HC-KAR
NC: 2026:KHC:61787
CRL.P No. 6625 of 2022
CNR: KAHC010315252022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF NOVEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO.6625 OF 2022

BETWEEN:

1. SRI. MOHAMMED KUNHI,
AGED ABOUT 56 YEARS,
S/O SRI. ABDUL KHADAR,
BANGALORE HOUSE,
MUTTATHODY, ALAMPADY,
KASARGOD-671123.

2. SRI. ASHOK,
PROP. SRI RAMA CONSTRUCTIONS,
S/O SRI. RAMASWAMY,
AGED ABOUT 45 YEARS,
BHANDARIBETTU,
BATWALA, D K-575018.

...PETITIONERS

(BY SRI. SACHIN MADEV HEGDE, ADVOCATE FOR
SRI. SACHIN B.S., ADVOCATE)

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

AND:

1. STATE OF KARNATAKA,
BY VITTLA POLICE STATION,
BANTWAL SUB-DIVISION,
MANGALORE-574243,
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BANGALORE-560001.

...RESPONDENT

(BY SRI. SUHAS GOWDA M., HCGP)

CNR: KAHC010315252022

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN CR.NO.97/2022 ON THE FILE OF THE ADDL. CIVIL JUDGE (JR.DN) AND J.M.F.C COURT, BANTWALA, D.K., REGISTERED FOR THE OFFENCE PUNISHABLE UNDER SECTION 9B(1)(b) OF EXPLOSIVES ACT.

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 High Court Government Pleader appearing for the respondent/State.

2. The prayer sought in the petition is to quash the FIR in Crime No.97/2022, for the offence punishable under Section 9B (1)(b) of Explosives Act, 1884.

3. The main contention of the learned counsel for the petitioners is that the police have registered a suo motu case based on the document No.2. FIR is document No.1, mahazar is document No.3 and document No.4 is also produced with regard to the quarrying licence. The learned counsel would contend that when the offence invoked against the petitioners is a non-cognizable offence, the police cannot suo motu register

the case and proceed against the petitioners. The learned counsel would submit that no permission is sought from the Magistrate to investigate the matter and hence, there cannot be any criminal prosecution against the petitioners and there is a fundamental defect in initiating the proceedings against the petitioners.

4. The learned High Court Government Pleader appearing for the respondent/State had taken time in the previous occasion to produce the document for having taken permission from the Magistrate. Today the learned counsel would fairly submit that no such permission is obtained before proceeding against the petitioners.

5. Having heard the learned counsel for the petitioners and the learned High Court Government Pleader appearing for the respondent/State, when the offence is non-cognizable offence, there must be compliance under Section 155 of Cr.P.C. and there is no such compliance and no such permission is also obtained before proceeding against the petitioners. When such being the case, the initiation of the proceedings suo motu by the police as per document No.2 and conducting the mahazar

as per document No.3 and registration of the case as per document No.1 is bad in law and there is a fundamental defect in initiating the proceedings against the petitioners. Hence, it is a fit case to exercise the power under Section 482 of Cr.P.C.

6. In view of the discussions made above, I pass the following:

ORDER

The petition is allowed and the proceedings initiated against the petitioners in Crime No.97/2022 is quashed.

Sd/-
(H.P.SANDESH)
JUDGE

MD
List No.: 1 Sl No.: 15