



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 31ST DAY OF AUGUST, 2023

BEFORE

THE HON'BLE MR JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 101916 OF 2023

BETWEEN:

ABDUL RAHAMAN KHAN,
AGE. 43 YEARS, OCC. SELF EMPLOYED,
R/O. #3255/M-25, PULIKESHI ROAD,
MANDI MOHALLA, MYSORE-570015.

... PETITIONER

(BY SRI. A.D. NADAF, ADVOCATE)

AND:

1. THE STATE BY APMC YARD PS.,
BELAGAVI, R/BY HIGH COURT, GOVT PLEADER,
OFFICE AT DHARWAD HIGH COURT,
DHARWAD-580011.
2. RAMESH KUMAR S/O VASANTA KUMAR,
AGE. 49 YEARS, OCC. SELF EMPLOYED,
R/O PLOT NO 10, KRISHI NAGAR,
NEAR RING ROAD, IBRAHIMPUR,
VIJAYPUR-586109.

... RESPONDENTS

(BY SRI. V.S. KALASURMATH, HCGP FOR R1)

THIS CRIMINAL PETITION IS FILED U/SEC. 482 OF CR.P.C. SEEKING TO QUASH ALL THE CONSEQUENTIAL PROCEEDINGS INITIATED AGAINST THE PETITIONER/ACCUSED NO. 14 IN CRIME NO. 59/2022, APMC YARD P.S. BELAGAVI PENDING ON THE FILE OF PRINCIPAL DISTRICT AND SESSIONS JUDGE, BELAGAVI, REGISTERED BY RESPONDENT NO.1 FOR THE OFFENCES P/U/SEC. 23 OF THE BANNING OF UNREGULATED DEPOSIT SCHEMES ACT 2019 AND U/SEC. 506, 120B, 149, 406 420 OF IPC AMD AMONGST THE OTHER GROUNDS AT THE TIME OF HEARING AND THE GROUNDS RELIED IN THE AVERNMENT MAY BE CONSIDERED AS PART OF THIS PETITION.





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

ORDER

1. The petitioner is before this Court calls in question the proceedings in Crime.No.59/2022 of APMC Yard Police station pending on the file of the Prl. District and Sessions Judge, Belagavi for the offences punishable under Sections 506, 120B, 149, 406, 420 of IPC.

2. Learned counsel appearing for the petitioner would submit that issue in the lis stands answered by the Co-ordinate Bench in CrI.P.No.102888/2022, dated 19.10.2022. The Co-ordinate Bench has held as follows:

ORDER

The FIR is registered in Crime No.257/2021 for the offences punishable under Sections 420 and 511 of IPC and Sections 21(1) and 21(2) of the Banning of Unregulated Deposit Schemes Act, 2019 (hereinafter referred to as "Act" for short) alleging that accused Nos.1 and 4 induced the people to deposit money stating that the amount invested will be doubled and the said amount which is invested by the public have been utilized for own purpose and for other purposes and during the course of investigation, the petitioners have been arrayed as accused Nos.2 and 3, as they were collecting the money



from the public as agents of accused No.1. Taking exception to the same, this petition is filed.

2. Learned counsel appearing for the petitioners submits that Section 27 of the Act specifies that no Designated Court shall take cognizance of an offence punishable under that section except upon a complaint made by the Regulator. He further submits that the registration of the FIR for the offences punishable under Sections 21(1) and 21(2) of the Act is one without authority of law.

3. The learned HCGP appearing for the respondent-State submits that the petitioners having collected money illegally from the people, committed the aforesaid offences and the Police have registered the FIR and the same does not warrant any interference.

4. I have examined the submissions made by the learned counsel for the parties.

5. Section 7 of the Act, specifies that appropriate government shall, by notification, appoint one or more officers not below the rank of Secretary to that government, as the competent authority for the purpose of this Act. Section 8 specifies that the appropriate government shall, with the concurrence of the Chief Justice of the concerned High Court, by notification, constitute one or more Courts known as the Designated Courts for such area or areas to deal with the matters to which the provisions of the Banning of Unregulated Deposit Schemes Act applies. Section 27 of the Act specifies that no Designated Court shall take cognizance of an offence punishable under that section except upon a complaint made by the Regulator.



6. *A conjoint reading of this provision indicates that the government shall first appoint a Regulator and thereafter designate a Court to deal with the matters to which the provisions of this Act apply and the Designated Court can take cognizance only on a complaint in writing made by the Regulator.*

7. *In the instant case, the Regulator has not filed a complaint before the Designated Court so as to take cognizance of the offences punishable under Sections 21(1) and 21(2) of the Act. However, the Police have registered the FIR for the aforesaid offences. Hence, the registration of the FIR for the aforesaid offences is one without authority of law. Accordingly, I pass the following:*

ORDER

Writ Petition is allowed.

The impugned FIR in Crime No.257/2021 filed by the Chikkodi Police Station insofar it relates to accused Nos.2 and 3 is hereby quashed.

3. Learned HCGP on perusal of the judgment would accept that the issue has been answered by the Co-ordinate Bench.

For the aforesaid reasons, I pass the following:

ORDER

i) Writ petition is allowed.



ii) The impugned proceedings in Crime.No.59/2022 of APMC Yard Police station pending on the file of the Prl. District and Sessions Judge, Belagavi qua the petitioner stands quashed.

Sd/-
JUDGE

vb
ct:bck
List No.: 1 Sl No.: 25