



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE R. NATARAJ

CRIMINAL PETITION NO. 1668 OF 2019

BETWEEN:

THE TALUK EXECUTIVE MAGISTRATE
BELTHANGADY TALUK, D.K.
REP. BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-01.

...PETITIONER

(BY SRI. M.R.PATIL, HIGH COURT GOVERNMENT PLEADER)

AND:

MR. NAVEEN RAI
AGED 44 YEARS,
S/O RAMANNA RAI
R/AT PORKALA HOUSE
PUTHILA VILLAGE AND POST
BELTHANGADY TALUK
D.K.DISTRICT-574211

...RESPONDENT

(BY SRI. RAKSHITH KUMAR, ADVOCATE (THROUGH VC))

THIS CRL.P IS FILED UNDER SECTION 482 OF THE CODE OF CRIMINAL PROCEDURE, 1973 PRAYING TO SET ASIDE THE ORDER DATED 29.10.2018 PASSED BY THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE, D.K., MANGALORE IN CRL.RP.NO.169/2017 WHEREIN THE LEARNED SESSIONS JUDGE HAS SET ASIDE THE ORDER PASSED BY THE TALUK EXECUTIVE MAGISTRATE, BELTHANGADI ON 16.10.2017 IN M.C.NO.43/2017-18.B. CONFIRM THE ORDER DATED 16.10.2017 PASSED BY THE TALUK EXECUTIVE MAGISTRATE, BELTHANGADI IN M.C.NO.43/2017-18.

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

CORAM: HON'BLE MR. JUSTICE R. NATARAJ

Digitally
signed by
HEMALATHA
J
Location:
HIGH COURT
OF
KARNATAKA



ORAL ORDER

The Taluk Executive Magistrate has filed this petition challenging an order dated 29.10.2018 passed by the II Additional District and Sessions Judge, D.K., Mangaluru in Criminal Revision Petition No.169/2017.

2. The facts in brief are that, the petitioner had issued a notice to respondent under Section 107 of Cr.P.C. This was challenged by the respondent in a revision filed under Section 397 of Cr.P.C, on the premise that before issuing a notice under Section 107 of Cr.P.C, an order under Section 111 of Cr.P.C was not passed. The Revisional Court without considering the fact what was challenged before it was a notice under Section 107 of Cr.P.C which was not revisable, yet exercised jurisdiction on the premise that the petitioner had not complied with Section 111 of Cr.P.C and thus allowed the revision petition and quashed the notice issued by the petitioner. Being aggrieved by the said order, the petitioner is before this Court.

3. The learned High Court Government Pleader for petitioner submitted that the Revisional Court committed an



error in exercising jurisdiction as there is no order passed and what was challenged before the Revisional Court was only a notice under Section 107 of Cr.P.C. He also contends that an order under Section 111 of Cr.P.C would be passed only after the respondent appeared before the petitioner and if the petitioner was satisfied that there was a need to call upon the respondent to furnish security. He therefore contends that the premise on which the Revisional Court exercised its jurisdiction is faulty and deserves to be interfered with.

4. Per contra, the learned counsel for the respondent submits that the impugned order passed by the Revisional Court itself states that the revision petition is maintainable. He also contends that, the petitioner has not complied with the requirement of law before issuing a notice under Section 107 of Cr.P.C.

5. I have considered submissions of the learned High Court Government Pleader for the petitioner and the learned counsel for the respondent.

6. The petitioner had issued a notice under Section 107 of Cr.P.C, calling upon the respondent to appear before it.



This notice was challenged before the Revisional Court on one ground, namely, that the petitioner had issued the notice under Section 107 of Cr.P.C without complying Section 111 of Cr.P.C. A notice under Section 107 of Cr.P.C is not an "order" in the real sense of the term and therefore, a revision petition is not maintainable. The Revisional Court oblivious of the constraints on exercise of power under Section 397 of Cr.P.C, proceeded to entertain the revision petition and also proceeded to hold that the notice under Section 107 of Cr.P.C cannot be issued without complying Section 111 Cr.P.C. It is strange how Section 397(2) of Cr.P.C went unnoticed by the Revisional Court. Therefore, the Revisional Court committed an error in exercising jurisdiction under Section 397 of Cr.P.C. This apart, a perusal of Section 107 of Cr.P.C leaves no doubt that the Executive Magistrate is entitled to issue a notice calling upon a person to appear before him to justify as to why he should not be bound over. If after considering the cause shown by the person, the Executive Magistrate may pass an order under Section 111 of Cr.P.C calling upon him to furnish sufficient surety. Therefore, the impugned order passed by the Revisional Court is like putting the horse before the cart, as an order



under Section 111 of Cr.P.C is a follow up order after considering the cause shown by the person who is issued with a notice under Section 107 of Cr.P.C.

7. In that view of the matter, the impugned order passed by the Revisional Court deserves to be set aside.

8. Accordingly, the petition is ***allowed***. The order dated 29.10.2018 passed by the II Additional District and Sessions Judge, D.K., Mangaluru in Criminal Revision Petition No.169/2017, is set aside.

It is open for the petitioner to take appropriate steps in accordance with law.

Sd/-
(R. NATARAJ)
JUDGE