HC-KAR
NC: 2026:KHC:62718
CRL.P No. 3326 of 2019
CNR: KAHC010373062019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF NOVEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO.3326 OF 2019

BETWEEN:

DR. MANJUNATHA
S/O LATE SUBBEGOWDA
AGED ABOUT 58 YEARS
SRIDEVI HOSPITAL
BEHIND NAVODAYA SCHOOL
THAGYAMMA LAYOUT
CHANNARAYAPATNA
HASSAN DISTRICT-573116

AT PRESENT
MANJUNATHA DAY CARE CENTRE
MYSORE ROAD
CHANNARAYAPATNA
HASSAN DISTRICT-573 116

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

...PETITIONER

(BY SRI. SADASHIVAIAH K G, ADVOCATE)

AND:

1. SRI. S. D. BALAKUMAR
   S/O DEVARAJE GOWDA
   AGED ABOUT 40 YEARS
   R/AT MANCHEGANAHALLI VILLAGE
   DANDIGANAHALLI HOBLI
   CHANNARAYAPATNA TALUK
   HASSAN DISTRICT-571 16

2. DR. VIJAYAKUMAR
S/O C M KRISHNAPPA
AGED ABOUT 55 YEAR
SRIDEVI HOSPITAL
BEHIND NAVODAYA SCHOOL
THAGYAMMA LAYOUT
CHANNARAYAPATNA
HASSAN DISTRICT-573 116
[DELETED V/O DT.19.08.2019]

…RESPONDENTS

(BY SRI. VEERANNA G TIGADI, ADVOCATE FOR R1;
R2 DELETED V/O DT.19.08.2019)

THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.1591/2018 PENDING ON THE FILE OF THE PRINCIPAL CIVIL JUDGE AND JMFC, CHANNARAYAPATNA FOR OFFENCE U/S.23 OF PRE-CONCEPTION AND PRE-NATAL DIAGNOSTIC TECHNIQUES (PROHIBITION OF SEX SELECTION) ACT, 1994, SEC.19 OF KARNATAKA PRIVATE MEDICAL ESTABLISHMENT ACT, 2007 AND U/S.420 AND R/W SEC.34 OF IPC AND ETC.

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

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

CNR: KAHC010373062019

ORAL ORDER

This petition is filed praying this Court to quash the entire proceedings in C.C.No.1591/2018 pending on the file of the Principal Civil Judge and JMFC, Channarayapatna for offence under Section 23 of Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, Section 19 of Karnataka Private Medical Establishment Act, 2007 and Section 420 read with Section 34 of IPC.

2. Heard the learned counsel appearing for the respective parties.

3. The complainant had filed a private complaint which is numbered as PCR No.1045/2013. Based on the said private complaint, the trial court took the cognizance and recorded the sworn statement of the complainant as CW1 and also examined 3 witness as CW2 to CW4 and got marked the documents. The Trial Court having considered the sworn statement of CW1 to CW4 as well as documentary evidence placed before the Court in paragraph 13 taken note of the sworn statement of CW1 to CW4 who have taken the treatment in the very same hospital who have also produced the documents before the Court. Even

in paragraph 15, the Trial Court has taken note of Ex.C7 and Ex.C10 wherein the accused had admitted his guilt and also paid the fine Rs.25,000/- and also taken note of Ex.C13 that is the notice issued by the Zilla Panchayath to Manjunatha Hospital and comes to the conclusion that these are the materials prima facie show that Manjunatha Hospital is not in existence in the given address and these documents also clearly disclose that accused Nos.1 and 2 got transferred the ultra sound machine of Manjunatha Hospital to Sridevi Hospital without permission from the competent authority. So also, taken note of show cause notice issued by Karnataka State Pollution Control Board to accused No.2 at Ex.C25.

4. Having considered the sworn statement of CW1 to CW4 as well as the documentary evidence, the Trial Court held that the hospital was registered in the name of accused No.1 for a period of 5 years i.e., till 13.03.2010, the certificate of registration is at Ex.C56 and the same shows that Sridevi Hospital was registered in the name of accused No.1 till 13.07.2016. It is pertinent to note that the letter at Ex.C18 shows that Ex.C19 was obtained on 10.02.2017. The same

shows that the hospitals run by accused Nos.1 and 2 are not registered under the Karnataka Private Medical Establishment Act, 2007 and thereby, violated various provisions of the said Act. Having considered the same, in paragraph 19 comes to the conclusion that prima facie it is clear that accused Nos.1 and 2 have even committed an offence under Section 420 read with Section 34 of IPC and there is restriction under Section 28 of the PC and PNDT Act, 1994 to take cognizance for the offence under the Act. Hence, issued the process against the accused and the same is challenged before this Court by filing this petition.

5. The main contention of the counsel appearing for the petitioner before this Court that complainant is not having any locus to file a private complaint. The counsel also vehemently contend that Trial Court has committed an error in taking the cognizance for the offences which have been invoked whereas admittedly the complainant is not a aggrieved person. The counsel also would vehemently contend that the Trial Court erred in taking cognizance having considered the payment of penalty of Rs.25,000/- to the concerned authority. The

complainant ought to have resorted the matter before the State Medical Council. In the instant case no steps are taken by him which is contrary to law. The counsel also would vehemently contend that earlier also one complaint was filed by Sri. S. B. Ashok who is ex-employee of the petitioner and the said S. B. Ashok has written so many false complaints against the petitioner and respondent No.2 to all the concerned authorities pertaining to the petitioner's work and establishment and not successful earlier. Thus, the said Ashok is behind this complainant in initiating these proceedings. The counsel also would vehemently contend that the order passed by the Trial Court in taking cognizance also suffers from its infirmity. The counsel also would vehemently contend that earlier also this complaint was not entertained and subsequently an order was passed by the Revisional Court and the matter was remitted back to the Trial Court. Thereafter, recorded the sworn statement of CW1 to CW4 and considered the documents and passed the order. Hence, it requires interference.

6. The counsel appearing for the respondent No.1 would vehemently contend that a person who is interested in

the welfare of the people can also file a complaint under Section 28 of the Act. The counsel would contend that the material placed before the Trial Court was considered and the victims are CW2 to CW4 who have taken the treatment in the hospital of the petitioner. The counsel also produced the document for having admitted his guilt and paid the fine of Rs.25,000/- when the same was imposed particularly when the hospital was also registered for a period of 5 years. Hence, there was a clear violation and to that effect also Trial Court taken note of and detailed order has been passed considering the sworn statement of CW1 to CW4 as well as the documentary evidence. The counsel also would vehemently contend that while passing an order of taking cognizance, only court has to look into the sworn statement of complainant as well as the documents which have been produced and the Trial Court has done the same. Hence, there cannot be any quashing of taking of cognizance.

7. Having heard the learned counsel appearing for the respective parties and also on perusal of the material on record, it discloses that the specific allegations are made

against the petitioner. The main contention of the counsel appearing for the petitioner that complainant was not having any locus standi and he was at the behest of one Mr. Ashok who had made an attempt earlier also to initiate the proceedings against the petitioner was unsuccessful and hence, filed the present complaint. But the very contention of the counsel for the petitioner that the said Ashok was an ex-employee cannot be accepted since no such document is placed before the court and may be that Ashok was an ex-employee of the petitioner herein. But in order to substantiate that the complainant was at the behest of the said Ashok had filed the complaint, no document is placed and the same is a matter of trial. At the time of defence, he can raise that defence before the Trial Court. The issue with regard to the locus standi is concerned, Court has to look into Section 28 of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 and the same is very clear that the person who is not the aggrieved person can file such complaint and the person who is having an interest in respect of the society is concerned, even not aggrieved person, can also

initiate the proceedings. Apart from that court has to take note of sworn statement of CW2 to CW4 along with the sworn statement of CW1. CW1 specifically made that Lalitha and Gowramma were subjected to surgery and they are facing the problem and the same is also reiterated by CW2 to CW4. Apart from that documentary evidence is also produced before the Court for having paid the fine of Rs.25,000/-. Also the document is not in force with regard to the registration of the hospital. All these materials were taken note of. With regard to the defence is concerned, the same cannot be considered while taking the cognizance and only have to see that whether prima facie material is made out to invoke the offences against the petitioner. When such documentary evidence and sworn statement are suffice to come to such a conclusion, this Court cannot find fault with the order of the Trial Court when detailed order has been passed by the Trial Court. Hence, the very contention of the counsel for the petitioner cannot be accepted at this stage and he can raise all those grounds before the Trial Court at the time of trial and defence cannot be raised while

considering the taking of cognizance and the same is a settled law.

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

ORDER

The petition is dismissed.

Sd/-
(H.P.SANDESH)
JUDGE

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