

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

DATED THIS THE 25<sup>TH</sup> DAY OF NOVEMBER, 2020

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

**CRIMINAL PETITION NO.4998 OF 2020**

**BETWEEN:**

Sri. Mallikarjuna  
S/o. Malleshappa  
Aged 26 years  
R/at Village Accountant  
Appihalli Circle, Belur Taluqa  
Machenahally, Halebidu HO  
Hassan District-573121

... Petitioner

(By Sri. K.B.Monesh Kumar, Advocate for  
Sri/Smt. Vijetha R.Naik, Advocate)

**AND:**

State of Karnataka  
By Halebeedu Police Station  
Hassan District  
Hassan-573121  
(Represented & served  
By the State SPP attached to this  
Hon'ble Court)  
Bangalore-01

... Respondent

(BY Sri. K.Nageshwarappa, HCGP)

This Criminal Petition is filed under Section 482 of Cr.P.C praying to quash the complaint dated 19.12.2016 registered as FIR in Cr.No.323/2016 for the offences P/U/S 423, 466, 409, 149, 420, 419, 473, 467, 471, 465, 468 of IPC on the file of the learned Civil Judge and JMFC Court, Belur and etc.

This Criminal Petition coming on for Orders, through video conferencing this day, the Court made the following:

**ORDER**

1. The petitioner is before this Court seeking for quashing the complaint dated 19.12.2016 registered in Crime No.323/2016 for the offences punishable under Sections 423, 466, 409, 149, 420, 419, 473, 467, 471, 465 and 468 of IPC pending on the file of the Civil Judge and JMFC Court, Belur and to quash the order dated 28.03.2018 in C.C.No.116/2018 for the offences punishable under Sections 423, 466, 409, 420, 465, 467, 468, 471 read with 34 of IPC and also to quash the entire charge sheet in C.C.No.116/2018 pending on the file of the Civil Judge and JMFC, Belur.
2. A complaint came to be filed on 19.12.2016 by one Mr. Shadakshri alleging that the petitioner had wrongfully made entries in the Registry of Death and issued a Death Certificate as regards a person who was not even residing in a village over which

the petitioner had a jurisdiction. In view thereof, the above offences being complained of, the investigating officer sought for sanction of prosecution of the petitioner. Since the petitioner is a public servant and the offence complained of is stated to have been committed by the petitioner during the course of his discharge of his public functions. The said request has been rejected after obtaining legal advice and no sanction has been accorded for the purpose of prosecution of the petitioner.

3. In view thereof, Sri. K.B.Monesh Kumar, learned counsel appearing for the petitioner would submit that without a sanction for prosecution against the petitioner, the proceedings cannot continue, more so, when the said permission for sanction has been categorically refused.

4. Sri. K. Nageshwarappa, learned High Court Government Pleader would submit that the

allegations made in the present complaint are as regards forgery and fabrication of a Death Certificate. Therefore, the same cannot be said to be an action taken in discharge of public functions. Therefore, the proceedings could continue against the petitioner in the absence of the sanction.

5. Heard Sri. K.B.Monesh Kumar, learned counsel for the petitioner and Sri. Nageshwarappa, learned High Court Government Pleader.
6. The allegations made in the complaint filed by one Mr. Shadakshri is that there was a false Death Certificate issued. The issuance of such false Certificate could either have been in the discharge of the official duties or for certain private benefit of the petitioner. In the event of there being no permission seeking for sanction and or the sanction not having refused, this Court could have opined as to whether sanction was required or not. However, once the sanction for prosecution has been sought

for and the said sanction has been refused, this Court cannot sit in judgment of the wisdom on the sanctioning Authority. In such an event, the complainant could agitate his grievance by challenging the said non-grant of sanction. Be that as it may. Once the sanction has been refused, the prosecution for a criminal offence against the public officers cannot continue.

7. As such, the complaint dated 19.12.2016 registered in Crime No.323/2016 for the offences punishable under Sections 423, 466, 409, 149, 420, 419, 473, 467, 471, 465 and 468 of IPC pending on the file of the Civil Judge and JMFC Court, Belur as also the order dated 28.03.2018 in C.C.No.116/2018 for the offences punishable under Sections 423, 466, 409, 420, 465, 467, 468, 471 read with 34 of IPC and the entire charge sheet in C.C.No.116/2018 pending on the file of the Civil Judge and JMFC, Belur are hereby quashed reserving liberty to the

complainant to challenge the order of non-grant of sanction, if so advised.

8. Petition is allowed.

**Sd/-  
JUDGE**

RB