



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF SEPTEMBER, 2022



BEFORE

THE HON'BLE MR JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO. 410 OF 2019

BETWEEN:

SRI MIRLE VARADARAJU
S/O LATE BORE GOWDA
AGED ABOUT 57 YEARS,
NO.544, V MAIN ROAD
KENGRI SATELLITE TOWN
BENGALURU-560060

...PETITIONER

(BY SRI. ASHOK HARNAHALI, SR. COUNSEL A/W
SRI. SRINIVAS RAO S S.,ADVOCATE)

AND:

1. STATE OF KARNATAKA
THROUGH RAJARAJESWARINAGAR POLICE STATON
BENGALURU-560049
REPRESENTED BY IS
STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU-560 001

2. SRI BALARAJU B
ASSISTANT COMMISSIONER OF POLICE CENTRAL CRIME
BRANCH BRANCH,
ORGANIZED CRIME WING
BENGALURU-560 002

...RESPONDENTS

(BY SRI. KIRAN S. JAVALI, SPP A/W
SRI. MAHESH SHEETY, HCGP FOR R1 & R2)

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO A. QUASH
THE FIR BEARING CR.NO.2/2019 DATED 07.01.2019 ALONG WITH
THE WRITTEN INFORMATION DATED 07.01.2019 REGISTERED WITH
THE RESPONDENT RAJARAJESHWARI NAGAR POLICE STATION
AGAINST THE PETITIONER/ACCUSED NO.2 FOR THE ALLEGED

Digitally signed by
POORNIMA
SHIVANNA
Location: HIGH
COURT OF
KARNATAKA



OFFENCE P/U/S 3 OF KARNATAKA CONTROL OF ORGANIZED CRIME ACT, 2000, PENDING ON THE FILE OF THE PRINCIPAL CITY CIVIL AND SESSIONS JUDGE AND SPECIAL JUDGE FOR KARNATAKA PROTECTION OF INTEREST DEPOSITORS ACT, BANGALORE VIDE ANNEXURE-A AND B. B. QUASH THE ENTIRE PROCEEDINGS IN CR.NO.2/2019 AGAINST THE PETITIONER/ACCUSED NO.2 FOR THE ALLEGED OFFENCE P/U/S 3 OF KARNATAKA CONTROL OF ORGANIZED CRIME ACT, 2000, PENDING ON TH FILE OF THE PRINCIPAL CITY CIVIL AND SESSIONS JUDGE AND SPECIAL JUDGE FOR KARNATAKA PROTECTION OF INTEREST DEPOSITORS ACT, BANGALORE VIDE ANNEXURE-C.

THIS CRL.P, COMING ON FOR HEARING THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. The petitioner is before this Court seeking for the following relief:
 - a. *Quash the Fir Bearing Cr.No.2/2019 Dated 07.01.2019 along with the written information dated 07.01.2019 registered with the respondent Rajarajeshwari Nagar Police Station against the petitioner/accused no.2 for the Alleged Offence p/u/s 3 Of Karnataka Control Of Organized Crime Act, 2000, pending on the file of The Principal City Civil and Sessions Judge and Special Judge For Karnataka Protection of Interest Depositors Act, Bangalore Vide Annexure-A And B.*
 - b. *Quash the entire proceedings in Cr.No.2/2019 against the petitioner/accused no.2 for the alleged offence p/u/s 3 Of Karnataka Control Of Organized Crime Act, 2000, pending on the File of the Principal City Civil And Sessions Judge And Special Judge for Karnataka Protection Of Interest Depositors Act, Bangalore Vide Annexure-C.*
 - c. *Pass any order/s as deems fit to this Hon'ble Court in the interest of justice.*



2. The petitioner is aggrieved by the registration of Crime No.2/2019 for alleged offences punishable under Section 3 of the Karnataka Control of Organized Crime Act, 2000 [for short 'KCOCA']. In the written information, it is alleged that investigation in Crime No.337/2018 has been initiated by Rajarajeshwari Nagar police station for offences punishable under Section 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, and Section 447, 465, 468, 471, 420, 506 and 504 r/w 34 of IPC and that the Annapurneshwari nagar police station have registered Crime No.395/2018 which is under investigation for the offences punishable under Section 143, 147, 148, 120(B), 307, 447, 327, 506, 468, 471, 384 r/w 149 of IPC.
3. Based on the above two investigations pending in the aforesaid crime numbers, it is alleged that the petitioner and certain others were involved in the organised crimes and as such, the same is punishable under Section 3 of the KCOCA and as such, the Deputy



Inspector General of Police has issued necessary permission under Section 24(1)(a) of KCOCA.

4. Sri.Ashok Haranahalli, learned Senior counsel appearing for the petitioner would submit that though the petitioner was named as accused in those two crime numbers, the petitioner had filed CrI.P. No.6687/2019 seeking for quashing of the proceedings arising out of Cr. No.337/2018 and this Court vide its order dated 21.06.2022 has allowed the petition and quashed FIR in Cr. No.337/2018. He further submits that the petitioner filed CrI.P. No.4254/2019 challenging the FIR in CR.No.395/2018 this Court vide order dated 15.02.2022 quashed the same.
5. Based on the above, he submits that the basis for Section 24(1)(A) order being the registration and pendency of Cr. No.337/2018 and 395/2018, the said proceedings having been quashed the very basis for Section 24(1)(A) order has been eroded and without the existence of those two proceedings, the



proceedings under Section 3 by virtue of the order passed under Section 24(1)(A) would not be permissible and as such, the new FIR which has been registered in Crime No.2/2019 is required to be quashed.

6. Per contra, Sri.Kiran S.Jawali, learned SPP would submit that the Crime No.2/2019 is an independent offence and as such, it is sustainable and investigation is required to be carried out.
7. Heard Sri.Ashok Haranahalli, learned Senior counsel for the petitioner and Sri.Kiran S.Jawali, learned SPP for the respondent-State. Perused documents.
8. Section 3 of the KCOCA reads as under:

3. Punishment for organized crime –

(1) whoever commits an organized crime shall,

(i) if such act has resulted in the death of any person, be punishable with death or imprisonment for life and shall also be liable to a fine, which shall not be less than one lakh rupees.

(ii) In any other case, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be



liable to fine, which shall not be less than five lakh rupees.

(2) Whoever conspires or attempts to commit or advocates, abets or knowingly facilitates the commission of an organized crime or any act preparatory to organized crime, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to a fine, which shall not be less than five lakh rupees.

(3) Whoever harbors or conceals or attempts to harbor or conceal, any member of an organized crime syndicate shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to a fine, which shall not be less than five lakh rupees.

(4) Any person who is a member of an organized crime syndicate shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to a fine which shall not be less than five lakh rupees.

(5) Whoever holds any property derived or obtained from commission of an organized crime or which has been acquired through the organized crime syndicate funds shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life and shall also be liable to a fine, which shall not be less than two lakh rupees.

9. In terms of Section 3(1) proceedings can be initiated against a member of the organized crime syndicate for offences which are punishable for 10 years or more. In terms of Section 3(2) of the KCOCA proceedings



can be initiated as regards other offences. In respect of both the above, permission under Section 24(1)(A) is required to be obtained. Section 24(1)(A) of KCOCA reads as under:

(a) No information about the commission of an offence of organized crime under this Act shall be recorded by a police officer without the prior approval of the police officer not below the rank of the Deputy Inspector General of Police;

10. Section 24(1)(A) refers to Section 2(d) of KCOCA which deals with continuing unlawful activity which is reproduced as under:

(d) "Continuing unlawful activity" means an activity prohibited by law for the time being in force, which is a cognizable offence punishable with imprisonment of three years or more, undertaken either singly or jointly, as a member of an organized crime syndicate or on behalf of such syndicate in respect of which more than one charge-sheet have been filed before a competent Court within the preceding period of ten years and that Court has taken cognizance of such offence;

11. Though when the order under Section 24(1)(A) when passed was proper and correct inasmuch as there were more than two proceedings which were pending and power under Section 21(1)(A) could be exercised as regards granting permission for lodging of a complaint and registration of Crime No.2/2019.



However, during the pendency of the said matter, the petitioner has approached this Court and by virtue of order dated 15.02.2022 in CrI.P. No.4254/2019 the proceedings in Crime No.395/2018 has been quashed and by order 21.06.2022 in CrI.P. No.6687/2019 the proceedings in Crime No.337/2018 has been quashed.

12. In view of the said proceedings having been quashed, as on today there is no proceedings in any crime number which are pending as against the petitioner. The offences under the IPC and or any other enactment being a predicate offence for the purpose of exercise of powers under Section 24(1)(A) and or Section 3 of the KCOCA when the proceedings in respect of such predicate offences have been quashed, I am of the considered opinion there is no purpose which would be served by continuing the proceedings under Section 3 of the KCOCA, more so for the reason that the object and intent of KCOCA being to take separate proceedings as regards organized crime, it is but required that there should be proceedings as



regards multiple crimes being pending and/or being prosecuted for the provisions of KCOCA to be made applicable.

13. Hence, I pass the following:

ORDER

- i. The Criminal Petition is allowed. The proceedings in Crime No.2/2019 registered by the Rajarajeshwari Nagar police station insofar as the petitioner-accused No.2 is concerned now pending on the file of the City Civil and Sessions Judge for Karnataka Control of Organised Crime Act, 2000 is hereby quashed.
- ii. Needless to state that proceedings against the other accused shall continue.

**Sd/-
JUDGE**

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List No.: 1 Sl No.: 77