HC-KAR
NC: 2026:KHC:64932
CRL.P No. 4938 of 2022
CNR: KAHC010239832022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF NOVEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO.4938 OF 2022

BETWEEN:

1. MRS. RUCKMANI SWAMINATHAN,
EX-MANAGING DIRECTOR,
M/S. SHRI SAKTHI PAPERS INDIA PVT. LTD.,
NO.22, NEW NO.7, AKS NAGAR,
PONNAIYARAJAPURAM,
COIMBATORE-641001.

2. MR. PANCHAPAKESAN SWAMINATHAN,
EX-MANAGING DIRECTOR,
M/S. SHRI SAKTHI PAPERS INDIA PVT. LTD.,
NO.22, NEW NO.7, AKS NAGAR,
PONNAIYARAJAPURAM,
COIMBATORE-641001.

...PETITIONERS

(BY SMT. SUMATHI S., ADVOCATE FOR
SMT. SONA VAKKUND, ADVOCATE)

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

AND:

1. M/S. SHREE PAPERS,
NO.16-1, 3RD MAIN ROAD,
NEW THARAGUPET,
BENGALURU-560002.
REPRESENTED BY ITS PROP
SHRI. UTTAM CHAND JAIN.

2. M/S. SHRI SAKTHI PAPER INDIA PVT. LTD.,
REPRESENTED BY MANNIVANNAN,

INTERIM RESOLUTION PROFESSIONAL,
PLOT NO.53/B, VISHALAKSHINAGAR,
4TH CROSS, SANTHOSHPURAM,
CHEENAI-600073.

…RESPONDENTS

(BY SRI. SAMUEL S. DANDIN, ADVOCATE FOR R1;
R2 IS SERVED)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE IMPUGNED ORDER DATED 09.05.2022, 18.05.2022 AND 20.05.2022 IN CC NO.5958/2019 ON THE FILE OF THE XXIV ADDITIONAL SMALL CAUSE JUDGE AND ACMM AT BENGALURU VIDE ANNEXURE-F BY ALLOWING THE APPLICATIONS UNDER SECTION 317 CR.PC DATED 09.05.2022, 18.05.2022 AND 20.05.2022 APPLICATION UNDER SECTION 309 OF CR.PC DATED 20.05.2022 OR IN THE ALTERNATIVE PASS SUCH OTHER ORDER/S AS THIS HON'BLE COURT DEEMS FIT TO PASS ON THE FACTS AND IN THE CIRCUMSTANCES OF THE CASE.

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 the learned counsel for the petitioners and the learned counsel for respondent No.1. The respondent No.2 has been served and unrepresented.

2. The prayer sought in the petition is to set aside the orders of the Trial Court dated 09.05.2022, 18.05.2022 and 20.05.2022, wherein the Trial Court, when the cross-

examination was not made before the Court when P.W.1 was present on several occasions and when the application was also filed under Section 317 of Cr.P.C. on 09.05.2022, 18.05.2022 and 20.05.2022, rejected the same and proceeded to record the sworn statement of accused No.3 under Section 313 of Cr.P.C. and accused No.2 was not subjected to 313 statement.

3. The Court has to take note of 138 proceedings was initiated in 2019 and even in 2022 also, though it is a summary proceedings, the accused did not assist and co-operate the Court in disposal of the same. The order sheet reveals that inspite of P.W.1 was present on several occasions, he was cross-examined in part only one time, but not cross-examined the witnesses on several occasion and hence, taken as no cross and NBW was also issued. Thereafter, application under Section 317 of Cr.P.C. was filed and those applications are rejected and hence, the present petition is filed.

4. The learned counsel for the petitioners would contend that when an application under Section 311 of Cr.P.C. to recall P.W.1 was filed, no order is passed on the application and while rejecting 317 application, the Trial Court directed to

keep the accused present. Once the Trial Court proceeded with the case, it ought to have dispensed with the personal appearance of the accused/petitioners when the application was filed under Section 317 of Cr.P.C. The learned counsel also would submit that due to medical grounds and old age of the petitioners and as the petitioners are residing at Coimbatore, Tamil Nadu, could not appear before the Court and valid defence and good grounds are also made out.

5. Having taken note of the grounds urged in the petition as well as the order sheet of the Trial Court dated 09.05.2022, 18.05.2022 and 20.05.2022, an opportunity is given to the petitioners. The matter is also stayed by this Court from 2022 and this is the complaint of the year 2019. Hence, an opportunity has to be afforded to the petitioners. The order of rejection of application filed under Section 317 of Cr.P.C. is set aside and the petitioners are directed to be present before the Trial Court on the next date of hearing without fail and assist the Trial Court for disposal of the matter. The Trial Court is also directed to consider the application filed under Section 311 of Cr.P.C. since no order has been passed under Section

311 of Cr.P.C. The Trial Court is also directed to allow the application filed under Section 311 of Cr.P.C. to afford an opportunity and it requires imposing of heavy costs in view of non-cooperation by these petitioners and hence, I pass the following:

ORDER

(i) The petition is allowed and the order of the Trial Court dated 09.05.2022, 18.05.2022 and 20.05.2022 are set aside.

(ii) The petitioners are directed to appear before the Trial Court on 09.12.2026. The petitioners are directed to pay cost of Rs.50,000/- and this order will enure to the benefit of the petitioners only on payment of cost of Rs.50,000/- payable to respondent No.1/complainant.

(iii) The petitioners are also directed to cross-examine P.W.1 in the next date of hearing without seeking any further adjournment for further cross-examination.

(iv) The Trial Court is directed to dispose of the matter within a period of two months from 09.12.2026.

(v) The respective parties and counsels are directed to assist the Trial Court to dispose of the matter within the stipulated time.

Sd/-
(H.P.SANDESH)
JUDGE

MD
List No.: 1 Sl No.: 33