

KAHV010007202021



**IN THE COURT OF PRINCIPAL DISTRICT AND
SESSIONS JUDGE & SPECIAL JUDGE (PCA),
HAVERI.**

PRESENT

**SRI. K. C. SADANANDSWAMY
B.Com., LL.M,
Prl. District & Sessions Judge
& Special Judge (PCA), Haveri.**

DATED THIS 20th DAY OF SEPTEMBER, 2024.

Spl. Case. (SVC) No. 2/2021

**Complainant : State of Karnataka
Lokayukta Police Station
Haveri.**

(By Learned Spl. Public Prosecutor)

-Vs-

**Accused No.1 : Parashuram s/o Tulajaram Shapur,
Age 37 years, SDA, Tahasildar office
Revenue quarters, Haveri.**

(By Sri.P.N.Agadi, Advocate)

**ORDER ON APPLICATION U/s 227 of Cr.P.C. FILED
BY ACCUSED NO:1**

Accused No.1 has filed this application under Section 227 of Cr.P.C seeking permission of this court to discharge him from charge sheeted offences. Lokayukta police have filed charge sheet against accused persons for offences punishable under Section 7(a) (b) and (c) of Prevention of Corruption Act.

2. He has reiterated contents of complaint, FIR and chargesheet materials. He is innocent. He has not committed any offences. The first accused has not demanded any money from the complainant. First accused has not accepted any money from complainant as bribe. Lokayukta police have created complaint, voice recording. The trap was successful on second time. First time, trap was not successful. Bribe amount was not recovered from custody of accused. The complainant had given money to third person. This accused is nothing to do with third person. This accused was not on duty at the time of trap. The provision of section 7 of PC act are not at all applicable one. There are no valid grounds to proceed

against accused No.1 for framing charge. It is prayed that application filed by accused No.1 under Section 227 of Cr.P.C., is to be allowed. Accused No.1 is to be discharged from charge sheeted offences.

3. The Special Public Prosecutor has filed objection to above application contending that application is not tenable under law. He has reiterated contents of complaint, FIR and charge sheet material. The evidence collected by IO has reasonably believe that this accused No.1 has committed offences along with other accused. There are no valid and satisfactory grounds to allow this application. Second accused has demanded bribe amount through first accused. Accused No.1 and 2 have caused delay in issuance of no objection certificate to complainant. It is prayed that application filed by accused No.1 under Section 227 of Cr.P.C., is to be dismissed.

4. This Court has heard arguments on both sides and perused records carefully.

5. The following points are arisen for my consideration for decision of this case are as under:

- 1) Whether accused No.1 has made out valid and satisfactory grounds to allow application filed U/s 227 of Cr.P.C.?
- 2) What order?

6. My answer to above points are as under;

Point No.1 In negative

Point No.2 As per final order

for the following;

REASONS :

7. **POINT No.1:-** I have carefully gone through contents of application, objection and other charge sheet materials meticulously and carefully. ACB police have registered criminal case against this petitioner and another in Crime No.1/2020 for the offences punishable under Section 7(a)(b) (c) of PC Act.

8. It is alleged in the complaint, FIR, charge sheet and police records that accused No.2 is working as SDA, at Tahasildar Office, Haveri. The complainant has requested accused No.1 and 2 for issuance of no objection certificate. Accused No.1 and 2 have postponing the same for 7-8 months. First accused has demanded Rs.5000/- from complainant. The same was recorded to

his mobile phone. On 4.3.2020, ACB police have received complaint from complainant and registered a case. On 25.1.2019, the complainant has made an application to Revenue Inspector for verification of land. On 28.5.2019, notice was also issued to complainant. On 7.6.2019, the complainant has filed application second time before Tahasildar. Accused No.2 has not given no objection certificate to the complainant without any reason. She has been postponing the same. Accused No.2 has demanded bribe amount of Rs.5000/- through accused No.1 from complainant. Accused No.1 and 2 have postponing issuance of no objection certificate. Accused No.1 has received bribe amount of Rs.3,000/- through his staff Mariyappa from complainant. Accused No.1 and 2 have planned together for demand of illegal gratification from complainant. They have unnecessarily caused delay in issuance of no objection certificate. Subsequently, they have demanded bribe amount. Therefore, IO has submitted charge sheet against accused No.1 and 2 for above said offences.

9. By considering contents of complaint, pre-trap panchanama, trap panchanama, statement of witnesses and other charge sheet materials, I am of the opinion that there are sufficient material grounds to frame charge against accused No.1. In trap panchanama dated 5.4,2020, it is clearly revealed that there was a demand made by first accused from complainant towards bribe amount for completion of work. Accused No.1 has instructed the complainant to give amount in the hands of witness- Mariyappa, who was working under first accused in the same office. The first accused has also given explanation to the notice given by Lokayukta police by denying prosecution case.

10. But, Mariyappa Basappa Guttannavar has specifically stated in his defence statement mentioned in trap panchanama that he has received amount of Rs.3,000/- from complainant as per instruction of first accused. Lokayukta police have seized cash of Rs.3,000/- under trap panchanama. The currency notes seized by Lokayukta police are matching with the same denomination and numbers mentioned in the sheet prepared at the time of pre-trap panchanama. Mariyappa Guttannavar has given

defence statement in his own handwriting stating that he has received Rs.3000/- from complainant as per instructions of first accused. He has not demanded bribe amount voluntarily from complainant.

11. The voice recording of complainant, first accused, Mariyappa and others are supporting case of the prosecution. The police have recorded statement of Mariyappa Bassappa Guttannanavar on 8.3.2020, who has supported case of prosecution in his statement. Nagaratna Lingabasappa Kale, has also given statement, which is supporting the case of prosecution. Therefore, one opportunity is to be given to prosecution to prove its case during trial of case. The Lokayukta police have taken prosecution sanction order from concerned authority against 1st accused as contemplated under law. The first accused is also signatory to trap pancahanama.

12. I have gone through the decision cited by learned counsel for first accused reported in 2020(5) KCCR SN 29 (Siddappa H Kaller V/s State of Karnataka) by Hon'ble High Court of Karnataka. I do agreed principle laid down in the said decision. The Hon'ble High Court of Karnataka

has quashed proceedings against accused No1. In that case, accused No.2 has received bribe amount from mediator on behalf of accused No.1 to the extent of Rs.30,380/-. The accused No.1 was not found in the office at the time of raid. Lokayukta police have recovered bribe amount from accused No.2 in that decided case. But, in the case in hand, Lokayukta police have seized cash of Rs.3000/- from witness Mariyappa Guttannanavar, who has given his defence written statement, which discloses that he has received amount of Rs.3,000/- from complainant as per specific instruction of first accused. Trap panchanama was successful. The first accused has put signature to trap panchanama. Therefore, CW-6 is not accused in this case. With great respect to said decision, principle laid down in the said decision is not made applicable to case in hand and for contention of learned counsel for first accused.

13. I have gone through another decision cited by learned counsel for first accused reported in copy of order in Criminal appeal No..../2024(arising out of SLP(crl) No.(s).9091/2022) (Mir Mustafa Ali Hasmi V/s The State of A.P) dated: 10.7.2024 passed by Hon'ble

Supreme Court of India. I do agreed principle laid down in the said decision. The Hon'ble Apex Court has acquitted the accused. In that decided case, trial is completed. The prosecution has proved its case during trial. But in the case in hand, no doubt, trial is not commenced. The facts, circumstances and evidence produced in that case is totally different from facts and circumstances of this case. There is no evidence on merit before this court at this stage. Under such circumstances, with great respect to said decision, it is not made applicable to case in hand and for contention of learned counsel for first accused.

14. I have gone through decisions cited by learned Special Public Prosecutor copy of order of Supreme Court reported in Criminal Appeal Nos.445-446 of 2019(arising out of SLP (Crl.) Nos.5675-5676 of 2017) (State represented by the Deputy Superintendent of police, Vigilance and Anti Corruption, Tamil Nadu) dated:07.03.2019. The copy of order of Supreme Court reported in Criminal Appeal No.22-23 of 2014 (Special Leave Petition (Crl.) Nos.3810-3811 of 2012) (State of Tamilnadu by INS.of Police Vigilance and Anti Corruption V/s N.Suresh Rajan & Others) dated 6.1.2014. I do

agreed principles laid down in the said decisions. This court has considered factors and parameters while deciding application filed under Section 227 of Cr.P.C. The same are applicable to case in hand and for contention of learned special PP.

15. I have gone through another decision cited by learned Special Public Prosecutor copy of order of reported in Criminal revision No.91 of 2023 (Prakash Kumar Sinha V/s Central Bureau of Investigation) dated 23.3.2023 by High Court of Allahabad, Lucknow Bench. I do agreed principle laid down in the said decision. The principle laid down in the said decision is rightly applicable to case in hand and contention of learned Special public prosecutor for State.

16. Therefore, accused No. 1 has not made out valid grounds to allow application filed under section 227 of Cr.P.C. I find no merits in the contention of learned counsel for first accused as regard to there are no sufficient material grounds to frame charge against accused No.1. I find some force in the contention of learned Special PP as regard to there are sufficient

material grounds to frame charge against this accused No.1. It is a fit case to disallow application filed by accused No.1 under Section 227 of Cr.P.C., I constrained to answer point No.1 in negative.

17. POINT No.2: In result, I proceed to pass following;

ORDER

Application filed by accused No.1 U/s 227 of Cr.P.C is hereby dismissed.

Charge is going to frame against accused No.1 on next date of hearing.

(Dictated to Stenographer Grade-I transcribed and typed by her, print out taken, signed and corrected by me and then pronounced in open court on 20th day of September, 2024)

**(SRI. K. C. SADANANDASWAMY)
PRL. DISTRICT AND SESSIONS JUDGE,
HAVERI.**

