HC-KAR
NC: 2026:KHC:60267
CRL.P No. 1424 of 2021
CNR: KAHC010069332021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF OCTOBER, 2026

BEFORE

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

CRIMINAL PETITION NO.1424 OF 2021

BETWEEN:

1. NOUSHADH PASHA
   S/O S.K.MAHBOOB
   AGED ABOUT 52 YEARS

2. B.B.BATHUL FERHANA
   W/O NOUSHADH PASHA
   AGED ABOUT 46 YEARS

3. SHAHID PASHA
   S/O NOUSHADH PASHA
   AGED ABOUT 23 YEARS
   (STUDYING IN ANNA MEDICAL COLLEGE
   AT MAURITIUS)

   ALL ARE
   RESIDENT OF 4TH CROSS
   LAKSHMISHA NAGARA,
   CHIKKAMAGALURU-577 101.

...PETITIONERS

(BY SRI. SIRAJUDDIN AHMED, ADVOCATE)

AND:

1. SMT. JASINTHA FERNANDIES
   W/O LATE PETER FERNANDIES
   AGED ABOUT 63 YEARS
   R/O SAMSE VILLAGE

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

MUDIGERE TALUK,
CHIKKMAGALURU-577 101.

…RESPONDENT

(BY SRI. NISHIT KUMAR SHETTY, ADVOCATE)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.247/2020 (P.C.R.NO.01/2020) REGISTERED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 379, 380, 447, 457, 417, 418, 420 AND 426 OF IPC ON THE FILE OF PRINCIPAL SENIOR CIVIL JUDGE AND C.J.M., CHIKKAMAGALURU.

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

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

ORAL ORDER

Heard learned counsel for the petitioners and learned counsel for the respondent.

2. The prayer is sought in this petition to quash the proceedings initiated against the petitioners in C.C.No.247/2020 (PCR No.1/2020) for the offence under Sections 379, 380, 447, 457, 417, 418, 420 and 426 of IPC.

3. This Court heard the matter elaborately on the previous occasion. When this Court found that there is a foundational defect in the private complaint that there is no

compliance under Sections 154(1) and 154(3) also referred the judgment of the Apex Court in ***Priyanka Srivastava's*** case and other judgments that as on today, no such judgment with regard to the fact that it is a curable defect and learned counsel for the petitioners sought time to produce judgments that it is a curable defect.

4. Now, counsel for the respondent argues that Section 2(d) of the Cr.P.C. does not say with regard to compliance under Sections 154(1) and 154(3). The counsel also would contend that definition of Section 2(d) is only with regard to allegations made in the complaint.

5. The counsel also relied upon the judgment of the Apex Court in **MRS. PRIYANKA SRIVASTAVA AND ANOTHER vs. STATE OF U.P. AND OTHERS** reported in **(2015) 6 SCC 287** and brought to notice of this Court paragraph No.31, wherein also the Apex Court made an observation that as already indicated that there has to be prior applications under Section 154(1) and 154(3) while filing a petition under Section 156(3). Both the aspects should be clearly spelt out in the application and necessary documents to

that effect shall be filed. The warrant for giving a direction that an application under Section 156(3) be supported by an affidavit is so that the person making the application should be conscious and also endeavour to see that no false affidavit is made. It is because once an affidavit is found to be false, he will be liable for prosecution in accordance with law. Though counsel appearing for the respondent made an attempt to bring it to the notice of this Court paragraph No.31 and the said principle laid down by the Apex Court in the judgment is very clear that there must be a document for compliance under Sections 154(1) and 154(3) when the complaint was filed before the Court. Apart from that, an affidavit is also to be filed and the same must be with genuinity and there is no such exemption as contended by learned counsel appearing for the respondent. Admittedly, no such compliance under Sections 154(1) and 154(3) while filing a private complaint and so also, the affidavit is not filed.

6. When such being the case, the contention of learned counsel appearing for the respondent that private complaint not suffers from any foundational defect cannot be

accepted. In the case on hand, no affidavit is filed in support of the private complaint and there is no compliance under Sections 154(1) and 154(3). Even as observed in paragraph No.31 also along with the complaint, no such document is produced before the Court for compliance under Sections 154(1) and 154(3). When such being the case, since there is a foundational defect in the complaint, there cannot be any criminal prosecution against the petitioner.

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

ORDER

(i) The criminal petition is ***allowed.***

(ii) The proceedings initiated against the petitioners in C.C.No.247/2020 (PCR No.1/2020) for the offence under Sections 379, 380, 447, 457, 417, 418, 420 and 426 of IPC is hereby quashed.

Sd/-
(H.P.SANDESH)
JUDGE

ST
List No.: 1 Sl No.: 17