HC-KAR
CNR: KAHC010093762021

NC: 2026:KHC:63322
CRL.P No. 1891 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF NOVEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO. 1891 OF 2021 (482(Cr.PC) / 528(BNSS)-)

BETWEEN:

1. R VISHWANATH
   S/O LATE V RAGHUNATH
   AGED ABOUT 63 YEARS
   R/AT NO.14/80, 12TH MAIN, 2ND BLOCK
   RAJAJINAGAR,
   BENGALURU-10

...PETITIONER

(BY SRI. K.N.NITISH., ADVOCATE FOR
SRI.K.V.NARASIMHAN, ADVOCATE)

AND:

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

1. STATE BY HAL POLICE STATION
   REPRESENTED BY STATE PUBLIC PROSECUTOR
   HIGH COURT BUILDING
   BENGALURU-560001

2. UMESH SHARMA
   S/O SHYAM SUNDAR SHARMA
   AGED ABOUT 50 YEARS
   SHRI TIRUPATHI BALAJI MINERALS
   NO.14, 10TH CROSS
   IST MAIN, VEERABHADRANAGAR
   BASAVANAGARA

CNR: KAHC010093762021

BENGALURU-560037

…RESPONDENTS

(BY SRI.SUHAS GOWDA M, HCGP FOR R1;
SRI. K.SUNDARAM & SRI. THOMAS V..PETER, ADVOCATES FOR R2)

THIS CRL.P IS FILED U/S.482 CR.P.C BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONOURABLE COURT MAY BE PLEASED TO QUASH THE FIR IN CR.NO.84/2020 OF H.A.L. POLICE STATION, MARATHAHALLI SUB-DIVISION, BENGALURU AT ANNEXURE - A AND CONSEQUENTLY THE COMPLAINT AT ANNEXURE-B IN PCR NO.56298/2019 ON THE FILE OF XXIX ADDL.C.M.M., MAYO HALL, BENGALURU FOR THE OFFENCE P/U/S 34,420,468,465,262 AND 469 OF IPC, AS AGAINST THE PETITIONER.

THIS PETITION IS 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 petitioner, the learned counsel appearing for respondent No.2/complainant, and the learned counsel appearing for the respondent-State.

2. The prayer in the petition is to quash the FIR registered in Crime No.84/2020 by HAL Police Station, Marathahalli, Sub-Division, Bengaluru, and the proceedings in P.C.R.No.56298/2019 pending on the file of the 29th Additional Chief Metropolitan Magistrate, Bengaluru.

3. The learned counsel appearing for the petitioner would vehemently contend that the learned Trial Judge committed an error in passing an order under Section 156(3) of the Code of Criminal Procedure, referring the matter to the police for investigation and submission of a report.

4. The learned counsel would further contend that the Hon'ble Apex Court, in the case of ***Priyanka Srivastava v. State of Uttar Pradesh***[1], has categorically held that, in order to prevent abuse of the process of law through the initiation of private complaints containing false, frivolous and vexatious allegations, an application under Section 156(3) Cr.P.C., must necessarily be supported by an affidavit. In the absence of such

[1] (2015) 6 SCC 287

an affidavit, the Magistrate ought not to have passed an order directing investigation under the said provision.

5. The learned counsel would further vehemently contend that the petitioner is a Notary, and the said fact is not in dispute. He would submit that in the complaint in paragraph No.12, wherein it is alleged that the General Power of Attorney(GPA) was fabricated and the accused No.7, the petitioner herein, had notarized the said document and the same is registered by him as Sl.No.617 in page number 145 which clearly establishes the ulterior motive of all the accused, with ulterior motive the accused have framed false and frivolous criminal cases against the complainant by fraudulently fabricating the documents filed a complaint against the complainant in Talgattapura Police Station, the copy of the complaint, FIR and bail order is produced herein as Annexure 12A, 12B and 12C.

6. Learned counsel would further submit that similar allegations are made in paragraph No.10 of the complaint, wherein the only allegation attributed to the petitioner is that

he had notarized the said document. He would contend that, except for the act of notarization, no specific overt act or other allegation is made against the petitioner so as to attract criminal liability. The learned counsel would also invite the attention of this Court to the judgment rendered by this Court on 29.07.1998 in Crl.P.Nos.2597 & 2720 to 2722/1996 in support of his contentions that, in terms of Section 13 of the Notaries Act, 1952, no Court shall take cognizance of any offence alleged to have been committed by a Notary in the exercise or purported exercise of his functions under the said act, except upon a complaint in writing made by an officer authorised by the Central Government or the State Government by general or special or special order in this behalf.

7. The learned Counsel also relies upon the order passed in the case of ***Ratna Vs. The State of Karnataka*** in Crl.P.No.100526/2014 decided on 05.06.2014. Similar provision also taken in paragraph No.5. So also in the Judgment passed by this Court in Crl.P.No.100840/2018 decided on 02.07.2019 in a case of ***Ishwar vs. The State of Karnataka and Ors.,*** wherein in paragraph No.7 discussed

with regard to the taking of cognizance for the offence under Section 13 of the Notaries Act and similar decisions are given by all the Courts that there is a bar to take the cognizance.

8. Per contra, the learned counsel appearing for the respondent would not dispute the fact that no detailed affidavit narrating the specific allegations against the petitioner has been filed and that only a verification affidavit has been furnished. However, the learned counsel would contend that the learned Magistrate has not taken cognizance of any offence and has merely referred the matter to the police for investigation under Section 156(3) of the Cr.P.C. He would further submit that the bar contemplated under Section 13 of the Notaries Act, 1952, operates only at the stage of taking cognizance of an offence and not at the stage of referring the complaint for investigation under Section 156(3) of the Cr.P.C. Therefore, he would contend that, at this stage, the registration of the FIR cannot be quashed and that the proceedings do not warrant interference by this Court.

9. Having heard the learned counsel appearing for the petitioner and also the learned counsel appearing for the respondent, the court has to take note of filing of private complaint. No doubt, in paragraph Nos.10 to 12 of the complaint, certain allegations are made against the present petitioner, contending that he had notarized the documents and assigned the corresponding serial number in the Register. However, the fact remains that the petitioner, being a Notary, had merely attested the documents upon identification of the parties by the advocates and had performed the act of notarization. Further, the petitioner is entitled to the protection contemplated under Section 13 of the Notaries Act, 1952, which mandates that prosecution for an offence alleged to have been committed by a Notary in the exercise or purported exercise of his functions under the said Act can be initiated only upon a complaint made by an officer duly authorised by the Central Government or the State Government.

10. No doubt, the judgments relied upon by the learned counsel for the petitioner deal with the bar on taking cognizance of an offence against a Notary. However, in the

case on hand, admittedly, no cognizance has been taken by the learned Magistrate, and only a pre-cognizance order has been passed by invoking Section 156(3) of the Cr.P.C., having regard to the contents of the complaint. Nevertheless, even at the stage of passing an order under Section 156(3) of the Cr.P.C., the law laid down by the Hon'ble Apex Court in *Priyanka Srivastava v. State of Uttar Pradesh* is clear. In order to prevent abuse of the process of law and the filing of frivolous and vexatious complaints, the Hon'ble Apex Court has categorically held that an application seeking a direction for investigation under Section 156(3) of the Cr.P.C. must necessarily be supported by an affidavit.

11. In the case on hand, as rightly pointed out by the learned counsel appearing for the petitioner, the complaint is not supported by an affidavit specifically reiterating the allegations and the individual role attributed to the petitioner herein. The learned counsel appearing for the respondent has also not disputed this factual position and has fairly admitted that only a verification affidavit has been filed.

12. When such a foundational defect is apparent in the private complaint and the mandatory requirement filing an affidavit, as contemplated by the Hon'ble Apex Court, has not been complied with, the learned trial Judge ought not to have invoked Section 156(3) of the Cr.P.C., without ensuring compliance with the said requirement. Hence, the order referring the matter for investigation suffers from legal infirmity and is not sustainable in law. Consequently, the petitioner has made out sufficient grounds for interference by this Court, and the proceedings initiated against the petitioner pursuant to the private complaint are liable to be quashed.

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

ORDER

i. Petition is ***allowed***.

ii. The complaint in PCR.No.56298/2019 pending on the file of the 29th Additional CMM Court, Mayohall, Bengaluru city and the FIR in Crime No.84/2020 registered by HAL Police Station, Marathahalli Sub-Division, Bengaluru for the offence punishable under

Section 34, 420, 468, 465, 262 and 469 of IPC insofar as this petitioner is concerned, are quashed.

Sd/-
(H.P.SANDESH)
JUDGE

AG, List No.: 1 Sl No.: 24