



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 4TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V.SRISHANANDA

CRIMINAL PETITION NO. 102525 OF 2021 (482(CR.PC)/528(BNSS))

BETWEEN:

SRI SHAILESH SHABA NAIK
AGE. 27 YEARS, OCC- COOLIE,
R/O. BHUMAKAR CHOWK,
WAKAD, NEAR MARUTI TEMPLE
PUNE, MAHARASHTRA STATE-411002.

...PETITIONER

(BY SRI. RAJENDRA R. PATIL, ADVOCATE FOR SRI. SRINAND A.
PACHHAPURE, ADVOCATE)

AND:

1. SRI PREMANAND MAHABLESHWAR NAIK
AGE. 43 YEARS, R/O. BUSINESS
R/O. TORLEBAG, MUDGERI,
TQ AND DIST. KARWAR-581301.
2. SMT. SANDYA NAGESH NAIK
AGE. 49 YEARS, OCC. HOUSEHOLD WORK
R/O. TORLEBAG, MUDGERI
TQ AND DIST. KARWAR-581301.
3. SMITA @ MILAN W/O SHAILESH NAIK
AGE. 30 YEARS, OCC. PRIVATE SERVICE
R/O. TORLEBAG, MUDGERI,
TQ AND DIST. KARWAR-581301.
4. NAGESH VITHAL NAIK
AGE. 51 YEARS, OCC- PRIVATE JOB,
R/O. TORLEBAG, MUDGERI
TQ AND DIST. KARWAR-581301.





5. THE STATE OF KARNATAKA
THROUGH PSI, CHITTAKULA, KARWAR-581301,
REP BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
DHARWAD BENCH.

...RESPONDENTS

(BY SRI. GANAPATI M. BHAT, ADVOCATE FOR R1;
SMT. KIRTI LATA R. PATIL, HCGP FOR R5;
SMT. SHARMILA M. PATIL, ADVOCATE FOR R3;
NOTICE SERVED TO R2 AND R4)

THIS CRIMINAL PETITION IS FILED U/SEC. 482 OF CR.P.C.
SEEKING TO SET ASIDE THE ORDER DATED 24.09.2021 PASSED BY
THE COURT OF PRL. DISTRICT AND SESSIONS JUDGE, UTTARA
KANNADA, KARWAR IN CR.R.P. NO. 59/2018 AND ORDER DATED
19.01.2018 PASSED BY THE COURT OF CIVIL JUDGE AND JMFC-II,
UTTARA KANNADA, KARWAR IN P.C.NO.72/2015 REGISTERED FOR
THE OFFENCE PUNISHABLE UNDER SECTION 120B, 447, 496, 500,
504 AND 506 R/W SEC. 34 OF IPC, MARKED AT ANNEXURE-A AND B
RESPECTIVELY.

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

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE V.SRISHANANDA)

Heard Sri.Rajendra R. Patil, learned counsel appearing on
behalf of Sri.Srinand A. Pachhapure, learned counsel for the
petitioner, Sri.Ganapati M. Bhat, learned counsel for respondent
No.1, Smt.Kirtilata R. Patil, learned High Court Government
Pleader for the State/respondent No.5 and Smt.Sharmila M.
Patil, learned counsel for respondent No.3.



2. Defacto complainant is the petitioner challenging the dismissal of the private complaint for non-appearance.

3. Facts in the nutshell which are utmost necessary for disposal of the present petition are as under:

3.1. A private complaint came to be filed by the petitioner herein which was referred to the police for investigation under Section 156(3) of Code of Criminal Procedure.

3.2. The jurisdictional police after thorough investigation, filed a 'B' final report to the jurisdictional Magistrate.

3.3. Notice of the 'B' report was issued to the petitioner and pursuant to the same; he filed a protest petition and thereafter, did not take any steps to record the sworn statement of defacto complainant and witnesses.

4. After a period of one year, matter was adjourned on the same stage and ultimately, it came to be dismissed.

5. Against the order of dismissal, petitioner filed a revision petition in CrI.RP.No.59/2018.



6. Learned Judge in the First Appellate Court after considering the material evidence on record, has noted that the conduct of the petitioner in paragraph Nos.9 to 11 of the First Appellate Court.

7. Paragraph Nos.9 to 11 reads as under:

"9. It appears that since long time, the petitioner herein being the complainant before the trial Court has not appeared before the Court for giving sworn statement and therefore, the learned Magistrate has dismissed the complaint for non appearance of complainant. It is pertinent to extract the order of learned Magistrate dated 19.1.2018 and it reads as " complainant absent, no representation, call at 3.00 pm., Again at 3.00 pm., case called out, complainant and his advocate absent, no representation on behalf of complainant. This case is adjourned for sworn statement of complainant since 6.1.2017, till today the complainant not appeared. Though, sufficient time and opportunity given to the complainant, he has not turned up for sworn statement. Hence, this case is dismissed for nonappearance of complainant."

10. Above referred order shows that after filing of complaint by the petitioner, the case was set down for sworn statement. The private complaint was filed in the year 2015. The impugned order shows that since



6.1.2017, the complainant/ petitioner has not appeared before the Court. The learned Magistrate has waited for the petitioner/complainant for 3 years and finally, he has dismissed the complaint for non appearance of complainant.

11. In the petition, it is contended in the grounds that the order passed by the learned Magistrate is contrary to law and true facts of the case and proper opportunity has not been given and mandatory requirements are not followed. The order sheet of trial Court shows that opportunity of 3 years was given to the petitioner. Therefore, the contention of the petitioner that sufficient opportunity has not been given cannot be accepted. For non appearance of petitioner/complainant, the Court cannot simply adjourn case for years together. It is contended in the petition that since December 2017 the petitioner is suffering from ill-health. But, no document is produced to substantiate the same. The order sheet of the trial Court produced by the petitioner shows that since 6.1.2017 the petitioner/ complainant did not appear before the Court. In my opinion, the learned Magistrate after affording sufficient opportunity, has dismissed the complaint as since long time, the petitioner/complainant has not appeared. The learned Magistrate had no other option but to dismiss the complaint."



8. Being aggrieved by the same, petitioner is before this Court, in this petition.

9. Learned counsel for the petitioner reiterating the grounds urged in the petition vehemently contended that the petitioner is the resident of Pune and there was no sufficient opportunity granted to him to proceed with the case resulting in miscarriage of justice and sought for allowing the petition.

10. Per contra, learned High Court Government Pleader for respondent No.5/State would contend that filing of the 'B' report is final insofar as State is concerned and therefore, suitable orders to be passed.

11. Learned counsel for respondent Nos.2 and 3 would contend that petitioner has filed a motivated false case in the form of private complaint which was duly investigated by the police and found that there was no *iota* of truth in the complaint filed by the present petitioner and filed 'B' final report.

12. Complainant in order to keep the fire burning, filed protest petition and did not choose to prosecute the matter further. Therefore, dismissal of the private complaint by the



learned Trial Magistrate and later on, confirmed by the First Appellate Court is just and proper and sought for dismissal of the petition.

13. Having heard the parties in detail, this Court perused the material on record meticulously.

14. On such perusal of the material on record, it is crystal clear that the petitioner has not shown any interest or diligence in prosecuting the matter after filing the protest petition to the 'B' final report.

15. Learned Trial Magistrate has afforded sufficient opportunity for the petitioner and there was no representation on behalf of the complainant as could be seen from the material on record. Therefore, left with no alternative, learned Trial Magistrate dismissed the private complaint.

16. Learned Judge in the First Appellate Court after taking in to consideration the contentions urged on behalf of the petitioner, as referred to paragraph Nos.9 to 11 supra, dismissed the revision petition, with cogent reasons.



17. This Court is in concurrence with the findings recorded by the learned Trial Magistrate and First Appellate Court in dismissing the petition.

18. Accordingly, the following:

ORDER

Petition is ***dismissed***.

Sd/-
(V.SRISHANANDA)
JUDGE

KAV
Ct-cmu
LIST NO.: 3 SL NO.: 19