



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION NO. 699 OF 2017

BETWEEN:

STATE OF KARNATAKA BY
LOKAYUKTHA POLICE REP. BY
PSI LOKAYUKTHA POLICE
CHIKKABALLAPURA-562 101 ...PETITIONER

(BY SRI. PRASAD B S., ADV.)

AND:

G. RAMACHARI
H.C.NO.94,, PATHAPALYA POLICE STATION
O.O.D. CHIKKABALLAPURA RURAL
POLICE STATION, CHIKKABALLAPUR DIST. ...RESPONDENT

(BY SRI.M.B.RAJASHEKAR, ADV.)

THIS CRIMINAL REVISION PETITION IS FILED UNDER
SECTION 397 READ WITH 401 CR.P.C PRAYING TO SET ASIDE
THE ORDER DATED 16.11.216 PASSED BY TEH PRL. DIST. AND
SESSIONS JUDGE, CHIKKABALLAPURA IN P.C.A.C.C.NO.3/215.

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

CORAM: HON'BLE MR JUSTICE V SRISHANANDA

ORAL ORDER

Heard Sri Prasad B.S., learned counsel for the
revision petitioner and Sri M.B.Rajashekar, learned counsel
for the respondent.





2. A charge sheet came to be filed by the Lokayuktha Police, Chikkaballapura against the accused for the offence punishable under Section 7 read with Section 13(2) of the Prevention of Corruption Act.

3. Accused appeared before the Court and filed an application under Section 227 of Cr.PC, seeking discharge. Prosecution opposed the said application by filing the detailed objections.

4. Learned Special Judge heard the parties in detail and by the impugned order dated 16th November 2016 allowed the application of the accused and discharged the accused from the charges.

5. Being aggrieved by the same, the Lokayuktha Police is in revision petition before this Court.

6. Facts in the nutshell led to filing of the charge sheet are as under:

7. A complaint came to be lodged with the Lokayuktha Police, Bengaluru Rural District, stating that



on 26.08.2014, complainant met the accused for release of the vehicle which was seized during the election time. Accused said to have demanded illegal gratification in a sum of Rs.5,000/- for release of the seized vehicle. Complainant had obtained the Court order for release of the vehicle and met the Sub-Inspector, Rural Police Station, Chikkaballapura on 23.08.2014, who in turn directed him to meet the accused. Accordingly, the complainant met the accused on 26.08.2014 at about 12.30 p.m. making a request to release of the vehicle. It is further alleged by the complainant i.e. at this juncture the accused demanded bribe amount of Rs.5,000/- to release the vehicle in terms of the Court order.

8. Based on such complaint, the Lokayuktha Police, Bengaluru Rural District registered the case and the investigation was commenced by the Inspector, Lokayuktha Police, Bengaluru Rural District. Later on, file was transferred to Lokayuktha Police, Chikkaballapura, who completed the investigation and filed the charge sheet.



9. It is also found from the records that there was no trap, as the attempted trap became unsuccessful. Based on the demand of Rs.5,000/-, in the presence of two eyewitnesses, the charge sheet came to be filed.

10. Sri Prasad B.S., learned counsel for the revision petitioner has contended that even in the absence of a successful trap, solely on the demand made by the accused for the illegal gratification, a charge sheet can be filed under Section 7 of the Prevention of Corruption Act. In support of his arguments, he placed reliance on the judgment of the Hon'ble Apex Court reported in **2024 (5) SCC 629** in the case of **Sita Soren -vs- Union of India**.

11. He also contended that for attracting the ingredients of the offence under Section 7, successful trap is not a *sine qua non*. Therefore, the order of discharge by the learned Special Judge has resulted in miscarriage of justice and he sought for allowing the revision petition.

12. Per contra, Sri M.B.Rajashekar, learned counsel representing the accused, supports the impugned order.



On care full perusal of material on record is found that the filing of charge sheet had inherent lacunae. Firstly, the Lokayuktha Police, Bengaluru Rural District had no jurisdiction to register the case nor conduct the investigation.

13. Admittedly, the incident had occurred in the Rural Police Station, Chikkaballapura on 26.08.2014 at 12.30 p.m. Nothing prevented the complainant to approach the Lokayuktha Police, Chikkaballapura District and complain about the illegal demand made by the complainant. But for the reasons best known to the complainant, he has chosen to approach the Lokayuktha Police, Bengaluru Rural District.

14. Even though there is no bar for any Lokayuktha Police to receive the complaint, after receipt of the complaint, it was the bounden duty of the concerned Police to verify the place of incident and transfer the complaint to the jurisdictional Lokayuktha Police Station.



15. At the most an FIR could be registered in Zero Number (usually termed as zero FIR) and transfer the complaint and FIR to the jurisdictional Police station for the purpose of investigation. The said procedure is now recognized in the Bharatiya Nagarika Suraksha Sanhita (for short, 'BNSS'). In fact the principles of law enunciated by the Hon'ble Apex Court in the case of **Lalita Kumari Vs Govt. of U.P. and Ors.** reported in **2013 (14) S.C.R. 713**, envisages such a procedure to be adopted by the Police. In the case on hand, for the reasons best known to the complainant and the Lokayuktha Police, Bengaluru Rural District, such a procedure has not taken place. Instead, the Inspector Lokayuktha Police, Bengaluru Rural District proceeded with the investigation partly. Later on he has transferred the file to the Lokayuktha Police, Chikkaballapura.

16. Admittedly, the part investigation conducted by the Inspector, Lokayuktha Police Bengaluru Rural District was without jurisdiction. Therefore, a fresh investigation



should have been conducted by the Lokayuktha Police, Chikkaballapura.

17. Instead, the Lokayuktha Police, Chikkaballapura, continued with the investigation which was conducted in part by the Inspector Lokayuktha Police, Bengaluru Rural District. Same has resulted in procedural lapses besides being the further proceedings thereof stood vitiated.

18. Secondly, it is found from the records that the alleged voice sample was not referred to the Forensic Science Laboratory of Karnataka. Instead, the said sample has been sent to a Private Laboratory namely, 'Truth Labs' and a report has been obtained.

19. It is pertinent to note that without exhausting the remedy before the Forensic Laboratory of Karnataka, sending the voice sample to the Truth Labs, which is a private agency and collecting the report which is been placed as a gospel truth in filing the charge sheet has also resulted in affecting the rights of the accused. Therefore, the very cognizance itself should not have been taken by



the learned Special Judge and charge sheet should have been returned.

20. Be what it may. The learned Judge having heard the parties on the discharge application, perused the material on record and accepting the contentions urged on behalf of the accused as referred to supra and passed the impugned order whereby the learned Special Judge has discharged the accused from the alleged offences by reasoned order dated 16th November 2016.

21. This Court having regard to the scope of the revisional jurisdiction revisited into the above factual aspects and does not find any legal infirmity or perversity or patent factual defects so as to interfere with the impugned order.

22. There cannot be any dispute as to the principles of law enunciated by the Hon'ble Apex Court in the case of **Sita Soren** (supra). But the facts and the circumstances involved in the present case are altogether different. Therefore, the principles of law enunciated in **Sita Soren's**



case (supra) are not applicable to the case on hand in view of the inherent defects in the charge sheet noted supra, so as to set aside the impugned order.

23. Accordingly, viewed from any angle, this Court does not find any merit whatsoever in the grounds heard on behalf of the Lokayuktha. Hence, the following.

ORDER

Revision Petition is meritless and accordingly,
dismissed.

**Sd/-
(V SRISHANANDA)
JUDGE**