

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30<sup>TH</sup> DAY OF APRIL, 2024

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

**CRL.P.NO. 5821/2023**

**BETWEEN:**

SRI SURESH HEBBAGILU  
S/O NARAYANA H  
AGED ABOUT 50 YEARS  
PDO, BELAGATTA GRAMA  
PANCHAYATH, CHITRADURGA TALUK  
AND DISTRICT, NOW RESIDING AT  
JP NILAYA, MALLAIAH EXTENSION  
8TH CROSS, NEWA RUDSET  
CHITRADURGA TOWN - 577 501.

...PETITIONER

(BY SRI H. PAVANA CHANDRA SHETTY, ADV.)

**AND:**

- 1 . STATE OF KARNATAKA  
REPRESENTED BY  
KARNATAKA LOKAYUKTHA  
POLICE STATION  
CHITRADURGA.
- 2 . SRI THIPPESWAMY  
S/O POOJARI BANGARAIH  
AGED ABOUT 34 YEARS  
PRIVATE SURVEYOR  
RESIDENT OF BELAGHATTA GRAMA  
THURUVANUR HOBLI  
CHITRADURGA TALUK AND DISTRICT.

...RESPONDENTS

(BY SRI PRAKASH R, GARASANGI, ADV., FOR  
SRI B.B. PATIL, ADV. FOR R-1;  
R-2 SERVED AND UNREPRESENTED)

THIS CRL.P. FILED U/S.482 CR.P.C PRAYING TO QUASH THE FIR IN CR.NO.2/2023, FILED BY THE RESPONDENT NO.2 BEFORE THE RESPONDENT NO.1 KARNATAKA LOKAYUKTHA P.S., CHITRADURGA FOR THE OFFENCE P/U/S 7(a) OF P.C ACT PENDING ON THE FILE OF PRL.DISTRICT AND SESSIONS COURT, CHITRADURGA VIDE ANNEXURE-A IN THE ABOVE CASE.

THIS PETITION HAVING BEEN HEARD AND RESEVED ON 19.04.2024, COMING ON FOR PRONOUNCEMENT ORDER ON 30.04.2024 THIS DAY,THE COURT MADE THE FOLLOWING:

### **ORDER**

1. Accused no.1 is before this Court under Section 482 of Cr.PC with a prayer to quash the FIR in Crime No.2/2023 registered by Lokayuktha Police, Chitradurga, for the offence punishable under Section 7(a) of the Prevention of Corruption Act, 1988 (for short, 'P.C.Act'), which is now pending before the Court of Prl. District & Sessions Judge, Chitradurga.
2. Heard the learned Counsel for the parties.
3. Facts leading to filing of this petition narrated briefly are, the first informant who is a private surveyor had purchased site bearing No.46, Old Khatha No.781, present panchayath Khatha No.960, carved out of Sy. Nos.108/1 & 108/2 of Belgatta village, Chitradurga, totally measuring 111.48 sq. mtrs. under a registered

sale deed from one Radhakrishna Reddy. He had subsequently filed an application dated 11.10.2022 for transfer of E-khatha. On 24.02.2023, the petitioner who was working as Panchayath Development Officer of the jurisdictional Gram Panchayath along with his staff had visited the site for the purpose of measurement. It is alleged that on the said date, petitioner had demanded illegal gratification from the first informant for changing the revenue records in his name. Since the first informant did not intend to pay the illegal gratification demanded by the petitioner, he had approached the Lokayuktha Police, Chitradurga, and informed the Inspector of Lokayuktha Police about the demand made by the petitioner. The Lokayuktha Police had handed over him a voice recorder and had asked him to record the conversation. Thereafter, the first informant had once again approached the petitioner and the petitioner had raised a demand for payment of Rs.10,000/- as bribe. This conversation between the petitioner and the first informant was recorded in the voice recorder and on 28.02.2023, the first informant had submitted a

complaint, based on which, FIR in Crime No.2/2023 was registered by the Lokayutkha Police against the petitioner for the aforesaid offence. On the same day, a pre-trap mahazar was prepared and a trap was also successfully conducted on the same day at about 4.40 p.m. and the petitioner was caught red-handed while receiving the bribe amount of Rs.10,000/- from the first informant. The bribe amount which was recovered from the pocket of the petitioner was subjected to panchanama, and thereafter, the petitioner was arrested and produced before the jurisdictional court and remanded to judicial custody. Being aggrieved by the FIR registered against him, the petitioner is before this Court.

4. Learned Counsel for the petitioner submits that the petitioner has been falsely implicated in the present case at the instance of one Hanumantha Reddy who is the President of the Gram Panchayath. He submits that the petitioner had not made any demand for payment of bribe amount and the demand made by him was for payment of fees for change of khatha and also other applicable fees. In the conversation that was recorded by

the first informant, this aspect of the matter is very clear. He submits that immediately after the alleged trap, the petitioner has given a statement in support of his defence and the same is self-explanatory. He submits that the amount recovered from the pocket of the petitioner was handed over to him by the first informant for the purpose of payment of requisite fee for change of khatha. He submits that the conversion is not recorded in a mobile phone, and on the other hand, the records do not clearly indicate how the conversation was recorded. In support of his arguments, he has placed reliance on the judgment of the High Court of Madhya Pradesh in Misc. Criminal Case No.10053/2021 (Narendra Mishra Vs The State of Madhya Pradesh & another) disposed of on 23.02.2022. He has also placed reliance on the orders passed by the coordinate bench of this Court in W.P.No.915/2022 (Mr. N.Thejas Kumar Vs The State of Karnataka & another) disposed of on 21.03.2022 and CrI.P.No.4807/2022 (R.Nagashayana Vs Babu Reddy.G.T. & another) disposed of on 16.05.2023.

5. Per contra, learned Counsel appearing for respondent no.1 who has filed statement of objections has strongly opposed the petition. He submits that after the first informant had approached the Lokayuktha Police, they had handed over him a voice recorder and also had instructed him how to operate the same. Thereafter, the conversation between the petitioner and the first informant was recorded in the voice recorder and the transcription of the said conversation is noted down in the pre-trap mahazar which was prepared on 28.02.2023. A reading of the said conversation would clearly go to show that the petitioner had demanded bribe amount of Rs.10,000/- and on the very same day, the petitioner was also successfully trapped while receiving the bribe amount of Rs.10,000/- from the first informant and the bribe amount had been recovered from the petitioner's shirt pocket and the recovered bribe amount was subjected to panchanama. He submits that the work of the first informant was pending with the petitioner and the material on record prima facie shows that there was a demand and acceptance of the bribe

amount by the petitioner. Accordingly, he prays to dismiss the petition.

6. Respondent no.2 who is served in the present case has remained unrepresented.

7. The material on record would go to show that the application filed by the first informant for transfer of E-Khatha in his name in respect of the property which he had purchased under a registered sale deed, was pending before the jurisdictional gram panchayath and the petitioner who was the Panchayath Development Officer had visited the site, and thereafter, made a demand for payment of bribe. The first informant, therefore, had approached the Lokayuktha Police who had requested him to record his conversation with the petitioner and had handed over him a voice recorder. Subsequently, the first informant had recorded his conversation with the petitioner and the transcription of the said conversation is part of the pre-trap mahazar.

8. A perusal of the transcription of the conversation between the petitioner and the first informant clearly

goes to show that there was a demand made by the petitioner for payment of bribe amount. Since the parties have negotiated to settle the amount of demand, the contention of the petitioner that the amount demanded was towards payment of applicable fee cannot be accepted. A reading of the conversation would also go to show that the petitioner has stated that the total fees could be Rs.6,500/-. The demand made by the petitioner appears to be in addition to the applicable fee and the negotiation between the parties was in respect of this amount which was demanded additional to the applicable fee. The petitioner has been successfully trapped by the Lokayuktha Police on the date of registration of the FIR itself and from his pocket, the currency notes of Rs.10,000/- which were handed over to the first informant under the pre-trap mahazar has been recovered. Therefore, it is very clear that in the present case, there is a demand as well as acceptance of the bribe amount by the petitioner. The explanation offered by the petitioner immediately after the trap does not tally with the conversation between the parties which was



recorded prior to the trap. The material on record would also go to show that the work of the first informant was pending in the Gram Panchayath, of which the petitioner was the Panchayath Development Officer.

9. In Thejas Kumar's case *supra*, the coordinate bench of this Court having found that the material on record in the said case reflected that no work of the first informant was pending with the petitioner therein and conversation between the parties was not recorded, and there was absolutely no material to show that the demand for payment of bribe was made, had quashed the FIR that was registered against the petitioner therein for the offences punishable under the P.C.Act. In the said case, except the statement of the first informant in his complaint, there was no other *prima facie* material against the petitioner. It is under these circumstances, the coordinate bench of this Court had quashed the FIR in Thejas Kumar's case *supra*.

10. In Nagashayana's case *supra*, another coordinate bench of this Court has quashed the FIR that was

registered against Nagashayana for the offences punishable under the P.C.Act taking into consideration that there was no material to show that there was a demand or acceptance of the bribe amount. In the said case, it was also an admitted fact that there was no work pending before the accused that related to the first informant. It is in this background, FIR was quashed in Nagashayana's case supra.

11. In Narendra Mishra's case supra, the High Court of Madhya Pradesh has quashed the charge sheet that was registered for the offences punishable under the P.C.Act on the ground that except the written complaint of the complainant, there was no material to support his allegation against the accused. In paragraph 5.4 of the said judgment, the High Court of Madhya Pradesh, has observed as under:

"5.4 In an offence punishable u/S. 7 of the PC Act, the least that is required of the Investigating Agency is to collect implicative evidence/material to support the allegation contained in the written complaint. In absence of any such supportive implicative material/evidence, if an offence is registered,

merely on the basis of written complaint of complainant, then disastrous consequence can befall upon all public servants thereby exposing them to registration of offence and filing of charge-sheet. A written complaint can be made by any person who nurses a grudge or prejudice against the public servant. The public servant would stand exposed to criminal prosecution on the mere making of a written complaint. This scenario would lead to chaos in the administration of service. The public servant shall not be able to discharge his official duties in a free and fair manner due to the ever present feeling of lurking fear in the mind that any act of discharge of official duties can trigger a criminal prosecution."

12. Therefore, the judgments on which reliance has been placed by the learned Counsel for the petitioner in support of his arguments cannot be made applicable to the facts and circumstances of the present case. In the present case, the material on record prima facie goes to show that the work of the first informant was pending before the petitioner and the material on record would also go to show that conversation between the petitioner and the first informant reflects that there was a demand made by the petitioner for payment of bribe amount and subsequently the petitioner was successfully trapped

while receiving the bribe amount from the first informant. In addition to the same, the bribe amount of Rs.10,000/- which was handed over to the first informant by the Lokayuktha Police under the pre-trap mahazar was recovered from the pocket of the petitioner after he was successfully trapped by the Lokayuktha Police.

13. The Hon'ble Supreme Court in the case of **NEEHARIKA INFRASTRUCTURE VS STATE OF MAHARASHTRA & OTHERS - 2021 SCC OnLine 315**, at paragraph 57, has observed as under:

*"57. From the aforesaid decisions of this Court, right from the decision of the Privy Council in the case of Khawaja Nazir Ahmad (supra), the following principles of law emerge:*

*i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into cognizable offences;*

*ii) Courts would not thwart any investigation into the cognizable offences;*

*iii) However, in cases where no cognizable offence or offence of any kind is disclosed in the*

*first information report the Court will not permit an investigation to go on;*

*iv) The power of quashing should be exercised sparingly with circumspection, in the 'rarest of rare cases'. (The rarest of rare cases standard in its application for quashing under Section 482 Cr.P.C. is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court);*

*v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;*

*vi) Criminal proceedings ought not to be scuttled at the initial stage;*

*vii) Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule;*

*viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice or prevent the abuse of the process by Section 482 Cr.P.C.*

*ix) The functions of the judiciary and the police are complementary, not overlapping;*

*x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;*

*xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;*

*xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;*

*xiii) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court;*

*xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint; and xv) When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR.*

14. In the case of **SKODA AUTO VOLKSWAGEN (INDIA) PRIVATE LIMITED VS STATE OF UTTAR PRADESH & OTHERS - (2021)5 SCC 795**, the Hon'ble Supreme Court in paragraphs 41 & 42, has observed as under:

*"41. As cautioned by this Court in State of Haryana v. Bhajan Lal, the power of quashing should be exercised very sparingly and with circumspection and that too in the rarest of rare cases. While examining a complaint, the quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or in the complaint.*

*42. In S.M. Datta v. State of Gujarat, this Court again cautioned that criminal proceedings ought not to be scuttled at the initial stage. Quashing of a complaint should rather be an exception and a rarity than an ordinary rule. In S.M. Datta, this Court held that if a perusal of the first information report leads to disclosure of an offence even broadly, law courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere."*

15. In the light of the judgment of the Hon'ble Supreme Court in Neeharika's case supra and Skoda Auto's case supra, if the material available on record in the present case is appreciated, which prima facie discloses the offence punishable under the provisions of



P.C. Act, the prayer made by the petitioner cannot be granted. The prosecution has placed on record sufficient material which prima facie makes out a case for the alleged offence against the petitioner, and therefore, the investigation becomes necessary. Under the circumstances, I do not see any good ground to entertain this petition. Accordingly, the petition is dismissed.

**SD/-  
JUDGE**

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