



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF APRIL, 2025

BEFORE

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

CRIMINAL PETITION NO. 50 OF 2024

BETWEEN:

SHRI R AMARNATH,
S/O SHRI KRISHNA SHARMA,
AGED ABOUT 49 YEARS,
M/S DILIP BUILDCON PVT LTD., COMPANY
VENKATADRI COLONY BADANGPET,
RANGAREDDY, TELANGANA - 500 058,
ALSO AT DHARANI RESIDENCY
BADANGPET HYDERABAD,
HYDERABAD CITY, ANDHRA PRADESH-560058.

...PETITIONER

(BY SRI ROHAN KOTHARI, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
BY CHALLAKERE POLICE STATION,
REPRESENTED BY THE
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BANGALORE - 560 001.
2. SHRI C KARIBASAPPA,
ASSISTANT PROFESSOR,
GOVERNMENT FIRST GRADE COLLEGE,
CHALLAKERE-577522.

...RESPONDENTS

(BY SRI M V ANOOP KUMAR, HCGP FOR R1)

THIS CRL.P IS FILED U/S 482 CR.PC BY THE SPP AND CR.PC
BY THE ADVOCATE FOR THE PETITIONER FOR STATE PRAYING
THAT THIS HONOURABLE COURT MAY BE PLEASED TO QUASH
THE ENTIRE PROCEEDINGS IN C.C.NO.976/2019 ON THE FILE OF
THE PRL.CIVIL JUDGE AND J.M.F.C CHALLAKERE IN SO FAR AS IT
RELATES TO THE PETITIONER WHO IS ACCUSED IN THE SAID





PROCEEDINGS FOR THE COMMISSION OF OFFENCE ALLEGED UNDER SEC.98 OF KARNATAKA POLICE ACT.

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

CORAM: HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

ORAL ORDER

1. The petitioner/accused is sought to be prosecuted for offences punishable under Section 98 of the Karnataka Police Act, 1963 (hereinafter referred to as the 'Act'). The petitioner has approached this Court seeking appropriate relief.

2. The prosecution alleges that during the Lok Sabha Elections 2019, on 02.04.2019 at approximately 2:00 PM, the complainant, along with the staff while on duty, intercepted the petitioner's vehicle at a check post. Upon inspection, it was discovered that the petitioner was in possession of a sum of Rs.8,38,250/- without any valid documents to substantiate its lawful possession.

3. I have heard the arguments presented by the learned counsel for the petitioner as well as the learned High Court Government Pleader (HCGP) representing the respondent State.

4. It is pertinent to note that the offence punishable under Section 98 of the Act is a non-cognizable offence. As per the provisions of Section 155(2) of the



Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.'), when the police seek to investigate a non-cognizable offence, it is mandatory for them to obtain prior permission from a Magistrate before initiating any investigation.

5. However, in the present case, the investigation was conducted by the police without obtaining the requisite order under Section 155(2) of Cr.P.C. This non-compliance with the statutory requirement renders the investigation as well as the consequent cognizance of the alleged offences legally untenable and vitiated.

6. Section 98 of the Act provides states that "Whoever is found in possession of, conveys in any manner, or offers for sale or pawn, anything which there is reason to believe is stolen property or property fraudulently obtained, shall, if he fails to satisfactorily account for such possession or act to the satisfaction of the Magistrate, be punished with imprisonment upon conviction."

7. In the present case, the materials on record, including the charge sheet, do not indicate that the complainant had any reasonable belief or suspicion that the cash found in possession of the petitioner was stolen property or was fraudulently obtained.



8. The mere possession of a large amount of cash without valid documents does not, by itself, constitute an offence under Section 98 of the Act. To establish an offence under this provision, it must be demonstrated that the property in question is either stolen or fraudulently obtained.

9. In the absence of any such allegation or reasonable suspicion on record, the essential ingredients required to establish the commission of an offence under Section 98 of the Act are conspicuously absent. Therefore, allowing the proceedings to continue would amount to an abuse of the process of law.

10. For the reasons stated above, the petition is allowed. The impugned proceedings in C.C. No. 976/2019 pending before the Principal Civil Judge and JMFC, Challakere, are hereby quashed.

Sd/-
(HEMANT CHANDANGOUDAR)
JUDGE