



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE R. NATARAJ

CRIMINAL PETITION NO. 2211 OF 2019

BETWEEN:

THE STATE OF KARNATAKA
KONAJE POLICE STATION,
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
BENGALURU-01

...PETITIONER

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

AND:

SRI. KISHORE T.
S/O. MANJAPPA BELCHADA,
R/O. PANAJE HOUSE,
IRA VILLAGE,
BANTWAL TALUK,
D.K. DISTRICT-574 211

...RESPONDENT

(NOTICE SERVED ON RESPONDENT AND UNREPRESENTED)

THIS CRL.P IS FILED UNDER SECTION 482 OF THE CODE OF CRIMINAL PROCEDURE, 1973 PRAYING TO ALLOW THE ABOVE PETITION BY SETTING ASIDE THE JUDGMENT AND ORDER OF THE III-JMFC, MANGALORE DATED 16.11.2017 IN CR.NO.70/2016 REJECTING THE APPLICATION FILED BY THE INVESTIGATING OFFICER, AND THE ORDER PASSED BY THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, D.K., MANGALORE IN UNNUMBERED CRL.R.P ON 25.07.2018 REJECTING THE APPLICATION FILED FOR CONDONATION OF DELAY AND ETC.





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

CORAM: HON'BLE MR. JUSTICE R. NATARAJ

ORAL ORDER

The State has filed this petition challenging the correctness of the order dated 16.11.2017 passed by the JMFC III Court, Mangaluru in Crime No.70/2016 as well as the order dated 25.07.2018 passed by the Principal Sessions Judge, Dakshina Kannada, Mangaluru in an unnumbered criminal revision petition, by which, the application filed for condonation of delay of 52 days in filing the criminal revision petition was rejected.

2. It is contended that on 10.03.2016 the first informant was on patrolling duty at Bythur Masjid at about 07:30 a.m. When he was at Arikere Village, Mangaluru, he noticed a lorry being driven from Rajagudde towards Kadavinabali. He intercepted the lorry and the driver ran away from the spot. On verification, he noticed that the lorry was transporting sand without any permit and without payment of royalty and he suspected that it was stolen and was being transported. As such, he seized the lorry and lodged the first



information before the jurisdictional police station, which registered Crime No.70/2016 for the offences punishable under Sections 42, 43, 44 of the Karnataka Minor Mineral Concession Rules, 1994 (henceforth referred to as 'Rules 1994' for short) and Sections 4(1) and 4(1A) of the Mines and Minerals (Development and Regulation) Act, 1957 (henceforth referred to as 'Act, 1957' for short) and also under Section 379 of the Indian Penal Code, 1860 (henceforth referred to as 'IPC' for short).

3. During the course of investigation, the investigating officer filed an application seeking permission of the Magistrate to auction the seized mineral, as it was likely to be pilfered. However, the Magistrate, by order dated 16.11.2017 rejected the application.

4. Being aggrieved by the said order, a revision petition was filed, though, belatedly, along with an application seeking condonation of delay. The District Court in terms of the impugned order dated 25.07.2018 dismissed the application and consequently rejected the revision petition. The State, being aggrieved by the said orders has filed this petition.



5. (i) Learned High Court Government Pleader submits that there is a delay of nearly 52 days in filing the revision petition and the same was properly explained. However, the District Court, without appreciating the explanation, erroneously rejected the application and consequently dismissed the revision petition. He further contends that the offences fall under Sections 4(1) and 4(1A) of the MMDR Act, and trial of such offences is within the domain of the Special Court constituted under Section 30B of the MMDR Act. Therefore, he contends that the magistrate committed an error in holding that all matters are to be decided by the Special Court.

(ii) He contends that the Trial Court has wrongly interpreted the law declared by this Court in Crl.R.P No.100191/2016, in the case of **Siddique S/o. Mohammed Vs. State of Karnataka**, where it was held that in respect of offences punishable under Section 379 of IPC which are not based on a private complaint, there is no bar to entertain an FIR for the offences punishable under IPC. As such, he contends that the magistrate has jurisdiction to entertain the



FIR and deal with the matter pertaining to the offence punishable under Section 379 of IPC.

(iii) He also contends that the District Court committed an error in not appreciating the law declared by the Hon'ble Supreme Court in ***State of NCT of Delhi Vs. Sanjay - 2014 (9) SCC 772*** and ***State of Haryana Vs. Chandramani - 1996 (3) SCC 132*** where it has held that a liberal approach is to be adopted while considering an application for condonation of delay and that the merits of the case are to be considered, and that technicalities must not scuttle the decision in a case. He also contends that the order passed by the District Court is not a reasoned one and therefore the impugned order is liable to be set aside.

6. Respondent is not represented.

7. When this petition was heard, the learned High Court Government Pleader was directed to secure instructions whether the sand seized is still available. However, he was unable to secure any instructions.



8. Having regard to the fact that the vehicle in question was seized on 10.03.2016 and 10 years have elapsed, it is quite probable that the sand seized may not be in the custody of the police. Thus, though it is claimed by the State that sufficient reasons was given for condonation of delay, the only reason assigned is that the Senior Law Officer committed delay in returning the file for filing the revision petition. If the delay is attributable to the petitioner, it cannot take advantage of the same. Consequently, the Revision Court was right in not entertaining the application filed by the petitioner for condonation of delay.

9. In that view of the matter, no interference is warranted with the order passed by the Trial Court and the Revision Court, hence, the petition is ***dismissed.***

**Sd/-
(R. NATARAJ)
JUDGE**