HC-KAR

NC: 2026:KHC:60970
CRL.P No. 5065 of 2023

CNR: KAHC010264782023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

CRIMINAL PETITION NO. 5065 OF 2023

BETWEEN:

1. SRI A. THIMMAPPA
   AGED ABOUT 66 YEARS
   S/O BADRAPPA
   RETIRED MANAGER AT MAMCOS
   CHANNAGIRI, RESIDENT OF
   KEMPANAGADDE VILLAGE
   KONANADURAU HOBLI, THIRTHALLI
   SHIVAMOGGA DISTRICT - 577 422.

2. SRI SURESH
   AGED ABOUT 51 YEARS
   S/O SHIVARAMAIAH
   MANAGER AT MAMCOS
   APMC YARD, BIRUR TOWN
   KADURU TALUK
   CHIKMAGALURU DISTRICT - 577 116.

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3. SRI DHARMARAJU
   AGED ABOUT 51 YEARS,
   S/O ANANDA MURTHY
   CLERK AT MAMCOS TARIKERE
   APMC YARD, TARIKERE TOWN
   TARIKERE TALUK
   CHIKMAGALURU DISTRICT - 577 228.

4. SRI MURUGESH
   AGED ABOUT 56 YEARS
   S/O NAGAPPA
   MANAGER AT MAMCOS

APMC YARD,SAGAR ROAD
SHIVAMOGGA - 577 204.

…PETITIONERS

(BY SRI R. KIRAN, ADV.)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY
CHANNAGIRI POLICE STATION
DAVABAGER 577213
REPRESENTED BY SPP
HIGH COURT COMPLEX
BENGALURU-560001.

2. SRI S.R. SHIVAKUMAR
S/O LATE SRI REVANASIDDAPPA
AGED ABOUT 44 YEARS
RESIDENT JOF HONNEMARADALLI
VILLAGE, NEETHIGERE POST
CHANNAGIRI TALUK
DAVANGER - 577 215.

3. THE MALNAD ARECANUT MERCHANTS
CO-OPEARTIVE SOCEITY
BY ITS BRANCH MANAGER
APMC YARD, CHANNAGIRI TALUK
DAVANGER - 577 213.

…RESPONDENTS

(BY SRI RAHUL RAI K, HCGP FRO R-1;
SRI K.B. GOPAL, ADV., FOR R-2
V/O 02.11.2026 NOTICE TO R-3 IS DISPENSED WITH)

THIS CRL.P IS FILED U/S 482 CR.PC PRAYING TO QUASH THE ENTIRE CRIMINAL PROCEEDINGS INITIATED AGAINST THE PETITIONERS IN PCR NO.39/2022 AND FIR CR.NO.52/2023 BEFORE THE COURT OF 1ST ADDITIONAL CIVIL JUDGE AND

JMFC, CHANNAGIRI, DAVANGERE, FOR THE OFFENCE P/U/S 427, 34, 120B, 212, 409, 420 AND 468 OF IPC, 1860 FILED BY THE CHANNAGIRI POLICE STATION AT ANNEXURE A AND ANNEXURE C AND ALLOW THIS CRIMINAL PETITION.

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

CORAM: HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

ORAL ORDER

This petition under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C' for short) is filed by accused Nos.1 to 4 with a prayer to quash the entire proceedings in Crime No.52/2023 registered by Channagiri Police Station, Davanagere for the offences punishable under Section 427, 34, 120B, 212, 409, 420 and 468 of IPC, 1860 arising out of PCR.No.39/2022 filed before the Court of I Additional Civil Judge and JMFC, Channagiri, Davanagere.

2. Heard the learned counsel for the parties.

3. Respondent No.2 herein had filed PCR.No.39/2022 before the jurisdictional Court of Magistrate, which was referred to the Police by the learned Magistrate in exercise of his powers under Section 156(3) of the Cr.P.C. In turn, Chennagiri Police Station, Davanagere had registered FIR in Crime No.52/2023 for the aforesaid offences against the petitioners herein and the Co-operative society of which the petitioners are the employees. Assailing the same, the petitioners who are arrayed as accused Nos.1 to 4, are before this Court.

4. In the private complaint which is filed by respondent No.2 herein, it is alleged that, for the period between 07.02.2013 to 03.02.2015, arecanut which was deposited by respondent No.2 totally weighing 1006.5 kilograms in accused No.5/Co-operative Society was sold by accused Nos.1 to 4, who are the employees of the Co-operative Society, by creating fraudulent vouchers and forging the signature of respondent No.2 herein, thereby

causing a loss to the tune of Rs.1,25,65,240/- to respondent No.2.

5. During the course of arguments, learned counsel for the petitioners pointed out to this Court that a complaint making similar allegations was filed by respondent No.2 before the Assistant Registrar of Co-operative Societies, Shivamogga and pursuant to the said complaint, an enquiry was held by the Enquiry Officer, who had submitted a report on 11.09.2019, stating that no misappropriation had taken place in accused No.5 Co-operative Society, as alleged by respondent No.2. Based on the said report, the complaint by respondent No.2 herein was closed by the Office of the Assistant Registrar of Co-operative Societies, Shivamogga, vide order dated 03.10.2019. Undisputedly, the said order has not been questioned by respondent No.2 herein before the appropriate forum in accordance with law.

6. It appears that subsequent to the closure of his complaint before the Office of the Assistant Registrar of Co-operative Societies, Shivamogga, respondent No.2 had filed a police complaint on 14.01.2022. Based on the said complaint, also an enquiry was held and a report was filed by the Inspector of Police, Chennagiri Police Station, Davanagere stating that no such misappropriation had taken place in the office of accused No.5 Co-operative Society, as alleged by respondent No.2.

7. After having suffered two adverse reports on the complaint made by respondent No.2 herein, which were not questioned by him in accordance with law, he had proceeded to file a private complaint before the Court of jurisdictional Magistrate, which has now been referred to the Police for the purpose of investigation.

8. A reading of the private complaint would go to show that the allegations which were made earlier in the complaint that was filed before the Assistant Registrar of

Co-operative Societies, Shivamogga and also before the Police in the complaint that was filed in the year 2022 have once again been reiterated in the private complaint which is now filed before the jurisdictional Magistrate. Since two adverse reports have been already submitted by the competent authorities after holding an enquiry in accordance with law, I am of the opinion that continuation of the impugned criminal proceedings against the petitioners based on similar allegations would amount to abuse of the process of law. The petitioners herein are the employees of the Co-operative Society and asking them to face the ordeal of unnecessary litigation would not only cause them embarrassment but the same would also cause them serious hardship.

9. Under the circumstances, I am of the opinion the prayer made in this petition for quashing the proceedings needs to be granted. Accordingly, the following:

ORDER

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

ii) The entire proceedings in Crime No.52/2023 registered by Channagiri Police Station, Davanagere for the offences punishable under Section 427, 34, 120B, 212, 409, 420 and 468 of IPC, 1860 arising out of PCR.No.39/2022 filed before the Court of I Additional Civil Judge and JMFC, Channagiri, Davanagere, is hereby quashed against the petitioners herein.

Sd/-
(S VISHWAJITH SHETTY)
JUDGE

SHS
List No.: 2 Sl No.: 6