



NC: 2025:KHC-D:623
WP No. 105712 of 2023
C/W CRL.P No. 102576 of 2024
CRL.P No. 102585 of 2024
AND 1 OTHER

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 16TH DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE HEMANT CHANDANGOUDAR

WRIT PETITION NO. 105712 OF 2023 (GM-RES)

C/W

CRIMINAL PETITION NO. 102576 OF 2024

CRIMINAL PETITION NO. 102585 OF 2024

CRIMINAL PETITION NO. 102698 OF 2024

IN W.P. NO. 105712 OF 2023:

BETWEEN:

SRI. ZARANAPPA CHINCHOLIKAR
S/O MANIKAPPA,
AGED ABOUT: 57 YEARS,
OCC: EXECUTIVE ENGINEER,
KARNATAKA RURAL INFRASTRUCTURE
DEVELOPMENT LIMITED , KOPPAL,
R/O: C/O. PITRU KRUPA,
SHIVASHANTVEER NAGAR,
BEHIND MRF, KOPPAL-HOSPETE ROAD,
KOPPAL-583 231, TQ: AND DIST: KOPPAL.

... PETITIONER

(BY SRI. SANDESH J. CHOUTA, SENIOR COUNSEL FOR
SRI. V.R. SARATHY, SRI. SHARANABASAVARAJ C. AND
SRI. PRAVEEN P. TARIKAR, ADVOCATES)

AND:

1. THE SUPERINTENDENT OF POLICE,
KARNATAKA LOKAYUKTA , RAICHUR,
DISTRICT RAICUR-584 101.
2. THE DEPUTY SUPERINTENDENT OF POLICE,
KARNATAKA LOKAYUKTA, KOPPAL,
KOPPAL DISTRICT-583 231.

... RESPONDENTS

(BY SRI. SRINIVAS B. NAIK, ADVOCATE FOR R1 AND R2)





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THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI TO QUASH THE FIR IN CRIME NO.5/2023, DATED: 29/05/2023, REGISTERED BY THE 1ST RESPONDENT AS AGAINST THE PETITIONER/ACCUSED ALLEGING OFFENCE PUNISHABLE UNDER SECTION 13(1)(B) R/W SEC. 13(2) OF PREVENTION OF CORRUPTION ACT, 1980, PENDING ON THE FILE OF PRINCIPAL DISTRICT/SPECIAL JUDGE, AT: KOPPAL (PRODUCED VIDE ANNEXURE-A) AND ETC.,.

IN CRL.P. NO. 102576 OF 2024:

BETWEEN:

1. A.N. VIJAYAKUMAR
S/O LATE. NARASIMHAYYA,
AGED ABOUT 48 YEARS,
OCC: ELECTRICAL INSPECTOR,
AT OFFICE OF DEPUTY CHIEF,
ELECTRICAL INSPECTOR BELLARY,
GANESH NAGAR, R/AT: FLAT NO.33,
BEHIND RAGHAVENDRA SWAMY MUTT,
SIRUGUPPA ROAD, BELLARY-583 101,
PERMANENTLY R/AT: BEHIND
RAGHAVENDRA SWAMY MUTT,
PATHANJALI NAGAR, K.R. EXTENSION,
PAVAGADA TOWN, TUMAKURU DIST-561 202.

2. PRATHIBHA SHANABOGH
W/O A.N. VIJAYAKUMAR,
AGED ABOUT 39 YEARS
OCC: ASST. PROFESSOR, ECE DEPT.,
BITM ENGINEERING COLLEGE,
ALLIPURA, BELLARY-583 104,
GANESH NAGR, R/AT FLAT NO.33,
BEHIND RAGHAVENDRA SWAMY MUTT,
SIRUGUPPA ROAD, BELLARY-583 101.

... PETITIONERS

(BY SRI. SANDESH J. CHOUTA, SENIOR COUNSEL FOR
SRI. S.C. BHUTI AND
SRI. B.A. NANJA REDDY, ADVOCATES)



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AND:

1. STATE OF KARNATAKA,
BY LOKAYUKTA POLICE,
BELLARY-583 101,
REPRESENTED BY SPL. PP,
HIGH COURT OF KARNATAKA,
DHARWAD 580 011.
2. PRABHULINGAIAH S. HIEMATH
S/O SHARANAIAH HIEMATH,
AGED ABOUT 44 YEARS,
POLICE INSPECTOR,
ACB POLICE STATION,
BLOCK-3, GROUND FLOOR,
AMERICAN GUEST HOUSE,
ANANTHAPUR ROAD,
BELLARY-583 101.

... RESPONDENTS

(BY SRI. SANTOSH MALAGOUDAR, SPP FOR R1;
R2-SERVED)

THIS CRIMINAL PETITION IS FILED 528 OF BNSS, 2023 (U/SEC. 482 OF CR.P.C.) SEEKING TO CALL FOR RECORDS IF NECESSARY, QUASH THE CHARGE SHEET DATED: 26.06.2024 IN REGISTRATION OF FIR BY THE KARNATAKA LOKAYUKTA POLICE STATION IN CR.NO.03/2021 VIDE ANNEXURE-A PURSUANT TO INITIATION OF ENTIRE PROCEEDINGS PENDING ON THE FILE OF THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, BALLARI IN SPL. C. NO.758/2024 FOR THE OFFENCES P/U/SEC. 12, 13 (1)(B) R/W 13(2) OF PREVENTION OF CORRUPTION ACT, 1988 (AMENDED ACT, 2018) IN SO FAR AS PETITIONERS/ACCUSED NO. 1 AND 2 ARE CONCERNED AS IT IS AN ABUSE OF PROCESS OF COURT IN THE INTEREST OF JUSTICE AND EQUITY AND QUASH THE ORDER OF ISSUE OF PROCESS PASSED AGAINST THE PETITIONERS/ACCUSED NO.1 AND 2 BY THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, BALLARI IN SPL. C. NO.758/2024 DATED: 29.07.2024 VIDE ANNEXURE-C IN THE INTEREST OF JUSTICE AND EQUITY.



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IN CRL.P.NO. 102585 OF 2024:

BETWEEN:

SHRI. KRISHNA RAMAPPA SHIRUR
S/O RAMAPPA, AGED: 55 YEARS,
OCC: AGRICULTURE OFFICER, RON
NOW AT R/O: PLOT NO.41/2,
18TH CROSS, VIDYAGIRI,
BAGALKOT 587 102.

... PETITIONER

(BY SRI. SANDESH J. CHOUTA, SENIOR COUNSEL FOR
SRI. AVINASH M. ANGADI, ADVOCATE)

AND:

STATE OF KARNATAKA,
THROUGH LOKAYUKTA POLICE, BAGALKOT,
REP. BY ITS SPECIAL PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA, DHARWAD.

... RESPONDENT

(BY SRI. SANTOSH B. MALAGOUDAR, SPP)

THIS CRIMINAL PETITION IS FILED U/S 482 OF CR.P.C.,
PRAYING TO ALLOW THIS PETITION AND QUASH THE COMPLAINT
AND FIR IN CRIME NO.5/2023 REGISTERED BY LOKAYUKTA
POLICE STATION BAGALKOT PENDING ON THE FILE OF THE PRL.
DISTRICT AND SESSIONS AND SPL. JUDGE BAGALKOT FOR
OFFENCES PUNISHABLE UNDER SECTION 13(1) (B) R/W 13(2) OF
PREVENTION OF CORRUPTION ACT IN RESPECT OF THE
PETITIONER HEREIN, IN THE INTEREST OF JUSTICE.

IN CRL.P.NO. 102698 OF 2024:

BETWEEN:

MAHADEV
S/O SANAPPA BIRADAR PATIL,
59 YEARS, OCC: RETIRED,
SHRADDHA RESIDENCY, G4,
SAMPIGE ROAD, SADASHIVA NAGAR,
BELAGAVI TALUK AND DISTRICT-591 001.

... PETITIONER

(BY SRI. SANDESH J. CHOUTA, SENIOR COUNSEL FOR
SRI. PRASHANT MATHAPATI, ADVOCATE)



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AND:

THE STATE OF KARNATAKA,
BY POLICE INSPECTOR,
KARNATAKA LOKAYUKTA POLICE STATION,
REPRESENTED BY THE SPP,
HIGH COURT OF KARNATAKA,
DHARWAD BENCH,
DHARWAD-580 011.

... RESPONDENT

(BY SRI. SANTOSH B. MALAGOUDAR, SPP)

THIS CRIMINAL PETITION IS FILED U/S 528 OF BNSS, PRAYING TO QUASH THE COMPLAINT AND FIR IN CRIME NO.15/2023 REGISTERED BY THE KARNATAKA LOKAYUKTA POLICE, BELAGAVI AGAINST ACCUSED/PETITIONER HEREIN FOR THE OFFENCES PUNISHABLE U/S 13(1) (B) R/W 13(2) OF THE PREVENTION OF CORRUPTION ACT, 1988 PENDING ON THE FILE OF THE COURT OF IV ADDL. DISTRICT AND SESSIONS JUDGE AT BELAGAVI IN THE INTEREST OF JUSTICE.

THESE PETITIONS ARE COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE HEMANT CHANDANGOUDAR

ORAL ORDER

1. Learned counsel for respondent No.1-Lokayukta has filed a statement of objections.

2. The issues involved in these petitions are similar. Therefore, they are taken up together, heard, and disposed of by a common order.

3. In all these petitions, the petitioners have challenged the registration of the FIR by respondent No.1-Lokayukta for the



offences punishable under Sections 13(1)(b) read with Section 13(2) of the Prevention of Corruption Act, 1988 (as amended in 2018).

4. The case of the prosecution is that the petitioners, being public servants, are in possession of assets disproportionate to their known sources of income.

5. Sri. Sandesh J. Chouta, learned senior counsel representing the petitioners, argued that respondent No.1-Lokayukta, without conducting a preliminary inquiry, registered the FIR at the first instance and placed the records before the concerned Superintendent of Police. The Superintendent of Police, without applying his mind and without assigning reasons, granted authorization to investigate the case under the second proviso to Section 17 of the Act, 1988, in a stereotypical manner. Thereafter, the FIR was registered. The issues raised in these petitions are stated to be squarely covered by the decision in W.P. No. 22483/2023 and connected matters, disposed of on 02.07.2024.

6. The submissions of learned counsel for respondent No.1-Lokayukta are as follows:

7. The mere fact that the orders contain text similar to other orders issued under the second proviso to Section 17 of the Act, 1988, does not, in itself, demonstrate a lack of consideration. The orders, which include details such as the names of the accused, the nature of the offence, the authority of the Superintendent of Police to delegate investigative power to a



subordinate officer, and the extent of the disproportionate assets involved, clearly reflect thoughtful deliberation. Therefore, the petitioners' claim that these orders were issued mechanically and without proper application of mind is baseless.

8. Learned counsel for respondent No.1-Lokayukta further argued that the case of K.L. Gangadharaiah is not relevant to the present circumstances. The decision in that case was based on several typographical and other errors found in the orders, which is not the situation here. Furthermore, the said decision is currently under challenge before the Hon'ble Supreme Court.

9. Conducting a preliminary inquiry before registering an FIR is not a mandatory requirement. The necessity of such an inquiry depends on the specific facts and circumstances of each case. The petitioners have failed to demonstrate how the absence of a preliminary inquiry prior to the registration of the FIR adversely affected their rights. When the information received indicates the commission of a cognizable offence, an FIR can be registered without conducting a preliminary inquiry. In support of this argument, reliance is placed on the decisions of the Hon'ble Supreme Court.

10. The issues raised in these petitions are squarely covered by the decision in W.P. No. 22483/2023 and connected matters. In that decision, it was observed that conducting a preliminary inquiry is advisable under certain circumstances and that the registration of the FIR must be preceded by authorization



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under the second proviso to Section 17 of the Act, 1988. Furthermore, the authorization granted must record the reasons for granting such authorization.

11. Therefore, all these petitions are disposed of in light of the observations made in the aforementioned decision. Accordingly, I pass the following:

ORDER

- i) The petitions are allowed.

IN WP NO.105712/2023

The impugned proceedings in Crime No.05/2023 pending on the file of the Principal District/Special Judge, Koppal, stands quashed.

IN CrI.P.102698/2024

The impugned proceedings in Crime No.15/2023 pending on the file of the IV Additional District and Sessions Judge, Belagavi, stands quashed.

IN CrI.P.102585/2024

The impugned proceedings in Crime No.05/2023 pending on the file of the Principal District and Sessions Judge/Special Judge, Bagalkot, stands quashed.



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IN CrI.P.No.102576/2024

The impugned proceedings in Crime No.03/2021 pending on the file of the Principal District and Sessions Judge, Ballari, stands quashed.

**Sd/-
(HEMANT CHANDANGOUDAR)
JUDGE**

AC
CT:BCK
LIST NO.: 1 SL NO.: 29