

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2<sup>ND</sup> DAY OF JANUARY, 2023

BEFORE

THE HON'BLE MR. JUSTICE K.NATARAJAN

CRIMINAL PETITION NO.8969 OF 2022

BETWEEN

1 . P.SUNIL KUMAR  
S/O M PRAKASH RAO  
AGED ABOUT 35 YEARS,

2 . PRAKASH RAO M  
S/O LATE MUNI RAO  
AGED ABOUT 70 YEARS,

BOTH ARE RESIDING AT NO.120,  
1ST FLOOR CUBBON PET  
BANGALORE 560002

BOTH ARE ALSO AT SLN COMPANY  
PADUVANAGERE VILLAGE  
HAROHALLI HOBLI  
KANAKAPURA TALUK  
RAMANAGAR DISTRICT - 562 112

... PETITIONERS

(BY SRI VISHNUMURTHY, ADVOCATE)

AND

1 . STATE OF KARNATAKA  
BY SATHANOR P S  
RAMANAGAR  
REPRESENTED BY SPP  
HIGH COURT OF KARNATAKA  
BANGALORE 560001

2 . RAVIKUMAR C  
AGED ABOUT 40 YEARS,  
WORKING AS POLICE SUB INSPECTOR  
SATHANOR POLICE STATION  
KANAKAPURA TLAUK  
RAMANAGAR DISTRICT - 562 126

... RESPONDENTS

(BY SRI R.D. RENUKARADHYA, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF THE CODE OF CRIMINAL PROCEDURE, PRAYING TO QUASH THE ENTIRE PROCEEDINGS AGAINST THEM IN S.C.NO.5031/2021 OF SATHANOR P.S., FOR OFFENCES PUNISHABLE UNDER SECTIONS 3,5,6 OF EXPLOSIVE SUBSTANCE ACT AND SECTION 9(B) OF EXPLOSIVE ACT AND 286, 304 OF IPC WHICH IS PENDING ON THE II ADDL.DISTRICT AND SESSIONS JUDGE AT KANAKAPURA.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 16.12.2022, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed by the petitioners/accused Nos.4 and 5 under Section 482 of Cr.P.C., for quashing the entire proceedings against them in S.C.No.5031/2021 registered by Sathanor Police Station, for offences punishable under Sections 3,5,6 of Explosive Substance Act and Section 9(b) of Explosive Act and 286, 304 of IPC, pending on the file of the II Additional District and Sessions Judge at Kanakapura.

2. Heard the arguments of learned counsel for the petitioner and learned High Court Government Pleader for the respondent-State.

3. The case of the prosecution is that on the *suo-motu* complaint registered by the Satanur police on 16.8.2021 alleging that he received the information that a car parked within the jurisdiction of the Satanur police station got blasted and a person died in the car bearing registration No.KA-51-P-3384. On enquiry about the same, he came to know that the dead person was Mahesh who was carrying Gelatin in his car and at that time it got exploded. After registering case against deceased/accused No.1 and during the investigation it was revealed that this petitioner is said to be license holder of the explosives. The deceased said to have purchased explosives from the shop of the petitioner, therefore they have been shown as accused persons and charge sheet filed against them. It is the further case of the prosecution that the accused No.1

said to have contacted accused No.2 and accused No.2 said to have contacted accused No.3 and the Gelatin was purchased from the shop of the accused Nos.4 and 5 and they said to have violated the provision of Explosives Act and Explosives Substance Act. The petitioners are accused Nos.4 and 5 and they have challenged the charge sheet on the various ground. The learned counsel for the petitioners has contended the petitioner/accused Nos.4 and 5 are the license holder and they are selling the explosive substance, but as on the date of the alleged incident they were not present in the shop, they were present at Bangalore. The accused no.2 was the worker who is said to have supplied the gelatin to the accused No.1/deceased. The same was revealed only on the voluntary statement of accused Nos.6 and 7. Except the voluntary statement, there is no other material to implicate these petitioners and these petitioners have no knowledge about selling of the gelatin or explosives by accused No.2, and there is no bill issued by this petitioner for having sold the explosives.

4. The accused no.3 is a worker but accused No.2 is not employee. The accused Nos.2 and 3 are said to have had no knowledge of the petitioners having sold the gelatins and therefore these petitioners are not responsible for selling the explosives. Even on the entire charge sheet material, it does not implicate the accused in the crime, hence prayed for quashing the criminal proceedings.

5. Per contra, learned HCGP objected the petition and contended that the petitioners are license holders but they have no authority to sell to any other persons except the contractors, who have obtained the contract for blasting stone in the quarry. There was a condition mentioned in the license about seller as, to whom they have to sell it. Therefore, if any contentions available by the petitioner they have to take as defense in the trial court and hence prayed for dismissing the petition.

6. Having heard the arguments and perused the records, which reveals it is not in dispute that the deceased and other said to have carried some live gelatin

and explosives in his car on 16.9.2021, where the car exploded and the accused No.1 died on the spot. During the investigation, it was revealed that the explosives and gelatin sticks were purchased from the shop of the petitioners. Admittedly, the petitioner/accused No.5 is the license holder and accused No.4 is son of the license holder. The Deputy Commissioner of Bangalore Rural District has issued no objection certificate for running the shop for selling the explosives and also for transporting purpose. However, it is an admitted fact that at the time of selling the gelatin sticks and explosives by the accused no.3, this petitioner accused Nos.4 and 5 were not present in the shop. That apart, it is also not in dispute that there is no bill raised by the accused No.3 for having sold the gelatin sticks to the accused No.1 and 2. The accused No.2 said to be a broker who brought accused No.1 to the shop, at that time the accused no.3, the office boy without informing these accused persons have sold the explosives and gelatins and the accused persons did not any knowledge about the same. Accused No.3/Harish Kumar

categorically stated in the voluntary statement that in the absence of the owners, he used to sell the explosives without the knowledge of the owners and money received by him was spent on himself along with the others. On perusal of the voluntary statement of accused No.3, admittedly he himself sold the gelatin sticks to the accused No.1 at the instance of the accused No.2 and he has not implicated this petitioner. At the instance of this petitioner, he has sold the explosives to the accused no.1. Therefore, the contention of the learned HCGP cannot be acceptable that the voluntary statement of accused Nos.3 and 4 implicating the accused for commission of the offence. The accused no.3 who is employee has categorically stated that without the knowledge of the owners, he used to sell the same through accused No.2 and spent money by themselves without accounting to the petitioners/owners. Accused No.5 also stated in his voluntary statement that he came to know the selling of the explosives by the accused no.3 without their knowledge. Such being the case, the question of

implicating this petitioner for having violated the license cannot be acceptable. Apart from that, the learned HCGP has stated that there was contract between the petitioners/the license holder and the quarry owners for selling the explosives but this accused no.1 is not a quarry owner but at the instance of accused No.2 he has purchased the gelatin from accused no.3. Though the purchase was from the shop of the accused Nos.4 and 5 but without their knowledge and there is no bill or receipt issued by the accused no.3 on behalf of the shop or owners of the license holders. Such being the case, implicating accused Nos.4 and 5 is not correct. Any offence committed by the servant cannot be said to be vicarious liability by the owners/employer in the criminal law. Therefore, considering the facts and circumstances of the case, I am of the view, that conducting criminal proceedings against the petitioners is abuse of process of law. Hence, liable to be quashed.

Accordingly, this petition is ***allowed***.



Consequently, criminal proceedings registered against the petitioners in S.C.No.5031/2021 by Sathanoor Police Station for offences punishable under Sections 3, 5, 6 of Explosive Substance Act and Section 9(b) of Explosive Act and 286, 304 of IPC pending on II Additional District and Sessions Judge at Kanakapura, is hereby **quashed**.

AKV

**Sd/-  
JUDGE**