

KATK010074842023



**IN THE COURT OF THE II ADDITIONAL DISTRICT
AND SESSIONS JUDGE, TUMAKURU**

Dated this the 30th day of June 2026

Present : **Smt. N. Narasamma** B.A.L., LLB.,
II Addl. District and Sessions Judge,
Tumakuru.

Cr.R.P.No.135 of 2023

PETITIONER: Sujay Pais
S/o Lancy H Pias,
A/a 39 years,
Secretary, Sacred Heart School,
Geddalahalli, Ring Road,
Tumkur Taluk, Tumkur Dist.

(By Sri THM, Advocate)

- versus-

RESPONDENTS: 1. State by Jayanagara Police
Station,

2. Gouse Mohiddin
S/o Late Mehaboob Sab,
A/a 75 years,

3. Dastagir
S/o Gouse Mohiddin
A/a 48 years

4. Afsar Pasha
S/o Gouse Mohiddin,

A/a 43 years,

5.Kowsar Pasha
S/o Gouse Mohiddin
A/a 35 years
All are R/at Geddalahalli
Ring Road,
Kasaba Hobli
Tumskur Taluk
Tumkur District.

(R.2, R.3, R.5 absent,
R.1 by Sri. PP. advocate
R.4 by Sri. HNR., Advocate)

ORDER

Petitioner has preferred this revision petition under section 397 of Cr.P.C. being aggrieved by the order passed on 02.08.2023 in Crime No.98/2019 by the IV Addl. Civil judge and JMFC allowing the 'B' Report submitted by 1st respondent and thereby accepting the 'B' final report and closing the case against the accused persons.

2. The parties are referred to as their original rank before the learned JMFC for the purpose of convenience. Revision petitioner is the complainant and the respondent is State before the learned JMFC.

3. Facts of the case of the petitioner is that the petitioner (CW.1) namely Sujay Pais S/o Lancy H Pais aged about 36 years, Secretary of Sacred Heart School, Geddalalahalli, ring road, Tumakuru has filed a complaint against accused No.1 to 4 dated 04.09.2019 for the offences punishable u/sec.427 and 447 of IPC and the same was registered by the jurisdictional police of Jayanagar police station in Cr.No.98/2019 against the accused persons. The respondent police have enquired about the case and have come to the spot and made a spot mahazar in the presence of mahazar witnesses as mentioned in the B report. And they have clearly recorded that the cement hollow brick was seized for further investigation from the incident place where the compound wall was demolished and further the panchanama recorded by the jurisdictional police also reveals that there has been an incident taken place that the accused persons have demolished the compound wall, but by ignoring the same, the jurisdictional police have given B report against to the mandatory provision of law and there are no reasons assigned by the jurisdictional police. The major reason given by the jurisdictional police is that, the complainant's properties pertaining to Sy.No.48/5, as per the report of ADLR., of survey department is false because, the survey no. 48/3 has been purchased by one

Gouse Sha Khadri in the year 2004 and the same was converted and TUDA approved in the year 2010 as survey number 48/3 and the jurisdictional police have given the reason that the complainant not produced documents pertaining to the said land which is false because the complainant has furnished the documents for 2 times but the police have given false report against the complainant stating that the complainant has not produced the documents. The police without enquiring properly and filed B report against the accused persons on 01.10.2020. hence the petitioner filed the protest memo and contested the matter and lead evidence against the accused persons. The presiding officer of IV Addl. Civil Judge and JMFC., Tumkuru has passed an order on 02.08.2023 by holding that there is no prima facie evidence against the accused persons and 'B' report was accepted and the case was closed against the accused persons.

4. Assailing the said order, the present petition came to be filed by the petitioner U/sec.397 of Cr.P.C., on the following and among other grounds:

1. The trial court has not considered the statements given by the mahazar witnesses and P.F.No.57/2019 dated 04.09.2019 and further the documents which are filed along with objections are not considered.

2.During the year 2019 the accused persons have got their property as Sy.No.48/3 and CW.1's property bearing Sy.No.48/5, on these grounds only the Jayanagar police have filed B report stating that there is no property of complainant in Sy.No.48/3, but the property is in Sy.No.48/5. Re-phode number which is given by survey department is against the law, that whenever the agricultural properties are converted into non-agricultural properties by the D.C., there is no provision to measure, alter or re-phode the survey numbers.

3.The compound wall demolished by the accused persons nearly caused Rs.15 lakhs .

4.The C.D. annexed with the objections contains to entire photos and video clippings pertaining to the said offence and the accused persons themselves admitted that they have demolished the compound wall.

5. The order of the trial court is highly erroneous and against the prl of natural justice and illegal, perverse, capricious and liable to be set aside.

5. The petition is in time.

6. On the above said grounds prays this Court to set aside the order passed by the learned IV Addl. Civil Judge and JMFC, Tumakuru in Cr.No.98/2019 of dated 02.08.2023 and to allow the petition.

7. After the admission of the revision petition, the learned public prosecutor was notified. Respondent No.4

has filed objections to the main petition by contending that petition is not maintainable either in law or on facts and the petition is barred by limitation. And the trial court has rightly accepted the B report and closed the case against the accused persons. When such being the case the petitioner utilized all the opportunities and failed to establish prima facie case against the accused persons. The petitioner is not the owner of land bearing Sy.No.48/3 of Geddalahalli village, Kasaba Sough Hobli., Tumakuru Taluk and the petitioner is not in a status of accepting the real facts as true. The petitioner being the complainant has utilized the opportunity and prosecuted the case and failed to establish his case and has come up with this false and frivolous appeal questioning the sound, orders of the trial court. If the present appeal is allowed, the respondent No.4 will be put to great hardship. Hence the grounds urged by the petitioner is only to attract the sympathy of the court without having any level sanctity and appreciation. On these grounds the respondent No.4 prayed to dismiss the appeal.

8. Heard the arguments on both sides and perused the records.

8(a). The following points arise for the consideration of this court are :

1. Whether the order passed by the learned IV Addl. Civil Judge & JMFC, Tumakuru in Cr.No.98/2019 dated 02.08.2023 on 'B' Report calls for interference by this court?
2. What order?

9. My findings on the above points are as follows:

Point No.1: In the Negative.

Point No.2: As per final order
for the following:

REASONS

10. Point No.1:- It is an admitted fact that the complainant has given complaint to the jurisdictional police in Crime No.98/2019 for the offences punishable under sections 427 and 447 of IPC. i.e. Jayanagar police station. Thereafter the police have started investigation and later filed the 'B' final report before the trial court and the same was protested by the complainant and later the trial court by considering the materials available on record and accepted the 'B' report and closed the case against the accused. The same has been challenged here in this court by the revision petitioner.

11. So, the complainant in support of his protest petition got examined himself as Cw.1 and has produced the documents in total 39, which are marked as Exhibit C.1 to C.39 before the trial court. Out of those documents, Ex.C.22 is the registered sale deed dated 18.01.2005, which reveals that one Gouse Mohiddin, Dastagir and Apsar have sold the property bearing Sy.No.48/3 to one Sri Lancy Pais. Ex.C.24 is the gift deed executed by the Sri Lancy Pais to Sujay Pais that is the complainant. Ex.C.25 to Ex.C.39 discloses that the property is in the name of complainant. But the letter issued by the Director ADLR, Tumakuru discloses that Sy.No.48/3 is in the name of Payestha Begum T.A. W/o Late Gouse Sha Kadri and Umehani S/o Fakrullakhan and Umerahila S/o Fakrulla Khan.

12. But the complainant submitted that the police have given the major reason that as per the report of ADLR, the properties purchased by the complainant's father is Sy.No.48/3 but not Sy.No.45/3 and according to the complainant the police prepared Mahazar and seized hollo block tiles and in P.F. No. 57/2019 dated 4/9/2019 but still filed the B report which is not proper. But mere preparing seizure mahazar is not a good ground to believe that the complainant has made out prima-facie ground to

allow the protest petition because the material placed by the complainant clearly established that there is a civil case pending between the parties in respect of the property in question and the complainant has also taken an exparte injunction order against the respondents in the civil suit. Further, the report given by the ADLR and the other documents submitted by the revision petitioner clearly establishes that the matter involved in this petition is with regard to the title of the complainant, so the complainant has to set right the same before the civil court. And the complainant has not made out any valid ground to allow the protest petition and to reject the B report filed by the police. Therefore, the learned trial court by considering all these aspects in a proper manner and rightly accepted the 'B' report and closed the case against the accused persons. Hence the said reasoned order does not require any interference by this court. Accordingly I answer Point No.1 in the **Negative**.

13. Point No.2:- For the reasons stated at point No.1, I proceed to pass the following:

ORDER

Revision petition filed by the revision petitioner is Dismissed.

The order passed by learned IV Addl. Civil Judge and JMFC, Tumakuru in Cr.No.98/2019 dated 02.08.2023 is hereby confirmed.

Transmit the trial court records forthwith to the trial court.

(Typed by me directly on computer, corrected and then pronounced by me in the open court on this the 30th day of June 2026).

(**N.Narasamma**)
II ADDL. DIST. AND SESSIONS JUDGE
TUMAKURU.