HC-KAR
NC: 2026:KHC:61465
CRL.P No. 5220 of 2019
CNR: KAHC010211032019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF NOVEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO.5220 OF 2019

BETWEEN:

1. PADMAREKHA
   D/O KRISHNAMACHAR
   AGED ABOUT 34 YEARS

2. JAYARAM
   S/O KRISHNAMACHAR
   AGED ABOUT 32 YEARS

3. A. KRISHNAMACHAR
   S/O H. SRINIVASACHAR
   AGED ABOUT 68 YEARS

   ALL ARE RESIDING AT
   NO.724, HIG, "SRINIVASA NILAYA"
   I BLOCK, RAMAKRISHNA NAGAR
   MYSURU-570 022.

...PETITIONERS

(BY SRI. MAHADEVA SWAMY P., ADVOCATE)

AND:

1. STATE OF KARNATAKA
   BY KUVEMPUNAGAR POLICE STATION
   REP. BY STATE PUBLIC PROSECUTOR
   ATTACHED HIGH COURT BUILDING
   AMBEDKAR VEEDI
   BENGALURU-560 001.

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

2. SRI. G.S. BHAGAVAN
S/O G.D.S. IYENGAR
AGED ABOUT 59 YEARS
RESIDENT OF NO.173
10TH CROSS, 12TH MAIN
SARASWATHIPURAM
MYSURU-570 001.

…RESPONDENTS

(BY SRI. SUHAS GOWDA M., HCGP FOR R1;
SERVICE OF NOTICE R2 HELD SUFFICIENT,
VIDE ORDER DATED 06.01.2025)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.981/2016 (CRIME NO.10/2008) ON THE FILE OF THE I ADDL. I.C.J. AND JMFC, MYSURU, FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 468 AND 420 R/W SECTION 34 OF IPC.

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

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

ORAL ORDER

Heard learned counsel for the petitioners and the learned High Court Government Pleader for respondent No.1-State.

2. The prayer sought in this petition to quash entire proceedings in C.C.No.981/2016 arising out of Crime No.10/2008 for the offence punishable under Sections 468, 420 read with Section 34 of IPC.

3. The issue before this Court is with regard to filing an application under Section 319 of Cr.P.C. to add the persons, who have already been discharged when the same has attained its finality. Hence, this Court directed the learned High Court Government Pleader for respondent No.1-State to clarify, once the accused is discharged and the said order has attained its finality, whether they can be brought on record by invoking Section 319 of Cr.P.C.

3. Now, the learned High Court Government Pleader would submit that the accused who has been discharged can be brought on record and relies upon the judgment of the Apex Court in **HARDEEP SINGH vs. STATE OF PUNJAB & ORS.** in **CRIMINAL APPEAL NO.1750/2008** dated **10.01.2014** reported in **AIR 2014 SC 1400** and the Apex Court with regard to scope of Section 319 of Cr.P.C in detail dealt with the matter.

4. Having considered the ratio laid down in this judgment in paragraph No.109, it is very clear that, it is evident that power under Section 319 Cr.P.C. can be exercised against a person not subjected to investigation, or a person

placed in the Column 2 of the Charge-Sheet and against whom cognizance had not been taken, or a person who has been discharged. However, concerning a person who has been discharged, no proceedings can be commenced against him directly under Section 319 Cr.P.C. without taking recourse to provision of Section 300(5) read with Section 398 Cr.P.C. Having taken note of this principle, it is very clear that once the accused has been discharged, no proceedings can be commenced against him directly under Section 319 of Cr.P.C without taking recourse to provision of Section 300(5) read with Section 398 Cr.P.C. and the said procedure is not followed in the case on hand, except filing an application by the prosecution to add the petitioners as accused under Section 319 of Cr.P.C. However, it has to be noted that these petitioners have been subjected to investigation and thereafter, charge sheet is filed and cognizance was taken and thereafter, an application is filed for discharge and the same was considered and allowed and it has attained its finality. When such being the case, there is no question of invoking Section 319 of Cr.P.C.

5. The learned High Court Government Pleader for respondent No.1-State would submit that already main matter was considered and the accused No.1 was acquitted in the case on hand and matter is also not pending and this is also an additional factor for consideration of this petition.

6. Under the circumstances, I am of the opinion that adding the accused persons invoking Section 319 of Cr.P.C. subsequent to discharge and when it has attained its finality cannot be permitted.

7. In view of the discussion made above, I pass the following:

ORDER

(i) The criminal petition is ***allowed***.

(ii) The proceedings initiated against the petitioners in C.C.No.981/2016 arising out of Crime No.10/2008 for the offence punishable under Sections 468, 420 read with Section 34 of IPC is hereby quashed.

Sd/-
(H.P.SANDESH)
JUDGE

ST
List No.: 1 Sl No.: 19