

KAVN010003142024



**IN THE COURT OF THE ADDL. DISTRICT & SESSIONS JUDGE,
VIJAYANAGARA DISTRICT, HOSAPETE.**

PRESENT: **SRI D. P. KUMARA SWAMY**

B.Com., LL.M.,
Addl. District & Sessions Judge,
Vijayanagara District, Hosapete.

DATED THIS **18TH** DAY OF **MARCH, 2026.**

Crl.RP No.5033/2024

Petitioner: Chandrashekarayya
S/o T.M.Shivashankarayya,
aged about 75 years,
Now Secretary of T.M.A.E. Society's
Ayurvedic Medical College and hospital,
Ballari Road, Hosapete
R/o Brucepete, Harapanahalli Tq.,
Davanagere Dist.

(By Sri. H.Ramesh, Adv.)

V/s

Respondent State by Joint Director, (AYUSH), Medical
Education, Department of Ayush,
Dhanvantri Road, Bangalore

(By Public Prosecutor)

ORDER

This is a revision petition filed under Section 397 of code of Criminal Procedure, 1973, (for short, "**Cr.P.C.**") filed by the accused No.2 in CC No.1367/2012 on the file of Principal Civil Judge and JMFC Court, Hosapete (for short, "**the Trial Court**") calling in question the order of the Trial Court dated 24.07.2023 in rejecting the application of the accused No.2 under Section 245 of Cr.P.C. for his discharge of the alleged offence punishable under Section 6 of the Karnataka Prohibition of Admission of Students by the Unrecognized and Unaffiliated Educational Institutions Act, 1992, (Karnataka Act No.7 of 1993) (for short, "**1992 Act**").

2. The Joint Director (AYUSH) Medical Education, Department of AYUSH, Government of Karnataka, has filed a private complaint under Section 200 Cr.P.C before the Trial Court against the accused Nos.1 to 3 for the

alleged offence punishable under Section 6 of 1992 Act. At para No.9 of the complaint, it is stated to the following effect: That the accused No.1 – Tegginamath Arts and Education Society (R), Harapanahalli, Vijayanagara District, (formerly Davanagere District) (for short, “**the TMAES**”) has been granting admissions to the students even though the recognition is not forthcoming. Vide order No.R-17011/51/2012 – EP (IM-1) dated 14.08.2012, permission was denied to the TMAES to admit the students to 1st year BAMS. In spite of the said order students were admitted to 1st year BAMS in TMAES. Thus, the accused Nos.1 to 3 being Chairman, Secretary and Principal of TMAES respectively have committed breach of provisions contained in Section 3 of 1992 Act which is made punishable under Section 6 of 1992 Act. This is the sum and substance of the allegation constituting alleged offence punishable under Section 6 of 1992 Act.

3. The accused No.2 filed an application before the Trial Court under Section 245 Cr.P.C. for his discharge from the alleged offence. Vide the impugned order, the Trial Court rejected the discharge application of the accused No.2.

4. Feeling aggrieved by the impugned order of the Trial Court in rejecting the discharge application filed by him, the accused No.2 has preferred this revision petition before this Court. The revision petitioner/ accused No.2 has also filed an application for condonation of delay in filing this revision petition.

5. Heard the arguments of learned Advocate for the accused No.2/ revision petitioner. Heard the arguments of learned Public Prosecutor for the complainant/ respondent.

6. Secured the TCR from Trial Court.

7. Perused the records.

8. In the facts and circumstances of this case, following points do arise for consideration of this Court in this order:

1. Whether the revision petitioner has made out grounds for condoning the delay in filing this revision petition ?

2. Whether the Trial Court is justified in rejecting the application of the accused No.2 and in not discharging the accused No.2 from the alleged offence ?

3. Whether the impugned order calls for interference ?

4. What order ?

9. My answer to the above points are as under:

Point No.1: In the affirmative

Point No.2: In the negative

Point No.3: In the affirmative

Point No.4: As per final order for

the following :

REASONS

10. Point No.1: The impugned order is passed by the Trial Court on 24.07.2023. This revision petition is

filed on 14.03.2024. The accused No.2 has filed application for certified copy of the impugned order in the office of the Trial Court on 24.07.2023. Charges produced by the accused No.2 before the office of the Trial Court on 18.08.2023. On 18.08.2023 itself certified copy is furnished by the said office to the accused No.2. Article 131 of the Schedule of the Limitation Act 1963 mandates that a revision petition to assail the impugned order has to be filed within 90 days. By excluding the period upto 18.08.2023, the period of 90 days is reckoned from 19.08.2023. So reckoned, said period of 90 days expired on 16.11.2023. From 17.11.2023 the period of delay till 14.03.2024 would be 88 days. The accused No.2 claims that he is an aged person and suffering from age related ailments. The accused No.2 has also claimed that he has to reach this Court from Harapanahalli which is located at a distance of about 100 kms from this Court. Above all, what has to be taken into consideration is that every

accused in a criminal trial has a right not to be persecuted, but to be prosecuted if the facts alleged do constitute any offence as declared by any law in force. Now the accused No.2 has come before this Court alleging that the facts alleged by the complainant do not constitute the alleged offence punishable under Section 6 of 1992 Act. The said contention of the accused No.2 is required to be decided on merits and the accused No.2 should not be thrown out on technicalities. That apart, the accused No.2 would not stand to gain by the said delay. In view of the above noted observations, in the facts and circumstances of the case on hand, the explanation offered by the accused No.2 is accepted as sufficient. Hence, the interlocutory application filed by the accused No.2 for condonation of delay is allowed. Delay in filing this revision petition is condoned. Accordingly, point No.1 is held in the affirmative.

11. Point Nos.2 and 3:- The complaint refers to an order of the Hon'ble High Court of Karnataka in Writ Appeal Nos.7746-7785/2012 (EDN – PEG-P) in the matter of TMAE Society's Ayurvedic Medical College and hospital, Dhanavanathari Compus, Hale Jedikatte, Nidige Post, Shimoga V/s The Union of India and 4 others. It may be noted that vide judgment dated 11.12.2012, the Hon'ble High Court of Karnataka has made the following observations and disposed off of the writ appeal.

“Amended Memorandum of Appeal filed in Court today is taken on record. We have perused the Status Report. The State Government to ensure that requisite action is taken expeditiously in respect of all the colleges which are remiss in the matter of complying with the standards prescribed by the Respondent authorities. With this, the Appeal is disposed of as having become infructuous as the Writ Petition out of which this Writ Appeal arises has been disposed of.”

12. The said Writ Appeal arose from the Writ Petition Nos.44252-291/2012 (EDN/REG-P) in the matter of TMAE Society's Ayurvedic Medical College and Hospital,

Dhanvanthari Campus, Hale Jedikatte, Nidige Post, Shimoga V/s Union of India and 4 others, which is disposed of by the Hon'ble High Court of Karnataka on 27.11.2012. In the said judgment, the Hon'ble High Court has observed as follows:

“With the above observations, petitions are disposed of. It is for the petitioner to give representation to the respondent – authorities within one month from today and also in the meanwhile, try to comply with the deficiencies pointed out. Within another four weeks thereon, the respondent – authorities to take decision in so far as admission of the students to the next academic year 2013-2014. **So far as the students who have been admitted by default for the academic year 2012-13, the respondent – authority shall make an effort to protect their interest, if possible.**”

(bold and underline is mine)

13. In the similarly placed accused persons in some other case had moved a Criminal Petition under Section 482 of Cr.P.C. before the Hon'ble High Court of Karnataka in Crl. P. No.11199/2013. The Hon'ble High Court of Karnataka has disposed of the said Crl.P. No.11199/2013

in the matter of Dr.Shakuntala Hirerreddy V/s State of Karnataka vide its judgment dated 30.09.2015. At para No.4 of the judgment, the Hon'ble High Court has made following observations :

“4. During the course of argument, the learned Counsel for the petitioner produced the copies of the order passed by this Court in W.P No.79529/2013 dated 17.12.2013 and the order passed by the Division Bench of this Court dated 26.03.2014 in W.A. No.100363/2014 whereby this Court keeping open the liberty, quashed the order insofar as the rejection of permission for the academic year 2012-13. **Further, this Court declared that the permission is deemed to have been granted for the academic year 2012-13.** The said order of the Single Judge was taken in Writ Appeal wherein the order passed by the Single Judge has been confirmed. Therefore, it has to be held that the college admitted students with due permission and as such the prosecution initiated against the petitioner and the management of the college is without any basis and it is liable to be quashed.”

(bold and underline is mine)

14. Likewise, similarly placed accused persons in some other case (viz., Shri. Dadasaheb Chougonda Patil and Dr.Jeevandhar Babu Algur) had filed Crl. Petition

under Section 482 of Cr.P.C. in Crl.P. No.101165/2016 before the Hon'ble High Court of Karnataka, for quashing the proceedings against them. Vide judgment in the said Crl.P. No.101165/2016 in the matter of Shri. Dadasheb Chougonda Patil and another V/s State of Karnataka, DD on 31.01.2017, the Hon'ble High Court has quashed the proceedings against the said petitioners/ accused persons. At para No.3 of the judgment in Crl.P No.101165/2016, the Hon'ble High Court has made the following observations:

“3. During the course of argument before this Court, learned counsel for the petitioners has produced a copy of the order dated 30.09.2015 passed in Crl.P. No.11199/2013, wherein while quashing the proceedings against accused No.3, this Court has observed that, the learned counsel for the petitioner produced the copies of the order passed by this Court in WP No.79529/2013 dated 17.12.2013 and the order passed by the Division Bench of this Court dated 26.03.2014 in WA No.100363/2014, wherein this court keeping open the liberty to the petitioners, quashed the order insofar as rejection of permission to the petitioner to admit the students for the

Academic Year 2012-13. The order of the learned Single Judge was taken in appeal, wherein the order passed by the learned Single Judge has been confirmed. **Therefore, the Court ultimately held that there is a deemed permission granted in favour of the petitioners herein to admit the students for the Academic year 2012-13.** Considering all the above said materials on record, this Court has quashed the proceedings against Accused No.3. It is not brought to the notice of this Court by the respondent – State Government as to how the State can proceed against the petitioners who are arraigned as Accused Nos.1 and 2 respectively, when the order passed in Writ Appeal No.100363/2014 was called in question before the Hon'ble Apex Court in Special Case No.28314/2015 and the same has been dismissed by the Hon'ble Apex Court also.”

(bold and underline is mine)

15. Likewise, similarly placed accused persons in some other case (viz., Siddeshwara Vidyadana Samiti @ Alavandi, by its Chairman, Siddeshwara Vidyadana Samiti @ Alavandi, by its Secretary and Siddalinga Swamiji Ayurvedic Medical College by its Principal Dr.S.r.Jahagirdar), had filed Crl. Petition under Section 482 of Cr.P.C. in Crl.P. No.11503/2013 before the Hon'ble

High Court of Karnataka, for quashing the proceedings against them. Vide judgment in the said Crl.P. No.11503/2013 in the matter of Siddeshwara Vidyadana Samiti @ Alavandi and others V/s The State of Karnataka, DD on 22.04.2014, the Hon'ble High Court has quashed the proceedings against the said petitioners/ accused persons. At para Nos.16 and 17 of the judgment in Crl.P No.11503/2013, the Hon'ble High Court has made the following observations:

“16. Recapitulating the averments made in the complaint as, I have already referred to even on plain reading of the allegations made in the complaint, even if they are taken on the face value, as I have stated except using the word misrepresentation and cheating, nothing has been explained based on facts and how the said allegations constitute any offence under Section 420 of Cr.P.C., or any other provisions under the Indian Penal Code. There is no mention in the complaint under which of the provision of the Karnataka Prohibition of Admission of Students to the Unrecognized and Un-Affiliated Educational Institutions Act, 1992. The complaint does not disclose which of the provision under the said Act is violated or which of the provision these petitioners have not

adhered to and thereby committed any offence attracting the penal clauses of the said Act. **Further added to that the irregularities in admitting the students for the year 2012-13 and any lapses therein were condoned by this Court vide orders detailed supra, and also by ignoring the said lapse Government of India granted permission for the subsequent year i.e.2013-14.**

17. Under the above said circumstances, I am of the opinion, so far it relates to the petitioners' institution is concerned the continuation of the criminal prosecution amounts to an abuse of process of law. Hence, the same is liable to be quashed."

(bold and underline is mine)

16. Coming back to facts of the case on hand, the TCR bears many notifications issued by Rajeev Gandhi University of Health Sciences, Karnataka. Suffice it refer to two such notifications. One is Notification dated 28.08.2014, wherein the said University has accorded permission to TMAES to admit students to BAMS etc., for the year 2014-15. Likewise, another Notification dated 19.10.2015 shows that the said University has accorded

permission to TMAES to admit students for the academic year 2015-16.

17. Applying the parameters laid down by the Hon'ble High Court of Karnataka in Shri. Dadasaheb Chougonda Patil (supra) and also in Siddeshwara Vidyadana Samiti @ Alavandi (supra) (which are extracted supra) to the facts of this case, it has to be held that there are no materials for the Trial Court to proceed with the trial of the case. In other words, the facts of the case on hand are identical to the facts of the cases in Shri.Dadasaheb Chougonda Patil (supra) and Siddeshwara Vidyadana Samiti @ Alavandi (supra). The facts of the case on hand, if viewed in the light of the law declared by the Hon'ble High Court in the aforesaid judgments, would clearly indicate that there are no sufficient materials to frame charges against all the accused persons (accused Nos.1 to 3) for the alleged offence punishable under Section 6 of 1992 Act. Ignoring the said lapse the

Government of India has granted permission in favour of TMAES to admit the students for the academic years 2014-15 and 2015-16. In the language of the Hon'ble High Court in the aforesaid judgments, the permission is deemed to have been granted for the academic years 2012-13 in respect of which the complaint is filed before the Trial Court. Viewed from any angle the impugned order of the Trial Court in rejecting the application of the accused No.2 for his discharge from the alleged offence is not sustainable in the facts and circumstances of the case on hand and also in view of the judgments of the Hon'ble High Court of Karnataka which are highlighted supra. Though the accused No.2 alone has preferred this revision petition before this Court for his discharge from the alleged offence, in view of the above noted observations of this Court, and also in view of the jurisdiction of this Court under Section 397 of Cr.P.C to examine the record of the Trial Court which is subordinate to this Court to find out as to the

correctness, legality, or propriety of the proceedings before it in C.C. No.1367/2012, it has to be held that all the accused persons are required to be discharged from the alleged offence by exercising jurisdiction under Section 245 read with Section 397 of Cr.P.C. Basically, it is the duty of the Trial Court to examine the facts of the case on its own to find out as to whether the facts alleged in the complaint constitute the alleged offence and whether there are sufficient materials to frame charges against the accused persons. In that view of the matter, this Court is duty bound to examine the same exercising its jurisdiction under Section 397 of Cr.P.C. Under the said circumstances and in view of the above noted conclusions, Point No.2 is held in the negative and point No.3 is held in the affirmative.

18. Point No.4 : Hence, the following :

ORDER

1. The application filed by the revision petitioner for condonation of delay is allowed and

delay in filing the revision petition is condoned.

2. The revision petition filed by the accused No.2 under Section 397 Cr.P.C is hereby allowed.

3. The impugned order dated 24.07.2023 passed by the Principal Civil Judge and JMFC Court, Hosapete in CC No.1367/2012, rejecting the claim of the accused No.2 is hereby set aside.

4. Exercising the jurisdiction under Section 245 read with Section 397 of Cr.P.C., the accused Nos.1 to 3 are discharged from the offence punishable under Section 6 of the Karnataka Prohibition of Admission of Students by the Unrecognized and Unaffiliated Educational Institutions Act, 1992.

5. Office is directed to send a copy of this order and TCR to the Trial Court.

(Dictated to the Stenographer, typed & computerized by him, corrected and signed by me and then pronounced in the open Court on this the **18th** day of **MARCH, 2026**).

**(D. P. KUMARA SWAMY),
ADDL. DISTRICT & SESSIONS JUDGE,
VIJAYANAGARA DISTRICT, HOSAPETE.**

(Order pronounced in the open Court
vide separate order)

ORDER

1. The application filed by the revision petitioner for condonation of delay is allowed and delay in filing the revision petition is condoned.

2. The revision petition filed by the accused No.2 under Section 397 Cr.P.C is hereby allowed.

3. The impugned order dated 24.07.2023 passed by the Principal Civil Judge and JMFC Court, Hosapete in CC No.1367/2012, rejecting the claim of the accused No.2 is hereby set aside.

4. Exercising the jurisdiction under Section 245 read with Section 397 of Cr.P.C., the accused Nos.1 to 3 are discharged from the offence punishable under Section 6 of the Karnataka Prohibition of Admission of Students by the Unrecognized and Unaffiliated Educational Institutions Act, 1992.

5. Office is directed to send a copy of this order and TCR to the Trial Court.

**(D. P. KUMARA SWAMY),
ADDL. DISTRICT & SESSIONS JUDGE,
VIJAYANAGARA DISTRICT, HOSAPETE.**