HC-KAR

NC: 2026:KHC:59835
WP No. 22482 of 2023

CNR: KAHC010521852023

**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. 22482 OF 2023 (GM-RES)**

**BETWEEN:**

1. SHRI MAHABOOB PASHA
S/O LATE SYED NAZIR SAB @ NAZIR AHMED
AGED ABOUT 53 YEARS,
R/AT NO 14/1, KANAKANAGAR,
M V EXTENSION, HOSAKOTE,
BENGALURU RURAL DISTRICT 562114

...PETITIONER

(BY SRI. NANJA REDDY P. N.,ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA
CHANNARAYAPATNA POLICE STATION,
REPRESENTED BY ITS STATION HOUSE OFFICER
CHANNARAYAPATNA POLICE STATION,
DEVANAHALLI TALUK,
BENGALURU RURAL DISTRICT 562110

2. SHRI AFZAL PASHA
S/O LATE NAZIR SAB,
AGED ABOUT 50 YEARS,
R/AT BUDIGERE VILLAGE,
CHANNARAYAPATNA HOBLI,
DEVANAHALLI TALUK,
BENGALURU RURAL DISTRICT 562110

...RESPONDENTS

Digitally signed by R MANJUNATHA
Location: HIGH COURT OF KARNATAKA

(BY SMT. K.P. YASHODHA, AGA FOR R1; SRI A.S. KULKARNI ,ADVOCATE FOR R2)

THIS WP UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA IS FILED PRAYING TO-QUASH THE PROCEEDINGS IN PCR NO.307/2021 PENDING BEFORE THE PRINCIPAL CIVIL JUDGE AND JMFC, DEVANAHALLI, BENGALURU RURAL DISTRICT, ANNEXURE-C AND THE FIR IN CR.NO.0089/2023 DTD 25.07.2023 PENDING BEFORE THE R1 POLICE ANNEXURE-D AS THE SAME IS ILLEGAL, ARBITRARY AND IN VIOLATION OF ARTICLE 21 OF THE CONSTITUTION OF INDIA AND THE RIGHT TO LIBERTY HAS BEEN INFRINGED AND ETC.

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

CORAM: **HON'BLE MR. JUSTICE V SRISHANANDA**

## ORAL ORDER

Heard Sri Nanja Reddy, learned counsel appearing for the petitioner, Smt. K.P.Yashodaha, learned Additional Government Advocate appearing for respondent No.1 and Sri A.S. Kulkarni, learned counsel appearing for respondent No.2.

2. Petition under Article 226 and 227 of the Constitution of India r/w Section 482 Cr.PC is filed with the following prayer:

> "*a) Issue a writ of certiorari or any other appropriate writ, order, quashing the Proceedings in PCR No.307/2021*

*pending before the Principal Civil Judge & JMFC, Devanahalli, Bengaluru Rural District, (Annexure-C) and the FIR in Cr.No.0089/2023 dated 25.07.2023 pending before the 1st respondent Police (Annexure-D) as the same is illegal, arbitrary and in violation of Article 21 of the Constitution of India and the right to liberty has been infringed.*

*b) Issue a writ of mandamus or any other appropriate writ, order or direction directing the Respondents to grant all the consequential benefits consequent upon quashing the proceedings at Annexures-C & D respectively."*

3. Second respondent herein filed a private complaint under Section 200 Cr.PC. before the Magistrate at Devanahalli. Said private complaint in P.C.R. No.307/2021 was referred to police for investigation under Section 156(3) of the Cr.PC.

4. In the complaint, it has been contended that the petitioner herein is a stranger to the family of the second respondent and has concocted documents to grab the valuable property belonging to the complainant and based on such concocted documents, there is an attempt for alienation.

5. Pursuant to the order passed by the jurisdictional Magistrate under Section 156(3) Cr.P.C., Channarayapattana Police registered a case in Crime No.89/2023 on 25.07.2023 for the offence punishable under Section 420 IPC.

6. Very registration of the case and investigation thereof is called in question by the petitioner by contending that, a suit had already been filed by the petitioner herein in O.S. No. 170/2016, which came to be decreeed, holding that petitioner is the owner of the disputed property. Yet another suit is filed by the second respondent as plaintiff in O.S.No.42/2021 with a prayer for declaration and possession.

7. Therefore, parallel criminal proceedings is totally uncalled for.

8. Sri. P. N. Nanja Reddy reiterating the grounds in the petition would contend that, when there is a valid decree passed by the Jurisdictional Civil Court in O.S.No.170/2016 declaring that petitioner is the owner of the property, police cannot investigate into the same in respect of alleged offences and therefore sought for quashing of the criminal complaint.

9. Per contra, Smt. Yashoda and Sri. A. S. Kulkarni in unison would support the continuation of the criminal case and investigation thereof to unearth the truth in the incident.

10. Having heard the arguments of both sides this court perused the material on record meticulously.

11. On such perusal of the material on record, decreeing of the suit in O.S. No.170/2016 by the Jurisdictional Civil Court in favour of the petitioner herein declaring that he is the owner of the suit property. Alienation thereafter made by the petitioner herein which is subject matter of O.S.No. 42/2021 is not in dispute.

12. In the complaint itself, very cleverly the second respondent has described the present petitioner as a stranger to the family, whereas in the suit filed by the plaintiff in O.S. No.170/2016, it has been contended that the second respondent is none other than the brother of the petitioner herein.

13. On enquiry in this regard to the counsel for respondent No.2 who is present before the court, second respondent admits that the petitioner is his brother.

14. In the teeth of such suppression of material fact in the complaint which necessitated the Jurisdictional Magistrate to refer the matter to the police which is purely of civil nature, this Court is of the considered opinion that continuation of the criminal case is thus abuse of process of law, more so, when there is a valid decree in favour of the petitioner passed by the competent Civil Court.

15. As such, the following:

ORDER

i) The petition is allowed.

ii) Consequently pending FIR No. in Crime No.0089/2023 registered by the Channarayapatna Police Station insofar it relates to the petitioner herein is hereby quashed.

iii) However quashing of the criminal case shall not affect the rights of the second respondent in the pending suit in O.S.No.42/2021.

Ordered accordingly.

**Sd/-**
**(V SRISHANANDA)**
**JUDGE**

HR
List No.: 1 Sl No.: 64