

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF JULY, 2021

BEFORE

THE HON'BLE MR.JUSTICE G.NARENDAR

WRIT PETITION No.6666/2020 (GM-POLICE)

BETWEEN :

RAGHUVARAN
S/O. SHANTHA KUMAR
AGED ABOUT 31 YEARS
R/AT E-210, SAMPIGE ROAD
LAGGERE
BENGALURU -- 560 058.

...PETITIONER

(BY SRI. A.N. PATEL, ADVOCATE FOR
SRI. ANEES ALI KHAN, ADVOCATE)

AND :

1. THE STATE OF KARNATAKA
BY ITS SECRETARY
HOME DEPARTMENT
VIDHANA SOUDHA
BENGALURU – 560 001.
2. THE COMMISSIONER OF POLICE
NO.1, INFANTRY ROAD
BENGALURU – 560 001.
3. VENKATARAMANAPPA, S.I.
MAHALAKSHIMPURAM POLICE STATION
BENGALURU – 560 086.

4. SHIVAJOGANNAVAR, P.S.I.
NANDINI LAYOUT POLICE STATION
BENGALURU - 560 096.
5. RAMESH
POLICE CONSTABLE
RAJAGOPAL NAGAR P.S.
BENGALURU - 560 058.
6. SHIVASAMY
POLICE CONSTABLE
RAJAGOPAL NAGAR P.S.
BENGALURU - 560 058.
7. MR. LOHIT
POLICE INSPECTOR
NANDINI LAYOUT POLICE STATION
BENGALURU - 560 096.
8. SHRI. SIDDARAMANNA
POLICE CONSTABLE NO.7616
NANDINI LAYOUT POLICE STATION
BENGALURU - 560 096.
9. MR. NAGESH
HEAD CONSTABLE
JEEP DRIVER
NANDINI LAYOUT POLICE STATION
BENGALURU - 560 096.
10. MR. GOLAD
POLICE INSPECTOR
RAJGOPALA NAGAR POLICE STATION
BENGALURU - 560 058.
11. MR. BAGALGUNTE
POLICE INSPECTOR
SOLEDEVANAHALLI POLICE STATION
BENGALURU - 560 090.

12. OFFICE OF THE HEAD OF BRANCH
CENTRAL BUREAU OF INVESTIGATION AND
ANTI-CORRUPTION BUREAU
BY ITS SUPERINTENDENT
NO.36, BELLARY ROAD
GANGA NAGAR
BENGALURU – 560 032.

13. THE CENTRAL BUREAU OF INVESTIGATION
BY ITS DIRECTOR GENERAL
PLOT NO.5-B, 6TH FLOOR
JAWAHARLAL NEHRU STADIUM MARG
NEW DELHI – 110 003.

...RESPONDENTS

(BY SRI. DHYAN CHINNAPPA, AGA A/W
SRI. VINOD KUMAR M., AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO GRANT INTERIM ORDER TO DIRECT R1 AND R2 TO DIRECT R3 TO R11 TO ACT IN ACCORDANCE AND WITH IN THE AMBIT OF LAW AND NOT HARRASS THE PETITIONER AND HIS FAMILY MEMBERS WITHOUT DUE COURSE TO LAW.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The matter was listed on 24.06.2021. Learned Additional Advocate General appearing for respondents and learned counsel

for petitioner were heard and this Court had expressed reservations about the merits of the matter as, apart from the complaint contents, no incriminating material was forth-coming after a perusal of the petition. Petitioner counsel sought time to secure further instructions and also to place some additional material to convince the Court about the merits of the case. On the request, matter was adjourned to 01.07.2021.

3. On 01.07.2021, learned counsel for petitioner again pleaded for further time after it was pointed out to the learned counsel for petitioner, that minor inconsistencies in the statement made by the complainant, who is none other than a police officer and that the minor inconsistencies not being of such nature, which would enable this Court to draw a presumption, that it is not a case of alleged encounter but a case of cold blooded murder. Yet again, petitioner sought for time.

4. On 12.07.2021 and after making submissions for some time, this Court reiterated its earlier finding and opinion. Learned counsel, who was appearing on virtual mode, submitted that as he

is having high temperature he would require a couple of days' time, to effectively assist the Court.

5. The matter was taken up today. Learned counsel for petitioner has failed to appear and a proxy counsel Sri. A.M. Patel, R.No. KAR 344/2004 would make a request on behalf of petitioner's counsel stating that petitioner's counsel is unwell and prays for time.

6. When the case was called out in the morning session it was specifically mentioned that the case would not be adjourned. Despite the same, there was no representation on behalf of the petitioner when the matter was called out for the second time. The proxy counsel submitted that he has personally visited the petitioner's counsel's house and would submit that the petitioner's counsel is completely bedridden and he is not even in a position to get up from the bed.

7. The submission does not inspire confidence in the Court as to what is ailing the petitioner's counsel is not stated. On being queried the proxy counsel has no answers, nor any medical records

are placed before this Court. If the request made today is appreciated in the background of what has transpired on previous dates of hearings, it is apparent that the petitioner's counsel is attempting to avoid hearing before this Bench, as this Court had already expressed its opinion about the merits of the case and in fact had queried the learned counsel, as to what kind of instructions/information does he expect from a person who is not only under incarceration on murder charges but who has no personal knowledge of the incident, the learned counsel had answered that the petitioner would seek information from his relatives and friends and pass on instructions. The said answer makes it apparent that the instant petition is an attempt to have the Court order a roving enquiry and there after fish for information. In the opinion of this Court such an attempt requires to be nipped in the bud.

8. Merely because this Court had expressed its opinion on the merits of the matter, it cannot be a ground for the petitioner's counsel to avoid hearings. Even on the last date of hearing, when the counsel pleaded time, he made it clear that he would definitely

go ahead and conduct the case. The matter was adjourned to today as a final chance. The attempt by the counsel is nothing but bench hunting and such attitude that too in a matter of such gravity, would only amount to an abuse of process of justice dispensation.

9. That apart, on merits, it is seen that total reliance is placed on the statements made in the complaint lodged against the accused, by an officer of the Sub Inspector cadre. Deceased is a notorious rowdy sheeter, who was absconding and who had been residing somewhere in far away Uttar Pradesh and that arriving on the out skirts of Bengaluru City the police party was attacked and the deceased, who was handcuffed was taken away by the attackers and later on, when one of the vehicles, in which the personnel found the deceased, was intercepted, it is alleged that he got down and shot against two officers, resulting in one of the officers sustaining injuries, despite him wearing a bulletproof vest and was admitted to hospital. The attack on the police party, to enable the escape of the prisoner is not denied. No new facts or particulars or details are provided by the petitioner. It is alleged that the petitioner is an associate of the deceased gangster. That

the petitioner is accused of murdering the complainant on whose complaint the deceased was arrested and was being brought to Bengaluru. The assault by the deceased gangster using fire-arms against one of police officers and subsequent hospitalization are not denied.

10. In that view of the matter and in the absence of any particular material, demonstrating it to be a cold blooded murder with a malafide intention and in the light of the fact that a magisterial enquiry, as laid down by the Hon'ble Apex Court in the case of **PEOPLE'S UNION FOR CIVIL LIBERTIES AND ANOTHER VS. STATE OF MAHARASHTRA AND OTHERS** reported in **(2014) 10 SCC 635**, having been conducted and no foul play detected, this Court does not find any ground, which warrants the further consideration of the petition.

17. Though this Court was inclined to impose exemplary cost and record its displeasure on the part of the petitioner's counsel, desists from doing so, keeping in view the fact the age and career of the petitioner's counsel, writ petition is rejected. It is made clear that dismissal of this petition will not come in the way of

the Petitioner to approach this Court or the Authority, if any, fresh or new material becomes available.

**Sd/-
JUDGE**

BVK