HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 2075 OF 2026

BETWEEN:

MR. VINU SANJEEVA RAI,
S/O BHASKAR RAI,
AGED ABOUT 50 YEARS,
R/O E2 VILLA,
KRISTAL CAMPUS-10,
YAMERE, SARJAPURA,
BANGALORE - 562 125.

...PETITIONER

(BY SMT. DEEPA, ADVOCATE)

AND:

Digitally signed by SANJEEVINI J KARISHETTY
Location: High Court of Karnataka

1. STATE OF KARNATAKA,
   BY D.K MANGALORE STATION,
   HIGH COURT OF KARNATAKA,
   BANGALORE-560 001,
   REP. BY PP HIGH COURT BUILDING.

2. MR. DHARMARAJ AMMUNJE,
   S/O LATE SHANKARAPPA AMMUNJE,
   AGED ABOUT 66 YEARS,
   R/O FLAT NO.103,
   SHELTER APARTMENT,
   ALVARES ROAD, KADRI,
   MANGALORE - 575 002.

3. MR. PRANITH D AMMUNJE,
S/O DHARMARAJ AMMUNJE,
AGED ABOUT 32 YEARS,
R/O FLAT NO.103,
SHELTER APARTMENT,
ALVARES ROAD,
KADRI,
MANGALORE- 575 002.

4. MR. NISHITH D AMMUNJE,
AGED ABOUT 30 YEARS,
R/O NO FLAT NO.103,
SHELTER APARTMENT,
ALVARES ROAD,
KADRI,
MANGALORE- 575 002.

…RESPONDENTS

(BY SRI. CHANNAPPA EARAPPA, HCGP FOR R-1)

THIS CRL.P IS FILED U/S 482 CR.P.C (U/S 528 BNSS) PRAYING TO SET ASIDE THE ORDER PASSED BY THE JMFC VIIth COURT MANGALORE DATED 27.07.2023 IN PC.NO.16/2023 AND THE CONSEQUENT ORDER PASSED BY THE II ADDL. DISTRICT AND SESSIONS JUDGE, MANGALORE IN CRL.RP.NO.196/2023 DTD 12.09.2025 ETC.

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

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

ORAL ORDER

The petitioner is before this Court seeking the following prayers:

> "Wherefore it is prayed that this Hon'ble Court may be pleased to Set aside the order passed by the JMFC VIIth Court Mangalore dated 27-07-2023 in PC No.16/2023 and the consequent order passed the II Adl District and Sessions Judge Mangalorean Crl RP 196/2023 dated 12-09-2025.
>
> Direct the JMFC and VIIth Mangalore to reinstate in PC No.16/2023 in file taking cognizance of the complaint and proceed as per law in the interest of justice."

2. Heard Smt.Deepa, learned counsel appearing for the petitioner, Sri.Channappa Earappa, learned HCGP appearing for respondent No.1.

3. The petitioner's father is said to have gone missing on 23.04.1983. The mother of the petitioner had registered a complaint before the Ullal police station on 23.04.1983. It transpires that one deceased Jeevandas Ammunje, claims that on 13.05.1983, the father of the petitioner sold few of the properties that are mentioned in the complaint. It is thereafter

the petitioner enquired about the properties and other title deeds and came to know that Jeevandas Ammunje had already transferred the properties into his name and in the name of the close associates. The petitioner is said to have traveled abroad for his studies, comes back, wakes up from deep slumber and seeks to register a private complaint on 06.05.2023. The concerned Court rejects the complaint on the score that it is not in compliance of Sections 154(1) and 154(3) of Cr.P.C. Aggrieved by the said order of the concerned Court, rejecting the private complaint in P.C.No.16/2023, approached the Court of Session. The Court of Session vide order dated 12.09.2025 affirms the findings of the concerned Court. It is these that is called in question in the subject petition.

4. Learned counsel for the petitioner would reiterate the grounds that are set-out in the private complaint to be the grounds that are urged in the present petition.

5. I have given my anxious consideration to the submissions made by learned counsel for the parties and have perused the material on record.

6. The afore-narrated facts are not in dispute.

7. The petitioner is now 50 years old, is said to be Son of one Bhaskar Rai. Bhaskar Rai goes missing, not a year ago or a decade ago but 40 years ago, i.e., 23.04.1983. The mother of the petitioner did register a complaint on 23.04.1983, neither took the complaint forward nor made any effort to get to know what has happened to the complaint. The petitioner travels abroad, comes back and on 16.07.2022, seeks to submit a complaint to the Commissioner, City of Mangaluru that his father disappeared and he suspected that Jeevandas Ammunje and his brother have forged and transferred his father's properties. Therefore, it was not the interest of the finding of the father but the properties that stood in the name of the father. The petitioner then registers a private complaint in P.C.No.16/2023 without any evidence to show that Sections 154(1) and 154(3) of Cr.P.C. had been complied with. The concerned Court rejects the complaint by the following reasons:

> "Private complaint Mr.Vinu Sanjeeva Rai has filed this complainant against the accused No.1 & 3 U/s.200 of Cr.P.C for the offences punishable under Sections 406,

415, 418, 420, 423, 468, 347, 120(B), 368 R/w Sec.34 of IPC.

2. It is alleged in the complaint that, the father of the complainant i.e., Bhaskar Rai had disappeared in the year 1983. During that time the accused No.1 was able to convince the complainant and his family that his father left the home only because of displeasure with his wife and in contact with accused No.1.

3. It is further averred in the complaint that, till 2020 the complainant was in abroad and when the complainant had returned from abroad and enquired about where about of his father, Accused No.1 had started to play hide and seek game. Therefore, the complainant had given a Paper Publication in Udayavani & Karnataka Malla. On seeking the said News Paper Publication the accused No.1 & 2 through somebody called the complainant and put life threat to the complainant.

4. It is further averred in the complaint that, the accused No.1 had transferred the Property of Mr.Bhaskar Rai into his name and in the name of his close Associates, said Bhaskar Rai had no occasion to transfer the property in the name of Accused No.1. Bhaskar Rai was not present at the time of alleged execution of the documents.

5. It is further averred that, based on the above said forged documents, several after documents were also came into existence such as Release Deed, Settlement Deed, Gift Deed or many other such forged documents in respect of all the property owned by the Bhaskar Rai.

6. Hence, it is alleged that , the accused No.1 & 2 played role in the disappearance of his father Bhaskar Rai. Therefore, he filed the complaint and prayed to register case against the accused persons and order the Commissioner of Police, Mangaluru or Ullal Police to conduct proper Investigation in the matter.

7. Heard the learned Counsel for the complainant and perused the compliant and its enclosures. It is found that, the accused No.1 reported as dead on 20.09.2022.

8. The Points that arise for my consideration are as under:

1. Whether the Complainant made out Prima-facie case to refer the matter for Investigation under Sec.156(3) of Cr.P.C?

2. What Order?

9. My finding on the above said Points are as Under:

Point No.1 : Negative

Point No.2 : As per Final Order

for the following:

REASONS

10. **Point No.1:** It is the case of the complainant that, the accused No.1 & 2 had a major role in the disappearance of father of complainant and Accused No.1 had transferred the properties of the said Bhaskar Rai in his name through a forged, fabricated created and sham documents by way of impersonation.

11. This court has perused the alleged Sale Deed dated 13.05.1983 executed by the Bhaskar Rai in favour of Accused No.1, in this document there are no involvement of the accused No.2 to 4, moreover the reason for the transfer of the property are well explained in the said Sale Deed. There is no allegation against the accused.

12. In order to refer the case for Investigation U/s.156(3) of Cr.P.C., the complainant shall comply the perconditions such as Section 154(1) Cr.P.C., & Section 154(3) of Cr.P.C., and shall file detailed affidavit before this court.

13. On perusal of Records it indicates that, on 16.06.2023 the counsel for the complainant filed a Memo and produced the xerox copy of document which purported to be a complaint dated 23.04.1983 filed before Ullal Police Station. On perusal of the same it indicate that, that was filed by the mother of the

complainant about the missing of her husband Mr.Bhaskar Rai and nothing more about the allegations made by the complainant in the instant case. Therefore, it cannot say that, the complainant has complied Section 154(1) of the Cr.P.C.

14. In veiw of the decision rendered by Hon'ble Apex Court in **Priyanka Shrivastava Vs. State of Uttar Pradesh, (criminal appeal No-781/2012)** it is mandatory to the complainant to comply the Section 154(1) of Cr.P.C., & Section 154(3) of Cr.P.C., before filing the complaint. Hence, I answer **Point No.1** in the **Negative**.

15. **Point No.2**: For the reasons stated above, I proceed to pass the following:

ORDER

The Complaint filed by the Complainant U/s.200 of Cr.P.C., R/w 153(3) is hereby dismissed for noncompliance of Guide-lines issued by Hon'ble Apex Court in Priyanka Shrivastava Vs. State of Uttar Pradesh.

Sd/- 27/7
J.M.F.C. (VII Court), Mangaluru."

8. The challenge to the said order in Criminal Revision Petition No.196/2023 also comes to be rejected on the following grounds:

"9. Having heard the learned counsels for the petitioner and respondent and perused the materials on record, the following points that arise for my consideration are;

1. Whether the order passed by the trial court requires interference?

2. What order?

10. My answers to the above points are as under;

1. In the Negative

2. As per final order.

REASONS

11. **Point No.1**:- I have gone through the order-sheet. The order-sheet indicates on 05.07.2022, the complaint was filed by the complainant, the trial court ordered to register the case as PCR. Case was registered and thereafter the matter was posted for hearing. The complainant took time on several dates to comply the guidelines of Apex Court in **Priyanka Shrivastava** case and also comply of provisions of Section 154 Cr.P.C.. After taking several adjournments on 16.06.2023, the complainant files a memo along with copy of complaint given to Urva Police by the mother of complainant in the year 1983. The trial court after hearing the complainant passed the impugned order holding that provisions of Section 154 Cr.P.C. and also guidelines of **Priyanka Shrivastava** case were not complied with.

12. A perusal of entire material placed on record, it is not forthcoming the complainant had lodged any complaint to the police in compliance of Section 154 Cr.P.C. before filing the private complaint. No such complaint is forthcoming on record. Further, the complainant has only filed a complaint before the Magistrate and even no affidavit in support of the complaint was filed. The order-sheet also indicates the trial court granted sufficient time to comply the Section 154 Cr.P.C. and also to comply the guidelines issued in **Priyanka Shrivastava** case. In the case of **Priyanka Shrivastava vs. State of Uttar Pradesh**, the Hon'ble Apex Court has clearly held filing of affidavit along with complaint is mandatory and compliance of Section 154 Cr.P.C. is also mandatory. Both the conditions were not fulfilled by the complainant before filing the private complaint before the Magistrate. There is no error or illegality committed by the trial court in passing the impugned order.

13. Learned counsel for the complainant has relied upon the judgment of Hon'ble Apex Court in **SLP (Criminal) No.8626/2024** in the case of **S.N. Vijayalakshmi and others vs. State of Karnataka**. In fact, the Hon'ble

Apex Court has reiterated the judgment of **Priyanka Shrivastava** case and also other cases and held guidelines issued by the Apex Court in **Priyanka Shrivastava** case are mandatory. The Hon'ble Apex Court in the aforesaid case has held as under:

> "44. A further contention urged by the appellants is that the procedure laid down in **Priyanka Shrivastava** (supra) has not been followed by the complainant before filing the PCR. As per the guidelines prescribed in **Priyanka Shrivastava** (supra), any person aggrieved by non-registration of an FIR by the police is required to approach the concerned Superintendent of Police and on his failure to take action, can move before the Magistrate concerned under Section 200 of the CrPC by filing a private complaint. In this case, the complainant approached the police on 12.05.2022 which refused to register an FIR. Thereafter, the complainant approached the ACMM by filing the PCR on 20.07.2022, and while such private complaint was pending on the file of the ACMM, the complainant approached the Deputy Commissioner of Police, Bangalore City. On nothing being done even then, faced with such inaction, the complainant finally filed the requisite affidavit before the ACMM. Subsequently on 21.07.2023, the ACMM referred the PCR to the police, culminating into the underlying FIR.
>
> 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 Shrivastava**(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 Shrivastava** (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 Shrivastava** (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 Shrivastava** (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 Shrivastava** (supra). We sum up our conclusions on this score as follows: (i) Directions issued in Priyanka Shrivastava (supra) are mandatory; (ii) Guidelines laid down in **Priyanka Shrivastava** (supra) operate prospectively; (iii) Nonfiling 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 Shrivastava** (supra).

46. In the above view, the Impugned Judgment does not militate against the law laid down in **Priyanka Shrivastava** (supra). That said, and as reasoned above, our interference with the Impugned Judgment is necessitated as the ingredients of offences apropos which cognizance was taken by the ACMM are not made out. The dicta in **State of Haryana v Bhajan Lal, 1992 Supp (1) SCC 335; Vesa Holdings Private Limited v State of Kerala, (2015) 8 SCC 293, and; Gulam Mustafa v State of Karnataka, (2023) 18 SCC 265** also impel this Court to intervene.

> 47. Accordingly, for the reasons aforesaid, FIR Crime No.260/2023 along with all consequential orders including the Chargesheet dated 28.08.2024 and the cognizance order dated 30.08.2024 stand quashed qua the appellants."

14. In the aforesaid judgment, the Hon'ble Apex Court has held the judgment passed in **Priyanka Shrivastava** case has to be followed by the courts. The Apex court at para No.45 has clearly held non-filing of supporting affidavit is a curable defect, but must be cured before the Magistrate passes any substantive order on the complaint/application. In the present case on hand, despite granting sufficient opportunity, the complainant has not complied the guidelines issued in **Priyanka Shrivastava** case. In view of the aforesaid discussions, I do not find any error or illegality committed by the trial court in passing the impugned order. Therefore, the revision petition is liable to be dismissed. Hence, I answer the point No.1 in the **'Negative'**.

15. **Point No.2**: In view of aforesaid reasons, I proceed to pass the following;

O R D E R

The revision petition filed under Sections 397 and 399 Cr.P.C. is hereby dismissed, consequently, the order dated 27.07.2023 passed in P.C.No.16/2022 by the J.M.F.C. VII Court, Mangaluru, D.K. is confirmed.

Send trial court records along with copy of this Judgment to the trial Court forthwith.

(Dictated to the SG-I, typed by her, corrected and then pronounced by me in the Open court, on this the 12th day of September 2025)

Sd/- 12/9
(JAGADEESH V.N.)
II Addl. District & Sessions Judge,
D.K., Mangaluru. "

9. A perusal at the orders would not entail interference at the hands of this Court in exercise of the jurisdiction under

Section 528 of BNSS, solely on the score that the petitioner is now wanting to project what right he had lost in the year 1983. The father goes allegedly missing in the month of April 1983, the complaint though registered is not pursued any further. The petitioner now wants to know that if his father had transferred the properties in the name of few persons way back in the year 1983 and now seeks to register a complaint. If this would be permitted and direction be issued to the jurisdictional police or the concerned Court to take it further, it would, on the face of it become an abuse of the process of the law. What the petitioner had to pursue in the year 1983 is wanting to be pursued in the year 2026, 43 years after the said incident.

10. Finding no warrant to interfere, petition stands **dismissed**.

Sd/-
(M.NAGAPRASANNA)
JUDGE

CBC
List No.: 1 Sl No.: 32