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IN THE HIGH COURT KARNATAKA AT BANGALORE**Criminal Petition No. /2019***(Memorandum of Criminal Petition under Section 482 r/w. 407
of the Code of Criminal Procedure, 1973)***IN THE III ADDL. DISTRICT AND SESSIONS COURT****RAMANAGARA****S.C. 86 OF 2014****BETWEEN****RANK IN**

Complaint Petition

Sri. K Lenin
 @Nithya DharmaNanda
 Aged 44 years
 S/o. (Late) Sri L Karupannan
 R/o. Old. No. 94, Odaikadu
 Veppampoondi Village,
 Gengavalli Tk, Salem Dt,
 Tamil Nadu - 636101

First Petitioner
 Informant
 /complainant

AND

1. State of Karnataka
 by Superintendent of Police
 Special Enquiries, CID,
 Carlton House,
 No. 1, Palace Road,
 Bangalore - 560001

Prosecution Respondent
 no. 1

2. Swamy Nithyananda
 @ Rajashekar
 Nithyananda Dhyanapeeta,
 Kallugopahalli Village,
 Bidadi Hobli, Ramanagar District
 Karnataka - 562109

Accused Respondent
 no.1 no.2

3. Shiva Vallabhaneni @ Nithya
 Sachidananda
 Nithyananda Dhyanapeeta,
 Kallugopahalli Village,
 Bidadi Hobli, Ramanagar District
 Karnataka - 562109

Accused Respondent
 no.3 no.3

4. Dhanashekar @ Nithya Sadananda
 Nithyananda Dhyanapeeta,
 Kallugopahalli Village,
 Bidadi Hobli, Ramanagar District
 Karnataka - 562109

Accused Respondent
 no.4 no.4

5. Ragini @ Ma Nithya Sachidananda
 Nithyananda Dhyanapeeta,
 Kallugopahalli Village,
 Bidadi Hobli, Ramanagar District
 Karnataka - 562109

Accused Respondent
 no. 5 no.5

6. Jamuna Rani @ Ma Nithya Sadananda
 Nithyananda Dhyanapeeta,
 Kallugopahalli Village,
 Bidadi Hobli, Ramanagar District
 Karnataka - 562109

Accused Respondent
 no.6 no. 6

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MEMORANDUM OF PETITION UNDER SECTION 482
READ WITH 407 OF THE CODE OF CRIMINAL
PROCEDURE

The Petitioner humbly submits as follows:-

1. The address of the Petitioner for the purposes of service of notice etc. is as per the above-said cause title. The Petitioner may also be served through his Counsel Sri. Ashwin Vaish and Ravishankar R H, having office at No.44, Gurukrupa, II Floor, Seshadripuram College Road, Swasthik Circle, Bangalore- 560 020 .
2. The address of the Respondent/s for the said purpose is as per the above-said cause title.
3. The Petitioner is the first informant/complainant & as an interested party is aggrieved by the manner in which the trial is proceeding in S.C. No.86/2014 before the Court of III Additional District & Sessions Court, Ramanagara, leading to an apprehension that a fair trial cannot be had before the said court. The main grievance of the Petitioner is that vide order dated 18.09.19, the trial court recorded de novo the testimony of the Petitioner, despite extensive examination in chief on two earlier occasions.

FACTS OF THE CASE IN BRIEF

4. On 18.03.10, on Petitioner's complaint, Crime No.141/2010 is registered by Bidadi Police Station against the accused persons under section 376, 377, 420, 506, 120 B IPC. A true copy of the FIR dated 18.03.10 at Police



Station Bidadi under sections 295-A, 376, 377, 420, 506, 120-B IPC is annexed herewith as Annexure-'A'.

5. On 26.04.10 Petitioner gives statement to the police.
6. On 17.08.10 the victim of rape in the present case, gave her statement to the Investigating officer. In retaliation to the complaint filed and the statements given by the petitioner and the victim, the main accused filed a barrage of false cases both in India and abroad through his proxies in attempt to intimidate the Petitioner and the victim and to interfere with the due process of law. A chart of cases filed at the instance of accused no. 1, is annexed herewith as Annexure-'B'.
7. On 26.11.10 the police filed the charge-sheet bearing C.C. No. 204/2010 against the accused persons in Cr. No. 141/2010 & 142/2010.
8. On or around 04.12.2010 the court of learned Chief Judicial Magistrate, Ramanagar, in CC No. 204/2010 took cognizance of the offences mentioned in the charge-sheet against the accused persons. A copy of relevant pages of Charge sheet filed in CC No. 204/2010 pending on the file of Judicial Magistrate, Ramanagar, in is marked and produced as Annexure-'C'.
9. On 10.01.2011 some of the accused persons, including the Respondept no. 2 herein filed petition no. 234/11 challenging the order taking cognizance. In one such



petition no. 4090/11 preferred by accused nos. 4 & 5, Dhanashekaran & Ragini, Petitioner was arrayed as respondent no.2. On 16.07.14 all of the petitions filed by the accused persons came to be rejected vide order dated 16.07.14. On 30.07.14 the accused no.1 approached the Hon'ble Supreme Court of India and the Hon'ble Supreme Court was pleased to reject the petition of the accused no.1/respondent no. 2 vide judgment dated 03.09.2014.

10. On 10.09.14 the case was committed by the Magistrate to the Court of District & Sessions Judge, Ramanagara.

11. The accused persons preferred an application under section 91 of the Code and the same came to be rejected vide order dated 28.01.16.

12. On 21.07.16 the accused no. 2/Respondent no. 3 preferred a petition against the order of rejection and this Hon'ble Court allowed the petition. The Petitioner approached the Hon'ble Supreme Court against the said order and vide order dated 07.12.17 passed in Criminal Appeal No. 2114/2017, the order of the High Court dated 21.07.16 was set-aside.

13. On 19.02.18 the trial court was pleased to reject the application seeking discharge. The accused persons preferred Criminal petitions before this Hon'ble Court against the said order dated 19.02.18 and the same came to be rejected. SLP (Special Leave Petition) preferred against discharge was also rejected.



14. On 05.06.18 the Trial Court notices the conduct of the accused no.1, and framed charges against the accused.
15. On 16.07.18 the Trial Court appoints a translator as CW-1/PW-1 does not understand properly both the languages i.e. Kannada or English.
16. On 08.08.18 and 16.08.18 testimony of CW-1/PW-1 is duly recorded. Copy of the deposition/s of dated 08.08.2018 and 16.08.2018 are annexed herewith as **Annexure - 'D'**.
17. On 06.09.18 the trial court notices the conduct of the accused and issues NBW.
18. On 16.01.19 vide petition no. 6920/2018 the challenge to the order dated 06.09.18 is allowed.
19. On 16.01.19 this Hon'ble Court in Crl. Petition no. 6243/2019 sets aside order dated 16.07.18 and directed the trial court to first conduct an inquiry into the languages known to Petitioner and then appoint an independent translator.
20. Sessions vide order dated 07.03.19 appointed a new translator. Copy of order dated 07.03.2019 is annexed herewith as **Annexure- 'E'**.
21. On 29.07.19 the trial court notices the conduct of the accused no.1 and expects A-1 to appear on the next date. Copy of the order dated 29.07.19 is annexed herewith as **Annexure- 'F'**
22. On 21.08.19 the trial court records the conduct of parties.



23. On 18.09.19 the testimony of Petitioner is recorded afresh and he is numbered as PW-2. Copy of the testimony is annexed herewith as Annexure-'G'.
24. On 24.09.19 the Petitioner is absent as he is unwell.
25. 17.10.19 Petitioner issues a letter to the IO of the case, with medical. Copy of the letter is annexed herewith as Annexure-'H'.
26. On 21.10.19 Petitioner is absent for medical reasons and the trial court issues bailable warrants to secure his presence.
27. Aggrieved by the manner in which the trial court has proceeded with the trial, and having no other adequate, alternative remedy Copy of entire order sheet in S.C. 86/2014 is marked and produced as Annexure-'J' the Petitioner is compelled to approach this Hon'ble Court inter-alia on the following amongst other grounds:-

GROUND S

28. That the de novo evidence recorded on 18.09.19 is unsustainable in the eyes of law. The trial court clearly acted beyond its power to record afresh the testimony of the Petitioner, despite the Petitioner having been examined on two earlier occasions.
29. That the manner in which the trial court has excluded the evidence recorded on 08.08.18 & 16.08.18, creates an apprehension in the petitioner's mind of judicial bias on the part of the Learned Judge.
30. That during the course of recording evidence on 18.09.2019, the trial court virtually undertook de-novo recording of evidence of the petitioner. That when the



Petitioner, who was deposing in his vernacular i.e. Tamil, was stating facts which in turn were being translated by the new translator, the learned trial judge would intervene again and again and would not allow him to state facts which form part of the statement to the police and his original deposition in court.

31. That the Petitioner's apprehension of not receiving a fair trial is heightened, since the Respondent no. 2 having his ashram at Bidadi, is an extremely influential person in the Ramanagara District, which is evident from the fact that while his exemption is allowed on the ground of his alleged 'austerity'; the Petitioner's presence is sought to be secured by issuing warrants. That when the Petitioner failed to appear on 24.09.19 the trial court remarks that 'Complainant must produce medical certificate for absence on 24.09.19, and he should be present on 21.10.19, the next date of hearing, else warrant will be issued to take him into custody', which were conveyed to the Petitioner by the Investigating Officer. The Petitioner due to continuing health issues was unable to take up travel from his village in Tamil Nadu to the Trial Court which entails an 8-10 hours bus travel, and therefore sought further time through the Investigating Officer on 21.10.2019, to recover and continue his evidence. In support of his request the Petitioner had submitted a medical certificate from the local Government doctor, followed by another medical certificate from an Orthopedic doctor, both advising rest. The Trial Court rejected the medical certificates and issued



a Bailable Warrant against the petitioner to compel his attendance on the next date of hearing set for 18.11.2019. The Trial Court further warned that If Petitioner fails to appear on 18.11.2019, NBW will be issued and Petitioner will be taken into custody to compel his appearance. The present Presiding Officer of the Trial Court has granted exemptions to accused no. 1 for atleast seven hearings even after noticing the conduct of the accused and even after noting that no satisfactory materials were produced to justify the absence of Accused no. 1. However, on the very second date of non-appearance of the Petitioner, and that too when supported by medical certificates, the present Presiding Officer rejected the same and issued Warrant against the Petitioner. It is reliably learnt by the Petitioner that the Accused no. 1 has run away from India in 2018 itself to escape the trial and is presently hiding in the country of Ecuador with an expired Indian passport and is traveling using a fake passport. However, Accused no. 1 has been making false representations to the Trial Court that he is observing austerities in North India and seeking exemptions for the last 41 hearings in the Trial Court.

32. That despite the ill-health of the Petitioner, his presence was demanded by counsel for accused, in a cross-case filed by one of the accused no. 1's devotees, in the same district. While the accused no. 1 continues to enjoy exemptions, the Petitioner was compelled to appear and eventually discharged in the cross-case.



33. That even the Petitioner's and other witnesses' safety is at stake while visiting Ramanagar for the Trial, as can be seen from the chart of cases filed by or on behalf of the accused no.1. On one occasion i.e. on 30.12.2010 when the Petitioner was scheduled to visit the said court premises, he was sought to be implicated in a sexual harassment complaint by one A. Pushpa alias Ma Nithya Supriyananda. However, unknown to the accused persons that very day the Petitioner could not undertake the journey from Tamil Nadu and was therefore able to establish an alibi before the police. In another instance, some persons from the ashram of accused no. 1 were making a video of the rape victim and the said fact was reported and led to registering Crime No. 134/2018 by Ijoor P.S. and the filing of a report on 17.08.19 in CC No. 919/2019 against accused S. Sachin, who is a follower of Accused no. 1.

34. That without prejudice to the above, unless the trial is transferred to another sessions division, possibility of irreparable prejudice to the cause of justice is imminent.

35. The Petitioner has not filed any other Petition, case or proceedings on the same cause of action, except as stated hereinabove.

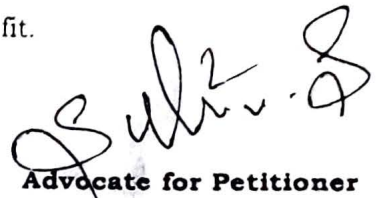
PRAYER

Wherefore, for reasons aforesaid the Petitioner prays that this Hon'ble Court may be pleased to:-



- A. Call for the trial court record in SC No. 86/2014 pending before the Court of III Additional District & Sessions Court, Ramanagara & set aside the evidence ^{produced as Annexure - G & H} recorded on 18.09.2019; and
- B. Direct the trial proceedings to be continued thereafter by recording further evidence/examination-in-chief in continuation of evidence recorded on 08.08.2018 & 16.08.2018 in SC No. 86/2014 pending before the Court of III Additional District & Sessions Court, Ramanagara, ^{Produced as Annexure - D & E} after transfer of the Trial proceedings to the Sessions Court in Bangalore; and/or
- C. Pass any other order in the interest of justice as this Hon'ble Court may deem fit.

Bangalore
Date: 09.11.2019


Advocate for Petitioner