HC-KAR
NC: 2026:KHC:59441
CRL.P No. 2273 of 2021
CNR: KAHC010112452021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF OCTOBER, 2026

BEFORE

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

CRIMINAL PETITION NO. 2273 OF 2021 (482(Cr.PC) / 528(BNSS))

BETWEEN:

1. SMT. V HAMSAVENI
   W/O LATE N VASANATHKUMAR
   AGED ABOUT 58 YEARS

2. SMT. MANGALA GOWRI V
   W/O SRI SUBRAMANI
   D/O SMT. HAMSAVENI
   AGED ABOUT 40 YEARS

3. SRI. GIRISH KUMAR V
   S/O LATE VASANTH KUMAR
   S/O SMT. HAMSAVENI
   AGED ABOUT 36 YEARS

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Location: HIGH COURT OF KARNATAKA

4. SMT. NANDINI V
   W/O UMESH
   D/O SMT. HAMSAVENI
   AGED ABOUT 35 YEARS

5. KUM MUKAMBIKA @ AMBIKA
   D/O LATE VASANTHKUMAR
   D/O SMT. HAMSAVENI
   AGED ABOUT 33 YEARS

6. SMT. SHALINI V
   D/O LATE VASANTHKUMAR
   D/O SMT. HAMSAVENI
   AGED ABOUT 30 YEARS

ALL ARE RESIDING AT NO.2456
13TH MAIN 11TH CROSS
SAHAKARANAGARA
BANGALORE - 560 092.

…PETITIONERS

(BY SRI. ANAGHA NARASIMHA C.N., ADVOCATE FOR
SRI. P.B. AJITH., ADVOCATE)

AND:

1. STATE BY HEBBALA POLICE
THROUGH SPECIAL PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU – 560 001.

2. SMT. HEMALATHA M.V.
W/O LATE MUNINANJAPPA
AGED ABOUT 59 YEARS
R/AT NO.581/31/24, 6TH CROSS
BALAJI LAYOUT, KODIGEHALLI
YELAHANKA HOBLI
BENGALURU - 560 092.

…RESPONDENTS

(BY SRI. SUHAS GOWDA .M, HCGP FOR R1,
SRI. G.S. PATEEL FOR R2)

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.23962/2019 AGAINST THE PETITIONERS HEREIN FOR THE OFFENCES P/U/S 120B,406,417,418,420,465,467,468, 471,474,504,506 R/W 34 OF IPC ON THE FILE OF THE IV ACMM, BANGALORE.

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

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

CNR: KAHC010112452021

ORAL ORDER

Heard learned counsel for the petitioners and also the learned counsel appearing to the respondent No.2/complainant and learned counsel for the respondent No.1/State.

2. The factual matrix of the case is that the complainant had approached the Court by filing a private complaint under Sections 200 of Cr.P.C., invoking the offences under Sections 120(B), 197, 198, 199, 200, 415, 416, 417, 418, 420, 465, 468, 471, 504, 506 read with 34 of IPC and under section 156(3) of Cr.P.C., and accusation is made that the petitioners have indulged in an act of creating of sale deed and also suit is filed before the court seeking for the relief of declaration and possession.

3. Learned counsel appearing for the complainant also not disputes the fact that suit is also decreed, such being the case, when the complaint is filed and the same is not supported by the affidavit and as per the Hon'ble

Apex Court in the judgment passed in ***PRIYANKA SRIVASTAVA AND ANOTHER vs. STATE OF UTTAR PRADESH AND OTHERS*** reported in ***(2015) 6 SCC 287*** wherein it is categorically held that if any complaint is filed and the same is not supported by any affidavit, as such, complaint should not be entertained without any affidavit and the same amounts to a frivolous litigation. Further, also discussed with regard to the scope of Section 154(3) of Cr.P.C., that if police fails to register the case, then the remedy to the complainant to approach the higher officer and file a complaint before the Superintendent of Police and the same is also not found in the complaint in paragraph No.18. Except making a mere averment that police did not receive the complaint, no averment is made with regard to the compliance of Section 154(3) of Cr.P.C. However, the trial court without an affidavit referred the matter under Section 156(3) of Cr.P.C and police consequent upon the referring the matter under Section

156(3) of Cr.P.C., registered the FIR and thereafter investigated the matter and filed the charge sheet.

4. No doubt, the trial court also taken the cognizance of the offence. However, when a foundational defect is found in the complaint, particularly in the absence of compliance with Section 154(3) of the Cr.P.C. and the absence of an affidavit in support of the complaint, the proceedings cannot be sustained. In view of judgment of the Hon'ble Apex Court in ***Priyanka Srivastava's case***, there cannot be any criminal prosecution against the petitioner and also record discloses that already civil suit was filed and counsel appearing for the complainant also submits that already suit is also decreed, such being the case, there cannot be any criminal prosecution.

5. Hence, the proceedings initiated against the petitioners require to be quashed. In view of the discussions made above, I proceed to pass the following order;

Accordingly, this petition is ***allowed***.

The proceedings against the petitioners in C.C.No.23962/2019, on the file of IV Addl. Chief Metropolitan Magistrate, Bengaluru, is hereby quashed.

Sd/-
(H.P.SANDESH)
JUDGE

AKV
List No.: 1 Sl No.: 30