



CA No. 96 of 2022



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF JULY, 2022

BEFORE

THE HON'BLE MR JUSTICE SURAJ GOVINDARAJ

COMPANY APPLICATION NO. 96 OF 2022

IN

COMPANY PETITION NO.26 OF 2008

BETWEEN:

SRI NINGARAJU N

...APPLICANT

(BY SRI K.S.MAHADEVAN, ADVOCATE)

AND:

OFFICIAL LIQUIDATOR OF
M/S INDIA HOLIDAY (PVT) LTD.(IN LIQUIDATION),
ATTACHED TO HIGH COURT OF KARNATAKA,
CORPORATE BHAVAN, NO.26-27,
12TH FLOOR, RAHEJA TOWER,
M.G.ROAD,
BENGALURU-560001.

...RESPONDENT

(BY SRI K.ANANDA, ADVOCATE)

THIS CA IS FILED UNDER RULES 6 AND 9 OF THE COMPANIES
(COURT) RULES 1959, PRAYING TO DROP THE PROCEEDINGS.

THIS CA COMING UP FOR ORDERS, THIS DAY, THE COURT
MADE THE FOLLOWING:

Digitally signed by
POORNIMA
SHIVANNA
Location: HIGH
COURT OF
KARNATAKA



ORDER

1. This application has been filed for dropping the proceedings against Sri N.G.N. Raju S/o. Ningegowda on the ground that he is not the Ex-Director of the Company in liquidation as mentioned in CA.No.1382/2011. This Court in its earlier order dated 26.05.2022 dealt with the said issue and on verification it has been found that the applicant in C.A.No.96/2022 is not Raju N.G.N., who is the Ex-Director of the Company in liquidation.
2. It is rather shocking that a person has been arrested without ascertaining whether he was the person who was required to be arrested and that the warrant had been issued against him. Though the arrestee had disputed that he was the person named in the warrant and the applicability of the warrant to him, his identification was not cross-checked and verified resulting an innocent person being arrested.



3. The Right to Life and Liberty Guaranteed under Article 21 of the Constitution of India is of paramount importance. By arresting a person whose arrest was not authorized there is a violation of the fundamental rights guaranteed under Article 21 of the Constitution of India.
4. The only reason why the applicant had been arrested is that the name of his father was similar to the name of the person named in the warrant. I am unable to comprehend as to how the name of the father being similar or even identical would have any role to play in the arrest, extrapolating the same logic if the arrest warrant has been issued for one brother, another brother or maybe even the sister could be arrested, merely, because the father name is identical.
5. What is of primary importance is the identity of the person who is to be arrested and not any other



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aspect like the name of the father, though the same may have a corroborative role.

6. Whenever any warrant is issued bailable or non-bailable, it is but required for the arresting officer to ascertain the identity of the person proposed to be arrested and be satisfied that the person proposed to be arrested is the same person as against whom a warrant has been issued.
7. In the present case though the arrestee had categorically stated that he was not the person named in the warrant, the arresting officer has not verified the same instead the arrestee has been arrested and produced before this Court, thereby causing harm and injury not only to the liberty of the arrestee but also to the reputation of the arrestee which are in violation of the fundamental rights guaranteed under Article 21 of the Constitution.



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8. If Guidelines or Standard Operating Procedure are already issued to cater to this situation, training in this regard to be provided to all arresting officers.
9. If not issued the Director General of Police is directed to issue suitable Guidelines and/or Standard Operating Procedure as to what are the steps to be taken by the arresting officer before arresting a person including the verification of identity. The same to be issued within 4 weeks from the date of receipt of the copy of this order. Registrar (Judicial) is directed to forward a copy of this order to the Director General of Police, Government of Karnataka, immediately.
10. In the present case, the arrestee having been put to loss of liberty as also loss of reputation, I'am of the considered opinion that the State would be liable to compensate the arrestee for the same. The compensation is fixed at Rs.5,00,000/- (Rupees 5 Lakhs only), the said payment to be made within a



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period of eight weeks from today. The State is at liberty to recover the same from the Police Officers who had arrested the applicant.

11. In view thereof, C.A.No.96/2022 is required to be allowed and the same is allowed.
12. Though the above matter is disposed, re-list on 1.9.2022 to report compliance with the above directions.

**Sd/-
JUDGE**

KTY/SR