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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF JANUARY, 2021

BEFORE

THE HON'BLE MR.JUSTICE B.A.PATIL

CRIMINAL REVISION PETITION NO.34/2018

C/W.

CRIMINAL REVISION PETITION NO.1237/2016

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IN CRIMINAL REVISION PETITION NO.34/2018:

BETWEEN :

Dr.M.G.Gopal
Principal & Dean of KIMS
S/o late M.G.Govindaiah
Aged about 63 years
No.3793, 13th Cross
Banashankari 2nd Stage,
Bengaluru-560 070.

... Petitioner

(By Sri Shankarappa, Advocate)

AND :

1. State by Central Police,
CCB (F and M Division),
Chamrajpet,
Bengaluru-560 001.
2. K.R.Choudary
S/o late Sri Kajala Ganji Naidu
Aged about 56 years
'Samskruthi' No.21A,

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37th 'A' Cross, 8th Block,
Jayanagar, Bengaluru-560 082.

... Respondents

(By Sri V.M.Sheelvant, SPP-I for R1;
Sri S.Subramanya, Advocate for R2)

This Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.P.C praying to set aside the order dated 07.12.2017 passed by the IV Additional Chief Metropolitan Magistrate, Bengaluru, in C.C.No.13525/2016 and discharge the petitioner from the alleged offences and call for the records of the trial Court and pass appropriate orders.

IN CRIMINAL REVISION PETITION NO.1237/2016:

BETWEEN :

1. Dr. Appaji Gowda M.S.,
Aged about 60 years
President
Rajya Vakkaligara Sangha
No.1132, Prestige South Ridge
Sy.No.25, Hosakerehalli
Banashankari 3rd Stage,
Bengaluru-560 085.
2. Dr.Nisarga, M.D., DCH., FIAP
Aged about 64 years
Chairman, Governing Council
Kempegowda Institute of Medical Sciences
No.121/8, T.Mariyappa Layout
1st Block, Jayanagar
Bengaluru-560 011.

... Petitioners

(By Sri C.V.Nagesh, Senior Counsel for
Sri Raghavendra K., Advocate,)

AND :

1. State of Karnataka
By the Station House Officer
Central Police Station
Bengaluru.
2. The Police Inspector
F & M Squad,
Central Crime Branch, N.T.Pet
Bengaluru-560 002.
3. K.R.Choudary
S/o late Sri Kajala Ganji Naidu
Aged about 53 years
R/at 'Samskruthi' No.21A,
37th 'A' Cross, 8th Block,
Jayanagar, Bengaluru-560 082.

(Amended vide Court Order dated 15.12.2016)

... Respondents

(By Sri V.M.Sheelvant, SPP-I for R1 to R2;
Sri S.Subramanya, Advocate for R3)

This Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.P.C praying to set aside the order dated 01.06.2016 passed in C.C.No.13525/2016 on the file of IV ACMM Bengaluru, directing the registration of a case against the petitioners for offences which are made penal under Sections 406, 477, 420, 120B, 114 r/w Section 34 of IPC and ordering process against them for their appearance in the case before the court and further be pleased to quash the proceedings that are being recorded in the case.

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These Criminal Revision Petitions are having been heard and reserved on 12.01.2021 coming on for 'pronouncement of order' this day through '**video conference**' the Court made the following:-

ORDER

Criminal Revision Petition No.34/2018 is filed by accused No.3 challenging the order dated 7.12.2017 passed in CC.No.13525/2016, whereas Criminal Revision Petition No.1237/2016 is filed by accused Nos.1 and 4 to set aside the order dated 1.6.2016 passed in very CC.No.13525/2016, on the file of IV Additional CMM Court, Bengaluru, for the offences punishable under 406, 477, 420, 120B, 114 r/w. Section 34 of IPC.

2. I have heard Sri Shankarappa, learned counsel for accused No.3-petitioner in Criminal Revision Petition No.34/2018; Sri C.V.Nagesh, learned Senior Counsel for accused Nos.1 and 4-petitioners in Criminal Revision Petition No.1237/2016; Sri V.M.Sheelvant, learned SPP-I for respondent-State; and Sri S.Subramanya, learned

counsel for the complainant-respondent No.2 in Criminal Revision Petition No.34/2018 and respondent No.3 in Criminal Revision Petition No.1237/2016.

3. The gist of the case as averred in the complaint is that Kempegowda Institute of Medical Sciences ('KIMS' for short) is one among several other educational institutions run by *Rajya Vakkaligara Sangha*. For the academic year 2014-15, in respect of allotment of medical seats, though under the management quota there was scope for admission, accused No.1 by misusing his power, got admitted six medical students by directing accused No.3, though accused No.3 intimated him that it is not possible for him to do the same. He got admitted the said students on 31.5.2014 by taking an amount of Rs.30 Lakhs. Subsequently, on 3.6.2014, an amount Rs.17 Lakhs was paid for getting the son of the complainant admitted to the first Year MBBS Course. For the purpose of recommendation from accused No.2-the

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Director of *Vakkalagira Sangha*, a reference letter has been given. One reference letter has been given by accused No.2 to get seat under management quota and Rs.65 Lakhs has been collected for development charges; Rs.10,000/- for hostel charges; Rs.5,000/- as donation; and Rs.5,000/- has been collected for Krishnappa Rangamma Educational Trust. It is further alleged that on 16.8.2014 an amount of Rs.3,72,000/- has been taken as the fees, Rs.1,00,000/- has been taken towards Teachers' Gratuity Fund donation; Rs.7,150/- for Students' Welfare Association; and Rs.13,900/- for graduation charges. Subsequently, instead of admission of the son of the complainant, they got admitted the niece of accused No.5. and thereby they have committed an offence of breach of trust, cheating and other offences.

4. It is the submission of Sri Shankarappa, learned counsel for accused No.3 (petitioner in

CrI.RP.No.34/2018) that whatever the instructions which have been given by the management, accused No.3 has carried the same. He is not at fault at any time and he has not committed any offence as alleged with the *mala fide* intention. It is his further submission that police assured accused No.3 to become approver and make him as a witness. Without arresting him, the police brought him before the learned Magistrate on 10.11.2014 and his statement has been recorded under Section 164(5) of Code of Criminal Procedure ('Code' for short). It is his further submission that in spite of the assurance, petitioner-accused No.3 has been arrayed as accused No.3. It is his further submission that accused No.3 has not played any role while giving admission to the students beyond Rules. He has only carried out the instructions given by the management, being an employee of the said institution. It is his further submission that no independent power has been entrusted to him in this behalf. It is his further

submission that subsequently the son of the complainant has got admitted in the said institution by virtue of the order passed in WP.No.49585/2014 & connected matters, disposed of on 8.7.2015 and as such the present complaint is not sustainable in law. It is his further submission that the trial Court without looking into the factual matrix of the case has erroneously dismissed the application filed for discharge under Section 239 of the Code. It is his further submission that whatever the arguments advanced by Sri C.V.Nagesh, learned Senior Counsel appearing for accused Nos.1 and 4 are going to be adopted by him.

5. It is the submission of the learned Senior Counsel that Court is going to take cognizance under Section 190 of the Code upon receiving a complaint which refers to private complaint. Sub-clause(b) of Section 190 of the Code gives Magistrate to take cognizance of an offence upon a police report of such act.

It is his further submission that the police report has been defined under Section 2(r) of the Code. As per the said Section, police report means a report forwarded by a police officer to a Magistrate under sub-section (2) of Section 173 of the Code. As per Section 173(2) of the Code, it is the officer-in-charge of the police station who shall forward the report to the Magistrate empowered to take the cognizance and as such, admittedly the present case has been filed with a final report by CCB which has not been declared as a police station as contemplated under Section 2(s) of the Code. When the CCB Inspector is not in-charge of the police station, he is not competent to file the report. It is his further submission that CCB being a specialized Investigating Agency can investigate into a particular crime which is referred to it either by judicial order of the Court or by an administrative order. It is his further submission that this Court in the case of ***Rakesh Shetty Vs. State of Karnataka & others*** in ***WP.No.11169/2020***, disposed of on ***5.11.2020*** has

held that CCB not being a police station, neither a person in-charge of CCB nor an officer forming part of CCB can register any complaint. In that light, there is no report filed by the Investigating Officer in-charge of the police station and cognizance taken by the learned Magistrate by order dated 1.6.2016 is not sustainable in law. It is his further submission that the question of interpretation of Section 173 (2) of the Code came before the Hon'ble Apex Court in the case of ***State of Bihar and another Vs. Lalu Singh***, reported **(2014) 4 SCC 663** and therefore under Section 35 of the Code CCB is not the Officer in-charge of the police station for the purpose of submitting the report contemplated under Section 173(2) of the Code. As such, the cognizance taken without there being any proper report by the in-charge Officer is not sustainable in law. It is his further submission that the interpretation of Section 173 of the Code is no more *res integra* and it is the Officer in-charge of the police

station shall forward the report to the Magistrate empowered to take cognizance.

6. It is the second contention of the learned Senior Counsel that while passing the impugned order dated 1.6.2016 the learned Magistrate has not applied his mind while taking cognizance. It is his further submission that in order to issue notice under Section 204(2) of the Code, the learned Magistrate has to satisfy himself that there exists *prima facie* case and there must be sufficient grounds made out by the complainant. While issuing the summons and taking the cognizance the learned Magistrate has to verify the complaint, the statement of the witnesses and thereafter he shall issue process as against the accused. It is his further submission that an opinion has to be formed after due application of mind that there is some basis for proceeding against the accused. But in the instant case, no such material is available. In order to substantiate his contention, he has

relied upon the decision of the Hon'ble Apex Court in the case of ***Sunil Bharti Mittal Vs. Central Bureau of Investigation***, reported in **(2015)4 SCC 609**.

7. It is the third contention of the learned Senior Counsel that earlier the Medical Council has given consent for intake capacity of the medical students up to 150 candidates and the son of the complainant was admitted under the management quota and earlier to the admission of the son of the complainant, Ms.Lekhashree R has been got admitted and a letter has been addressed to Medical Council of India in this behalf. Subsequently a clarification has also been given on 21.10.2014 to show that the name of the son of the complainant was included in the list of 150 candidates, uploaded on 30.9.2014 and the same has been uploaded to MCI Online and thereafter deleted the name of the son of the complainant without there being any fault on the part of the management. It is his further submission

that the petitioners-accused have done the best of their work and there is nothing to show that there was any entrustment of amount by the complainant. Though there is no any such offence constituted under Section 406 IPC, the trial Court has taken cognizance. On these grounds, he prayed to allow the petition filed by accused Nos.1 and 4.

8. *Per contra*, it is the submission of the learned SPP-I that the officers are the police officers in CCB police station have been authorized to investigate and they step into the shoes of the Station House Officers and as such the contention of the petitioners-accused is not sustainable in law. It is his further submission that as per Section 156(2) of the Code, no proceedings of the police officer shall be challenged on the ground that the officer was not empowered for the purpose of investigation. It is his further submission that the order of the trial Court shows that there is application of mind of the learned Magistrate though he has not referred to

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with the statement of the witnesses. There is no illegality or irregularity in taking the decision. It is his further submission that the CBI officers are exercising the powers of the superior officers and they are having local area jurisdiction and they can exercise the power. CCB police is the specially constituted branch for investigation, they are superior in rank and as such they can investigate the case and file a final report before the Court. On these grounds, he prayed to dismiss both the petitions.

9. It is the submission of the learned counsel for respondent-complainant that CCB is attached to Central police station and the FIR filed indicates that it is Central Police who has filed the charge sheet. It is his further submission that under Section 2(s) of the Code, any post or a place declared by the State Government has to be considered as a police station and as per Section 2(o) of the Code, in the absence of any Station House Officer,

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the police officer present at the Station House next in rank will be officer in-charge of the police station. It is his further submission that the person who investigates the complaint is also competent to file the report under Section 173(2) of the Code. It is his further submission that the CCB police are authorized to file the report and as such the Investigating Agency's report filed before the Court is valid though not constituted as police station under the Code. It is his further submission that the Magistrate if peruses the statement of the witnesses and passes the order, it is subject to satisfaction of the Magistrate and the same cannot be held that he has not applied his mind. It is his further submission that the entire material produced before the Magistrate has been considered and the petitioners-accused taking unjust advantage of the situation, have taken the money from the complainant by conceding the merits. As per Police Manual there is a breach of trust and the Investigating Officer has also clearly stated that there was entrustment

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and the same has been misutilized. It is his further submission that the complainant has filed a writ petition before this Court and this Court has clearly observed that the said order will not come in the way to initiate appropriate criminal and civil proceedings against two Directors of the *Sangha* and the same has not been challenged. It is his further submission that the petitioners-accused got admitted Ms.Lekhashree and the son of the complainant in excess of the admission capacity and the said fact has also been admitted in the said writ petition. It is his further submission that the amount has been taken for sponsorship, development funds and the said fact has also been disputed much by the accused. It is his further submission that it is accused No.3 who has reduced to 20% of the seats at the instructions of accused Nos.1 and 4 and in that light there is sufficient material to hold that the petitioners-accused have involved in the alleged crime. It is his further submission that the CCB conducted the

investigation and admittedly submitted the report in terms of Section 173 of the Code and CCB Officer can exercise the power of an officer in-charge of the police station and he is competent to submit the report. In order to substantiate the said contention, he has relied upon a decision of Calcutta High Court in case of **Chittaranjan Das Vs. State of West Bengal & others**, reported in **AIR 1963 Calcutta 191**; and the decision of the Hon'ble Apex Court **State of Bihar and another Vs. Lalu Singh** (cited *supra*). On these grounds, he prayed to dismiss the petitions.

10. I have carefully and cautiously gone through the submissions made on both sides and perused the records.

11. In so far as the factual matrix of the case is concerned in between the petitioners-accused and the respondent-complainant, there is no dispute. Even the payment of amount by the complainant to get admitted

to his son to MBBS Course is also not in dispute. Whatever the transactions taken place in between Rajiv Gandhi University of Health Sciences and KIMS are also not disputed much. It is also not in dispute that the complainant has filed a writ petition in WP.No.49585/2014 before this Court along with other writ petitions and subsequently the son of the complainant has been admitted to MBBS Course by giving the relief and he has completed the said Course is also not in dispute.

12. The first contention which has been taken up by the learned Senior Counsel is that the learned Magistrate while taking cognizance under Section 190(1) of the Code has to rely upon the report submitted by the Officer in-charge of the police station. For the purpose brevity, I quote Section 190 of the Code, which reads as under:-

"190. Cognizance of offences by Magistrates.- (1) Subject to the provisions of

this Chapter, any Magistrate of the first class, and any Magistrate of the second class specially empowered in this behalf under sub-section (2), may take cognizance of any offence –

- (a) upon receiving a complaint of facts which constitutes such offence;*
- (b) upon a police report of such facts;*
- (c) upon information received from any person other than a police officer, or upon his own knowledge, that such offence has been committed."*

13. What constitutes a police report has been defined in Section 2(r) of the Code, which reads as under:-

"2(r): *'police report' means a report forwarded by a police officer to a Magistrate under sub-section (2) of section 173."*

14. What constitutes a police station has been defined in Section 2(s) of the Code, which reads as under:-

"2(2): *"police station" means any post or place declared generally or specially by the State Government, to be a police station, and includes any local area specified by the State Government in this behalf."*

15. As per Section 2(o) of the Code, "officer in charge of a police station" includes, when the officer in charge of the police station is absent from the station-house or unable from illness or other cause to perform his duties, the police officer present at the station-house who is next in rank to such officer and is above the rank of constable or, when the State Government so directs, any other police officer so present."

16. On going through the scheme of the Code, Section 173(2) of the Code contemplates submission of report of investigation. From plain reading of the said provision it is evident that it is the officer in-charge of a police station who is authorized to forward and submit

the report in the prescribed form to the jurisdictional Magistrate to take cognizance. The words used in Section 173(2) are "shall forward" which themselves give the meaning that it is the officer in-charge of the police station to file the final report. Though it is contended by the learned SPP-I that under Section 36 of the Code, the superior officer of the police station may exercise the same powers, as could be seen from the said Section, it is the police officers superior in rank to an officer-in-charge of the police station have been conferred with such power as that of the officer in-charge of the police station. But in the case on hand, CCB police are not the officers superior in rank to an officer in-charge of the police station in the local jurisdiction. In that light, the contention which has been taken up by the learned SPP-I is not acceptable. It is even not much denied that the CCB is not a police station by itself and this proposition of law has also been laid down by a coordinate Bench of this Court in the case of ***Rakesh Shetty Vs. State of***

Karnataka & others (quoted *supra*) wherein at paragraphs-11.8 and 11.9, it has been observed as under:-

"11.8. The above contentions would indicate that admittedly CCB is not a police station. Therefore, CCB by itself cannot register and investigate into any matter since there is an embargo on such registration of a complaint such power is conferred only on a person-in-charge of a police station. As such, CCB not being a police station neither a person-in-charge of the CCB nor an officer forming part of CCB can register any complaint.

11.9. In the present matter no complaint has been registered by the CCB police."

17. When CCB is not a police station then admittedly the final report filed by CCB which is an Investigating Agency is not in contemplation with the provisions of Section 173(2) of the Code. It is now no

more *res integra*. It has been held by the Hon'ble Apex Court in the case of **State of Bihar and another Vs. Lalu Singh** (cited *supra*), at paragraphs-8, 9 and 10 and 11 as under:-

"8. *Section 36 of the Code deals with the power of superior officers of police with reference to the officer in charge of a police station, same reads as follows:*

"36.Powers of superior officers of police.—*Police officers superior in rank to an officer in charge of a police station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station."*

9. *Therefore, under the scheme of the Code the power to submit report in terms of Section 173(2) of the Code is with the officer in charge of the police station. Further, in view of Section 36 of the Code, police officers superior in rank to an officer in charge of the police station throughout the local area have been conferred with the authority to*

exercise the same power as that of officer in charge of police station.

10. *In the present case, the investigation has been conducted by the Inspector of CID and he had submitted the report under Section 173(2) of the Code. Therefore, the question is as to whether the Inspector of CID can be treated in law as the officer in charge of the police station for the purpose of submitting the report contemplated under Section 173(2) of the Code.*

11. *The State Government, in exercise of the powers under Sections 7 and 12 of the Police Act, 1861, has framed the Bihar Police Manual. Chapter 15 thereof deals with the constitution and functions of the Criminal Investigation Department. Rule 431, with which we are concerned in the present appeal, reads as follows:*

"431.(a) *Sub-Inspectors of the department deputed to districts have not the powers of an officer in charge of a police station nor of the subordinate of such an officer, unless they are posted to a police station for the purpose of exercising such powers. It follows that unless*

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so posted they have not the powers of investigation conferred by Chapter XII CrPC and their functions are confined to supervising or advising the local officers concerned. If for any reason it be deemed advisable that a Sub-Inspector of the department should conduct an investigation in person, the orders of the Inspector General shall be taken to post him to a district where he shall be appointed by the Superintendent to the police station concerned. Such a necessity will not arise in case of Inspectors of CID as given in sub-rule (b) below.

Sub-Inspectors of the department shall not be employed to conduct investigations in person unless such orders have been obtained.

(b) *Under Section 36 CrPC Inspectors and superior officers of CID are superior in rank to an officer in charge of a police station and as such may exercise the same powers throughout the State as may be exercised by an officer in charge of a police station within the limits of his station."*

Rule 431(b) makes the Inspectors and superior officers of CID superior in rank to an officer in charge of a police station and they have been conferred with the same powers as may be exercised by an officer in charge of a police station. This Rule, therefore, envisages that an Inspector of CID can exercise the power of an officer in charge of a police station."

18. On going through the said decision of the Hon'ble Apex Court, the CID or superior in rank of the police officer in-charge of the police station have been conferred power under Bihar Manual, as per Rule 431(b) only because of the reason that the State Government in exercise of the powers under Sections 7 and 12 of the Police Act, 1861, has framed the Bihar Police Manual and Rule 431 of the said Rules has authorized to exercise the said powers and in that light it has been held that the CID or superior in rank of the in-charge of the police Station. But in the instant case, it is fairly conceded by the respondents that no such authorization has been

given by the State to declare CCB as a police station. As per Section 2(s) of the Code the State Government has to declare either generally or specially any post or place to be a police station, but no such declaration is forthcoming before this Court. In that light, admittedly the investigation has been done by the CCB and it is he who had submitted the report in terms of Section 173 of the Code and in view of the discussion made by me above, he cannot be considered to be an officer-in-charge. In that light, the trial Court ought not to have taken cognizance on the report submitted by the CCB. In that light, I am of the considered opinion that there is some substance in the contention taken up by the learned Senior Counsel appearing for accused Nos.1 and 4.

19. The second contention taken up by the learned Senior Counsel is that the learned Magistrate has not applied his mind while taking cognizance. It is his

submission that the learned Magistrate has to specifically state that there are sufficient grounds to proceed against the accused. In that light he has relied upon the decision in the case of **Sunil Bharti Mittal Vs. Central Bureau of Investigation** (cited *supra*) wherein at paragraphs-51 and 53, it has been observed as under:-

"51. On the other hand, Section 204 of the Code deals with the issue of process, if in the opinion of the Magistrate taking cognizance of an offence, there is sufficient ground for proceeding. This section relates to commencement of a criminal proceeding. If the Magistrate taking cognizance of a case (it may be the Magistrate receiving the complaint or to whom it has been transferred under Section 192), upon a consideration of the materials before him (i.e. the complaint, examination of the complainant and his witnesses, if present, or report of inquiry, if any), thinks that there is a prima facie case for proceeding in respect of an offence, he shall issue process against the accused."

"53. *However, the words "sufficient ground for proceeding" appearing in Section 204 are of immense importance. It is these words which amply suggest that an opinion is to be formed only after due application of mind that there is sufficient basis for proceeding against the said accused and formation of such an opinion is to be stated in the order itself. The order is liable to be set aside if no reason is given therein while coming to the conclusion that there is prima facie case against the accused, though the order need not contain detailed reasons. A fortiori, the order would be bad in law if the reason given turns out to be ex facie incorrect."*

20. The order dated 1.6.2016 passed by the learned Magistrate reads as under:-

"The Charge sheet submitted by PI, CCB F & M, N.T.Pete against accused No.1 to 5 in Crime No.161/2014 (Central PS) for the offences punishable U/s.406, 477, 420, 120(B), 114 r/w. 34 IPC. The original FIR and complaint enclosed. Charge sheet and connected papers checked. Accused No.1, 2,

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4 & 5 are on anticipatory bail. Accused No.3 is not arrested. Two sets of Charge sheet copies furnished. For Orders.

ORDER

Perused the statement of the witnesses and materials on record. Cognizance is taken for the offences punishable U/s.406, 477, 420, 120(B), 114 r/w.34 IPC. Register the criminal case against accused. Issue SS to accused No.1 to 5. Returnable by 26.10.2016."

21. Though the learned Magistrate has observed that he has perused the statement of the witnesses and material on record, but as discussed above, while taking cognizance if he has not kept in view the provisions of Sections 190(1) and 173(2) of the Code whether the CCB is having any authority to file the report or not, that itself shows that he has not applied his mind properly to the proposition of law and factual matrix of the case on hand. Though the learned counsel for the respondent-

complainant by bringing notice of this Court to the order passed by a coordinate Bench of this Court in writ proceedings contending that some facts are admitted and the present petitions are not maintainable, the contentions taken up by the learned Senior Counsel are purely question of law and as such this Court can interfere with the order passed by the trial Court. In that light, I am of the considered opinion that the order passed by the trial Court is not in accordance with law. It is also the contention of the learned counsel for accused No.3 that accused No.3 is not at all concerned with the alleged offence. But when the cognizance taken itself is not in accordance with law as discussed above, the order dated 1.6.2016 passed by the learned Magistrate is required to be interfered with.

22. In Criminal Revision Petition No.34/2018, while passing the order dated 7.12.2017 dismissing the application for discharge under Section 239 of the Code,

the trial Court has not kept in to view the above said aspects.

23. Be that as it may, it is well settled proposition of law that on perusal of the charge sheet material, if no case has been made out so as to frame the charge, then the Court has to discharge the accused. When the final report is filed without there being any authority, it is not a final report under Section 173(2) of the Code and the Court cannot take cognizance under Section 190(1) of the Code. In that light, the order dated 7.12.2017 is also liable to be set aside.

24. Taking into consideration the aforesaid discussion, I am of the considered opinion that the petitioners-accused Nos.1, 3 and 4 have made out a case so as to allow the petitions and to set aside the impugned orders dated 7.12.2017 and 1.6.2016. In that light, the petitions are liable to be allowed.

Accordingly, I pass the following order:-

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Both the petitions are **allowed**. The impugned orders dated 7.12.2017 and 1.6.2016 passed in CC.No.13525/2016, by the IV Additional CMM Court, Bengaluru, for the offences punishable under Sections 406, 477, 420, 120B, 114 r/w. Section 34 of IPC, are set aside.

*ck/-

Sd/-
JUDGE