HC-KAR

NC: 2026:KHC:60033
CRL.P No. 5210 of 2024

CNR: KAHC010290652024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 5210 OF 2024

BETWEEN:

SRI C NAGARAJA
S/OALTE CHINAPPA
AGED ABOUT 69 YEARS
NO.1/1, FLAT NO.401,
M.K MARUTHI RESIDENCY
1ST MAIN ROAD
A NARAYANAPURA
DOORAVANINAGARA
BENGALURU - 560 016

...PETITIONER

(BY SRI. LOKESH K, ADVOCATE)

AND:

Digitally signed by PANKAJA S
Location: HIGH COURT OF KARNATAKA

1. STATE OF KARNATAKA
BY MAHADEVAPURA POLICE STATION
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU - 560 001

2. KARUNAKARA
S/O LATE K LAKSHMIPATHI
AGED ABOUT 37 YEARS

3. KIRAN KUMAR
S/O LATE K LAKSHMIPATHI
AGED ABOUT 36 YEARS

4. YASHWANTH
S/O LATE K LAKSHMIPATHI
AGED ABOUT 32 YEARS

5. SMT CHANDRAKANTHA
W/O LATE K LAKSHMIPATHI
AGED ABOUT 53 YEARS

RESPONDENTS NO.2 TO 5 ARE
PRESENTLY R/AT NO.07,
A NARAYANAPURA, MAIN ROAD,
DOORAVANINAGARA
BENGALURU - 560 016

6. SMT SHARADA
W/O SIDDAGANGAIAH
AGE ABOUT 45 YEARS
PRESENTLY R/AT NO. 49, A NARAYANAPURA
NEAR PATALAMMA TEMPLE
DOORAVANI NAGARA
BENGALURU - 560 016

7. NIRMALA
W/O VENKATARAJU
AGED ABOUT 59 YEARS
R/AT SHIVA NERALU, NO.454,
7TH CROSS ROAD, MICO LAYOUT,
BTM 2ND STAGE, BTM LAYOUT,
BENGALURU - 560 076

8. KUSUMA
W/O KARUNAKAR
AGED ABOUT 34 YEARS

9. NIKITA
W/O YESHWANTHA
AGED ABOUT 25 YEARS

PRESENTLY RESPONDENT NO.7 & 8 ARE
R/AT NO.07, A NARAYANAPURA,
MAIN ROAD,
DOORAVANINAGARA
MAHADEVAPURA
BENGALURU - 560 016

10. NAGAVENI
W/O APPANNA AGED

ABOUT 48 YEARS

11. APARNA
D/O KRISHNAPPA
AGED ABOUT 58 YEARS

12. GIRI
W/O APPANNA AGED
ABOUT 48 YEARS

RESPONDENT NO.10 TO 12
R/AT NO.07, KRISHNAPPA LAYOUT
A NARAYANAPURA, MAHADEVAPURA
BENGALURU - 560 016

…RESPONDENTS

(BY SRI. MAHESHA P, HCGP FOR R1,
SRI. KIRAN KUMAR, D.K, ADVOCATE FOR R7,
VIDE ORDER DATED 16.01.2025, NOTICE TO REMAINING RESPONDENTS IS DISPENSED WITH)

THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO SET ASIDE THE ORDER DATED 12.12.2023 PASSED IN C.C.NO.62046/2023 BY THE XXIX ACMM MAYO HALL AT BENGALURU CITY.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

This petition is filed by the complainant seeking to set aside the order dated 12.12.2023 passed in C.C.No.62046/2023 by the XXIX Addl. Chief Metropolitan Magistrate, Mayo Hall Unit, Bengaluru (for short, 'learned Magistrate) without providing opportunity to the petitioner to file protest petition in respect of dropping accused No.6 -

Nirmala from the charge sheet by respondent No.1-Police for the offences punishable under Sections 427, 504 and 506 read with Section 34 of IPC.

2. The brief facts of the case are that, the petitioner/complainant lodged a complaint against one Karunakara and 11 others on 20.07.2023 alleging that they illegally trespassed his flat on 20.07.2023 by break opening the door and lock of the house and stolen the silver articles worth Rs.5,00,000/- from his house and also manhandled him. On the strength of the said complaint, FIR came to be registered in Crime No.347/2023 dated 20.07.2023 for the offences punishable under Sections 427, 506, 380 and 448 read with Section 149 of IPC. Subsequently, respondent No.1-Police investigated the case and laid charge sheet against accused Nos.1 to 5 and 7 to 11 by dropping accused Nos.6 and 12 from the charge sheet. Later, the proceedings was initiated in C.C.No.62046/2023 before the learned Magistrate, wherein the learned Magistrate took cognizance of the offences against the said accused for the offences punishable under Sections 427, 504, 506 read with Section 34 of IPC and sentenced them to undergo simple imprisonment till rising of the Court and a fine

of Rs.800/- and in default of payment of fine, to undergo simple imprisonment for a period of three days. Accordingly, the proceedings was closed. Challenging the order of taking cognizance on other accused without providing an opportunity to the petitioner to file a protest petition against dropping of accused No.6 from the charge sheet, the petitioner is before this Court.

3. Heard the learned counsel for the respective parties.

4. The contention of learned counsel for the petitioner/complainant is that though there is a *prima facie* case made out by the petitioner against accused No.6, respondent No.1-Police have dropped accused No.6 from the charge sheet at her instance. By placing reliance on CCTV footage, he submits that though the participation of accused No.6 in the alleged crime clearly reveals in the CCTV footage, the Police have filed 'B' report. However, the learned Magistrate hurriedly closed the proceedings by imposing fleabite sentence to the other accused. As such, the petitioner ought to have

given opportunity to protest 'B' report by filing protest petition/memo. Accordingly, he prays to allow the petition.

5. The aforesaid prayer is opposed by learned HCGP for respondent No.1 and learned counsel for respondent Nos.2 to 11. They contended that after a detailed investigation, respondent No.1-Police have dropped accused No.6 from the charge sheet on the ground that no offence has been made out against her. In such circumstances, there is no such necessity to grant an opportunity to the petitioner to file a protest petition/memo. Moreover, the other accused were committed by imposing the sentence till rising of the Court. As such, they pray to dismiss the petition.

6. I have given my anxious consideration to the submissions and perused the documents made available on record.

7. On careful scrutiny of the charge sheet and other materials, initially accused No.6 was named in the FIR on the strength of the complaint lodged by the petitioner. Subsequently, during the course of investigation, she was dropped from the charge sheet. After filing of charge sheet by

dropping accused No.6, the proceedings was initiated in C.C.No.62046/2023 before the learned Magistrate. As such, inadvertently, the learned Magistrate has proceeded to take cognizance for the offences against other accused who were charge sheeted and permitted them to plead guilty and imposed the minimum sentence. However, since accused No.6 was dropped from the charge sheet, as rightly contended by learned counsel for the petitioner, an opportunity ought to have been extended to the petitioner to protest the same by filing necessary petition/memo before the learned Magistrate.

8. The petition is accordingly ***allowed in part***. The petitioner/complainant is permitted to file a protest petition/memo in C.C.No.62046/2023 before the learned Magistrate against dropping accused No.6 from the charge sheet for the offences punishable under Sections 427, 504 and 506 read with Section 34 of IPC.

SD/-
(RAJESH RAI K)
JUDGE

HKV
List No.: 1 Sl No.: 2