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HC-KAR

NC: 2026:KHC:63889
CRL.P No. 1681 of 2023
C/W CRL.P No. 5322 of 2021

CNR: KAHC010092262023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL PETITION NO.1681 OF 2023
C/W
CRIMINAL PETITION NO.5322 OF 2021

IN CRL.P NO.1681/2023:

BETWEEN:

1. SRI. B.P. UMASHANKAR,
S/O B.P. PAPANNA,
AGED ABOUT 52 YEARS,
R/AT NO.118, ELINA APARTMENT,
IMB POST, BANNERGHATTA ROAD,
BANGALORE-560076.

...PETITIONER

(BY SRI. SAMPATH A., ADVOCATE)

AND:

1. STATE BY
BELLANDUR POLICE STATION,
BENGALURU,
REPRESENTED BY LEARNED
STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
HIGH COURT BUILDING,
DR. AMBEDKAR VEEDHI,
BENGALURU-560001.

2. SRI. ASHOK LENIN,
AGED ABOUT 50 YEARS,
S/O J. LENIN,

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DEPUTY DIRECTOR,
UNIQUE IDENTIFICATION AUTHORITY
OF INDIA (UIDAI),
REGIONAL OFFICE,
BENGALURU-560001.

…RESPONDENTS

(BY SRI. SUHAS GOWDA M., HCGP FOR R1;
SRI. H. MALLAN GOUD, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE ENTIRE CRIMINAL PROCEEDINGS INITIATED AGAINST THE PETITIONER-ACCUSED NO.24 IN C.C.NO.6990/2020 PENDING ON THE FILE OF THE XLI ACMM, BANGALORE FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 419, 420, 120B R/W SECTION 34 OF IPC AND SECTION 14 OF FOREIGNERS ACT REGISTERED BY THE RESPONDENT NO.1 BELLANDUR POLICE IN CR.NO.344/2017 DATED 08.12.2017.

IN CRL.P NO.5322/2021:

BETWEEN:

1. DR. LOKESH
S/O H. CHIKKAPUTTAIAH,
AGED ABOUT 48 YEARS,
R/OF NO.27, 33RD MAIN,
16TH CROSS, J.P. NAGAR,
6TH PHASE, BENGALURU-560078.

...PETITIONER

(BY SRI K.B. MAHESH KUMAR, ADVOCATE FOR
SMT. VIJETHA R. NAIK, ADVOCATE)

AND:

1. STATE OF KARNATAKA,
THROUGH MARATHAHALLI SUB-DIVISION,
BELLANDUR POLICE STATION,

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REP. BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BENGALURU-560001

2. ASHOK LENIN,
S/O J. LENIN,
AGED ABOUT 49 YEARS,
OCC: DEPUTY DIRECTOR, UIDAI,
BENGALURU-560001.

...RESPONDENTS

(BY SRI. SUHAS GOWDA M., HCGP FOR R1;
SRI. H. MALLAN GOUD, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE COMPLAINT, FIR, CHARGE SHEET IN CR.NO.344/2017 REGISTERED BY THE MARATHAHALLI SUB-DIVISION , BELLANDURU POLICE STATION FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 419, 420 120B R/W SECTION 34 OF IPC AND SECTION 14 OF FOREIGNERS ACT AND THE ORDER OF TAKING COGNIZANCE DATED 14.07.2020 UNDER SECTIONS 419,420 120B R/W 34 OF IPC AND SECTION 14 OF FOREIGNERS ACT IN C.C.NO.6990/2020 WHICH IS PENDING ON THE FILE OF THE XLI ACMM, BANGALORE.

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

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CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

ORAL ORDER

Heard the learned counsel for the petitioner, the learned High Court Government Pleader appearing for respondent No.1/State and the learned counsel for respondent No.2/complainant in both the petitions.

2. These two petitions are filed by accused Nos.24 and 9 respectively, praying this Court to quash the entire proceedings in C.C.No.6990/2020, for the offences punishable under Sections 419, 420, 120B read with Section 34 of IPC and Section 14 of the Foreigners Act.

3. The case of the prosecution against the petitioner/accused No.9 in Crl.P.No.5322/2021, is that the petitioner, being a Government doctor, had attested the address proof certificates in respect of 14 persons, who are the citizens of Bangladesh and not the citizens of India and issuing such residential certificate helped them in getting the aadhar card, passport and other documents. The certificates are also collected by the Investigating Officer during the course of investigation. The certificate is issued for address proof, age

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proof and identity proof for the purpose of getting an aadhar card.

4. The allegation made against the petitioner/accused No.24 in Crl.P.No.1681/2023 is that the petitioner had executed a rental agreement in respect of accused Nos.3 and 4 and he helped accused Nos.3 and 4 in getting the aadhar card and other documents, who are not the citizens of India and they are the citizens of Bangladesh. The specific accusation is made in the charge-sheet invoking the offence under Sections 419, 420, 120B read Section 34 of IPC and Section 14 of the Foreigners Act. The specific accusation made against accused No.24 is that he had constructed the sheds and allowed the Bangladeshi people to stay there and get the documents.

5. The learned counsel for the petitioner/accused No.24 in Crl.P.No.1681/2023 would vehemently contend that the petitioner has been arrayed as an accused without collecting any material against him that he had rented out the premises to the Bangladeshi citizens and this Court also directed to produce any such rental agreement executed by accused No.24 in respect of accused Nos.3 and 4 in helping

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them to get the aadhar cards. The learned counsel brought to the notice of this Court that in aadhar card of accused No.3 the address is mentioned as No.1, Bellandur and in respect of accused No.4 address is mentioned as Bellandur. Both the addresses are Bellandur, but agricultural land belonging to this petitioner is situated at Ibbaluru and they are not the tenants.

6. The learned counsel for the petitioner/accused No.9 in Crl.P.No.5322/2021 would vehemently contend that the Magistrate having received the investigation papers, did not apply his mind and took the cognizance and issued the process mechanically. The learned counsel brought to the notice of this Court the order passed by the learned Magistrate and contend that there is a foundational defect in taking cognizance and issuing the summons against the petitioner. The learned counsel would contend that the petitioner is a Government doctor and he has got protection under Section 197 of Cr.P.C. and there was no any sanction order to prosecute him and in the absence of any sanction, the Court cannot take any cognizance. The learned counsel would contend that attestation was made when the proof of document was produced. This

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Court has directed to produce any such rental agreement shown to him at the time of attestation whether such documents are part of investigation and the learned counsel would submit that no such documents are available.

7. Per contra, the learned counsel for respondent No./2 complainant would submit that insofar as accused No.24 is concerned, specific accusation is made that he had helped accused Nos.3 and 4 in getting the aadhar card. But the learned counsel fairly submits that no rental agreement executed by accused No.24 in respect of accused Nos.3 and 4 is collected during the course of investigation by the Investigating Officer. Insofar as accused No.9 is concerned, no dispute that he is a Government doctor. But the learned counsel would submit that the protection under Section 197 of Cr.P.C. will not come to the aid of accused No.9 as he being the doctor, without any proof of residential documents, he had attested the documents and helped the foreign national in getting the aadhar card in India. If it is within discharge of public duty, then the said protection will be given. But attesting of document is not a public duty and he being a doctor had

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indulged in attesting the document without any proof. The learned counsel also would submit that the doctor has not denied the attestation and he had not attested only one or two persons residential proof document, and in total he had attested 14 persons residential proof who are the Bangladeshi citizens. The signature of the petitioner was also collected and the same was sent to the FSL and got confirmed that the signatures belongs to this doctor. The learned counsel also would submit that there is no any such rental documents also as claimed by the petitioner's counsel that based on that rental document, the petitioner had attested and so no such documents are produced before him at the time of attestation and in a casual manner without verifying any of the documents with regard to the age proof and residential address, attested the document in order to help the foreign national in getting the aadhar card.

8. The learned High Court Government Pleader appearing for respondent No.1/State submits that the police have conducted the investigation and filed the charge-sheet and found the material. The Trial Court while issuing the

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process, taken note of ingredients of the offences under Sections 419, 420, 120B read with Section 34 of IPC and so also Section 14 of the Foreigners Act and having taken note of those penal provisions, given the reasoning that charge-sheet materials is perused and investigation has revealed the participation of the accused persons in committing of the offence and he had applied his mind while invoking the offences and hence, the contention of the learned counsel for the petitioners that he had not applied his mind cannot be accepted.

9. Having heard the learned counsel for the respective parties and also considering the accusations made in the charge-sheet in respect of accused Nos.9 and 24, the points that would arise for the consideration of this Court are:

(i) Whether the learned Magistrate has committed an error in taking cognizance against these two petitioners and whether it requires interference of this Court to invoke Section 482 of Cr.P.C.?

(ii) What Order?

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Point No.(i):

10. Insofar as the petitioner/accused No.24 in Crl.P.No.1681/2023 is concerned, accusation made against him is that he helped accused Nos.3 and 4, who are the foreign national, in getting the aadhar card and he allowed them to stay in his premises. But the learned counsel for the petitioner would submit that no such rental agreement is collected by the Investigating Officer. This Court had directed to produce if any rental agreement is collected by the Investigating Officer during the investigation and the learned High Court Government Pleader fairly submits that no rental agreement executed by accused No.24 in favour of accused Nos.3 and 4 are found. The address mentioned in the aadhar card of accused No.3 is No.1 Bellandur and insofar as accused No.4 is concerned, it is mentioned as Bellandur. The learned counsel for the petitioner would submit that the property of the petitioner is situated at Ibbaluru and not at Belanduru. However, the learned High Court Government Pleader made an attempt to bring it to the notice of this Court that the address of accused No.7 is mentioned as Ibbaluru. But no property number or survey number is mentioned. When such being the case, when there

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is no any prima facie material collected by the Investigating Officer during the course of investigation that this petitioner/accused No.24 had helped accused Nos.3 and 4 in getting the aadhar card, there cannot be any criminal prosecution against accused No.24.

11. The Apex Court in its judgment in the case of **PEPSI FOODS LTD. v. SPECIAL JUDICIAL MAGISTRATE** reported in **(1998) 5 SCC 749**, has held that if at the face value, no material is found to continue the criminal proceedings against the petitioner, the Court can exercise the power under Section 482 of Cr.P.C. The Apex Court in the case of **STATE OF HARYANA v. CH. BHAJAN LAL AND OTHERS** reported in **1992 Supp.(1) SCC 335** in paragraph No.102 has held that if no material is collected in terms of guideline Nos.4, 5 and 7, there cannot be any criminal prosecution to wreak vengeance. But here is not a case of vengeance, but no material is collected to proceed against accused No.24. Hence, the learned counsel for the petitioner/accused No.24 in Crl.P.No.1681/2023 has made out the case to invoke Section 482 of Cr.P.C.

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12. Insofar as the petitioner/accused No.9 in Crl.P.No.5322/2021 is concerned, specific accusation is made in the charge-sheet that he had helped 14 foreign nationals in getting the aadhar card by attesting the residential proof. The learned counsel for the petitioner also not disputes the fact that the petitioner had attested the document and those documents are collected by the Investigating Officer and the same are available before the Court and produced along with the charge-sheet. But the only contention raised by the learned counsel is that there is no any satisfaction by the Magistrate and mechanically order was passed. But the Trial Court taken note of the material collected by the Investigating Officer and also the ingredients of the offences are also referred in the order while taking cognizance. While passing an order of taking cognizance, perusal of the charge-sheet material itself is enough and need not necessary to pass any detailed order and only to proceed against the petitioner if materials are found.

13. The other contention of the learned counsel for the petitioner is that no sanction was obtained and there is a protection under Section 197 of Cr.P.C. The learned counsel in

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support of his arguments relies upon the judgment of the Apex Court in the case of **SUNEETI TOTEJA v. STATE OF U.P. AND ANOTHER** reported in **2025 SCC OnLine SC 433** and brought to the notice of this Court paragraph No.25, wherein the provisions of Section 197 of Cr.P.C. is extracted i.e., prosecution of Judges and public servants. There is no dispute that in respect of public servants there is a protection under Section 197 of Cr.P.C. The learned counsel also brought to the notice of this Court paragraph No.27, wherein the Apex Court referred the judgment in the case of **AMOD KUMAR KANTH v. ASSOCIATION OF VICTI OF UPHAAR TRAGERY** reported in **2023 SCC OnLine SC 578** disposed of by a three-Judge Bench of the Apex Court wherein in paragraph No.29 of the said judgment, a discussion was made that most important question which must be posed and answered by the Court when dealing with the argument that sanction is not forthcoming is whether the officer was acting in the exercise of his official duties. It goes further. Even an officer who acts in the purported exercise of his official power is given the protection under Section 197 of the Cr.P.C. This is for good reason that the officer when he

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exercises the power can go about exercising the same fearlessly no doubt with bonafides as public functionaries can act only bona fide. In fact, the requirement of the action being bona fide is not expressly stated in Section 197 of the Cr.P.C., though it is found in many other statutes protecting public servants from action, civil and criminal against them. The counsel also brought to the notice of this Court discussion made in paragraph No.32 that it was concluded that learned Magistrate had erred in the facts of the said case in taking cognizance against the appellant therein contrary to the mandate of Section 197 of the Cr.P.C. and on that short ground alone, the appeal was allowed and the proceedings challenged in Section 482 of Cr.P.C. were quashed.

14. The learned counsel also brought to the notice of this Court paragraph No.28 wherein the Apex Court referred the judgment in the case of **AMRIK SINGH v. THE STATE OF PEPSU** reported in **AIR 1955 SC 309** extracting paragraph Nos.8 and 12 of the said judgment. It is held therein that the result then is that whether sanction is necessary to prosecute a public servant and a charge of criminal misappropriation, will

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depend on whether the acts complained of hinge on his duties as a public servant. If they do, then sanction is requisite. But if they are unconnected with such duties, then no sanction is necessary.

15. Having considered the principles laid down in the judgment referred supra, even though this judgment is relied upon by the learned counsel for the petitioner, the discussion made in paragraph No.12 of the judgment in the case of **Amrik Singh** (supra) is very clear that if they are unconnected with such duties, then no sanction is necessary. In the case on hand, no doubt the petitioner is a Government doctor. The duty of the Government doctor is to take care of the health and also no doubt, he is a gazetted officer who can attest the documents. But without any documentary proof with regard to the address proof, the petitioner attested documents in respect of 14 foreign nationals. If it was in respect of one or two persons, then this Court would have accepted the submission made by the learned counsel for the petitioner. But here is a case of series of attestation without any proof. This Court had also directed to produce any such document of rental

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agreement is shown to him at the time of attestation. But no such documents are also collected during the course of investigation.

16. The learned counsel for the petitioner also relies upon the judgment of the Apex Court in the case of **D. DEVARAJA v. OWAIS SABEER HUSSAIN** passed in Criminal Appeal No.458/2020 dated 18.06.2020 and brought to the notice of this Court paragraph No.78 wherein an observation is made that at the cost of repetition it is reiterated that the records of the instant case clearly revealed that the complainant alleged a police excesses while the respondent was in custody, in the course of investigation in connection with Crime No.12/2012. The discussion is made with regard to the excesses of the police while investigating the matter and hence, protection under Section 197 of Cr.P.C. was given.

17. The learned counsel also relies upon the judgment of the Apex Court in the case of **RAVINDRANATHA BAJPE v. MANGALORE SPECIAL ECONOMIC ZONE LTD. AND OTHERS** passed in Criminal Appeal Nos.1047-1048/2021 dated 27.09.2021 and brought to the notice of this Court discussion

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made in paragraph No.8.3, wherein it is observed that as held by this Court in the case of **GHCL Employees Stock Option Trust v. India Infoline Limited** reported in **(2013) 4 SCC 505,** in the order issuing summons, the learned Magistrate has to record his satisfaction about a prima facie case against the accused who are Managing Director, the Company Secretary and the Directors of the Company and the role played by them in their respective capacities which is *sine qua non* for initiating criminal proceedings against them. The learned counsel also brought to the notice of this Court paragraph No.9 wherein an observation is made that from the order passed by the learned Magistrate issuing the process against the respondents herein - accused Nos.1 to 8, there does not appear that the learned Magistrate has recorded his satisfaction about a prima facie case against respondent Nos.2 to 5 and 7 and 8. The counsel referring this judgment would vehemently contend that when there is no any satisfaction by the Magistrate and mechanically passed an order of taking cognizance, this judgment will come to the aid of the petitioner.

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18. This Court has already taken note of the reasoning given by the Trial Court while taking the cognizance. The Trial Court perused the charge-sheet materials and even taken note of the ingredients of the offences which have been invoked and a reference is made in the order and hence, the contention of the learned counsel for the petitioner that there is no application of mind by the learned Magistrate while taking the cognizance and issuing the process, cannot be accepted. The material available on record is very clear that even signature of the petitioner is also collected and sent to the FSL and the same confirms that he only attested the documents. The learned counsel for the petitioner also not disputes the fact that he had attested the same. But in the absence of any documentary proof for his attestation, it is very clear that the prosecution requires against him and it is a matter of trial with regard to the grounds which have been urged by the learned counsel for the petitioner that he attested the documents based on the rental agreements and the same is not prima facie case before this Court. Even if such documents are available, the same can be made use of at the time of defence while cross-

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examining the witnesses. Hence, no ground is made out to quash the proceedings in respect of the petitioner/accused No.9 in Crl.P.No.5322/2021.

Point No.(ii):

19. In view of the discussions made above, I pass the following:

ORDER

(i) Crl.P.No.1681/23 is allowed and the proceedings initiated against the petitioner/accused No.24 in C.C.No.6990/2020 is quashed.

(ii) Crl.P.No.5322/2021 is dismissed.

The observations made by this Court while considering the scope of Section 482 of Cr.P.C. shall not influence the Trial Court while considering the matter on merits.

Sd/-
(H.P.SANDESH)
JUDGE

MD
List No.: 1 Sl No.: 11