahoo's*** and held that ***Krishna Pillai's*** case is restricted to its own facts and it is not the authority for deciding the question as to what is the relevant date for the purpose of computing the period of

limitation under Section 468 of Cr.P.C. Hence, the first contention of learned Senior counsel appearing for the petitioner that charge sheet is filed beyond limitation cannot be accepted and law is declared by the Larger Bench of the Apex Court that relevant date is the date of filing of the complaint or the date of institution of prosecution.

16. Now the question before this Court is with regard to initiation of proceedings by the Railway Police. The contention is that Railway Protection Force have not investigated the matter. But the fact is that Railway Police itself investigated the matter and not invoked the offence under Sections 146 and 174 of the Railways Act, 1989 and only IPC offences are invoked. When such being the case, the contention that the matter ought not to have been investigated by the Railway Police cannot be accepted, since the offences under Sections 146 and 174 of the Railways Act of 1989 were not invoked. Hence, the second contention of learned Senior counsel for the petitioner cannot be accepted.

17. The third contention of learned Senior counsel for the petitioner is that prima facie, the offences does not contemplate the proceedings against the petitioner. But, the

proceedings was initiated against accused Nos.1 and 2 as well as other accused persons based on the complaint given by the railway officials that the act of accused persons led the delay of trains and specific accusation is also made in the charge sheet in column No.17 that under the leadership of accused Nos.1 and 2, accused Nos.3 to 28 formed unlawful assembly and entered EI cabin suddenly and caused obstruction to C.Ws.1 and 2 and made them to go out from the cabin and prevented them in discharging their duties till 7.45 p.m. from 6.40 p.m. and the same was witnessed by C.Ws.5 to 13. As a result, it has caused delay of 21 trains. To that effect, report was also given by C.W.14. The same is an issue to be considered during the course of trial whether they have committed the offences punishable under Sections 143, 145, 147, 448, 353 read with Section 149 of IPC which includes cognizable offence under Section 353 of IPC.

18. No doubt, learned Senior counsel appearing for the petitioner mainly relies upon statement given by the very complainant as per Annexure-G, wherein statement is made through a letter dated 25.03.2016 that it is unwarranted and they do not want to proceed further and withdrawing the case with their own interest and this is a matter of defence whether

they voluntarily gave such letter or not and the same is subject to proof. The counsel also relies upon document of Annexure-F Memorandum dated 28.05.2018, so also the letter reporting damage to slide chairs and plates screws point No.100A and B at BNC end dated 17.03.2016 resulting in detention of all up and down trains between SBC-BNC, work was done up to 19.30 hours, which affected movement of the train and so also, relied upon Annexue-E2.

19. As per the records, movement of trains in the SBC-BNC Section was affected due to technical reasons and these are the documents which can be utilized as a defence at the time of trial and these documents cannot be taken note of when the cognizance was taken by the learned Magistrate having received the charge sheet. So also, the document Annexure-E1 as well Annexure-D could be utilized at the time of trial as defence. The prayer sought before this Court is only with regard to quashing the charge sheet and taking cognizance and these documents cannot be considered at the time of taking cognizance and the Court has to take note of material collected by the Investigating Officer during the course of investigation whether it is a case for proceeding against the petitioner and cognizance was taken in respect of accused

Nos.1 and 2 and accused Nos.3 to 28 are absconding and subsequently, some of them are secured before the Trial Court. Hence, the very contention of learned Senior counsel appearing for the petitioner cannot be accepted keeping in view the accusation made in the charge sheet against the accused persons and the grounds which have been urged before this Court could be raised at the time of trial and it is not a case for quashing as contented by learned counsel appearing for respondent No.1-complainant. Hence, the petitioner has not made out any grounds to quash the proceedings. Accordingly, I answer point No.(i) as 'negative'.

Point No.(ii):

20. In view of the discussion made above, I pass the following:

ORDER

The criminal petition is ***dismissed.***

Sd/-
(H.P.SANDESH)
JUDGE

MD/ST