



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 2ND DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 202006 OF 2025

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

BETWEEN:

TULAJAPPA S/O. MURAGEPPA KALASHETTY
AGE 44 YEARS, OCC AGRICULTURE
R/O UDCHANA VILLAGE
TQ AFZALPUR, DIST KALABURAGI

...PETITIONER

(BY SRI. ASHWINI TAKKALKI., ADVOCATE)

AND:

THE STATE OF KARNATAKA
THROUGH AFZALPUR POLICE STATION
DIST KALABURAGI
ITS REPRESENTED BY SPP
HIGH COURT OF KARNATAKA
KALABURAGI BENCH
DIST. KALABURAGI

...RESPONDENT

(BY SRI. GOPAL KRISHNA B. YADAV, HCGP)

THIS CRL.P IS FILED U/S.482 OF CR.P.C. (OLD), U/SEC. 528 OF BNSS (NEW), PRAYING TO ALLOW THIS CRIMINAL PETITION. QUASH THE ENTIRE PROCEEDINGS IN C.C.NO. 517/2025 (ARISING OUT OF CRIME NO. 93/2024 OF AFZALPUR POLICE STATION PENDING ON THE FILE OF THE LEARNED CIVIL JUDGE AND JMFC AFZALPUR DIST. KALABURAGI FOR THE ALLEGED OFFENCES PUNISHABLE UNDER SECTIONS 379 OF THE INDIAN PENAL CODE 1860 AGAINST THE PETITIONER.

Digitally
signed by
SHIVALEELA
DATTATRAYA
UDAGI
Location:
HIGH COURT
OF
KARNATAKA



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 BNSS, 2023, to quash the proceedings against the petitioner/accused No.2 in C.C.No.517/2025, arising out of Crime No.93/2024, registered by Afzalpur Police, for the offence punishable under Section 379 of IPC, pending on the file of Civil Judge and JMFC, Afzalpur, Kalaburagi.

2. The factual matrix of the case is that, on the basis of *Suo moto* complaint lodged by the PSI, Afzalpur Police Station, the respondent-Police registered a case against the petitioner and another for the offence punishable under Section 379 of IPC in Crime No.93/2024. It is alleged in the complaint that, when the complainant and his staff were in Udachana Village boundary, they found the petitioner and another were illegally collecting the sand in the field bearing Sy.No.12/2 of Udachana Village, thereby, the complainant conducted a raid along with panchas and seized the same. Thereafter, the respondent-Police conducted the investigation and laid charge



sheet against the petitioner and another for the aforementioned offence by arraying this petitioner as accused No.2. Accordingly, the learned Magistrate has taken cognizance of the offence against the petitioner and another. Aggrieved by the same, the petitioner/accused No.2 filed this petition.

3. Apart from urging several contentions, learned counsel for the petitioner contended that, where a special statute creates an offence and provides a specific penalty, the provisions of the general penal law, such as the Indian Penal Code stand excluded. As such, the registration of FIR and continuation of the proceedings against the petitioner/accused No.2 for the offence under Section 379 of IPC cannot be sustained. Accordingly, she prays to allow the petition.

4. *Per contra*, learned HCGP has contented that, the respondent-Police have completed the investigation and laid charge sheet against the petitioner and another for the aforementioned offence, as such, the present petition is liable to be dismissed.



5. I have given my anxious consideration both on the submissions made by the learned counsel for respective parties, as well as perused the records.

6. As could be gathered from records, on 09.04.2024, based on the specific information, the PSI of respondent - police conducted a raid near Udachana Village in a field bearing Sy.No.12/2 of Udachana Village belongs to one Basavaraja S/o. Golallappa Metri i.e., accused No.1. In the said field, the complainant found storage of sand illegally, without obtaining any license from the concerned Department. As such, the complainant conducted a mahazar in the said field and seized the same. Later, handed over the same to the Public Works Department. Thereafter, the investigation was conducted and charge sheet has been laid against the petitioner and another.

7. A careful perusal of the charge sheet materials, it clearly reveals that the Investigation Officer has drawn the mahazar and recorded the statement of all the witnesses, who have stated about the act committed by the petitioner and another. The veracity of those statements has to be tested in a detailed trial and there is no such materials placed by the



prosecution to prove that the complainant has filed this complaint against accused with an ulterior motive or for personal vengeance. Further, on perusal of the averments made in the FIR and charge sheet materials, the same discloses the necessary ingredients to constitute the alleged offence.

8. In such circumstances, the petitioner/accused No.2 has not made out a case to quash the proceedings, at this stage. Accordingly, the petition lack merits and the same is ***dismissed.***

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

THM
List No.: 1 Sl No.: 33