HC-KAR
NC: 2026:KHC:59904
CRL.P No. 12826 of 2026
CNR: KAHC010572842026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CRIMINAL PETITION NO. 12826 OF 2026

BETWEEN:

C.S.UMESHAIAH,
S/O LATE. SIDDAVEERAPPA,
AGED ABOUT 76 YEARS,
R/A CHIKKAVEERAYYANA PALYA,
TAVAREKERE HOBLI, BANGALORE SOUTH TALUK,
BANGALORE - 562 130.

...PETITIONER

(BY SRI VIRUPAKSHAIAH P.H,ADVOCATE)

AND:

1. STATE OF KARNATAKA,
   REPRESENTED BY STATION HOUSE OFFICER,
   TAVAREKERE POLICE STATION,
   TAVAREKERE HOBLI,
   BANGALORE SOUTH TALUK - 562 130,
   BY STATE PUBLIC PROSECUTOR,
   HIGH COURT OF KARNATAKA,
   BENGALURU 560 001.

2. NARASIMHA MURTHY T.G,
   S/O GANGARAJU, AGED ABOUT 48 YEARS,
   R/O TAVAREKERE VILLAGE,
   TAVAREKERE HOBLI,
   BANGALORE SOUTH TALUK - 562 130.

...RESPONDENTS

(BY SRI NAGHARISH G S, HCGP FOR R1,
SRI PRADEEP J S, ADVOCATE FOR R2)

THIS CRL.P IS FILED U/S 482 CR.P.C (U/S 528 BNSS) BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS

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HONOURABLE COURT MAY BE PLEASED TO SET ASIDE THE ORDER DTD 10.12.2024 IN CC.NO.822/2019 PASSED BY THE II ADDL. CIVIL JUDGE AND JMFC, AT MAGADI, VIDE ANNEXURE-K BY ALLOWING THE APPLICATION FILED U/S 319 OF CR.P.C. VIDE ANNEXURE-H FOR INCLUSION OF THE NAME OF RESPONDENT NO.2 IN CC.NO.822/2019, FOR THE OFFENCES P/U/S 143,147,148,324,504,506 R/W 149 OF IPC.

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

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

ORAL ORDER

Heard the learned counsel for the petitioner, the learned counsel for respondent No.1/State and the learned counsel for respondent No.2.

2. Respondent No.2 is the proposed accused.

This petition is filed challenging the order dated 10.12.2024 in C.C. No.822/2019 before the JMFC, Magadi. In terms of the said order, the application under Section 319 Criminal Procedure Code filed by the respondent/State came to be rejected. The present petition is filed by the complainant.

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2. The matter is pending before the trial Court for the alleged offence under Section 143, 147, 148, 324, 504 and 506 read with Section 149 of Indian Penal Code.

3. Learned counsel for the petitioner would submit that the second respondent was named as accused No.1 in the FIR and there was an allegation made against accused No.1 about his involvement in the commission of the offence. However, after the investigation, second respondent has been left out by the investigating agency and the charge sheet is filed against other 7 persons.

4. Thereafter, the evidence is recorded by the Court. The complainant has given his evidence before the Court and one eyewitness out of 2 witnesses (viz., CWs 2 and 3) is examined. After the evidence of the Petitioner/complainant, the respondent/State filed an application to implead respondent No.2 as accused no. 8. Said application is erroneously rejected on the premise that there are no materials to implead accused No.8.

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5. Learned counsel for the petitioner would submit that the order is erroneous. The complainant has clearly stated in the examination-in-chief that respondent No.2/proposed accused No.8 was present at the time of alleged incident. Thus, the learned counsel for the petitioner would contend that the impugned order has to be set aside.

6. In support of his contention, learned counsel for the petitioner would place reliance on the judgments of the Apex Court in ***Mohammad Kaleem vs State of Uttar Pradesh & Ors.***[1] and ***Hardeep Singh versus State of Punjab & Others***[2].

7. Referring to the Apex Court judgments learned counsel for the petitioner would submit that in case the name of the accused is mentioned in the complaint, then, such case would stand on a different footing and based on the statement of the complainant in the examination-in-

[1] (2026) 3 SCR 586

[2] (2014) 3 SCC 92

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chief, the Court can certainly take a view that the said person has to be arrayed as an accused.

8. In addition, it is also his further submission that answer given in the cross examination has been wrongly interpreted. It is the contention that the petitioner/complainant in his cross examination has stated that respondent No.2- Narsimhamurthy was not present. However, it is the submission that by making such statement the petitioner has only referred to the fact that Narsimhamurthy was not present in the Court when the cross examination was conducted. It is the submission that the statement of the petitioner in the cross examination should not be construed to mean that Narsimhamurthy was not present at the scene of offence.

9. Learned counsel for respondent No. 2 would submit that the statement in the examination-in-chief alone is not sufficient to array the person as an accused. It is the submission that the settled position of law is that the evidence before the Court should be slightly higher

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than the prima facie evidence to implead an accused and that aspect is taken into consideration by the trial Court.

10. The trial Court has also considered the cross examination of the complainant and his witness. The prosecution has treated the complainant and his witness as hostile. In the cross examination nothing is elicited to say that the present respondent No. 2/proposed accused was present at the scene of offence, is the submission on behalf of respondent No.2.

11. It is also the further submission that PW2 has turned completely hostile and not supported the case of the prosecution either in the examination-in-chief or in the cross examination. And it is contended that in the cross examination, PW1 has stated that Narasimhamurthy was not present.

12. The Court has considered the contentions raised at the Bar and perused the records.

13. This Court has also considered the order passed by the trial Court which is impugned in this present

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petition. In the said order, the trial Court has held materials are not available to implead proposed respondent No.2 as accused.

14. The Court has taken a view that from the charge sheet materials presence of Narasimhamurthy is not noticed. This Court has noticed that CW3 is cited as a witness by the prosecution. However, the admitted factual position before this Court is CW3 is not yet examined.

15. These being the facts, the Court finds a slight error on the part of the Trial Court in making an observation that CW3 is examined. Since, CW3 is not examined, the Court is of the view that after the examination of CW3, the respondent/State should be permitted to file application to implead those persons as it deems necessary, if so advised in law.

16. After the evidence of CW.3 is recorded, the respondent/State is permitted to file necessary application, if so advised in law. If such an application is filed, it shall be considered in accordance with law.

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17. It is made clear that the Court has not expressed anything on the merits of the application to be filed. At this juncture, this Court finds no reason to interfere the with the order.

18. The petition is ***disposed of*** with the aforementioned liberty.

19. Since this Court has taken a view that the application filed before examination of CW3 is premature, the Trial Court shall consider the application if any, filed by the respondent-State to implead the party in accordance with law without being influenced by its earlier order.

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(ANANT RAMANATH HEGDE)
JUDGE

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List No.: 2 Sl No.: 30
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