

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MARCH, 2024

BEFORE

THE HON'BLE MR JUSTICE K.NATARAJAN

WRIT PETITION NO.3463 OF 2022

BETWEEN:

SRI. HARISH V
S/O R.VENKAT REDDY,
AGED ABOUT 38 YEARS,
PREVIOUSLY WORKING AS
SUB INSPECTOR OF POLICE,
SARJAPURA POLICE STATION,
SARJAPURA,
BENGALURU - 562 125.

PRESENTLY WORKING AS
INSPECTOR OF POLICE,
ANTI CORRUPTION BUREAU,
CHIKKABALLAPURA - 562 101.

...PETITIONER

(BY SRI. V.F.KUMBAR, ADVOCATE)

AND:

SRI. NARAYANASWAMY @ JCB NARAYAN
S/O HANUMANTHAPPA
AGED ABOUT 47 YEARS,
R/AT NO.203 C, 2ND FLOOR,
AJMEER GREEN APARTMENT,

BANNERGHATTA ROAD,
BENGALURU SOUTH TALUK - 560 083.

...RESPONDENT

(BY SRI. CHETAN JADHAV, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF CR.P.C PRAYING TO QUASH THE IMPUGNED ORDER DATED 29.11.2021 RENDERED BY HONBLE PRINCIPAL CIVIL JUDGE AND JMFC AT ANEKAL TAKING COGNIZANCE OF OFFENCES AGAINST THE PETITIONER HOLDING THAT, PRIOR SANCTION TO INITIATE CRIMINAL CASE AGAINST THE PETITIONER AS CONTEMPLATED U/S 197 OF CODE OF CRIMINAL PROCEDURE AND SECTION 170 OF KARNATAKA POLICE ACT, IS NOT NECESSARY AND ORDER DATED 21.01.2022, REGISTER A CRIMINAL CASE AGAINST THE PETITIONER BY TAKING COGNIZANCE OF THE OFFENCE PUNISHABLE UNDER 166A, 340, 350, 499 AND 506 OF INDIAN PENAL CODE AND SECTION 25 OF THE INDIAN ARMS ACT, IN P.C.R.NO.262/2021 NOW REGISTERED AS C.C.NO.79/2022 VIDE AT ANNEXURE-F.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 07.03.2024 THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

ORDER

This writ petition is filed by the petitioner-accused under Article 226 of the Constitution of India read with Section 482 of Cr.P.C. for quashing the order dated 29.11.2021 in C.C. No.79/2022 whereby the Principal Civil JMFC at Anekal, has taken cognizance for the offences punishable under Sections 166A, 340, 350, 499 and 506 of IPC .

2. Heard the argument of learned counsel for the petitioner and learned counsel for respondent.

3. The case of prosecution is that the respondent filed a private complaint against the petitioner before the III Additional District and Sessions Judge, Bangalore Rural District. In turn, the learned Sessions Judge, vide order dated 30.07.2021, transmitted the complaint to the Principal Civil Judge and JMFC, Anekal to treat the complaint, private complaint and proceedings in accordance with law.

4. It is alleged by the respondent, in his complaint, that, he is doing real estate business. On 10.07.2021 at 9.00 a.m., the Hulimavu police inspector took the complainant to the police station for enquiry in a Criminal case. Thereafter, they brought him to the DCP police office Koramangala at 12.30 p.m. and he was released on bail by the DCP. On the said date, at about 4.00 p.m., this petitioner, being the Sub-inspector attached to the Sarjapur police came along with staff in a Government Jeep bearing No.KA 43 G 52 to the DCP office and he wanted to arrest the complainant. At that time, the advocates of the complainant namely, Srinivas and Aravind informed that the complainant has been granted anticipatory bail in Crime No.103/2021 registered by Sarjapur police and the petitioner tear the copy of the anticipatory bail dispatched to the police station and both the advocates of the complainant handed over order copy of the Sessions Judge for having granted anticipatory bail in Criminal Misc. Nos.5206/2021 and 5220/2021. Immediately, the petitioner-accused received the copy of the order and torn it and thrown on the floor

stating that he is the judge for his police station and he has abused the Sessions Judge, who granted bail to the complainant, by using the filthy language stating that the said order is equal to that of his hair and he told that he has to give bail and not by the Court. After defaming the judicial honour and judicial officer, he took the complainant to the Sarjapur police station and threatened the complainant that he will encounter him and make the complainant as rowdy sheeter by fixing false cases. The petitioner also shown the revolver on the head of the complainant and threatened to encounter in the presence of his wife and burry the body. Hence, he has prayed for taking action.

5. The learned Magistrate, after receipt of the complaint and sworn affidavit of the complainant, took cognizance against the petitioner for the offences punishable under Section 166A, 340, 350, 499, 506 of IPC and Section 25 of Indian Arms Act and issued summons to the petitioner, which is under challenge.

6. The learned counsel for the petitioner has contended that the order of the Magistrate is not in accordance with law. Sanction was not obtained under Section 170 of Karnataka Police Act (for short 'KP Act') and Section 197 of Cr.P.C. as the accused was a Police Sub-inspector and the offence was committed while discharging the official duty. The learned counsel further contended that as on the date of incident, the petitioner was not the investigation officer and there was no complaint filed in the Koramangala police station by the advocates of the complainant. The endorsement was also issued by the police in this regard. Even otherwise, the revolver of the petitioner has already been seized by the Suryanagar Police Station in a criminal case and as such, he does not have gun with him. Therefore, prayed for quashing the criminal proceedings.

7. Learned counsel for respondent has objected the petition contending that the petitioner came to the DCP office, Koramangala, for arresting the complainant in Crime

No.103/2021. At that time, the advocates of the complainant, one Srinivas and Aravind, handed over the bail order, which was tore by the petitioner and thrown on the ground. The learned counsel furhter contended that the petitioner has abused the Judge, who granted the anticipatory bail, in filthy language. The act of the accused defaming the Court and abusing the Judge and threatening the complainant making a rowdy sheet and killing by encounter, is not the official duty and therefore, sanction is not required. The learned counsel further contended that the petitioner is habitual offender and he is also involved in creating the false complaints by obtaining signature from the third person by impersonation. This court has already order for taking department action against the petitioner and therefore, it is contended that he is not entitled for relief. Hence, prayed for dismissing the petition.

8. Having heard the arguments of learned counsel for the parties, perused the records and the averments in the complaint, which reveal that the complainant was taken to

the DCP, Koramangala, on 10.07.2021 and the DCP was about to release the complainant on bail, the petitioner-accused, being Sarjapura inspector, came to the DCP office, Koramangala at 4.00 p.m. The petitioner-accused wanted to arrest the complainant in connection with Crime No.103/2021. The advocates for the complainant produced two anticipatory bail orders in Criminal Misc. Nos.5206/2021 and 5220/2021. The petitioner-accused tore the said orders, thrown the same on the ground stating that he is the Judge for his police station, and thereby abused the Judge, who granted anticipatory bail, in the foul language stating that the bail order is equal to that of his hair. The CCTV footage and video recording of the advocates, and the photocopy of the bail orders were produced before the Court, which reveals that the petitioner-accused disrespected the Court order. The petitioner-accused has not only violated the order, but also abused the Sessions Judge, who granted anticipatory bail, by using the foul language and stated that he is the Judge for himself and police station, and he will kill the complainant by encounter.

He came to the DCP police, Koramangala, video has been recorded by the advocates, the statement of advocates also recorded, two advocates are the witnesses. The wife of the complainant has also given the statement before the Magistrate which clearly reveals that the alleged offence committed by the petitioner has tarnished the image of the judiciary and the judge, equalising the order of the Court to his hair.

9. Now, the only point for consideration is, whether sanction is necessary for taking cognizance. In this regard, looking to the offence committed by the petitioner-accused, he has torn the bail orders of the Sessions Judge in Criminal Misc. Nos.5206/2021 and 5220/2021, thrown the same on the ground, and abused the Sessions Judge, who granted anticipatory bail, in the foul language and defamed the Court order. Subsequently, by showing the pistol, he is said to be threatened to kill the complainant by encounter and also threatened that he will create rowdy sheet against him. Tearing the bail order, throwing on the ground, abusing the

Sessions Judge, who granted bail, in filthy language stating that he is the judge for his police station and he has to decide the case, and the bail order is similar to that of his hair, are all nothing to do with discharge of the official duty. It is an offence committed by the petitioner-accused on individual capacity. The alleged offences fall under Sections 166A, 340, 350, 499, 506 of IPC, where the public servant disobeying the direction under the law, and they are the cognizable offences under Section 166A of IPC. Section 340 of IPC is for wrongful confinement of the complainant, Section 350 of IPC is showing Criminal force on the complainant, Section 499 of IPC is spoken words by damaging reputation of the judiciary, Section 506 is criminal intimidation and Section 25 of Arms Act is using the weapon illegally. All the offences committed by the accused shows that he has not discharged the official duty and he has wilfully and intentionally, used the words against the judiciary defaming the judiciary and disobeying the anticipatory bail order of the Court. Therefore, Section 197 of Cr.P.C. will not come to the aid of the petitioner-accused

where protection is given to the public authority from the Constitution. The learned Magistrate, by relying upon the judgment of the Hon'ble Supreme Court in the case of Devaraja Vs. Hussain reported in 2020 (7) SCC 695, G. Govindaraju Vs. Babu Poojary and judgment of the Division Bench of this Court in Chikkadoddaiah vs. natarja reported in 1973 ILR KAR 911 and has held that the sanction is not required for taking cognizance against the petitioner which is the offence committed by him is outside the purview of the discharging the official duty.

10. Apart from that, P.Ws.2 and 3 are the advocates. They have given evidence before the court who are eye witnesses to the incident where the accused petitioner shown rude behaviour against the court as well as the complainant in the presence of the advocates by defaming the image and dignity of the court by abusing the order of the court and also judges. Therefore I am of the view that the petitioner is required to go for trial whatever the defence available regarding seizing of the weapon by

Suryanagar police and the investigation officer is some other person than him were all disputed fact which is matter of trial.

11. The petitioner being a police officer, has defamed the Court order, torn the Court order and thrown the same on the floor and abused the Sessions Judge who granted anticipatory bail in filthy language. Such a police officer shall be tried and punished in accordance with law and even the police department should have taken action against him by conducting departmental enquiry for doing such type of activities by him. Such a person like petitioner who is no respect of law cannot be shown any sympathy by the court and it is not a fit case for quashing the Criminal proceedings against him.

12. Accordingly, I pass the following order:

The petition is dismissed.

**Sd/-
JUDGE**

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CT:SK