

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF MAY, 2022

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.12/2022 (GM – RES)

BETWEEN

SRIKANTIAH,

... PETITIONER

(BY SRI MURTHY D. NAIK, SENIOR ADVOCATE A/W
SRI TRIVIKRAM S., ADVOCATE)

AND

1. STATE BY ANTI CORRUPTION BUREAU,
POLICE STATION (ACB),
MADIKERI,
KODAGU DISTRICT – 571 201.
2. SRI B.M. NANDAKUMAR,

... RESPONDENTS

(BY SRI P.N. MANMOHAN, ADVOCATE FOR R1)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE FIR AND COMPLAINT IN CRIME NO.7/2021 FOUND AT ANNEXURES – A AND B FOR THE OFFENCE PUNISHABLE UNDER SECTION 7(a) OF THE PREVENTION OF CORRUPTION ACT AND PENDING ON THE FILE OF THE LEARNED DISTRICT AND SESSIONS COURT (SPECIAL COURT) KODAGU DISTRICT SITTING AT MADIKERI AND ETC.,

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY THE COURT MADE THE FOLLOWING:

ORDER

Heard Sri Murthy D Naik, learned Senior counsel appearing for the petitioner and Sri P N Manmohan, learned counsel representing respondent No.1.

2. The petitioner calls in question proceedings in Crime No.7/2021 registered for offence punishable under Section 7(a) of the Prevention of Corruption Act. Challenging the very same crime number and on the very same ground, petitioner was before this Court in Criminal Petition No.8215/2021, which came to be disposed on 03.12.2021, by the following order;

"Learned counsel for the petitioner seeks permission to withdraw this petition and liberty to challenge the charge sheet in case it is filed.

*Submission of the learned counsel for the petitioner is placed on record. **This petition is dismissed according liberty to the petitioner to challenge the charge sheet, if it is filed.***

3. The dismissal of the petition was reserving liberty to the petitioner to challenge the charge sheet, if it is filed. It is an admitted fact that even as on date the charge sheet is not filed. Therefore, the petitioner is bound by the order dated 03.12.2021, which has become final.

4. Learned Senior counsel taking this Court through the judgments of the Apex Court would contend that the second petition under Section 482 of Cr.P.C. would become maintainable. There can be no qualm at the enunciation of law by the Apex Court as to the maintainability of the second petition under Section 482 of Cr.P.C., but only in exceptional cases where there are changed circumstances. The changed circumstance as quoted in the aforesaid order is yet to arrive. The circumstance not yet arrived, the second petition for the same reason would not be

maintainable owing to peculiarity of the facts of the case. Therefore, the petition stands dismissed *albeit* reserving the very same liberty that the Court had earlier reserved in Criminal Petition No.8215/2021.

Sd/-
JUDGE

mv