

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3<sup>RD</sup> DAY OF MARCH, 2022

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.6923/2020

**BETWEEN**

SRI. SURESHA @ GANGADHARA R. B.,  
S/O BHEEMAPPA R,  
AGED 35 YEARS,  
R/O VADDINAHALLI VILLAGE,  
DAVANAGERE TALUK,  
DAVANAGERE DISTRICT – 577 001.

... PETITIONER

[BY SRI.G.J.SUNKAPUR, ADVOCATE]

**AND**

1. STATE BY C.E.N.POLICE,  
DAVANAGERE.  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KARNATAKA,  
BANGALORE – 560 001.

2. CHANDRAPPA N. K.,  
S/O IRAPPA,  
AGED 70 YEARS,  
AGRICULTURIST,  
R/O NELAVAGILU VILLAGE,  
SHIKARIPURA TALUK,  
SHIVAMOGA DISTRICT – 577 427.

... RESPONDENTS

[BY SMT.YASHODA K.P., HCGP FOR R1;  
SMT.MANJULADEVI R KAMADALLI, ADVOCATE FOR R2]

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C. PRAYING TO QUASH THE IMPUGNED ORDER IN CRL.RP.NO.35/2019 DATED 18.07.2019 PASSED BY THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE, DAVANAGERE WHICH IS MARKED AT ANNEXURE - E BY HOLDING THAT THE SAME AS ILLEGAL AND UNSUSTAINABLE.

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

**ORDER**

The petitioner is before this Court calling in question the order dated 18.07.2019 passed in Cr.R.P.No.35/2019 by the I Additional District and Sessions Judge, Davanagere, on a solitary ground that the order is passed without hearing the petitioner.

2. Heard Sri. G.J. Sunkapur, learned counsel appearing for the petitioner, Smt. Yashoda K.P., learned HCGP appearing for respondent No.1 and Sri. Manjuladevi R. Kamadalli, learned counsel appearing for respondent No.2.

3. Facts in brief that are germane for consideration of the present petition are as follows:

On 25.07.2018 the 2<sup>nd</sup> respondent registers a complaint for offences punishable under Sections 406 and 420 of the IPC. After the investigation, the police file a charge sheet in Crime No.53/2018 for offences punishable under Sections 201 and 420 of the IPC and the matter is pending in C.C.No.333/2019.

4. The 2<sup>nd</sup> respondent filed an application for release of the amount standing in the account of the present petitioner. The trial Court rejected the application on the ground that it was a subject matter of trial. The 2<sup>nd</sup> respondent challenges the said order before the Sessions Judge in CrI.R.P.No.35/2019. The learned Sessions Judge allows the application and directs release of amount in favour of the 2<sup>nd</sup> respondent. The amount, admittedly, did lie in the account of the petitioner-accused. Without making the accused a party to the proceedings, the Sessions Court could not have passed the order behind the back of the petitioner. The order of the learned Sessions Judge, is a blatant violation of principles of natural justice, as the amount

lying in the account of the petitioner is taken away without hearing him.

5. The aforesaid fact of the petitioner not being a party is not in dispute. Therefore, the order of the Sessions Court, impugned, is rendered illegal and unsustainable, on this solitary ground of it being in violation of principles of natural justice. For the aforesaid reasons, the following:

**ORDER**

- i. Criminal Petition is allowed.
- ii. The order dated 18.07.2019 passed in Cr.R.P.No.35/2019 by the I Additional District and Sessions Judge, Davanagere, stands quashed.
- iii. The matter is remitted back to the hands of the learned Sessions Judge with a direction to the parties to implead the petitioner into the proceedings herein and pass appropriate orders in accordance with law.

- iv. Since both the parties are represented before this Court, they are directed to appear before the I Additional District and Sessions Judge, Davanagere in Cr.R.P.No.35/2019 on 24.03.2022.

**Sd/-  
JUDGE**

SJK