HC-KAR

NC: 2026:KHC:61777
CRL.P No. 11639 of 2022

CNR: KAHC010547552022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF NOVEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO.11639 OF 2022

BETWEEN:

1. SRI HARI SINGH
S/O LATE GULAB SINGH
AGED ABOUT 62 YEARS
R/AT WARD NO.20
R R ROAD MAGADI TOWN
RAMANAGARA DISTRICT – 562120

2. SRI JANARDHAN SINGH
S/O LATE GULAB SINGH
AGED ABOUT 58 YEARS
R/AT WARD NO.20
R R ROAD, MAGADI TOWN
RAMANAGARA DISTRICT – 562120

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

3. SMT. INDIRA BAI
W/O JANARADHAN SINGH
AGED ABOUT 55 YEARS
R/AT WARD NO.20
R R ROAD, MAGADI TOWN
RAMANAGARA DISTRICT – 562120

4. SMT. SAVITHA BAI
W/O HARI SINGH
AGED ABOUT 52 YEARS
R/AT WARD NO.20
R R ROAD, MAGADI TOWN
RAMANAGARA DISTRICT - 562120

5. SMT. SWETHA
D/O JANARADHAN SINGH
AGED ABOUT 30 YEARS
R/AT WARD NO.20
R R ROAD, MAGADI TOWN
RAMANAGARA DISTRICT – 562120

6. SRI DILIP SINGH
S/O HARI SINGH
AGED ABOUT 32 YEARS
R/AT WARD NO.20
R R ROAD, MAGADI TOWN
RAMANAGARA DISTRICT – 562120

7. SMT. SRUTHI
D/O JANARADHAN SINGH
AGED ABOUT 28 YEARS
R/AT WARD NO.20
R R ROAD, MAGADI TOWN
RAMANAGARA DISTRICT – 562120

8. SMT. RASHMI
D/O JANARADHAN SINGH
AGED ABOUT 26 YEARS
R/AT WARD NO.20
R R ROAD, MAGADI TOWN
RAMANAGARA DISTRICT – 562120

…PETITIONERS

(BY SRI. P M GOPI, ADVOCATE FOR
SRI SIDDAMALLAPPA P M, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REP BY MAGADI POLICE STATION
MAGADI - 572 120
REP THROUGH SPP
GOVERNMENT OF KARNATAKA
HIGH COURT BUILDING
BANGALORE – 560001

2. SRI M G RAM SINGH
S/O LATE GULAB SINGH
AGED ABOUT 50 YEARS
R/AT WARD NO.20
R R ROAD, MAGADI TOWN
RAMANAGARA DISTRICT – 562120

…RESPONDENTS

(BY SRI MOHAMMED AYUB ALI, ADDL. SPP FOR R1;
SRI R V ANAND, ADVOCATE FOR R2)

THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO SET ASIDE THE ORDER DATED 31.10.2022 PASSED BY THE PRINCIPAL CIVIL JUDGE AND J.M.F.C., MAGADI IN PCR NO.183/2022 AND QUASH THE FIR REGISTERED BY THE RESPONDENT NO.1 IN CR.NO.327/2022 FOR THE OFFENCES P/U/S/ 420, 423, 463, 468, 504 AND 506 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

ORAL ORDER

This petition is filed praying this Court to set aside the order dated 31.10.2022 passed in PCR No.183/2022 and quash the FIR registered in Cr.No.327/2022.

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

3. The FIR is registered based on the private complaint in PCR No.183/2022. The challenge is made before this Court also for setting aside the order dated 31.10.2022 wherein the Trial Court referred the matter to the police under Section 156(3) of Cr.P.C. and said order is a pre-cognizance order. While passing the pre-cognizance order also, the Court has to look into the contents of the complaint and only on satisfaction, that matter requires to be investigated by the police invoking Section 156(3). The Apex Court in the case of **PRIYANKA SRIVASTAVA AND ANOTHER vs. STATE OF UTTAR PRADESH AND OTHERS** reported in **(2015) 6 SCC 287,** held that while filing a private complaint and invoking the jurisdiction under Section 156(3) of Cr.P.C., it should be supported by an affidavit and there must be compliance under Sections 154(1) and 154(3). No doubt, on perusal of the private complaint, it discloses that the specific averment is made in paragraph 4 that complaint was given to the Magadi police station, but the Magadi police instead of registering the

FIR had issued an acknowledgment and thereafter, complainant had made complaint before the Superintendent of Police, Ramanagara to take action and register the case against the accused on 06.09.2022 but not taken any action against the accused. The counsel appearing for the petitioners also placed the said complaint before this Court. No doubt, there is a clear compliance of Section 154(3) of Cr.P.C. But when complaint was filed, the same is not supported by an affidavit as held in the judgment of the Apex Court in **PRIYANKA SRIVASTAVA** case referred supra. In order to prevent the frivolous and vindictive criminal prosecution, it should be supported by an affidavit and the same is missing in the case on hand and there is a foundational defect in filing a complaint and initiation of criminal prosecution. When such being the case, it is a fit case to exercise the powers under Section 482 of Cr.P.C. or otherwise, it amounts to miscarriage of justice.

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

ORDER

The petition is allowed.

CNR: KAHC010547552022

The order dated 31.10.2022 passed in PCR No.183/2022 is set aside and the FIR registered in Cr.No.327/2022 is hereby quashed.

Sd/-
(H.P.SANDESH)
JUDGE

SN