



AND:

1. THE STATE
THROUGH LINGASUGUR P.S.,
TQ. LINGASUGUR,
DIST. RAICHUR,
REPRESENTED BY
ADDL. SPP,
HIGH COURT OF KARNATAKA,
KALABURAGI BENCH-585107.

2. THE EXECUTIVE OFFICER
TALUKA PANCHAYAT,
LINGASUGUR,
TQ. LINGASUGUR,
DIST. RAICHUR-584122.

...RESPONDENTS

(BY SMT. ANITA M. REDDY, HCGP FOR R1;
SRI VENKATESH C. MALLABADI, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO, QUASH THE ENTIRE PROCEEDINGS IN C.C. NO. 254/2020 FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 420, 409, 201 OF IPC IN CRIME NO.266/2017 OF LINGASUGUR POLICE STATION, AGAINST THE PETITIONERS PENDING ON THE FILE OF PRINCIPAL CIVIL JUDGE AND JMFC AT LAINGASUR.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. The petitioners have filed this petition under Section 482 of Cr.P.C., praying to quash entire



proceedings in C.C. No.254/2020 for the offences punishable under Sections 409, 420 and 201 of IPC in Crime No.266/2017 of Lingasugur Police Station, Raichur District pending on the file of the Principal Civil Judge (J.M.F.C.), Lingasugur.

2. The brief facts of the prosecution case are as under:

The complainant Sri Babu Rathod, Executive Officer, Taluk Panchayat lodged a complaint alleging that the accused persons have misappropriated funds sanctioned in respect of '*Swatch Bharath Mission Project*' for construction of toilets within the limits of Honnalli, Gudadanal and Yaradona Villages, which come within Honnalli Gram Panchayat during the period between 01.07.2016 to 17.05.2017 and the Government sanctioned in all 779 toilets, but the accused persons without constructing 531 toilets misappropriated the sum of Rs.68.19 lakhs and caused loss to the Government.



3. It is contended by the petitioners that respondent No.2 without conducting appropriate enquiry of PDO and other members of the Gram Panchayat and without conducting proper investigation has filed false charge-sheet against these petitioners. It is further contended that the petitioners have no knowledge with regard to deposit of amount into their accounts which was reserved for construction of toilets. Respondent No.2 in collusion with the PDO and other Gram Panchayat Members have created a false case. Hence, prayed for quashing of the criminal proceedings.

4. Learned High Court Government Pleader submitted that there is *prima facie* material against these petitioners having involved in a heinous offence and they have caused loss to the tune of Rs.68.19 lakhs to the State-Exchequer, thus he prayed for dismissal of the petition.



5. On perusal of the material available on record, it appears that the petitioners without constructing toilets misappropriated the funds to the tune of Rs.68.19 lakhs sanctioned by the Government under 'Swachh Bharath Mission'. Admittedly, disputed question of fact cannot be adjudicated upon by this Court under Section 482 of Cr.P.C., at this stage, only *prima facie* case is to be seen. In the case of ***M/s. Neeharika Infrastructure Pvt. Ltd., Versus State of Maharashtra and Others*** reported in ***AIR 2021 SC 1918*** the Hon'ble Apex Court has clearly held that if disputed fact arose before High Courts the same cannot be adjudicated under Section 482 of Cr.P.C.

6. In the instant case, the Investigating Officer has filed charge-sheet against these petitioners for the offence punishable under Sections 420, 499 and 201 of IPC. Whether there was any dishonest intention, criminal breach of contract or cheating etc., at inception of the sanction accorded by the Government and misappropriation of funds by the petitioners, these factual



aspects have to be probed by the Investigating Officer. If the complaint *prima facie* discloses the cognizable offence and once cognizable offence is found in the allegation made in the complaint, the Investigating Officer has to probe the matter and establish the same under law and if the Investigating Officer files charge-sheet before the jurisdictional Court, matter requires full-fledged trial.

7. If at all these petitioners are not involved in an offence as alleged by the prosecution, at the most, the petitioners are at liberty to approach the trial Court and seek discharge under Code of Criminal Procedure in accordance with law. Hence, at this juncture the petitioners are not entitled for any relief as sought for. Hence, the petition is dismissed.

8. Pending I.As., if any, do not survive for consideration.

Sd/-
JUDGE