HC-KAR
NC: 2026:KHC:59045
CRL.P No. 7531 of 2020
CNR: KAHC010386322020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF OCTOBER, 2026

BEFORE

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

CRIMINAL PETITION NO.7531 OF 2020

BETWEEN:

1. V.M. KUMARSWAMY,
S/O LATE P. VENKATAPPA,
AGED ABOUT 71 YEARS,
R/AT NO.668, 5TH CROSS,
2ND STAGE, 'A' BLOCK,
RHBS LAYOUT,
VISWANEEDAM POST,
BENGALURU-560091.

...PETITIONER

(BY SRI. M. SHASHIDHARA, ADVOCATE)

AND:

1. STATE OF KARNATAKA,
BY MADANAYAKANAHALLI P.S.,
REPRESENTED BY SPP,
HIGH COURT OF KARNATAKA,
BENGALURU-560001.

2. M.N. GANESH,
S/O LATE NARASIMHAIAH,
AGED ABOUT 65 YEARS,
R/AT NO.1, ARKAVATHI,
14TH MAIN, 17TH CROSS,
MALLESHWARAM WEST,
BENGALURU-560055.

...RESPONDENTS

(BY SRI. SUHAS GOWDA M., HCGP FOR R1)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE FIR IN CR.NO.384/2020 OF RESPONDENT MADANAYAKANAHALLI POLICE, REGISTERD ON THE BASIS OF THE PCR.NO.179/2020 FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 120B, 200, 404, 419, 420, 421, 423, 424, 426, 464, 467 AND 468 OF IPC, WHICH IS PENDING ON THE FILE OF THE ADDITIONAL CIVIL JUDGE AND JMFC, NELAMANAGALA.

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

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

ORAL ORDER

Heard the learned counsel for the petitioner.

2. The prayer sought in the petition is to quash the FIR in Crime No.384/2020 registered on the basis of PCR No.179/2020, for the offences punishable under Sections 120B, 200, 404, 419, 420, 421, 423, 424, 426, 464, 467 and 468 of IPC.

3. This Court had issued notice against respondent No.2/complainant and it was reported that respondent No.2 is no more and copy of the death certificate of respondent No.2 is placed on record stating that he expired on 03.05.2021. Taking note of the same, this Court vide order dated 28.09.2026, granted one week’s time to take necessary steps and ordered

to list the matter on 05.10.2026. On 05.10.2026, the learned counsel for the petitioner sought two days time to file necessary application and accordingly, two days time was granted and ordered to list the matter on 08.10.2026. On 08.10.2026, once again the learned counsel for the petitioner sought time to file necessary application and this Court granted time. When the matter is listed today and when the application is not filed to bring the LRs of respondent No.2 on record, the learned counsel for the petitioner would submit that no need to file any such application to bring the LRs of respondent No.2 on record and only this Court insisted to file such application and no provision in Cr.P.C. to file such application and the said submission is also made raising the voice.

4. The prayer sought in the petition is to quash the FIR. Having perused the complaint PCR No.179/2020, based on the PCR, the Trial Court passed an order referring the matter under Section 156(3) of Cr.P.C. But no such order of the Trial Court is placed before the Court while filing the petition. This Court referred in its order dated 09.06.2021 that the matter was referred under Section 156(3) of Cr.P.C. when the

submission was made before this Court while passing the order on I.A.No.1/2020. Accordingly, FIR has been registered as per Annexure-A and also proceedings is stayed for a period of six weeks by this Court.

5. Now the learned counsel for the petitioner produces the copy of the order sheet of the Trial Court after insisting the same, wherein it is observed that the allegation made out in the complaint requires investigation by the police. Hence, the matter was referred to SHO for investigation under Section 156(3) of Cr.P.C. Hence, it is clear that there is a pre-cognizance order invoking the jurisdiction under Section 156(3) of Cr.P.C. referring the matter to the police. Having perused the contents of the complaint, specific accusation is made against the petitioner herein and consequent upon referring the matter under Section 156(3) of Cr.P.C., the offences under Sections 200, 423, 404, 424, 120B, 421, 419, 426, 468, 467, 464 and 420 of IPC are invoked against the petitioner. Having perused these offences, some of the offences are cognizable offences. When the cognizable offences are invoked and specific accusation is made and when the complainant is no more as

reported before the Court, the learned counsel for the petitioner would submit that without arraigning the legal heirs of the complainant, the matter could be disposed of and there is no such provision in the Cr.P.C. and again reiterating the same inspite of this Court advised that the legal heirs of the complainant to be brought on record with raising voice and the submission is not the tenor of submissive.

6. Having considered the said submission and when the cognizable offences are invoked against the petitioner, this Court would like to rely upon the judgment of the Supreme Court in the case of **CHAND DEVI DAGA AND OTHERS v. MANJU K. HUMATANI AND OTHERS** reported in **(2018) 1 SCC 71**, wherein it is held that criminal complaint (relating to a warrant case) on death of complainant during proceedings, right of legal heirs of deceased complainant to continue to prosecution and particularly taken note of the similar set of facts and offences of Sections 420, 467, 468, 471, 120B, 201 read with Section 34 of IPC and this judgment is aptly applicable to the case on hand. But the learned counsel for the petitioner makes the submission again inspite of referring the

said judgment in the order that no need to bring the L.Rs. of respondent No.2 on record. In paragraph No.14, the Apex Court referred to the two Judge bench judgment in the case of **JIMMY JAHANGIR MADAN v. BOLLY CARIYAPPA HINDLEY** reported in **(2004) 12 SCC 509,** wherein it is held that the question as to whether the heirs of the complainant can be allowed to file an application under Section 302 of the Code to continue the prosecution is no longer res integra as the same has been concluded by a decision of this Court in **ASHWIN NANUBHAI VYAS v. STATE OF MAHARASHTRA**, reported in **AIR 1967 SC 983,** in which case the Court was dealing with a case under Section 495 of the Code of Criminal Procedure, 1898, which is corresponding to Section 302 of the Code. In that case, it was laid down that upon the death of the complainant, under the provisions of Section 495 of the said Code, mother of the complainant could be allowed to continue the prosecution. It was further laid down that she could make the application either herself or through a pleader. Undisputedly, in the present case, the heirs themselves have

not filed the applications to continue the prosecution, rather the same have been filed by their power of attorney holders.

7. Having considered the principles laid down in the judgments referred supra, it is very clear that in a case of warrant case, in the absence of legal heirs on the death of the complainant during the proceedings, right of legal heirs of the deceased complainant to continue prosecution. Hence, the very submission of the learned counsel for the petitioner cannot be accepted.

8. The judgment of the Apex Court in the case of **Ashwin Nanubhai Vyas** (supra) is clear that the said judgment was considered subsequently in the year 2018 by the Apex Court in the case of **Chand Devi Daga** (supra). The Apex Court in the case of **HARMAN SINGH v. THE STATE OF HIMACHAL PRADESH** reported in **(1973) 3 SCC 343** discussed with regard to abatement of criminal appeal on death of accused and discussed in a similar set of circumstances in case of death of accused.

9. When such being the case, even inspite of this Court granted three adjournments to make an application, the learned counsel for the petitioner would submit that no need to file such application, but submits in a raised voice that only this Court has insisted to bring the legal heirs of respondent No.2 on record and the learned counsel is not ready to even hear the advice of the Court and questioned the authority of this Court. The very conduct of the learned counsel for the petitioner is deprecated. When such being the submission made before this Court and when the learned counsel for the petitioner is not ready to make necessary application inspite of sufficient opportunity is given, the very submission of the learned counsel for the petitioner that the matter has to be considered on merits cannot be accepted. Without giving an opportunity to the legal heirs which has to be continued on account of death of the complainant, that cannot be done. Without arraigning the LRs. of the complainant, there cannot be any proceedings and hence, no ground is made out to consider the matter on merits and the learned counsel expressed the dissatisfaction before the Court in a rude manner.

10. Accordingly, the petition is dismissed.

11. Inspite of this Court passed a detailed order, the learned counsel for the petitioner still insists the Court not to pass such order. The very conduct of the learned counsel for the petitioner is deprecated and hence, it is a case for initiating the criminal contempt proceedings against the learned counsel for the petitioner in order to protect the respect of this institution and he cannot expect an order as he likes and duty of the advocate is to assist the Court and cannot insist the Court to pass an order in his favour. Hence, the Registrar General is directed to initiate the contempt proceedings against the learned counsel for the petitioner. The very conduct of the learned counsel for the petitioner is deprecated in making such submission and the learned counsel for the petitioner is not adhering to the principles laid down in the judgments referred supra and instead of behaved in a rude manner before this Court. Hence, initiate contempt proceedings suo motu against the learned counsel for the petitioner. The very conduct of the learned counsel for the petitioner is nothing but questioning the authority of this Court when this Court has passed an order

based on the judgments of the Supreme Court, which have been referred supra.

Sd/-
(H.P.SANDESH)
JUDGE

MD
List No.: 1 Sl No.: 12