HC-KAR

NC: 2026:KHC:61571
WP No. 7167 of 2022

CNR: KAHC010155122022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

WRIT PETITION NO. 7167 OF 2022 (GM-RES)

BETWEEN:

1. K. VISHWANATH
   AGED ABOUT 48 YEARS
   WORKING AS INSPECTOR OF POLICE
   ATTIBELE CIRCLE, ANEKAL TALUK
   BENGALURU - 562 107

2. HARISH
   AGED ABOUT 38 YEARS
   EARLIER WORKING AS
   SUB INSPECTOR OF POLICE
   SARJAPURA POLICE STATION,
   SARJAPURA, ANEKAL TALUK,
   BENGALURU - 552 107.

...PETITIONERS

(BY SRI. ABHINAY Y.T, ADVOCATE)

Digitally signed by ASHWINI MAYAPPA MAVARAKAR
Location: High Court of Karnataka

AND:

1. THE STATE OF KARNATAKA
   BY SARJAPURA POLICE STATION,
   ATTIBELE CIRCLE,
   BENGALURU - 562 107,
   REPRESENTED BY SPECIAL PUBLIC PROSECUTOR
   HIGH COURT OF KARNATAKA
   BENGALURU -560 001.

2. MURAGESH
SON OF PAPANNA
AGED ABOUT 42 YEARS
AND RESIDING AT
THIGALACHOWDENAHALLI VILLAGE
SARJAPURA HOBLI, ANEKAL TALUK
BENGALURU - 562 125.

3. C. VENKATESH
SON OF LATE CHIKKANNA
AGED ABOUT 45 YEARS
AND RESIDING AT NO. 223
CHURCH STREET,
THIGALACHOWDENAHALLI VILLAGE
SARJAPURA HOBLI, ANEKAL TALUK
BENGALURU - 562 125.

…RESPONDENTS

(BY SMT. WAHEEDA M.M, HCGP FOR R1;
SRI. B. LOKESH, ADVOCATE FOR R2;
SRI. FAYAZ SAB B.G, ADVOCATE FOR R3)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA R/W SEC. 482 OF THE CR.PC PRAYING TO QUASH THE ORDER DATED 9TH FEBRUARY 2022,PASSED BY THE LEARNED PRINCIPAL CIVIL JUDGE AND JMFC, ANEKAL IN TAKING COGNIZANCE FOR THE OFFENCES UNDER SECTION 120(B), 166, 167, 330, 386, 388, 420, 463, 464, 468, 471,3 24 R/W 149 OF IPC OF PCR NO.214 OF 2021 (ANNEXURE-K) AND PCR NO.219 OF 2021 (ANNEXURE-L) AND ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CNR: KAHC010155122022

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

1. Memo is filed by learned counsel for the petitioners. Memo reads as under:

> "*This petition is filed the order of cognizance in PCR No.214/2021 and PCR No.219/2021. For the present the petitioners are restricting the present petition for PCR No.219/2021 with liberty to challenge the order of cognizance in PCR No.214/2021 as against respondent No.2.*
>
> *WHEREFORE, it is prayed that this Hon'ble Court may take this memo on record and pass necessary orders in the interest of justice and equity."*

2. Placing the memo on record, this petition is restricted to the prayer in PCR No.219/2021 with liberty as prayed for.

3. Heard Sri.Abhinay Y.T., learned counsel for the petitioners, Smt.Waheeda M. M., learned High Court Government Pleader for respondent No.1, Sri.B.Lokesh, learned counsel for the respondent No.2 and Sri.Fayaz Sab B. G., learned counsel for the respondent No.3.

4. Petition is filed under Articles 226 and 227 of the Constitution of India read with Section 482 of Criminal Procedure Code with the following prayer:

> *"Wherefore, the petitioners prays that this Hon'ble Court may kindly be pleased to quash the order dated 9th February, 2022, passed by the learned Principal Civil Judge and JMFC, Anekal in taking cognizance for the offences under Section 120(B), 166, 167, 330, 386, 388, 420, 463, 464, 468, 471, 324 read with Section 149 of Indian Penal Code in PCR No.214/2021 (Annexure-K) and PCR No.219/2021 (Annexure-L) to meet the ends of justice."*

5. Facts of the case which are utmost necessary for disposal of the present petition are as under:

5.1. A private complaint came to be filed by respondent Nos.3 before the jurisdictional Magistrate which was registered as PCR No.219/2021. Jurisdictional Magistrate referred the matter for investigation and report under Section 156(3) of Cr.P.C. and thereafter, a case came to be registered in Crime No.103/2021.

5.2. Jurisdictional Police after thorough investigation, filed 'B' final report. Respondent No.3 being the complainant, filed protest petition.

5.3. Learned Trial Magistrate after completing necessary formalities, took cognizance of the offence punishable under Sections 120B, 166, 167, 330, 386, 388, 420, 463, 464, 468, 471, 324 read with Section 149 of Indian Penal Code and summoned the petitioners vide order dated 25.02.2022.

6. The validity of the said order is called in question, in this petition.

7. Learned counsel for the petitioners would contend that petitioners being the Government servants, without obtaining the order of sanction to prosecute, learned Trial Magistrate ought not to have taken cognizance of the offences alleged against them after completing necessary formalities pursuant to the protest petition filed by respondent No.3 and thus sought for allowing the petition.

8. Per contra, learned counsel for respondent No.3 would support the procedure adopted by the jurisdictional

Magistrate in summoning the petitioners awaiting the sanction order to prosecute the petitioners and would submit that the petitioners are required to appear before the jurisdictional Magistrate and then raise the issue of want of sanction and thus sought for dismissal of the writ petition.

9. Learned High Court Government Pleader for respondent No.1 prays for dismissal of the petition.

10. Having heard the arguments of both the sides, this Court perused the material on record meticulously.

11. On such perusal of the material on record, it is noted that the protest petition was duly considered by the learned Trial Magistrate. Said protest petition was filed by respondent No.3 after the jurisdictional police filed 'B' final report.

12. The proper course for the learned Trial Magistrate was thus to intimate the opinion of the Magistrate to the concerned competent authorities who are required to pass appropriate orders for furnishing the sanction to prosecute and

not to directly take cognizance and then seek for the sanction order to prosecute.

13. Thus, a mistake has been committed by the learned Trial Magistrate while passing the impugned order which requires interference by this Court in this writ jurisdiction.

14. Accordingly, following:

ORDER

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

ii. Impugned order in PCR No.219/2021 dated 09.02.2022 on the file of Principal Civil Judge and JMFC, Anekal is hereby quashed.

iii. Matter is remitted to learned Trial Magistrate at the stage of communicating to the competent authorities seeking for sanction order to prosecute the petitioners herein and then proceed with the case in accordance with law.

Sd/-
(V SRISHANANDA)
JUDGE

KAV/List No.: 1 Sl No.: 41