HC-KAR

CNR: KAHC010416222023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

WRIT PETITION NO.17892 OF 2023 (GM-RES)

BETWEEN:

MR. HEMANTH KUMAR. B. S.
M/S JAJI DEVELOPER,
SAHAKARNAGAR BENGALURU CITY
COMPLETE ADDRESS IS AS BELOW
S/O N. SRINIVASA MURTHY
AGED 56 YEARS R/AT H-003/004
KRISHNA DIAMOND APARTMENTS
CITY CENTRAL LIBRARY ROAD,
SAHAKARANAGAR
BENGALURU - 560 092.

...PETITIONER

(BY SRI. K.R. KRISHNAMURTHY., ADVOCATE FOR
SRI. PRAKASH B N.,ADVOCATES)

Digitally signed by SUMA B N
Location: HIGH COURT OF KARNATAKA

AND:

1. STATE OF KARNATAKA
REPRESENTED BY SHO
VIDHANA SOUDHA POLICE STATION
(CUBBON PARK SUB-DIVSION)
BANGALORE - 560 001.

2. MR. KUMARASWAMY S.P
INSPECTOR,
VIDANASOUDHA POLICE STATION,
B.R.AMBEDKAR VEEDHI,
BENGALURU-560 001.

3. MR. SRINIVAS GOWDA
DEPUTY COMMISSIONER OF POLICE (CENTRAL)
OFFICE AT, NO 8, CENTRAL DIVISION
KASTURBA ROAD,
NEAR YES BANK
SHANTHALA NAGAR,
ASHOK NAGAR, BANGALORE 560 001.

4. M/S COFFEE BOARD EMPLOYEES CO-OPERATIVE
HOUSING SOCIETY
A SOCIETY REGISTERED UNDER THE KARNATAKA
CO-OPERATIVE SOCIETIES ACT 1959,
OFFICE AT NO.1,
DR. B.R. AMBEDKAR VEEDHI
BANGALORE - 560 001.

5. MR. V.R. GUDDEGOWDA
S/O RANGE GOWDA
AGED ABOUT 63 YEARS
VICE PRESIDENT AT COFFEE BOARD EMPLOYEES
CO-OPERATIVE HOUSING SOCIETY,
OFFICE AT NO.1,
DR. B.R. AMBEDKAR VEEDHI
BANGALORE - 560 001.

…RESPONDENTS

(BY SMT. K.P. YASHODHA, AGA FOR R1;
R2 AND R3- SERVED
SRI. PRATHAP K.C. ADVOCATE FOR R4 AND R5)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA R/W SEC. 482 OF CR.PC PRAYING TO A) DIRECTION IN THE NATURE OF CERTIORARI QUASHING THE FIR NO.25/2023 DATED 03/04/2023 VIDE ANNEXURE-B, PENDING ON THE FILE OF IIIRD ADDL CHIEF METROPOLITAN MAGISTRATE, AT BENGALURU, FOR THE OFFENCE PUNISHABLE U/S 34, 120(B) OF IPC R/W SEC 408 AND 420 OF IPC AND ALL FURTHER INVESTIGATION PURSUANT TO IT AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

1. Heard Sri. K.R. Krishnamurthy, learned counsel appearing on behalf of Sri. Prakash B.N., learned counsel for the petitioner, Smt. K.P Yashodha, learned AGA for the respondent No.1 and Sri. Pratheep K.C, learned counsel appearing for respondent Nos.4 and 5.

2. The present petition is filed under Articles 226 and 227 of the Constitution of India read with Section 482 of Cr.P.C with the following prayer:

> *" a. Issue a writ, order or direction in the nature of certiorari quashing the FIR No.25/2023 dated 03.04.2023 vide Annexure B, pending on the file of IIIrd Additional Chief Metropolitan Magistrate, at Bengaluru, for the offence punishable under section 34, 120(B) of IPC read with Section 408 & 420 of IPC, and all further investigation pursuant to it, insofar as the Petitioner is concerned and;*
>
> *a1) Declare that the arrest and detention of the petitioner done on the same day of service of notice under section 41A of CrPC is illegal and unlawful.*
>
> *b) Issue any other writ or order or direction to the Respondent No.1 & 2 to compensate the Petitioner for arresting the Petitioner illegally and without authority of law violating Article 21 of Constitution of India, and;*
>
> *c) Issue such other writ or order or direction this Hon'ble Court deems fit and proper, in the facts and circumstances of the case;*

3. The facts in the nut shell which are utmost necessary for disposal of the present petition are as under:

3.1 Petitioner herein is accused No.2 in respect of a complaint lodged by respondent No.4 with the Vidhana Soudha police station. Complaint came to be registered in Crime No.25/2023.

4. Gist of the complaint averments is that there was a Joint Development Agreement between complainant and present petitioner being the proprietor of M/s. Jaji Developers.

5. According to the complainant, land belonging to the Society was sold against the terms of agreement and proceeds thereof was not remitted to the Society. Defrauded amount as per the complaint averments is to the tune of Rs.15,00,000/-. Therefore, action was sought against the petitioner and yet another person by name Jayarama for the offence punishable under Sections 408, 420 R/w Section 34 IPC. Very registration of the case is called in question in this petition with the aforesaid reliefs.

6. Sri. K.R. Krishnamurthy, learned counsel appearing for the petitioner reiterating the grounds urged in the petition would contend that a pure civil litigation has been given the colour of criminality by clever drafting of the complaint. There is suppression of material facts in lodging the complaint itself and without there being any iota of criminality in the incident, a false complaint came to be lodged and therefore the same needs to be quashed.

7. He would further contend that in respect of the dispute that has arisen, arbitration proceedings is already commenced. Therefore, continuation of the criminal proceedings parallelly is totally uncalled for, besides resulting in abuse of process of law.

8. He further submits that in the guise of enquiry, the Investigation Agency called the petitioner to the police station and thereafter illegally arrested him without following the requisite procedure. When the petitioner and another accused did not return home, relatives of the accused persons enquired the police and they were informed that the petitioner and another accused have been arrested in the police station and the arrest memo got issued and signature of the relatives were

taken on the arrest memo, which is in utter violation of established principles of law and thus sought for allowing of the writ petition.

9. Per contra, Smt. K.P Yashodha, learned AGA for the respondent No.1, would submit that prima facie materials found in the complaint would be sufficient enough to proceed with the investigation and therefore, writ petition needs to be dismissed.

10. Sri. Pratheep K.C, learned counsel appearing for respondent Nos.4 and 5-defacto complainants would contend that without there being any authorization, property of the Society has been sold by the petitioner along with other accused Jayarama, who claimed himself as the Secretary/CEO of the Coffee Board Employees' Co-operative Housing Society Ltd., and the proceeds thereof is swindled away by the aforesaid Jayarama in active collusion with the present petitioner, who shared the common intention of cheating and misappropriating the amounts of the Society. Thus, investigation needs to be conducted to unearth the truth in the incident. As such, sought for dismissal of the petition.

11. Having heard the arguments of both sides, this Court perused the materials on record meticulously.

12. On such perusal of the materials on record, this Court noted that there was a Joint Development Agreement entered into by the Society with M/s. Jaji Developers, of which the present petitioner is the sole proprietor.

13. How and when a FIR needs to be quashed is no longer *res-integra*. In this regard, this Court places reliance on the judgment of the Hon'ble Apex Court in the case of ***Prashant Bharti Vs. State (NCT of Delhi)*** reported in ***(2013) 9 SCC 293***. Relevant paragraph is at paragraph No.22, which reads as under:

> ***" 22.*** *The proposition of law, pertaining to quashing of criminal proceedings, initiated against an accused by a High Court under Section 482 of the Code of Criminal Procedure (hereinafter referred to as "CrPC") has been dealt with by this Court in Rajiv Thapar v. Madan Lal Kapoor [Rajiv Thapar v. Madan Lal Kapoor, (2013) 3 SCC 330 : (2013) 3 SCC (Cri) 158] wherein this Court inter alia held as under: (SCC pp. 347-49, paras 29-30)*
>
> > *"29. The issue being examined in the instant case is the jurisdiction of the High Court under Section 482*

CrPC, if it chooses to quash the initiation of the prosecution against an accused at the stage of issuing process, or at the stage of committal, or even at the stage of framing of charges. These are all stages before the commencement of the actual trial. The same parameters would naturally be available for later stages as well. The power vested in the High Court under Section 482 CrPC, at the stages referred to hereinabove, would have far-reaching consequences, inasmuch as it would negate the prosecution's/complainant's case without allowing the prosecution/complainant to lead evidence. Such a determination must always be rendered with caution, care and circumspection. To invoke its inherent jurisdiction under Section 482 CrPC the High Court has to be fully satisfied that the material produced by the accused is such that would lead to the conclusion that his/their defence is based on sound, reasonable, and indubitable facts; the material produced is such as would rule out and displace the assertions contained in the charges levelled against the accused; and the material produced is such as would clearly reject and overrule the veracity of the allegations contained in the accusations levelled by the prosecution/complainant. It should be sufficient to rule out, reject and discard the accusations levelled by the prosecution/complainant, without the necessity of recording any evidence. For this the material relied upon by the defence should not have been refuted, or alternatively, cannot be justifiably refuted, being material of sterling and impeccable quality. The material relied upon by the accused should be such as would persuade a reasonable person to dismiss and condemn the actual basis of the accusations as false. In such a situation, the judicial conscience of the High Court would persuade it to exercise its power under Section 482 CrPC to quash such criminal proceedings, for that would prevent abuse of process of the court, and secure the ends of justice.

30. Based on the factors canvassed in the foregoing paragraphs, we would delineate the following steps

to determine the veracity of a prayer for quashing raised by an accused by invoking the power vested in the High Court under Section 482 CrPC:

30.1. Step one: whether the material relied upon by the accused is sound, reasonable, and indubitable i.e. the material is of sterling and impeccable quality?

30.2. Step two: whether the material relied upon by the accused would rule out the assertions contained in the charges levelled against the accused i.e. the material is sufficient to reject and overrule the factual assertions contained in the complaint i.e. the material is such as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false?

30.3. Step three: whether the material relied upon by the accused has not been refuted by the prosecution/complainant; and/or the material is such that it cannot be justifiably refuted by the prosecution/complainant?

30.4. Step four: whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

30.5. If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal proceedings in exercise of power vested in it under Section 482 CrPC. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as proceedings arising therefrom) specially when it is clear that the same would not conclude in the conviction of the accused."

14. When we apply the principles of law enunciated in the aforesaid decision of the Hon'ble Apex Court to the facts of the

present case, it is crystal clear that the documents placed on record by the petitioner herein is not of that impeccable quality or sterling in nature so as to hold that prima-facie the complaint is a false or a vexatious complaint.

15. Material on record would depict that there was indeed a sale of the property belonging to the society to third party by the petitioner and another accused.

16. At this juncture, learned counsel for the petitioner would contend that portion of the amount is paid to the Society which has been suppressed in the complaint averments.

17. What is the amount that has been paid to the society and what is the balance amount that was required to be paid by the Jayarama as well as the present petitioner is not forthcoming in the grounds that has been pleaded before the Court in the instant petition.

18. Furthermore, it is not the quantity of the money that is relevant, while considering the prayer of the petitioner, it is the dishonest intention in not paying the entire sale proceeds to

the society after the sale of the property of the society has been affected which needs to be taken note of by this court.

19. Further, it is settled principles of law and requires no emphasis that a complaint or a FIR need not be termed as an encyclopedia to include all relevant aspects of the matter. The purpose of lodging a complaint which results in a FIR is only to set the criminal law into motion and it is the investigation which ultimately results in filing an appropriate report as is contemplated under Section 173 Cr.P.C.

20. Petitioner has got every opportunity to explain to the Investigation Agency that he had no role whatsoever in the alleged fraud, misappropriation of the funds of the Society by placing such material on record.

21. At any rate, materials placed on record by the petitioner herein as well as the material that has already been obtained by the Investigation Agency in the form of complaint and other relevant documents, would not be sufficient enough to hold that petitioner is totally innocent in the alleged incident

and *prima-facie* materials would indicate that petitioner had acted in excess of what the power that has been granted.

22. It is needless to emphasize that the other accused namely Jayarama acting as the Secretary/CEO of the Coffee Board Employees' Co-operative Housing Society Ltd., Bangalore City together sold the property belonging to the Society without proper authority prima-facie.

23. This Court in order to find out as to whether there was a proper authority that has been granted to the petitioner as well as Jayarama to sell the property supported by a resolution, enquired the counsel appearing for the petitioner about such a resolution being passed in the general body of the society.

24. Sri. Krishnamurthy K.R., learned counsel appearing for the petitioner is unable to point out that any such resolution is available with the petitioner but has submitted that such a resolution is available with the Society.

25. In this regard, Sri. K.C. Pratheep, learned counsel appearing for the respondent Nos.4 and 5 categorically denied

that no such resolution has been passed by the General Body of the society authorizing the Jayarama as well as the present petitioner to sell the property of the Society to third party.

26. These aspects of the matter which are disputed seriously cannot be the basis for exercising the inherent power vested in this Court under Section 482 Cr.P.C in quashing the FIR.

27. In the considered opinion of this Court, Step 1 and Step 2 mentioned in the Judgment of the Hon'ble Apex Court in the case of ***Prashant Bharti Vs. State by NCT of Delhi (Supra)*** itself is not applicable to the facts of the case on hand and therefore this Court need not further discuss about the Step 3 and Step 4 in quashing the FIR.

28. Suffice to say that having regard to the nature of allegations leveled against the petitioner, investigation is must in the case on hand which would only facilitate the Investigation Agency to unearth the truth and if no act of commission or omission is attributable to the petitioner, necessarily suitable report would be filed by the Investigation

Agency by resorting to the powers conferred under Section 173 of Cr.P.C. It is always open for the petitioner to challenge the adverse report, if any with a successive petition.

29. Furthermore, insofar as the improper or illegal arrest of the petitioner is concerned, the remedy for the petitioner lies elsewhere in seeking for compensation in an appropriate writ petition.

30. Reserving liberty for the petitioner to urge those grounds in a duly constituted petition, following:

ORDER

(i) Petition is ***dismissed***.

Sd/-
(V SRISHANANDA)
JUDGE

RL
List No.: 1 Sl No.: 39