HC-KAR

NC: 2026:KHC:61897
CRL.P No. 1110 of 2024

CNR: KAHC010067002024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 1110 OF 2024

BETWEEN:

1. MR. G. KARIAPPA
S/O MR. P. GOVINDARAJULU KARIAPPA
AGED ABOUT 59 YEARS
R/AT NO.10, 19TH CROSS,
24TH MAIN, GUNASHEELA LAYOUT,
J.P NAGAR 5TH PHASE
BENGALURU-560 078

2. MR. PRASAD G.N
S/O MR. G.B NARASIMHASWAMY
AGED ABOUT 51 YEARS,
R/AT FLAT NO.M.C.-1503 NO.8
GOLDEN GRAND, NH-4 TUMKUR ROAD
OPP RMC YARD,
YESHWANTHPUR
BENGALURU-560 022

3. MR RAJU H
S/O MR. L. HANUMANTHAIAH
AGED ABOUT 57 YEARS,
R/AT NO.490, 3RD MAIN ROAD,
NEAR MARUTHI CIRCLE
SRINAGAR,
BENGALURU-560 022

Digitally signed by PANKAJA S
Location: HIGH COURT OF KARNATAKA

4. MR BALAKRISHNA.B
S/O BAILAPPA
AGED ABOUT 53 YEARS,
R/AT NO.611, 8TH MAIN ROAD,
8TH CROSS ROAD
NAR LAKSHMI COMMUNICATION
K.N EXTENSION,
YESHWANTHPUR
BENGALURU-560 022

5. MR JAGADISH.S.J
S/O MR JOGAIAH
AGED ABOUT 63 YEARS,
R/AT NO.88, MARUTHI NILAYA,
1ST CROSS, NANJAPPA LAYOUT
ADUGODI, BENGALURU-560 030

6. MR MOHAN.P
S/O RANGARAJU.P
AGED ABOUT 59 YEARS,
NO.47/64, 12TH 'A' CROSS
VYALIKAVAL,
MALLESHWARAM
BENGALURU-560 003

7. MR SHRIDHAR K.M
S/O MR MUDDAIAH.K.R
AGED ABOUT 46 YEARS,
MAGADI MAIN ROAD
THAVAREKERE POST
KURUBARA HALLI,
BENGALURU-562 130

8. MR SHIVARAJU.S
S/O MR SIDDALINGAIAH
AGED ABOUT 56 YEARS,
R/AT NO.327,
10TH 'A' MAIN ROAD
MANJUNATH NAGAR
3RD STAGE, RAJAJINAGAR

BENGALURU-560 010

9. MR NAGARAJ.D
S/O MR. DASAPPA .C
AGED ABOUT 62 YEARS
R/AT NO.8/2-25
11TH CROSS, MALLATHAHALLI
NEAR LAKE, ADJACENT TO 9TH BLOCK
SIR M. VISHVESHWARAIAH LAYOUT
BENGALURU-560 056

…PETITIONERS

(BY SRI. ABHILASH VAIDYANATHAN,

SRI. SUMUKH B RAM,

SRI. PRAKASH K.A, ADVOCATES)

AND:

1. STATE BY MAGADI ROAD POLICE STATION
MAGADI ROAD,
BENGALURU REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU-560 001

2. M/S KUMAR SAT LINKS
REP BY ITS PROPRIETOR,
SRI KUMAR
HAVING OFFICE AT
NO.43, 3RD CROSS,
PILLANNA GARDEN
BENGALURU-560 084

…RESPONDENTS

(BY SRI. MAHESHA P, HCGP FOR R1,

SRI. C. PATTABI RAMAN, ADVOCATE FOR R2)

THIS CRL.P IS FILED U/S 482 OF CR.PC PRAYING TO QUASH THE PCR FILED BY RESPONDENT NO.2 HEREIN IN PCR NO.9189/2015 FOR THE ALLEGED OFFENCE P/U/S 506,34,504,420,415,416 OF IPC NOW PENDING ON THE FILE OF THE LEARNED 2ND A.C.M.M AT BENGALURU (ANNEXURE-A).

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

This petition is filed under Section 482 of Cr.P.C seeking to quash proceedings against the petitioners - accused Nos.2 to 10 in C.C.No.35457/2022 (arising out of Crime No.288/2015 registered by Magadi Road Police Station), for the offences punishable under Sections 415, 416, 420, 504, 506 r/w Section 34 of IPC, presently pending on the file of II Additional Chief Metropolitan Magistrate, Bengaluru (for short, 'the learned Magistrate').

2. The brief facts of the case are that respondent No.2 filed a private complaint under Section 200 of Cr.P.C. before the learned III Additional Chief Metropolitan Magistrate,

Bengaluru, against the petitioners alleging commission of the aforesaid offences. It is the case of respondent No.2 that he is running a cable network business under the name and style of *Kumar SAT Links*, having more than 1,500 customers, and that the petitioners are his service providers. It is further alleged that the petitioners supplied NOVA Base set-top boxes, stated to be Chinese products, without guarantee or warranty and without BIS certification, out of which more than 600 set-top boxes supplied to respondent No.2 were defective. When the customers complained about the defects, respondent No.2 approached the petitioners seeking replacement of the set-top boxes, but they failed to do so. It is also alleged that respondent No.2 had invested a sum of Rs.35,00,000/- towards partnership in the company, but the petitioners failed to provide the share certificates or refund the principal amount invested. Aggrieved by the alleged acts of the petitioners, respondent No.2 instituted the private complaint.

3. The learned Magistrate referred the private complaint to the jurisdictional police under Section 156(3) of Cr.P.C. Pursuant thereto, the police registered an FIR for the

aforesaid offences, conducted an investigation and submitted a 'B' report. Aggrieved by the submission of the 'B' report, respondent No.2 filed a protest petition. However, the learned Magistrate proceeded to take cognizance of the alleged offences without passing a specific order thereon 'B' Report. Being aggrieved by the said order, the petitioners have preferred the present petition.

4. Heard the learned counsel for the petitioners, learned HCGP for respondent No.1-State and learned counsel for respondent No.2.

5. The primary contention of the learned counsel for the petitioners is that the learned Magistrate has taken cognizance of the alleged offences without application of judicious mind. It is submitted that respondent No.2 had filed the complaint without furnishing the supporting affidavit as required under Section 156(3) of Cr.P.C., contrary to the law laid down by the Hon'ble Apex Court in ***Priyanka Srivastava and Another v. State of Uttar Pradesh***, reported in ***(2015) 6 SCC 287***, which has been reiterated by the Hon'ble Apex Court in ***S.N. Vijayalakshmi and Others v. State of***

Karnataka and Another, reported in ***2025 SCC OnLine SC 1575***.

6. It is also contended that the learned Magistrate has committed an error in rejecting the 'B' report and taking cognizance of the alleged offences without passing an appropriate order on the 'B' report. On these grounds, the learned counsel sought to quash the impugned proceedings and prayed for allowing the petition.

7. *Per contra,* the learned counsel for respondent No.2 opposed the petition contending that the complainant had specifically stated in the private complaint that he had approached the jurisdictional police as well as the higher police authorities, but no action was taken. Therefore, having no other alternative, he was constrained to file the private complaint. It is submitted that the averments made in the complaint themselves demonstrate compliance with the requirements of Section 156(3) of Cr.P.C. Hence, merely on the ground that a supporting affidavit was not filed along with the complaint, the proceedings cannot be quashed that too order of reference culminated with filing of ‘B’ Report and subsequent

order of the learned Magistrate taking cognizance. In support of his contention, reliance placed in the case of ***Anurag Bhatnagar Vs. State (NCT of Delhi) - AIR 2025 Supreme Court 3427.*** Accordingly, he sought dismissal of the petition.

8. The learned HCGP fairly conceded that respondent No.2 had not filed an affidavit along with the private complaint. However, it was contended that the learned Magistrate had subsequently taken cognizance of the alleged offences and, therefore, the initial defect of non-filing of the affidavit is curable in nature and cannot, by itself, be a ground for quashing the proceedings. Accordingly, the learned HCGP sought dismissal of the petition.

9. I have given my anxious consideration to the submissions made by the learned counsel for the respective parties and also perused the entire materials on record.

10. In the present case, admittedly, the private complaint was not accompanied by an affidavit. Nevertheless, the learned Magistrate referred the complaint to the jurisdictional police under Section 156(3) of Cr.P.C. Pursuant

thereto, the police conducted an investigation and submitted a 'B' report. Thereafter, respondent No.2 filed a protest petition. However, without passing an order on the 'B' report, the learned Magistrate proceeded to take cognizance of the alleged offences.

11. Be that as it may, the primary question that arises for consideration is whether filing of an affidavit along with a private complaint seeking a direction under Section 156(3) of Cr.P.C. is mandatory. The Hon'ble Apex Court, in ***Priyanka Srivastava*** (supra), has held that filing of an affidavit along with an application under Section 156(3) of Cr.P.C. is mandatory to prevent false and frivolous complaints. The said position of law has subsequently been reiterated by the Hon'ble Apex Court in ***S.N. Vijayalakshmi*** (supra), wherein, after referring to the principles laid down in ***Priyanka Srivastava*** (supra), the Hon'ble Apex Court has reiterated the legal position and summarised its conclusions as follows:

> ***"45.*** *The High Court has taken a view that this is a curable defect since before the referral order on the PCR by the ACMM for registering an FIR under Section 156(3) of the CrPC, the required formalities*

were done. In our considered opinion, this approach cannot be labelled erroneous. The requirement under Priyanka Srivastava (supra) is to safeguard the rights of the citizenry and to put a stop to unjust criminal action and filing of vexatious applications to settle personal scores. Thus, such requirement could not be said to be a mere formality. One of us (Sudhanshu Dhulia, J.) as a Single Judge of the Uttarakhand High Court, in Sachin Chamoli v. State of Uttarakhand, 2016 (3) NCC 68, where no affidavit had been filed, held that filing of affidavit was a mandatory requirement as per Priyanka Srivastava (supra). In Babu Venkatesh v. State of Karnataka, (2022) 5 SCC 639, this Court held that the Magistrate concerned should not have entertained the complaint/application under Section 156(3) of the CrPC therein, as it was not supported by an affidavit. In the case at hand, before the ACMM passed the referral order, the complaint was backed by an affidavit. In Ramesh Kumar Bung v. State of Telangana, 2024 SCC OnLine SC 264, the Court, while stating that the directions in Priyanka Srivastava (supra) are mandatory, declined to interfere with the order(s) impugned therein, but noted that the informant had filed the affidavit belatedly. To complete the discussion on this aspect of the law, we may also refer to our judgment in Kanishk Sinha v. State of West Bengal, 2025 SCC OnLine SC 443 where, speaking through Sudhanshu Dhulia, J., this Court upheld an order of the Calcutta

High Court, to the effect that the direction in Priyanka Srivastava (supra) to file the affidavit, was prospective in nature. Therefore, if after the filing of the complaint/application but before any order thereon is passed, such requirement is allowed to be fulfilled/complied with by the complainant, it would not, in our view, run counter to the law exposited in Priyanka Srivastava (supra). We sum up our conclusions on this score as follows : (i) Directions issued in Priyanka Srivastava (supra) are mandatory; (ii) Guidelines laid down in Priyanka Srivastava (supra) operate prospectively; (iii) Non-filing of the supporting affidavit is a curable defect, but must be cured before the Magistrate passes any substantive order on the complaint/application, and; (iv) If the Magistrate proceeds without the requisite affidavit, such order/any consequential orders/proceedings can be quashed on the sole ground of non-compliance with Priyanka Srivastava (supra)."

12. On careful perusal of the aforesaid observations of the Hon'ble Apex Court, it is evident that where a Magistrate proceeds to pass a substantive order on a private complaint or an application under Section 156(3) of Cr.P.C. without insisting upon the requisite affidavit, such order and all consequential

proceedings are liable to be quashed for non-compliance with the principles laid down in *Priyanka Srivastava* (supra).

13. In the present case, as discussed supra, the learned Magistrate, without insisting upon the affidavit, not only referred the complaint to the jurisdictional police for investigation under Section 156(3) of Cr.P.C., but also subsequently proceeded to take cognizance of the alleged offences. Therefore, the principles laid down by the Hon'ble Apex Court squarely apply to the facts and circumstances of the present case. In view of the same, the impugned proceedings are unsustainable and are liable to be quashed. Accordingly, I proceed to pass the following:

O R D E R

i. The petition is ***allowed***.

ii. Without expressing any opinion on the merits of the case, the proceedings against the petitioners - accused Nos.2 to 10 in C.C.No.35457/2022 (arising out of Crime No.288/2015 registered by Magadi Road Police Station), for the offences punishable under Sections 415, 416, 420, 504, 506 r/w

Section 34 of IPC, presently pending on the file of II Additional Chief Metropolitan Magistrate, Bengaluru is hereby quashed.

iii. However, the respondent No.2 is at liberty to file fresh complaint, if required.

SD/-
(RAJESH RAI K)
JUDGE

CR
List No.: 1 Sl No.: 2