HC-KAR
NC: 2026:KHC:62514
CRL.P No. 2954 of 2021
CNR: KAHC010152212021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF NOVEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO. 2954 OF 2021 (482(Cr.PC) / 528(BNSS))

BETWEEN:

SRIDHAR @ SHRIDHARA K
S/O LATE KRISHNAMURTHY
AGED ABOUT 38 YEARS
RESIDING AT SHANTHI NIVASA
3RD CROSS, JCR EXTENSION
CHITRADURGA TOWN
CHITRADURGA-577 501.

...PETITIONER

(BY SRI. SRINIVAS N., ADVOCATE)

AND:

1. STATE OF KARNATAKA
   BY CHITRADURGA TOWN
   POLICE STATAION
   CHITRADURGA-577 501
   REPRESENTED BY SPP
   HIGH COURT OF KARNATAKA
   BANGALORE-560 001.

2. SRI NAGARAJAPPA B
   POLICE CONSTABLE
   CPC 2112, CHITRADURGA TOWN
   POLICE STATION
   CHITRADURGA-577 501.

...RESPONDENTS

(BY SRI. SUHAS GOWDA M, HCGP FOR R1
R2 IS SERVED)

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

CNR: KAHC010152212021

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO QUASH THE PROCEEDINGS PENDING AGAINST HIM IN C.C.NO.74/2020 FOR THE OFFENCE P/U/S 32 ND 34 OF KARNATAKA EXCISE ACT, PENDING ON THE FILE OF THE PRL.CIVIL JUDGE AND JMFC, CHITRADURGA, BE QUASHED SO FOR AS IT RELATES TO THE PETITIONER IS CONCERNED.

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 learned counsel for the petitioner and also learned counsel appearing for the respondents.

2. The accusation is made against the petitioner that he had sold the whiskey pouch 28 in number containing 90 ML and the accused No.1 was selling the same for meager price and he was not having any license. Learned counsel for the petitioner also submits that there was a license in the name of his mother-CW8 and he cannot be made as an accused. The counsel also brought to the notice of this court that the seized whisky contains only 2520 ML and the same is within the limited quantum as per Rule 21 of the Karnataka Excise (Possession, Transport, Import and

Export of Intoxicants) Rules, 1967, which says cases where permit or license is not required, no permit or license under these rules shall be required for the possession or transport of the following quantities of liquors, wherein contains the Whisky, Brandy, Gin, Rum Punch and the same is 4.6 liters and hence there cannot be any prosecution.

3. Learned counsel also in support of this argument relies upon the order passed by this Court in Crl.P.No.93/2020 dated 31.01.2020 wherein also this Court discussed with regard to even on perusal of the records as per Sections 53 and 54 of the said Act, it is a condition precedent to exercise the power under the said Section for search and seizure to obtain prior permission of the jurisdiction Magistrate. Without obtaining the permission, the said proceedings are considered to be illegal.

4. Learned counsel also relies upon the judgment dated 11.07.2018 in Crl.P.No.4205/2018 connected with

other matters, wherein also an allegation against accused No.2 that he was supplying these excise articles to accused No.1. But there is no absolutely any evidence and without any basis, it is amounting to nothing but an abuse of process. Learned counsel also vehemently contended that it is an allegation by the prosecution that he is the son of original license holder, but not made the license holder as accused.

5. Per contra, learned counsel appearing for the State submits that the petitioner ought to have produced the license and also counsel would submit that specific allegation is made against this petitioner that he had supplied the whisky to accused No.1 to sell the same outside for rare price, hence it requires trial.

6. Having heard the counsel appearing to the petitioner and also the counsel appearing for the State and this court already in a similar set of facts had discussed the issue particularly considering Sections 53 and 54 of Excise Act, wherein an observation is made in

Crl.P.No.93/2020 that it is a condition precedent to exercise the power under the said Section for search and seizure to obtain prior permission of the jurisdiction magistrate. Without obtaining the permission, the said proceedings are considered to be illegal. Apart from that, this petitioner is not the license holder and only he has been made as accused that he is the son of the license holder. Learned counsel appearing for the State would contend that he would have produced the license and question of producing the licence does not arise, as it was the duty of the IO to collect the license, during the course of investigation. Instead of the same, counsel cannot say that petitioner has to produce the same. Apart from that, the Whisky which was found 28 pouches that is also in the possession of accused no.1 and not in the possession of this petitioner and the same is also within the limit and no license or permission is required to possess the same. When the same is within the limit, in view of Rule 21, he cannot be prosecuted. Hence if proceedings are continued

against this petitioner it will be an abuse of process of law. In view of the discussions made above, I proceed to pass the following order,

This petition is ***allowed***.

The proceedings against the petitioner, is hereby quashed.

Sd/-
(H.P.SANDESH)
JUDGE

AKV
List No.: 1 Sl No.: 30