

IN THE HIGH COURT OF KARNATAKA, BENGALURU

DATED THIS THE 1ST DAY OF SEPTEMBER, 2022

BEFORE

THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT

CRIMINAL PETITION NO.3163 OF 2021

C/W

CRIMINAL PETITION NO.4322 OF 2021

IN CRL.P.NO.3163/2021:

BETWEEN:

MR.VIJAYKUMAR,

...PETITIONER

(BY SRI. MALLE GOWDA H P, ADVOCATE)

AND:

1. THE STATE BY
LINGADAHALLI P S,
TARIKERE RURAL CIRCLE,
CHIKKAMAGALUR(DIST),
REP BY ITS PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BUILDING, BENGALURU – 560 001.

2. MR. VIVEK BIKARNA KATTE,

... RESPONDENTS

(BY SRI. K NAGESHWARAPPA, HCGP FOR R1;
SRI.S RAJASHEKAR, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C.,PRAYING TO QUASH THE FIR DATED 03.03.2020 IN CR NO.32/2020 PENDING BEFORE ADDITIONAL CIVIL JUDGE AND JMFC, TARIKERE, CHIKKAMAGALURU DISTRICT ALLEGING COMMISSION OF OFFENCE P/U/S 504,506,406 AND 420 R/W 34 OF IPC, THEREIN ANNEXURE-B AND ETC.,

IN CRL.P.NO.4322/2021:

BETWEEN:

1. ABUBEKAR,

2. ISMAIL,

...PETITIONERS

(BY SRI. MALLE GOWDA H P, ADVOCATE)

AND:

1. THE STATE BY
LINGADAHALLI P S,
TARIKERE RURAL CIRCLE,
CHIKKAMAGALUR(DIST),
REP BY ITS PUBLIC PROSECUTOR,

HIGH COURT OF KARNATAKA,
BUILDING, BENGALURU – 560 001.

2. MR. VIVEK BIKARNA KATTE,
C/O KATTE DEFENCE

... RESPONDENTS

(BY SRI. K NAGESHWARAPPA, HCGP FOR R1;
SRI.S RAJASHEKAR, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C.,PRAYING TO QUASH THE FIR DATED 03.03.2020 IN CR NO.32/2020 PENDING BEFORE ADDITIONAL CIVIL JUDGE AND JMFC, TARIKERE, CHIKKAMAGALURU DISTRICT ALLEGING COMMISSION OF OFFENCE P/U/S 504,506,406,420 R/W 34 OF IPC, THEREIN ANNEXURE-B AND ETC.,

THESE CRIMINAL PETITIONS COMING ON FOR ADMISSIONS THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

In W.P.No.3217/2021, petitioner seeks a direction to the jurisdictional police to undertake and accomplish investigation in respect of his F.I.R. No.32/2020 dated 03.03.2020. Learned counsel for the petitioner vehemently argues that an F.I.R. of the kind cannot be kept in a limbo indefinitely, especially in the light of Apex

Court decision in LALITHA KUMARI vs. STATE OF U.P.
(2014) 2 SCC 1.

2. Crl.P.No.3163/2021 and Crl.P.No.4322/2021 both filed u/s.482 of Cr.P.C. 1973, seek quashment of the criminal proceedings on the ground that there is no *prima facie* case to undertake investigation and that criminal law cannot be set in motion casually as held by the Apex Court in PEPSI FOODS LTD. Vs. SPECIAL JUDICIAL MAGISTRATE, 1998 SC 120. So contending learned counsel appearing for the petitioners seeks quashment of the said proceedings. This is opposed by the petitioner in the writ petition who has lodged the F.I.R., contending that criminal proceedings should not ordinarily be interfered with in writ jurisdiction.

3. Learned HCGP appearing for the respondent-police contends that the petitioners have already secured an advance bail against their apprehension and that the bail orders stipulate his co-operation in the investigation process. That being the position, petitioners have vainly

knocked at the doors of this court in inherent jurisdiction vested u/s.482. In support of his contention he banks upon a decision of the Apex Court in STATE OF HARYANA & OTHERS vs. CH. BHAJAN LAL & OTHERS, AIR 1992 SC 604.

4. I have heard the learned counsel for the parties and I have perused the petition papers. I have adverted to the ruling cited at the Bar.

(a) Quashment of criminal proceedings is a serious matter vide PEPSI FOODS *supra*. Similarly setting the criminal law in motion is also a serious matter vide CH. BHAJAN LAL *supra*. Court has to strike a golden balance between these two competing principles of criminal jurisprudence. A bare perusal of the F.I.R. in question brings about cognizable offences punishable under several sections of IPC. What one has to look at is the *prima facie* offence arising from the contents of the F.I.R., taken with face value. This court cannot weigh the evidentiary material justifying investigation, which

essentially belongs to the domain of Investigating Officer vide LALITHA KUMARI *supra*.

(b) The learned HCGP is more than justified in contending that an F.I.R. is a skeletal instrument that sets the criminal law in motion and that this court need not bother about the bone, blood & flesh of such an instrument, the same having been left to the wisdom of Investigating Agency. Therefore, this Court exercising a limited jurisdiction u/s.482 of Cr.P.C. cannot undertake a roving enquiry in the matter.

(c) Learned counsel appearing for the petitioner-complainant and learned HCGP appearing for the respondent-police are also justified in notifying to the court that petitioners have secured anticipatory bail orders at the hands of jurisdictional Sessions Judge wherein a condition is stipulated for the accused to co-operate in the investigation process. That being the position, petitioners cannot readily come before this Court seeking quashment of the criminal proceedings. It

is for the Investigating Agency to look into the matter and take a call as to its investigation worthiness.

(d) The above having been said, this Court hastens to add that the respondent police cannot keep the F.I.R. unacted upon for an indefinite period of time. It hardly needs to be stated that a decision as to investigation worthiness has to be taken at the earliest keeping in view the observations in LALITHA KUMARI *supra*. Delay, if any, brooked in such a decision making would facilitate vanishing away of the evidentiary material which would affect the administration of criminal justice, as rightly contended by learned counsel appearing for the complainant.

In the above circumstances, I make the following order:

(i) CrI.P.No. 3163/2021 and CrI.P.No.4322/2021 being devoid of merits are liable to be dismissed and accordingly they are.

(ii) W.P.No.3217/2021 having been favoured, a direction issues to the jurisdictional police to undertake & accomplish the investigation in Crime No.0032/2020 within an outer limit of four weeks and report compliance to the Registrar General of this court within next one week, failing which heavy costs may be imposed at the next level of litigation. All contentions are kept open.

**Sd/-
JUDGE**

Bsv