



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 4TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 201860 OF 2023

(482(Cr.PC)/528(BNSS))

BETWEEN:

1. SRI B GURU PRASAD S/O. LATE D. BHARADWAJ
AGED ABOUT 51 YEARS,
RESIDING AT K R CIRCLE
BENGLAURU-560001.
ALSO AT NO. 37, OLD NO. 366/A, 9TH MAIN,
G P RAJARATHNAM ROAD, HANUMANTHANGAR,
BENGALURU-560 019.

2. SRI PRAKASH V MATTIHALI
S/O VEERBHARAPPA
AGED ABOUT 46 YEARS,
RESIDING AT M S BUILDING
BENGALURU-560001.

ALSO AT NO. C-19, GORUND FLOOR,
77TH CROSS 3RD MAIN, PWD QUARTERS,
JAYAMAHAL, BENSON TOWN, BENGALURU-560046.

...PETITIONERS

(BY SRI SANJAY KULKARNI.,ADV., AND
SRI SANDEEP PATIL, ADV.

AND:

1. THE STATE OF KARNATAKA AND ANR
THROUGH BEMALKHEDA POLICE STATION,
REPRESENTED BY ITS ADDL. PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA, KALABURAGI-585102.



2. SRI ANAND KUMAR G
AGED ABOUT 50 YEARS
RESIDENT AT
SECRETARY KARNATAKA BORDER AREA
DEVELOPMENT AUTHORITY,
ROOM NO.107, M S BUILDING,
DR. AMBEDKAR VEEDHI,
BENGALURU-560001.

...RESPONDENTS

(BY SRI JAMADAR SHAHABUDDIN, HCGP FOR R1;
R2 SERVED)

THIS CRL.P IS FILED U/S.482 OF CR.P.C. PRAYING TO QUASH THE COMPLAINT DATED 23.10.2023 IN CRIME NO. 56/2019 BEMALKHED P.S TQ. HUMNABAD DIST. BIDAR REGISTERED AS CC NO.3096/2023 PENDING ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC, HUMNABAD AND QUASH THE ORDER OF TAKING COGNIZANCE AND ISSUANCE OF SUMMONS DATED 21.11.2023 FOR OFFENCE UNDER SECTION 409 AND 420 OF THE INDIAN PENAL CODE, 1860 IN CC NO. 3096/2023 AND ALL FURTHER PROCEEDINGS THERETO PENDING ON THE FILE OF SENIOR CIVIL JUDGE AND JMFC, HUMNABAD, IN THE INTEREST OF JUSTICE.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

This petition is filed under Section 528 of Bharatiya Nagarika Suraksha Sanhita, 2023, to quash the proceedings in C.C.No.3096/2023, arising out of Crime No.56/2019 dated 23.11.2019, registered by the Bemalkhed Police, against the petitioners and another for the offences punishable under



Sections 409 and 420 of IPC, pending on the file of Senior Civil Judge and JMFC, Humnabad.

2. The factual matrix of the Case is that, respondent No.2-the Secretary of Karnataka Border Area Development Authority (hereinafter 'the Authority') lodged the complaint before respondent No.1-Police that the Authority had sanctioned Rs.10,00,000/- in favour of Sri Shirdi Sai Baba Educational and Rural Development, Cultural Trust (hereinafter 'the Trust'), Bemalkhed Village, Humnabad Taluk, Bidar District for construction of a Cultural Bhavan. It is alleged that, on 23.11.2015, 10.01.2017 and 18.12.2017, the said amount was disbursed by the Authority in favour of the Trust, which is headed by one Vaijinath/accused No.1. It is further alleged that, on 06.03.2019, a joint inspection was conducted by respondent No.2 along with his team and accused No.1, wherein it was revealed that, the Cultural Bhavan was constructed in the first floor of a residential building by the Trust, though the amount was sanctioned to construct the said Bhavan on a separate site for the public use. As such, it came to the knowledge of respondent No.2 that the amount of



Rs.10,00,000/- sanctioned by the Authority was misused by the President of the Trust, wherein these petitioners are the sanctioning authorities. As such, the complainant lodged the complaint before respondent No.1-Police and the same was registered in Crime No.56/2019. Subsequently, respondent No.1-Police conducted the investigation and laid charge sheet against the President of the Trust and against these petitioners by arraying them as accused Nos.2 and 3, wherein it is stated that these petitioners sanctioned the second and third installments without verifying the work. Based on the receipt of the charge sheet, learned Magistrate took cognizance of the offences. Aggrieved by the same, the petitioners preferred this petition to quash the proceedings.

3. Heard learned counsel for the petitioners and learned High Court Government Pleader for the respondent-State. Though notice is served to respondent No.2, he remained absent.

4. Learned counsel for the petitioners reiterated the grounds urged in the petition and primarily contended that, the



cognizance order of the Magistrate is barred by law for want of sanction. According to him, these petitioners being the government servants, the allegation against them is that, while discharging their official duty, they committed these offences, as such, the sanction is very much required to prosecute them. Though the concerned authority applied for sanction through the Government Authority, the sanction granted on 17.08.2022 against petitioner No.1, is withdrawn vide order dated 06.10.2022. Placing the same on reliance, Government has directed the Directorate of Economics and Statistics to inspect and take action against petitioner No.2. By emphasizing on those documents, he prays to allow the petition.

5. *Per contra*, learned HCGP opposed the prayer on the ground that, now charge sheet has been filed and while sanctioning the alleged installments, the petitioners were not discharging their official duty, as such, the allegation against the petitioners does not come within the purview of official duty of the petitioners. In such circumstance, sanction may not be required to prosecute the petitioners. Hence, the learned



Magistrate has rightly taken cognizance of the offences. Accordingly, he prays to dismiss the petition.

6. I have given my anxious consideration both on the submissions made by the learned counsel for the respective parties and perused the documents made available on record.

7. As could be gathered from records, admittedly the complaint was lodged by Respondent No.2 by alleging that the amount of Rs.10,00,000/- was sanctioned for the construction of Cultural Bhavan at Bemalkhed and accused No.1 is the president of said Trust. The allegation against these petitioners is that, they being the Secretary and Section Officers of the sanctioning Authority, sanctioned the second and third installments without verifying the construction work conducted by accused No.1. It is stated that, the Cultural Bhavan was constructed in the first floor of a residential house, instead of constructing on a separate site and the complaint averments disclose that, accused No.1 is responsible for such misdeeds. However, during the course of investigation, it is alleged that, these petitioners also failed to discharge their official duty with responsibility by examining the work undergone. As such, it



could be gathered that, the act is committed by these petitioners, while discharging their official duty. Hence, to prosecute them in a criminal offence, sanction is required as held by the Hon'ble Apex Court in the case of **D. Devaraj Vs. Owais Shabeer Hussain** reported in **(2020) 7 SCC 695** in Paragraph No.70 held as under:

"70. To decide whether sanction is necessary, the test is whether the act is totally unconnected with official duty or whether there is a reasonable connection with the official duty. In the case of an act of a policeman or any other public servant unconnected with the official duty there can be no question of sanction. However, if the act alleged against a policeman is reasonably connected with discharge of his official duty, it does not matter if the policeman has exceeded the scope of his powers and/or acted beyond the four corners of law."

8. Applying the findings of the Hon'ble Apex Court in the above said case to the facts and circumstances of this case and also considering the aspect that, now accused No.1 has reimbursed the entire amount of Rs.10,00,000/- to the authority, I am of the considered view that the continuation of proceedings against these petitioners amounts to abuse of process of Court. Accordingly, I proceed to pass the following;



ORDER

- i. The petition is ***allowed***.
- ii. The proceedings against petitioners/accused Nos.2 and 3 in C.C.No.3096/2023, arising out of Crime No.56/2019 dated 23.11.2019, registered by the Bemalkhed Police, against the petitioners and another for the offences punishable under Sections 409 and 420 of IPC, pending on the file of Senior Civil Judge and JMFC, Humnabad, is hereby quashed.

**Sd/-
(RAJESH RAI K)
JUDGE**

THM
List No.: 1 Sl No.: 18
CT:RJ