HC-KAR

NC: 2026:KHC:60128
CRL.P No. 2200 of 2025

CNR: KAHC010096412025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO. 2200 OF 2025 (482(Cr.PC) / 528(BNSS)-)

BETWEEN:

MR. SANTHOSH
S/O LATE NARSIHMA RAJU
AGED ABOUT 33 YEARS,
R/AT DOOR NO. 580
MALE MAHADESHWARA TEMPLE
KAMAKSHIPALYA
MAGADI ROAD 560 079

...PETITIONER

(BY SRI. SUYOG HERELE E., ADVOCATE)

AND:

THE STATE OF KARNATAKA
THROUGH KAMAKSHIPALYA P S
REP BY SPP
HIGH COURT BUILDING,
BENGALURU 560001

...RESPONDENT

(BY SMT. RASHMI PATEL., HCGP)

THIS CRIMINAL PETITION IS FILED U/S 482 CR.PC (FILED U/S 528 BNSS) PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 03.10.2024 IN S.C.NO.374/2022 ON THE FILE OF LEARNED XLV ADD. CITY CIVIL AND SESSIONS JUDGE AT BENGALURU AND CONSEQUENTLY ALLOW THE APPLICATION FILED BY THE PETITIONER UNDER SECTION 451 AND 457 OF CR.P.C. (PRODUCED AT DOCUMENT NO.1)

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

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. The petitioner is before this Court seeking for the following reliefs:

   a. *Set aside the impugned order dated 03.10.2024 in S.C.No.374/2022 on the file of Learned XLV Add. City Civil and Sessions Judge at bengaluru and consequently allow the application filed by the petitioner under section 451 and 457 of Cr.P.C. (produced at document no.1).*

   b. *Grant such other and further reliefs as this Hon'ble High Court may deems fit in the facts and circumstances of the case, in the interest of justice.*

2. The petitioner is accused in Crime No.124/2020 registered by Kamakshipalya Police Station for the offence punishable under Section 302 of the Indian Penal Code, 1860, on the allegation that he caused the death of his father and mother by smothering them.

3. Separate proceedings have also been initiated against the petitioner for the offence punishable under Section 309 of the IPC in Crime No.117/2020 registered by Srirangapatna Police Station.

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4. In Crime No.124/2020, during the course of conducting a mahazar at the scene of occurrence, the Investigating Officer seized certain gold articles found therein, as the petitioner had allegedly attempted to portray the scene as one involving a burglary. The said articles were seized under PF No.89/2020 dated 08.07.2020.

5. The petitioner filed an application under Sections 451 and 457 of the Code of Criminal Procedure, 1973, seeking release of the said gold articles. The application came to be rejected by the trial Court by order dated 03.10.2024, principally on three grounds: firstly, that the petitioner had not produced all documents to establish his ownership of the gold articles; secondly, that the documents produced by him indicated that the articles had been purchased in the name of Smt. Annapurna, whom the trial Court considered to be the deceased mother of the petitioner; and thirdly, that since the petitioner was accused of causing the death of his parents, he would be disqualified under Section 25 of the Hindu Succession Act, 1956, from succeeding to their estate, if the articles belonged to them. Challenging the said order, the petitioner is before this Court.

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6. Sri. Suyog Herele E., learned counsel for the petitioner, submits that the trial Court has proceeded on an erroneous factual premise in treating Smt. Annapurna, in whose name certain bills stand, as the deceased mother of the petitioner. It is submitted that Smt. Annapurna is the wife of the petitioner, whereas his mother's name is Saraswathamma.

7. Learned counsel further submits that the family was facing severe financial distress and that the circumstances surrounding the incident, including the alleged suicide pact among the family members, would have to be established during the course of trial.

8. His submission is that the gold articles were purchased by the petitioner and his wife from their own funds and that the trial Court, having failed to properly consider the documents produced, ought to have allowed the application for release of the articles.

9. Heard Sri. Suyog Herele E., learned counsel for the petitioner, and Ms. Rashmi Patel, learned HCGP for respondent No.1. Perused the papers.

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10. A perusal of the impugned order indicates that the trial Court has considered the bills produced by the petitioner but has proceeded on the premise that Smt. Annapurna, in whose name certain bills stand, was the deceased mother of the petitioner. The petitioner contends that the said premise is factually incorrect and that Smt. Annapurna is his wife. The name of the mother of the Petitioner, who the petitioner is alleged to have murdered is Sarswathama and not Annapurna, the trial Court's conclusion in this regard cannot be sustained. However, it is also relevant to note that the bills produced do not relate to all the gold articles seized under PF No.89/2020. The mere production of bills in respect of certain articles would not, by itself, establish ownership of all the articles seized.

11. The application filed by the petitioner under Sections 451 and 457 of the CrPC required the trial Court to consider the material produced in support of the claim for release, the identity and ownership of each of the articles sought to be released, and the circumstances in which the articles came to be seized. The trial Court was required to assess each of the documents produced by the petitioner and record reasons as to whether the each/any of the articles,

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could be released to him, subject to such conditions as may be appropriate. The bills could not be treated as conclusive proof of ownership; equally, they could not be disregarded on the basis of an erroneous identification of the person in whose name they were issued.

12. Insofar as the bills standing in the name of Smt. Annapurna are concerned, it is submitted that she is the wife of the petitioner and not his deceased mother. Since she has not filed an application seeking release of the articles purchased in her name, the question of directing release of those articles in her favour does not arise for consideration in the present proceedings. The petitioner's claim, if any, in respect of the articles covered by the bills in his own name, would nevertheless require consideration on its own merits.

13. The fact that the petitioner is accused of causing the death of his parents and the question of his disqualification from succeeding to their estate under Section 25 of the Hindu Succession Act, 1956, are relevant considerations if the articles are found to belong to either of the deceased parents and the petitioner claims them by way of succession.

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However, the said consideration cannot, without first determining the ownership of the articles, be applied indiscriminately to all the gold articles seized under PF No.89/2020. The question of ownership and the source of funds used for purchasing the articles would have to be examined independently, without treating the bills as conclusive proof in favour of the petitioner.

14. In that view of the matter, this Court is of the considered opinion that the impugned order dated 03.10.2024 requires to be set aside and the matter remitted to the trial Court for fresh consideration. While undertaking such consideration, the trial Court shall examine each of the bills produced by the petitioner, the articles to which each bill relates, the source of funds used for their purchase and the other material available on record. The trial Court shall not treat the bills issued in the name of the petitioner as conclusive proof of his ownership, but shall consider them along with the other relevant circumstances. It shall also determine whether any of the articles are shown to belong to the deceased parents and, if so, consider the legal consequences arising under Section 25 of the Hindu Succession Act, 1956.

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15. In that view of the matter, this Court passes the following:

ORDER

i) Criminal petition is ***allowed***.

ii) The order dated 03.10.2024 in S.C.No.374/2022 on the file of XLV Additional City Civil and Sessions Judge, Bengaluru is set aside. The matter is remitted to the XLV Additional City Civil and Sessions Judge, Bengaluru for fresh consideration in accordance with law and in the light of the observations made hereinabove.

iii) In the event of an application being filed by the wife of the petitioner, the same would have to be separately considered in terms of the above.

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(SURAJ GOVINDARAJ)
JUDGE

PRS
List No.: 1 Sl No.: 15