HC-KAR
NC: 2026:KHC:61788
CRL.P No. 1461 of 2021
CNR: KAHC010070342021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF NOVEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO.1461 OF 2021

BETWEEN:

1. SMT. ANURADHA PADIYAR,
W/O N.M. PADIYAR,
AGED ABOUT 55 YEARS,
R/AT NO.44, 19TH CROSS,
6TH BLOCK, JAYANAGAR,
BANGALORE-560082.

2. K.J. DHANANJAYA,
S/O LATE JAYARAM,
AGED ABOUT 45 YEARS,
NO.14, 28TH CROSS,
JAYANAGAR 7TH BLOCK,
BANGALORE-560074.

3. SUHAS RAO,
S/O SURESH RAO,
AGED ABOUT 40 YEARS,
R/AT G-1, LE PALACE,
B.V. ROAD, ATTAVAR,
MANGALORE-575001.

...PETITIONERS

(BY SRI. SAMARTH S. MURTHY, ADVOCATE FOR
SRI. MUNISWAMY GOWDA S.G., ADVOCATE)

AND:

1. STATE OF KARNATAKA,
BY SIDDAPURA POLICE STATION,

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

BENGALURU,
REPRESENTED BY SPP,
HIGH COURT BUILDING,
BENGALURU-560001.

2. THE POLICE INSPECTOR
OCW SQUAD,
CENTRAL CRIME BRANCH,
N.T. PET, BANGALORE-560002.

3. J. PRUTHVIRAJ,
AGED ABOUT 81 YEARS,
S/O GOPALA REDDY,
R/AT NO.131,
4TH CROSS, 1ST MAIN,
SOMESWARANAGAR,
1ST BLOCK, JAYANAGAR,
BANGALORE-560011.

…RESPONDENTS

(BY SRI. SUHAS GOWDA M., HCGP FOR R1 AND R2;
VIDE ORDER DATED 20.07.2021,
STEPS IN RESPECT OF DECEASED R3 IS DISPENSED WITH)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE PROCEEDINGS IN C.C.NO.11696/2020 ON THE FILE OF I ADDITIONAL CHIEF METROPOLITAN MAGISTRATE AT BANGALORE, REGISTERED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 406, 420, 468, 471, 201 R/W SECTION 34 OF IPC IN CR.NO.44/2013 OF SIDDAPURA POLICE STATION, BENGALURU.

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

CNR: KAHC010070342021

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

ORAL ORDER

Heard the learned counsel for the petitioners and the learned High Court Government Pleader appearing for the respondent/State.

2. This matter was heard elaborately in the previous occasion and the learned counsel for the petitioners had raised the issue particularly with regard to CCB is not a police station and also very initiation of proceedings is bad in law. The learned counsel relies upon the judgment of the Apex Court in the case of **SMT. NAGAWWA v. VEERANNA SHIVALINGAPPA KONJALGI AND OTHERS** reported in **(1976) 3 SCC 736** and particularly brought to the notice of this Court Section 202 of Cr.P.C. The learned Magistrate is required to satisfy himself as to whether a prima facie case is made out for proceeding further and taking cognizance of the offence. The learned counsel brought to the notice of this Court paragraph No.5 of the said judgment, wherein enumerated four circumstances under which an order issuing process against the accused can be quashed or set aside.

Condition (4) provides that such an order may be interfered with where the complaint suffers from fundamental legal defects, such as, want of sanction, or absence of a complaint by legally competent authority and the like. The learned counsel referring the same, would mainly contend that the police who have initiated the case i.e., CCB, is not a police station. The learned counsel would vehemently contend that when the matter was pending before the Jayanagara Police Station, Sub-division of Siddapura, case is transferred to the CCB and there is no notification for having transferred the case and hence, there is a fundamental defect.

3. The learned counsel on merits brought to the notice of this Court the judgment of the Apex Court in the case of **DELHI RACE CLUB (1940) LIMITED AND OTHERS v. STATE OF UTTAR PRADESH AND ANOTHER** reported in **(2024) 10 SCC 690**, wherein the Apex Court dealt with the issue with regard to invoking of Sections 406 and 420 of IPC and the Apex Court comes to the conclusion that there cannot be ingredients of both the offences and the ingredients of offences under Sections 406 and 420 of IPC are different.

4. The learned counsel for the petitioners also relies upon the judgment of this Court passed in Crl.R.P.No.34/2018 c/w Crl.R.P.No.1237/2016 dated 18.01.2021 and brought to the notice of this Court that the issue with regard to the CCB is not a police station is taken note of by this Court and comes to the conclusion that CCB is not a police station.

5. Per contra, the learned High Court Government Pleader appearing for respondent Nos.1 and 2 files a memo along with the notification dated 19.01.2024 and brought to the notice of this Court that in view of this notification, CCB is recognized as a police station. The notification is very clear that after getting prior approval from the Police Commissioner, can proceed in the matter. The learned counsel also produced the notification dated 04.01.2024.

6. In reply to this argument, the learned counsel for the petitioners would submit that the investigation was conducted by CCB prior to this notification and the same is not applicable to the case on hand. The learned counsel would contend that once the notification is issued and unless the

same is made clear that this notification is retrospectively applicable, there cannot be any retrospective application.

7. Having considered the factual aspects of the case, though charge-sheet is filed against the petitioners for the offences under Sections 406, 420, 468, 471, 201 read with Section 34 of IPC, in view of the judgment of the Apex Court in the case of **Delhi Race Club** (supra), there cannot be continuation of proceedings in respect of Sections 406 and 420 of IPC. But, in the case on hand, there is a fundamental defect. Admittedly, the case was registered by the Jayanagar Police and the same was transferred to the CCB and as rightly pointed out by the learned counsel for the petitioners there is no such notification for transfer of the case. But case was taken up by CCB and this Court already dealt with the matter that CCB is not a police station in Crl.R.P.No.34/2018 c/w Vtl.R.P.No.1237/2016. The notification issued by the State is subsequently i.e., on 19.01.2024 and in the meanwhile, the police investigated the matter and filed the charge-sheet and the Trial Court also taken the cognizance. There is a fundamental defect in initiating the proceedings against the

petitioners, conducting the investigation and filing of the charge-sheet and CCB was not having any authority to file the charge-sheet and the Trial Court fails to take note of the said fact into consideration. The very taking of cognizance against the petitioners is bad in law and without any authority.

8. The principles laid down in the judgment of the Apex Court in the case of **Smt. Nagawwa** (supra) in paragraph No.5, particularly condition No.4 for quashing of the proceedings is aptly applicable to the case on hand, since there is a complaint and the same suffers from fundamental legal defects i.e., want of sanction or absence of a complaint by legally competent authority and the like. It is also observed in the said judgment that the cases mentioned by the Court are purely illustrative and provide sufficient guidelines to indicate contingencies where the High Court can quash the proceedings. The Apex Court in detail discussed the same long back in the year 1976 itself. The principles laid down in the said judgment are aptly applicable to the case on hand both with regard to the initiation of proceedings as well as merit also though either one of the offence can be continued under Sections 406 or 420 of

IPC. But in the case on hand, the very initiation of the proceedings is very defective and the same is not by a competent authority and hence, it requires interference of this Court.

9. In view of the discussions made above, I pass the following:

ORDER

The petition is allowed and the proceedings initiated against the petitioners in C.C.No.11696/2020 is quashed.

Sd/-
(H.P.SANDESH)
JUDGE

MD
List No.: 1 Sl No.: 12