HC-KAR
NC: 2026:KHC:61299
CRL.P No. 1739 of 2021
CNR: KAHC010083452021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF NOVEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO.1739 OF 2021

BETWEEN:

1. SRI. ADESH SHANKARAPPA,
S/O SRI. SHANKARAPPA,
AGED ABOUT 39 YEARS,
ADVOCATE,
E.C. AND A.S. ASSOCIATES,
NO.8/1, GROUND FLOOR,
JOGUPALYA MAIN ROAD,
ULSOOR, BENGALURU-560008.

2. SRI. G.C. CHETHAN,
S/O SRI. CHANNAPPA G.,
AGED ABOUT 37 YEARS,
ADVOCATE,
E.C. AND A.S. ASSOCIATES,
NO.8/1, GROUND FLOOR,
JOGUPALYA MAIN ROAD, ULSOOR,
BENGALURU-560008.

...PETITIONERS

(BY SRI. GADILINGAPPA G.M., ADVOCATE)

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

AND:

1. STATE OF KARNATAKA,
BY WILSON GARDEN POLICE,
REPRESENTED BY LEARNED
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-560001.

2. M.D. JAYKUMAR,
S/O DORAI SINGH,
AGED ABOUT 71 YEARS,
R/AT NO.65,
3RD CROSS, 1ST FLOOR,
DODDA BANASWADI,
BENGALURU-560043.

…RESPONDENTS

(BY SRI. SUHAS GOWDA M., HCGP FOR R1;
VIDE ORDER DATED 01.07.2025, R2 IS DEAD)

THIS CRIMINAL PETITION IS FILED UNDER SECTIONS 482 OF CR.P.C PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.16587/2020 (CR.NO.117/2019) PENDING ON THE FILE OF VI ACMM, BANGALORE AGAINST THESE PETITIONERS HEREIN FOR THE ALLEGED OFFENCES PUNISHABLE UNDER SECTIONS 323, 341, 504 AND 506 R/W SECTION 34 OF IPC.

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

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 No.1/State.

2. The prayer sought in the petition is to quash the entire proceedings in C.C.No.16587/2020 initiated against the petitioners, who are the practicing advocates, for the offences punishable under Sections 323, 341, 504, 506 read with

Section 34 of IPC and to pass any appropriate order or directions as deemed fit in the circumstances of the case.

3. The allegation made in the complaint is that these two petitioners have committed the offences under Sections 323, 341, 504, 506 read with Section 34 of IPC and this incident was taken place within the Court premises. These two petitioners along with other three persons assaulted on the face and insulted the complainant and the Court employees and public called the ambulance and sent the injured to the Bowring Hospital. Based on the complaint, the police have issued the NCR as per Annexure-A and thereafter, investigated the matter.

4. The learned counsel for the petitioners would submit that these two petitioners are the practicing advocates and they have not committed any offence and only due to personal vengeance as they are appearing on behalf of their client, a false complaint is filed and police also investigated the matter for the offence punishable under Section 323 and other offences which are non-cognizable offences. The learned counsel would contend that no proper permission is obtained

from the Magistrate and hence, the taking of cognizance by the Trial Court against the petitioners is bad in law and there cannot be any criminal prosecution against these two petitioners and it requires interference of this Court.

5. This Court had heard the matter in length in the previous occasion and had directed the learned counsel to produce the order of the learned Magistrate having given the permission to investigate the matter in view of offences invoked are non-cognizable offences and it is submitted that no such order was passed.

6. The learned High Court Government Pleader appearing for respondent No.1/State brought to the notice of this Court Annexure-C, wherein requisition is given seeking permission to investigate the matter, wherein a seal is put on the left side of the requisition as "permitted" by the VI ACMM. Having perused this, the very permission is non-application of mind by the learned Magistrate and while giving permission in a case of non-cognizable offence, the learned Magistrate has to apply his judicious mind and the offences which have been invoked, which are non-cognizable offences, requires to be

investigated and pass reasoned order. No such reasoned order has been passed, except putting the seal and making an initial and the same is bad in law and no any judicial application of mind. When the charge-sheet is also filed before the Court, the learned Magistrate while taking the cognizance passed an order as "Perused the charge-sheet and other records. Cognizance for the offences punishable under Sections 341, 323, 504, 506, 34 of IPC taken against the accused Nos.1 to 3". When there was no such permission to investigate the matter in accordance with law, the Trial Court committed an error in taking the cognizance and ought to have taken note of whether such valid permission is taken or not and in a casual manner put his initial near the seal which was put on the requisition given by the Investigating Officer and it is nothing but an error apparent on the record and no proper order is passed. There is no judicial application of mind by the learned Magistrate at the time of giving permission and even at the time of taking cognizance also and no observation that the matter requires trial and the material collected by the Investigating Officer makes out prima facie material for trial. Under the circumstances, it is a fit case

to exercise the powers under Section 482 of Cr.P.C. to quash the proceedings initiated against the petitioners or otherwise it amounts to miscarriage of justice and it is an abuse of process, if the proceedings are continued.

7. 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.16587/2020 is quashed.

Sd/-
(H.P.SANDESH)
JUDGE

MD
List No.: 1 Sl No.: 13