

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13<sup>TH</sup> DAY OF APRIL, 2022

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.755 OF 2022 (GM-RES)

**BETWEEN:**

SMT. ASHWINI

... PETITIONER

(BY SRI TRIVIKRAM S., ADVOCATE (VIDEO CONFERENCING))

**AND:**

STATE OF KARNATAKA  
BY JNANABARTHI POLICE  
REPRESENTED BY STATE PUBLIC PROSECUTOR  
HIGH COURT BUILDINGS,  
BENGALURU-560 001

... RESPONDENT

(BY SMT. YASHODA K.P., HCGP. (PHYSICAL HEARING))

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND  
227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF  
CR.P.C., PRAYING TO SET ASIDE THE ORDER PASSED BY THE

LEARNED IX ADDITIONAL METROPOLITAN MAGISTRATE DATED 18.10.2021, IN PCR NO.13149/2021 VIDE ANNEX-D ETC.

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

**ORDER**

The petitioner in the subject writ petition has sought for the following prayer:

- a. Set aside the order passed by the Learned IX Additional Metropolitan Magistrate dated: 18/10/2021, in PCR No.13149/2021 found at ANNEXURE – ‘D’.*
- b. Issue a writ in the nature of certiorari or any other appropriate writ quashing the endorsement dated 26/08/2021 issued by the Respondent Police found at ANNEXURE – ‘C’.*
- c. Direct the Respondent Jnanabarathi Police to investigate the matter and to file the final report as per the original order dated: 14/07/2021 found at ANNEXURE – ‘B’.*
- d. Or To grant any such other relief/s or order or direction as this Hon’ble Court deems fit under the*

*facts and circumstances of the case to meet the ends of Justice.”*

2. Heard Sri Trivikram S., learned counsel for the petitioner and Smt. Yashoda K.P., learned High Court Government Pleader for the respondent.

3. Brief facts leading to the filing of the present petition, as borne out from the pleadings, are as follows:

The petitioner on certain allegations registers a private complaint under Section 200 of the Cr.P.C. before the learned 9<sup>th</sup> Additional Chief Metropolitan Magistrate, Bangalore, seeking investigation under Section 156(3) of the Cr.P.C. The complaint was presented in the open Court, the office was directed to register the case as PCR and the same was registered as PCR No.13149/2021.

4. The learned Magistrate heard the counsel for the complainant, perused the records and ordered investigation to be conducted by the jurisdictional police – Jnanabharathi Police

Station and to submit a final report in the matter by his order dated 18.10.2021. On the communication of the said complaint to the jurisdictional Police, an endorsement was issued by the respondent - Jnanabharathi Police Station that the jurisdiction lies with Byadarahalli Police and therefore, sought to transfer the complaint from Jnanabharathi Police Station, who was directed to investigate, to Byadarahalli Police Station. Thereafter, a notice was issued to the petitioner and the complaint was returned to the petitioner for want of jurisdiction to investigate the offence, as according to the Police, the jurisdiction lied with Byadarahalli Police. It is this action that is called in question in the subject petition.

5. Learned Counsel Sri. Trivikram S., appearing for the petitioner would contend that the action of the respondent-Police in refusing to investigate the matter and file a final report as directed by the Court would amount to sitting over the order of a Court and therefore, is illegal. Once the order of the learned Magistrate was set in motion, the same cannot be recalled even

by the learned Magistrate let alone returning of the complaint by the Police.

6. On the other hand, the learned High Court Government Pleader would admit the legal position and submit that the matter is to be investigated by the respondent - police.

7. I have given my anxious consideration to the submissions made by the learned counsel for both parties and perused the material on record.

8. The afore-narrated facts are not in dispute. The complaint was presented before the Judicial Officer – the learned Magistrate, who on the complaint directs investigation to be conducted by the police of a particular police station. The police refusing to conduct investigation and returning the complaint would on the face of it amount to overriding the orders of the Court, which jurisdiction the police do not possess.

9. Once the Court accepts the complaint and directs particular police to investigate and declining to investigate such

cases, cannot arise. The police ought to have investigated and filed its final report in the matter. Returning of the complaint after the same having been accepted and investigation directed, that too by the police, runs counter to Section 173 of the Cr.P.C.

10. For the aforesaid reasons, the following:

**ORDER**

- (i) The Writ Petition is allowed.
- (ii) The endorsement dated 26.08.2021, issued by the respondent – Police and the order dated 18.10.2021 passed by the IX Additional Metropolitan Magistrate, Bengaluru, stand quashed.
- (iii) A direction is issued to the respondent-police to investigate and file a final report in the matter as directed by the IX Additional Metropolitan Magistrate, Bengaluru, on 14.07.2021.

**Sd/-  
JUDGE**