

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19<sup>TH</sup> DAY OF MAY, 2022

BEFORE

THE HON'BLE MR. JUSTICE K.NATARAJAN

CRIMINAL PETITION NO.2807 OF 2022  
CONNECTED WITH  
CRIMINAL PETITION NO.3302 OF 2022  
CONNECTED WITH  
WRIT PETITION NO.5243 OF 2022 (GM-RES)

IN CRIMINAL PETITION NO.2807 OF 2022

BETWEEN

MR E S PRAVEEN KUMAR

... PETITIONER

(BY SRI HASMATH PASHA, SENIOR ADVOCATE  
FOR SRI NASIR ALI, HP UNIQUE AND COMPANY)

AND

STATE OF KARNATAKA  
BY BYADARAHALLI POLICE STATION,  
BENGALURU RURAL DISTRICT - 560 091

REPRESENTED BY LEARNED  
STATE PUBLIC PROSECUTOR  
HIGH COURT OF KARNATAKA  
BENGALURU.

... RESPONDENT

(BY SRI V.S. HEGDE, SPP-II ALONG WITH  
SRI VINAYAKA V.S., HCGP)





IN WRIT PETITION NO.5243 OF 2022

BETWEEN

MR E S PRAVEEN KUMAR

... PETITIONER

(BY SRI HASMATH PASHA, SENIOR ADVOCATE  
FOR SRI NASIR ALI, HP UNIQUE AND COMPANY)

AND

1 . STATE OF KARNATAKA  
BY BYADARAHALLI POLICE STATION  
BENGALURU RURAL DISTRICT - 560 091

2 . MR. RAJEEV A  
POLICE INSPECTOR  
BYADARAHALLI POLICE STATION  
MAGADI ROAD  
BENGALURU RURAL DISTRICT - 560 091

(BOTH ARE REPRESENTED BY LEARNED STATE PUBLIC  
PROSECUTOR  
HIGH COURT OF KARNATAKA  
BENGALURU)

... RESPONDENTS

(BY SRI V.S. HEGDE, SPP-II ALONG WITH  
SRI VINAYAKA V.S., HCGP)

THIS PETITION IS FILED UNDER ARTICLES 226 AND 227  
OF THE CONSTITUTION OF INDIA READ WITH SECTION 482  
CODE OF CRIMINAL PROCEDURE, PRAYING TO QUASH THE FIR  
AND COMPLAINT IN CRIME NO.404/2021 DATED 1.10.2021 AS  
PER ANNEXURE-A, ISSUING COGNIZANCE IN CRIME  
NO.404/2021 DATED 26.11.2021 AS PER ANNEXURE-B,  
CHARGESHEET IN C.C.NO.20891/2021 AS PER ANENXURE-C

AND ORDER SHEET OF SC.NO.21/2022 AS PER ANNEXURE-D AND ENTIRE PROCEEDING IN S.C.NO.21/2022 PENDING ON THE FILE OF HONBLE PRINCIPAL DISTRICT AND SESSION JUDGE, BENGALURU RURAL DISTRICT, BENGALURU, WHICH IS ARISING OUT OF CRIME NO.404/2021 OF BYADARAHALLIL POLICE STATION, BENGALURU RURAL DISTRICT, BENGALURU OF OFFENCE UNDER SECTION 306 OF INDIAN PENAL CODE AS PER ANNEXURE-A TO D AS AN ABUSE OF PROCESS OF LAW.

THESE PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 21.04.2022 THIS DAY, THROUGH VIDEO CONFERENCING THE COURT PRONOUNCED THE FOLLOWING:

ORDER

W.P.No.5243/2022 is filed by the petitioner accused No.3 under Article 226 and 227 of Constitution of India read with 482 of Cr.P.C for issue of writ of certiorari or order or direction of appropriate in nature for quashing the FIR and complaint and the charge sheet filed by the Byadarahalli Police Station in respect of Crime No.404/2021 pending on the file of Principal District and Sessions Judge, Bangalore Rural District in S.C.No.21/2022 for the offence punishable under Section 306 of IPC.

2. In CrI.P.No.2807/2022 filed by the same accused No.3 under Section 439 of Cr.P.C for enlarging petitioner on bail in the same S.C.No.21/2022 (Crime No.404/2021).

3. Whereas CrI.P.No.3302/2022 filed by the accused No.2 under Section 439 of Cr.P.C for enlarging him on bail in the same S.C.No.21/2022 (Crime No.404/2021).

4. Heard the arguments of learned senior counsel Hasrnath Pasha in Writ Petition No.5243/2022 as well as Criminal Petition No.2807/2022 and counsel for petitioner in CrI.P.No.3302/2022 and learned S.P.P.-II and HCGP for the State.

5. The case of the prosecution is that on the first information report lodged by the Police Inspector of Byadarahallai Police Station, Sub-Inspector of police registered a case against the petitioner and another in

Crime No.404/2021 for the offence punishable under Section 306 read with 34 of IPC. It is alleged by him that on 17.09.2021 the accused No.1 Hallagere Shankar, came to the police station and filed a written complaint, it was registered as UDR No.59/2021 under Section 174 of Cr.P.C where it was stated by him that his wife namely Bharathi and his two married daughters Sinchana Kurnari-wife of the accused No.3 and Sindhu Rani-wife of the accused No.2 and son Madhusagar and his grand son were found dead in his house. The accused No.1- Hallagere Shankar's wife and three children had committed suicide. After registration of the information in the said UDR, the police inspector visited the spot, shifted the dead bodies and after conducting the inquest Panchnama, all bodies were subjected to the post mortem examination. Subsequently, the Police Inspector made a preliminary enquiry under Section 174 of

Cr.P.C and came to know that the deceased Sinchana Kumari, Sindhu Rani and Madhusagar, all three of them had left the death notes, alleging various complaints against the accused Nos.1 to 3 and in-laws. Therefore, he lodged complaint to SHO, the Sub-Inspector of police and inturn the Sub-Inspector registered the case and arrested the petitioners. They have been remanded to judicial custody. The accused Nos.1 to 3 had moved bail petition before this Court which were rejected. The accused No.3 also filed second bail petition, which also came to be rejected and now he is before this Court by filing CrI.P.No.2807/2022 for granting bail in third successive bail petition and accused No.2 came before the court for second bail petition in CrI.P.No.3302/2022 and the accused No.3 also filed writ petition challenging the charge sheet before the court.

6. The learned senior counsel for the petitioner-accused No.3 has strenuously contended that the Police Inspector is the SHO of the police station and such being the case, the charge sheet filed by the police Sub-Inspector who is inferior officer to the police inspector has no authority to file charge sheet. Therefore the charge sheet is liable to be set aside and return back as it was defective charge sheet for filing fresh charge sheet and to cure the defect of filing, an officer who is unauthorized under the law. The learned counsel relied upon the judgment of the Hon'ble Supreme Court in the case of **Mukesh Singh Vs State (Narcotic Branch of Delhi)** reported in **2020 (10) SCC 120** and contended that this point was not urged by the petitioner in the previous bail petition and therefore, when the charge sheet is not filed by the authorised police officer under Section 173 (2) of Cr.P.C., the charge sheet becomes un-



sustainable and non-est in law, therefore, prayed for setting aside the same.

7. The learned senior counsel also contended that the official in-charge of police station is always Police Inspector but not the Police Sub-Inspector and any officers can investigate the matter but charge sheet can be forwarded only by the officer in-charge of Police Station but Police Sub-Inspector is not the officer in-charge of police station. Therefore, prayed for quashing the charge sheet.

8. The learned senior counsel further contended that the alleged offence is committed under Section 306 of IPC. There is vague allegation made against the petitioner-accused No.3 by his wife Sinchana Kumari. The whatsapp messages reveals that both of them lived in co-ordinate terms. The petitioner himself purchased separate house for her and he has

provided TV and mobile, therefore question of demanding any article from the deceased does not arise. Absolutely there is no material against the accused No.3 to quarrel with deceased. The petitioner is in jail for more than six months, investigation is already completed and charge sheet has been filed, therefore prayed for quashing the charge sheet, consequently granting bail for the accused No.3.

9. The learned Counsel appearing for petitioner-accused No.2 contended that there is no proximity of time for committing suicide. The naming ceremony was fixed and at the instance of the deceased Sindhu Rani wife of accused No.2, the same was cancelled and a week prior to the incident, the accused No.2 went along with the deceased for shopping and purchased various articles and clothes for her. There is no harassment from the petitioner, soon prior to the commission of suicide and allegation also not serious

against the petitioner. Therefore prayed for granting bail.

10. The learned senior counsel appearing for both the accused persons contended that the offence is not punishable with death or imprisonment of life. The Handwriting expert opinion requires to be established in the Court of law to prove the handwriting of the deceased in the death note. The entire allegation goes against the accused No.1, the father of the deceased and these accused are the only son-in-laws residing in some other places. Therefore, prayed for granting bail.

11. Per contra, learned S.P.P.-II seriously objected the Writ Petition and Criminal Petitions and contended that, as per the provisions of Sections 154 and 156 of Cr.P.C, no court can question the investigation of the Police Officer. It does not reveal,

who has to investigate and on the basis of the faulty investigation, the charge sheet cannot be set aside and it is only irregularity and the same can be cured. There is no evidence to show that serious prejudice was caused to the accused persons. The petitioners also have not shown the mis-carriage of justice or serious prejudice caused to them. Therefore, the question of quashing charge sheet does not arise. The police officer/Police Sub-Inspector who received the complaint had filed the charge sheet and he cannot be said that he is un-authorised officer as per the law. If at all there is any defect, that can be cured under Section 465 of Cr.P.C. There is no failure of justice and prejudice caused to the petitioners and there is no mis-carriage of justice. The first point from the earlier stage is that the petitioners have not raised such questions, immediately after filing the charge sheet they are contending that the charge sheet is not

sustainable. In support of this case, the learned s Public Prosecutor-II has relied upon the judgment of the Hon'ble Supreme Court reported in **1955 (1) SCR 1150** in the case of ***H. N. Rishbud And Inder Singh vs. The State Of Delhi.***

12. The learned HCGP also contended that there is no bar for filing charge sheet by the Sub-inspector of Police who is also in-charge of the police station. The preliminary investigation is done by the police inspector. Therefore, the Police Sub-inspector filed charge sheet who received the complaint and filed the charge sheet. Therefore he has contended, on that ground the charge sheet cannot be quashed. Hence, prayed for dismissing the petitions.

13. Having heard the arguments and perused the records. On perusal of the record, it reveals that accused No.1, Hallagere Shankar is having two

daughters (Sinchana Kumari and Sindhu Rani) and one Son (Madhusagar). The daughters Sinchana Kumari and Sindhu Rani were married to accused No.3 and 2 respectively. The son Madhusagar aged about 25 years was unmarried. It is also an admitted fact that on the fateful day, there was an unfortunate incident occurred when the accused No.1 came back to the house, he found his wife Bharthi and his two married daughters, Sinchana Kumari and Sindhu Rani and his son Madhusagar were found hanging and they had committed suicide. The child aged about six months belonged to Sindhu Rani also died in the unfortunate incident. The accused No.1 himself gave information to the police, the Police Inspector who is CW1 took the information from the accused No.1 and registered the UDR No.59/2021 on 17.09.2021. The parties were subjected to the inquest panchama and also post mortem examination was conducted and the

cause of the death was hanging due to suicide. It is an admitted fact, all three deceased except Bharthi had left lengthy suicide notes, by blaming the accused persons. The deceased Madhusagar, of course has blamed accused No.1 who is his father.

14. This court already rejected the bail petitions of accused Nos.2 and 3, including accused No.1 and the bail application of accused No.3 also rejected twice and this is the third petition. The counsel for the accused No.2 has contended there is no proximity of time, the naming ceremony was fixed and it was cancelled at the instance of the deceased, etc., He submitted that the accused has given money, purchased clothes, etc., but except furnishing some photographs, the counsel has not produced any whatsapp message for having arranged the house for his deceased wife. The allegation against him is that he has demanded TV and also quarreled for ear-boring

of the child during the naming ceremony. There was fight between the family members and the same was revealed in the death note of Sindhu Rani the wife of accused No.2.

15. The deceased **Sinchana Kumari** also wrote 5 pages of death note blaming accused No.1-the father, her husband and in-laws. There was some whatsapp messages, exchanged between accused No.3 and the deceased wife, where the accused almost indirectly threatened her that he will get back his daughter and she will repent and regret one day and the death note also goes to show that so many allegation made against the husband and in-laws. Of course the deceased Madhusagar blamed only his father. Bharathi wife of the accused No.1 has not left any death note but she also committed suicide along with three grown children, two married daughters and



one unmarried adult son, who is also educated. It is not the case of the petitioners where a person had committed suicide for utterance of some word which had abated the deceased to commit suicide. The fact of the case and the situation and the death notes reveal, their mother Bharthi suffered harassment in the hands of their father. Subsequently, after the marriage of the daughters they went to their respective matrimonial houses with lot of dreams and expectations. But their husbands (accused Nos. 2 and 3) harassed the deceased persons physically and mentally and demanded additional articles and it is also revealed that the deceased Sindhu Rani had contributed some amount for the purchase of their house.

16. The accused No.3 and his parents made the deceased Sinchana Kumari to sleep on the floor and not on the bed and when she requested for have a

child, the accused No.3 had blamed and uttered a word in the presence of family members by calling her to the bed room for the intercourse. After she gave birth to the child, his harassment had increased and when she intimated the birth of their child, the accused No.3 uttered word that she has got child through some other sources.

17. If the death note of the deceased is to be read, it clearly establishes the harassment of the accused persons where they definitely abetted the deceased to commit suicide. It is not accused No.3 abated only his wife to commit suicide but also his mother-in-law, sister-in-law and brother-in-law. Madhusagar, who had no avocation was staying in the house, but when two married sisters came back to the parents house, who have been deserted by their husbands due to frustration, he also committed

suicide. The mother of accused No.1 Bharthi had suffered all along during her lifetime from the accused No.1 and after the marriage of daughters, she was unable to see the suffering of both of her married daughters having child and they were also sent back by their in-laws and they are not taking them back to the home. It cannot be considered a single incident or ordinary incident of a suicide but it is unfortunate mass suicide of four eiders by leaving the death notes to attract the attention of public at large and the police officials as they wanted justice.

18. They also requested the police not to handover their dead bodies, neither to father nor their husbands, they wanted to cremate the bodies by the State or by the police, that was the seriousness of the offence which was committed by the accused persons, which cannot be said as an ordinary suicide committed by a married women to say there is no material at this

stage. There is no reason to dis-believe the death notes at this stage, left by three educated adults by giving elaborate story from the beginning to the end. Therefore, contention of the petitioner counsel cannot be acceptable that there is no proximity of time between harassment and death. Therefore on these two grounds, the petitioners are not entitled for bail by both the accused persons.

19. Now coming to the contention of the accused No.3 in writ petition regarding the challenging of the charge sheet the learned senior counsel relied upon the judgment of Hon'ble Supreme Court reported in **Mukesh's case** (cited supra) wherein the Hon'ble Supreme Court had held about who is the officer in charge of police station who has been authorized to file the charge sheet. At para 9 and 10 the judgments are as follows:

"9. Now we consider the relevant provisions of the Cr. P. C. with respect to the investigation.

9.1. Section 154 Cr.P.C. provides that every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction.

9.2. Section 156 Cr.P.C. provides that any officer in charge of a police station may investigate any cognizable offence without the order of a Magistrate. It further provides that no proceeding of a police officer in any ***such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate. Therefore, as such, a duty is cast on an officer in charge of a police station to reduce the information in writing relating to commission of a cognizable offence and thereafter to investigate the same.***

9.3. Section 157 Cr.P.C. specifically provides that if, from information received or otherwise, an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered under Section 156 to investigate, he shall forthwith send a report

of the same to a Magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person to the spot to investigate the facts and circumstances of the case and, if necessary, to take measures for the discovery and arrest of the offender.

10. Therefore, considering Section 157 Cr.P.C., either on receiving the information or otherwise (may be from other sources like secret information, from the hospital, or telephonic message), it is an obligation cast upon such police officer, in charge of a police station, to take cognizance of the information and to reduce into writing by himself and thereafter to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender. Take an example, if an officer in charge of a police station passes on a road and he finds a dead body and/or a person being beaten who ultimately died and there is no body to give a formal complaint in writing, in such a situation, and when the said officer in charge of a police station has reason to suspect the commission of an offence, he has to reduce the same in writing in the form of an information/complaint. In such a situation, **he is not precluded from further investigating the case. He is not debarred to conduct the investigation in such a situation. It may also happen that an officer in charge of a police station is in the**

**police station and he receives a telephonic message, may be from a hospital, and there is no body to give a formal complaint in writing, such a police officer is required to reduce the same in writing which subsequently may be converted into an FIR/complaint and thereafter he will rush to the spot and further investigate the matter. There may be so many circumstances like such. That is why, Sections 154, 156 and 157 Cr.P.C. come into play.**

**10.1 Under Section 173 Cr.P.C., the officer in charge of a police station after completing the investigation is required to file the final report/chargesheet before the Magistrate. Thus, under the scheme of Cr.P.C., it cannot be said that there is a bar to a police officer receiving information for commission of a cognizable offence, recording he same and then investigating it. On the contrary, Sections 154, 156 and 157 permit the officer in charge of a police station to reduce the information of commission of a cognizable offence in writing and thereafter to investigate the same. Officer in charge of a police station has been defined under Section 2(o) of the Cr. P.C. and it 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.**

20. In another case **State Of Haryana And Ors vs Ch. Bhajan Lal And Ors** the Hon'ble Supreme Court also held in respect of the FIR and investigation by the police and forwarding the charge sheet by the in-charge officer of the police station. Also relief upon the judgment of the coordinate bench of this Court, **2021 (SCC) 14933** in respect of the charge sheet filed by the CID and it has held the final report should have been only from the hands of the officer in-charge of the police station.

21. Now coming to the case on hand, there is no second thought in respect of principle laid down by the Hon'ble Supreme Court that the charge sheet or final report shall be forwarded by the officer in charge



of the police station. The learned Senior Counsel also relied upon the police manual **1550(1)** which reveals Section 173 of Cr.P.C lays down every investigation under chapter 12 of Court shall be completed without necessary delay, the provisions of Sections are mandatory and any avoidable delay in the submission of the charge sheet, therefore militates against these basic principles of law. The manual clause reveals the charge sheet requires to be forwarded by the officer in charge of police station, now the question is who is the officer in-charge of police station as on the date of the filing charge sheet. On perusal of the FIR registered by the Sub-Inspector of police CW45 Police Sub-Inspector and the complaint the very first information submitted by the CW1-Raju reveals after registering the UDR on 21.9.2021, after he came to know there was cognizable offence was made out against the accused persons he prepared a report and

submitted to the Station House Officer, Byadarahalli Police Station. The very beginning of the address of the station reveals as under:

"ರವರಿಗೆ  
ಶಾಣಾಧಿಕಾರಿಗಳು  
ಬ್ಯಾಡರಹಳ್ಳಿ ಪೊಲೀಸ್ ಠಾಣೆ  
ಬೆಂಗಳೂರು ನಗರ

ವಿಷಯ: ಹಲ್ಲೆಗೆರೆ ಶಂಕರ್, ಶ್ರೀಕಾಂತ್, ಪ್ರವೀಣ್‌ಕುಮಾರ್, ಈತನ ತಂದೆತಾಯಿಗಳ ವಿರುದ್ಧ ಕಾನೂನು ಕ್ರಮ ಜರುಗಿಸಲು ಕೋರಿ ದೂರು.

ಈ ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ನಿಮಗೆ ಸೂಚಿಸುವುದೇನೆಂದರೆ, ದಿನಾಂಕ: 17-09-2021 ರಂದು ಪಿಯಾರ್‌ದುದಾರರಾದ ಶ್ರೀ ಹಲ್ಲೆಗೆರೆ ಶಂಕರ್ ಬಿನ್ ದುರ್ಗೇಗೌಡ, 59 ವರ್ಷ, ವಾಸ ನಂ.78, 4ನೇ ಅಡ್ಡರಸ್ತೆ, ವಿನಾಯಕ ಬಡಾವಣೆ, ಅಂದ್ರಹಳ್ಳಿ ರಸ್ತೆ, ಚೇತನ್ ಸರ್ಕಲ್ ಹತ್ತರ, ಬೆಂಗಳೂರು ರವರ ಠಾಣೆಗೆ ಹಾಜರಾಗಿ ಕೊಟ್ಟ ಲಿಖಿತ ದೂರಿನ ಮೇರೆಗೆ ಬ್ಯಾಡರಹಳ್ಳಿ ಪೊಲೀಸ್ ಠಾಣೆಯ ಯುಡಿಆರ್ ಸಂ.59/2021 ಕಲಂ:174 ಸಿ.ಆರ್.ಪಿ.ಸಿ. ರೀತ್ಯಾ ಪ್ರಕರಣವನ್ನು ದಾಖಲು ಮಾಡಿಕೊಂಡು ತನಿಖೆಯನ್ನು ಕೈಗೊಂಡಿರುತ್ತೇನೆ.

ನುತರ ಮೃತರಾದ ಭಾರತಿ, ಸಿಂಚನಕುಮಾರಿ, ಸಿಂಧುರಾಣಿ, ಮಧುಸಾಗರ್ ಮತ್ತು ಸಿಂಧುರಾಣಿಗವರ ಸುಮಾರು 9 ತಿಂಗಳ ಗಂಡುಮಗುವಿನ ಶವಗಳನ್ನು ವಿಕೋರಿಯಾ ಆಸ್ಪತ್ರೆಯ ವೈದ್ಯಾಧಿಕಾರಿಗಳಿಂದ ಮರಣೋತ್ತರ ಪರೀಕ್ಷೆಯನ್ನು ಮಾಡಿಸಿ, ಶವಪರೀಕ್ಷಾ ವರದಿಗಳನ್ನು ಪಡೆದುಕೊಂಡಿರುತ್ತೇನೆ. ಶವ ಪರೀಕ್ಷೆ ಸಾವುಗಳ ಕಾರಣವನ್ನು ಎಂದು ತಿಳಿಸಿರುತ್ತಾರೆ.

ದಿನಾಂಕ: 19-09-201ರಂದು ಪಂಚರ ಸಮಕ್ಷಮ ಕೃತ್ಯ ನಡೆದ ಸ್ಥಳದಲ್ಲಿ ಪಂಚನಾಮೆಯನ್ನು ಜರುಗಿಸಿ, ಕೃತ್ಯ ಮನೆಯಲ್ಲಿ ದೊರೆತ 6 ಮೊಬೈಲ್ ಫೋನ್‌ಗಳು, ಒಂದು ಪೆನ್‌ಡ್ರೈವ್, ಮೂರು ಲ್ಯಾಪ್‌ಟಾಪ್‌ಗಳು, ಒಂದು ಸಿ.ಸಿ.ಕ್ಯಾಮರ, ಮೃತ ಸಿಂಧುರಾಣಿ ಎಂಬುವರ ಡೆತ್‌ನೋಟ್, ಮೃತ ಸಿಂಚನಕುಮಾರಿ ಎಂಬುವರ ಡೆತ್‌ನೋಟ್ ಮತ್ತು ಮೃತ ಮಧುಸಾಗರ್ ಎಂಬುವರ ಡೆತ್‌ನೋಟ್, ಮೂರು ಪೆನ್ನುಗಳು, ಕಾಂಗರೂ-999 ಹೆಸರಿನ ಒಂದು ಸ್ವಪ್ನರ್ ಮಿಶನ್ ಇವುಗಳನ್ನು ಪಂಚರ ಅಮಾನತ್ತು ಪಡಿಸಿಕೊಂಡು, ಡೆತ್‌ನೋಟುಗಳ ಜೆರಾಕ್ಸ್ ಪ್ರತಿಯನ್ನು ತನಿಖೆಯ ಸಂಬಂಧ ತೆಗೆದುಕೊಂಡು, ಅಮಾನತ್ತುಪಡಿಸಿದ ಮೇಲ್ಕಂಡ

ವಸ್ತುಗಳನ್ನು ಮಾನ್ಯ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಹಾಜರಪಡಿಸಿ ಡೆತ್‌ನೋಟುಗಳನ್ನು ಪರಿಶೀಲಿಸಿ ಸಂಬಂಧ ಎಫ್.ಎಸ್.ಎಲ್.ಗೆ ಕಳುಹಿಸಲು ಹಾಗೂ ಮೊಬೈಲ್, ಲ್ಯಾಪ್‌ಟಾಪ್, ಪೆನ್‌ಡ್ರೈವ್ ಮತ್ತು ಸಿ.ಸಿ.ಕ್ಯಾಮರವನ್ನು ಸಿ.ಐ.ಡಿ.ಗೆ ಕಳುಹಿಸಿ ತಜ್ಞರಿಂದ ಮಿರರ್ ಇಮೇಜ್ ಮಾಡಿಸಲು ಅನುಮತಿಯನ್ನು ಪಡೆದುಕೊಂಡಿರುತ್ತೇನೆ.

ಅಮಾನತ್ತುಪಡಿಸಿದ ಮೊಬೈಲ್ ಫೋನ್‌ಗಳು, ಲ್ಯಾಪ್‌ಟಾಪ್, ಸಿ.ಸಿ.ಕ್ಯಾಮರಗಳನ್ನು ಸಿ.ಐ.ಡಿ.ಘಟಕದ ಸೈಬರ್ ಕ್ರೈಂ ಪೊಲೀಸ್ ಠಾಣೆಗೆ ಕಳುಹಿಸಿ ಅದರಲ್ಲಿನ ದತ್ತಾಂಶಗಳನ್ನು ಮಿರರ್ ಇಮೇಜ್ ಮಾಡಿಸಿ, ದಿನಾಂಕ. 29-09-2021ರಂದು ಪಡೆದುಕೊಂಡು ವಿಶ್ಲೇಷಿಸಿರುತ್ತೇನೆ.

ಮೃತ ಸಿಂಧುರಾಣಿಯವರ ಡೆತ್‌ನೋಟ್ ಪ್ರತಿಯನ್ನು ಅವಲೋಕಿಸಿದಾಗ ಮೃತಳು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಳ್ಳುವ ಪೂರ್ವದಲ್ಲಿ ಮೃತನು ತಂದೆಯಾದ ಹೆಚ್‌ಗೆರೆ ಶಂಕರ್ ಹಾಗೂ ಆಕೆಯ ಪತಿ ಶ್ರೀಕಾಂತ್ ಸೇರಿಕೊಂಡು ಮೃತಳಿಗೆ ನಿರಂತರವಾಗಿ ಮಾನಸಿಕ ಮತ್ತು ದೈಹಿಕವಾಗಿ ಹಿಂಸೆ ನೀಡಿರುವ ಕಾರಣ ಮೃತಳು ಸದರಿಯವರು ನೀಡಿದ ಕಿರುಕುಳವನ್ನು ಸಹಿಸಲಾಗದೇ ಮನನೊಂದು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿರುವುದು ಮತ್ತು ಅದೇ ರೀತಿ ಮೃತರಾದ ಸಿಂಚನರಾಣಿ ಎಂಬುವರು ಬರೆದಿದ್ದ ಡೆತ್‌ನೋಟ್ ಪ್ರತಿಯನ್ನು ಅವಲೋಕಿಸಿದಾಗ ಮೃತಳ ಪತಿ ಹಾಗೂ ಆಕೆಯ ಅತ್ತೆ ಮಾವ ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಳ್ಳುವ ಪೂರ್ವದಲ್ಲಿ ಮೃತಳಿಗೆ ನಿರಂತರವಾಗಿ ಮಾನಸಿಕ ಹಾಗೂ ದೈಹಿಕವಾಗಿ ಹಿಂಸೆ ನೀಡಿರುವ ಕಾರಣ ಮೃತಳು ಕಿರುಕುಳವನ್ನು ಸಹಿಸಲಾಗದೇ ಮನನೊಂದು ಪ್ರತಿಯನ್ನು ಅವಲೋಕಿಸಿದಾಗ ಮೃತನಿಗೆ ಹಾಗೂ ಮೃತನ ತಾಯಿಗೆ ಮೃತನ ತಂದೆಯಾದ ಹೆಚ್‌ಗೆರೆ ಶಂಕರ್ ಎಂಬುವರು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಳ್ಳುವ ಪೂರ್ವದಲ್ಲಿ ಮೃತನಿಗೆ ಹಾಗೂ ಮೃತಳಿಗೆ ನಿರಂತರವಾಗಿ ನೀಡಿದ ಮಾನಸಿಕ ಮತ್ತು ದೈಹಿಕವಾಗಿ ಹಿಂಸೆಯನ್ನು ಸಹಿಸಲಾಗದೇ ಮನನೊಂದು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿರುವುದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡುಬಂದಿರುತ್ತದೆ.

ನಂತರ ಈ ಮೇಲಿನ ವಿಚಾರಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಸರ್ಕಾರಿ ಅಭಿಯೋಜಕರಿಂದ ಕಾನೂನು ಸೌಹಾರ್ದವನ್ನು ಪಡೆದುಕೊಂಡು, ಮೇಲಾಧಿಕಾರಿಗಳೊಂದಿಗೆ ಚರ್ಚಿಸಿದ್ದು, ಆರೋಪಿಗಳ ವಿರುದ್ಧ ಕಲಂ: 306 ಸಹಿತ 34 ಐಪಿಸಿ ರಡಿಯನ್ನು ಪ್ರ.ವ.ವರದಿಯನ್ನು ದಾಖಲು ಮಾಡಿ, ತನಿಖೆಯನ್ನು ಕೈಗೊಳ್ಳುವ ಅವಶ್ಯಕತೆ ಇರುತ್ತೆ.

ಆದ್ದರಿಂದ ಮೃತರಿಗೆ ಹೆಚ್‌ಗೆರೆ ಶಂಕರ್, ಶ್ರೀಕಾಂತ್, ಪ್ರವೀಣ್‌ಕುಮಾರ್, ಈತನ ತಂದೆತಾಯಿಗಳು ಮಾನಸಿಕ ಮತ್ತು ದೈಹಿಕ ಹಿಂಸೆ ಹಾಗೂ ಆತ್ಮಹತ್ಯೆಗೆ ನೀಡುತ್ತಿದ್ದ ಪ್ರಚೋದನೆಯಿಂದ ನೇಣುಹಾಕಿಕೊಂಡು ಆತ್ಮಹತ್ಯೆ ಮಾಡಿಕೊಂಡಿರುತ್ತಾರೆ.

ಆದ್ದರಿಂದ ಮೇಲ್ಕಂಡವರ ವಿರುದ್ಧ ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮ ಜರುಗಿಸಲು  
ಸೂಚಿಸಿರುತ್ತೇನೆ.

ತಮ್ಮ ವಿಶ್ವಾಸಿ

ಸಹಿ/-

(ರಾಜೀವ್.ಎ)

ಪೊಲೀಸ್ ಇನ್ಸ್‌ಪೆಕ್ಟರ್  
ಬ್ಯಾಡರಹಳ್ಳಿ ಪೊಲೀಸ್ ಠಾಣೆ  
ಬೆಂಗಳೂರು ನಗರ"

The same was received by the Police Sub-Inspector CW45 and registered the case and he himself conducted the investigation, which is an admitted fact and he himself filed the charge sheet. As contended by the learned SPP that as per Section 156 of Cr.P.C, the Cr.P.C empowers to investigate the matter by the police officer and it does not say whether Inspector of Police or Sub-Inspector of Police. On plain reading it says only Police Officer and it says no proceedings of the police officer in any such case shall at any stage be called in question on the ground that case was one which such officer is not empowered under the Section

to investigate which reveals the police officer whoever may be the officer either Sub-Inspector or Police Inspector are empowered to investigate the matter and it cannot be questioned. It is well settled that officer in charge of police station includes Inspector of Police, Police Sub-Inspector, Assistant Sub-Inspector and a Head Constable not below the rank of Police Constable.

22. In the volume No.1 the code of conduct of State Police Force No.223, that reveals if some important police station or Inspector of police are appointed as SHO and such Police Station Inspector will supervise the work of Sub-Inspector attached to his police station.

23. The 225 of the Karnataka Police Manual, Volume I, reveals generally **"Sub-Inspector are posted as SHOs or Police Sub-Inspector**

***in-charge of Law, Crime and Traffic, wherever an Inspector is SHO. They may be given such other duty as may be ordered in this behalf."***

And some police station, as per 226: "***Sub-Inspector in charge of police station is fully responsible for the Police Administration of his charge and circle inspector's supervision in no way relieve the Sub-Inspector of the full responsibility for the police work in his station work of his area."***

***232: regarding investigation of Sub-Inspector or the Officer in charge of the police station is responsible for the investigation of all the cases reported in the police station.***

***240 : says regarding station in charge in the absence of Police Inspector/ Sub-Inspector,***

***Senior Officer present above the rank of the constable will assume the charge of the police station.***

24. On perusal of these guidelines and police manual which clearly reveals the Sub-Inspector are also empowered and he was an officer in charge of the police station to file charge sheet, as already held above, the complaint itself filed by the Police Inspector showing Sub-Inspector as SHO and the Police Sub-Inspector who registered the FIR, investigated the matter and filed charge sheet. Therefore it cannot be said the charge sheet is a vague or unauthorized or illegal.

25. The learned SPP relied upon the judgment of ***Hon'ble Supreme Court in 1955 1 SCR 115 : air 1955 sc 196 : 1955 Cri LJ 526 (in B.K.Mukherjea,***

**Vivian Bose and B. Jagannadhadas, JJ)** has held at Paragraph 9 of the judgment as under:

"The question then requires to be considered whether and to what extent the trial which follows such investigation is vitiated. Now, trial follows cognizance and cognizance is preceded by investigation. This is undoubtedly the basic scheme of the Code in respect of cognizable cases. But it does not necessarily follow that an invalid investigation nullifies the cognizance or trial based thereon. Here we are not concerned with the effect of the breach of a mandatory provision regulating the competence or procedure of the Court as regards cognizance or trial. It is only with reference to such a breach that the question as to whether it constitutes an illegality vitiating the proceedings or a mere irregularity arises. A defect or illegality in investigation, however serious, has no direct bearing on the competence or the procedure relating to cognizance or trial. No doubt a police report which results from an investigation is provided in section 190 of the Code of Criminal Procedure as the material on which cognizance is taken. But it cannot be maintained that a valid and legal police report is the foundation of the jurisdiction of the



Court to take cognizance. Section 190 of the Code of Criminal Procedure is one out of a group of sections under the heading "Conditions requisite for initiation of proceedings. The language of this section is in marked contrast with that of the other sections of the group under the same heading, i.e. sections 193 and 195 to 199. These latter sections regulate the competence of the Court and bar its jurisdiction in certain cases excepting in compliance therewith. But section 190 does not. While no doubt, in one sense, clauses (a), (b) and (c) of section 190(1) are conditions requisite for taking of cognizance, it is not possible to say that cognizance on an invalid police report is prohibited and is therefore a nullity. Such an invalid report may still fall either under clause (a) or (b) of section 190(1), (whether it is the one or the other we need not pause to consider) and in any case cognizance so taken is only in the nature of error in a proceeding antecedent to the trial. To such a situation section 537 of the Code of Criminal Procedure which is in the following terms is attracted:

"Subject to the provisions herein before contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered on appeal or revision on account of any error,

omission or irregularity in the complaint, summons, warrant, charge, proclamation, order, judgment or other proceedings before or during trial or in any enquiry or other proceedings under this Code, unless such error, omission or irregularity, has in fact occasioned a failure of justice". If, therefore, cognizance is in fact taken, on a police report vitiated by the breach of a mandatory provision relating to investigation, there can be no doubt that the result of the trial which follows it cannot be set aside unless the illegality in the investigation can be shown to have brought about a miscarriage of justice. That an illegality committed in the course of investigation does not affect the competence and the jurisdiction of the Court for trial is well settled as appears from the cases in *Prabhu v. Emperor*(1) and *Lumbhardar Zutshi v. The King*(2). These no doubt relate to the illegality of arrest in the course of investigation while we are concerned in the present cases with the illegality with reference to the machinery for the collection of the evidence. This distinction may have a bearing on the question of prejudice or miscarriage of justice, but both the cases clearly show that invalidity of the investigation has no relation to the competence of the Court. We are, therefore, clearly, also, of the opinion that where the cognizance of the case

has in fact been taken and the case has proceeded to termi- (1) A.I.R. 1944 P.C. 73. 149 (2) A.I.R. 1950 P C. 26, 1164 nation., the invalidity of the precedent investigation does not vitiate the result, unless miscarriage of justice has been caused thereby."

which clearly held if any investigation completely ignored by the court on the ground of invalidity it is not prejudice to the case of the accused and there will be no mis-carriage of justice. It shall be questioned at the initial stage itself. The Hon'ble Supreme Court has also taken the a view in the recent case reported in **(2021)2 SCC 525** in the case of ***Fertico Marketing and Investment Pvt. Limited and others Vs. CBI and another***, has categorically held that any error or irregularity in filing the charge sheet by the police and the cognizance taken by the Court on the basis of such charge sheet would, not be set aside nor could further proceedings in pursuance thereof be quashed.

26. Though the learned SPP contended that the charge sheet is filed by Police Sub-Inspector who is not officer in charge of police station but it is not correct and it is held that the Police Sub-Inspector or Inspector both are in charge of the police station and the Station House Officer and the in charge of police station may be similar and synonymous but altogether different in offence like 306 of IPC. The Police Sub-Inspector is empowered to investigate and file the charge sheet. Therefore I am of the view that the contention raised by the senior counsel for the petitioner that charge sheet filed by the Police Sub-Inspector who is incompetent officer is not sustainable under the law. On the other hand, there is no defect in the charge sheet filed by the Police Sub-Inspector after due investigation. Therefore on that ground the petitions are not entitled for quashing criminal

proceedings and the in turn they are also not entitled for any bail.

27. Accordingly I proceed to pass the following order:

The writ petition filed by accused No.3 and the criminal petitions filed by both the petitioners/accused Nos.2 and 3, in respect of Crime No.404/2021 by the Byadarahalli Police Station pending on the file of Principal District and Sessions Judge, Bangalore Rural District in S.C.No.21/2022 for the offence punishable under Section 306 of IPC, are hereby dismissed.

**Sd/-  
JUDGE**

AKV