IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF JUNE, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

WRIT APPEAL NO.255 OF 2022 (GM-RES)

BETWEEN:

THE KARNATAKA LOKAYUKTA POLICE
M.S. BUILDING
B.R. AMBEDKAR VEEDHI
BENGALURU CITY-1
REPRESENTED BY
SRI. DINESHKUMAR B.S.
S/O SHUBAKARA
AGED ABOUT 38 YEARS
OCC: POLICE INSPECTOR
NOW REPRESENTED BY
SRI. T.R. RAJASHETTY
S/O RAMASHETTY
AGE: 46 YEARS
OCC: DEPUTY SUPERINTENDENT OF POLICE

...APPELLANT

(BY SRI. PRASAD B.S., ADVOCATE)

AND:

1 . THE STATE OF KARNATAKA
REP. BY SECRETARY
DEPARTMENT OF PERSONNEL AND
ADMINISTRATIVE REFORMS
VIDHANA SOUDA
BENGALURU-560 001

2 . OFFICE OF THE DIRECTOR GENERAL AND
INSPECTOR GENERAL OF POLICE
No.2, NRUPATHUNGA ROAD
BENGALURU-560 001

4 . G. KRISHNAMURTHY
S/O LATE GOPALA
AGED ABOUT 60 YEARS
WORKING AS POLICE INSPECTOR
STATE INTELLIGENCE
MADIKERI, KODAGU DISTRICT
NOW RESIDING AT:
HOUSE No.D4/2282/375/1381
GOPALAKRISHNASWAMY NILAYA
10TH CROSS
CHAMUNDESHWARINAGARA
MANDYA-571 403

...RESPONDENTS

(BY SMT. PRAMODHINI KISHAN, AGA FOR R1 & R2;
SRI. T.P. VIVEKANANDA, ADVOCATE FOR R3)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED 13.12.2021 IN WP No.48249/2018 (GM-RES).

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 16.03.2026 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **ANU SIVARAMAN J.,** PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MS. JUSTICE TARA VITASTA GANJU

CAV JUDGMENT

(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)

This writ appeal is preferred against the Order dated 13.12.2021, passed by the learned Single Judge in W.P.No.48249/2018 (GM-RES). The Writ Petition was filed by the appellant herein purportedly under Articles 226 and 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 praying to quash the Order dated 28.01.2017 issued by the Government declining to accord sanction to prosecute respondent No.3.

2. Respondent No.3 was a Government Servant working as a Police Inspector, State Intelligence in the Home Department. Crime No. 8/2012 was registered on 28.11.2012 against respondent No.3, alleging commission of offences cognizable under Section 13(1)(e) read with Section 13(2) of the Prevention of Corruption Act, 1988 for possessing assets disproportionate to his known source of income. A final report was filed by the appellant alleging that respondent No.3 had amassed wealth disproportionate to his known source of income to the tune of 100.019%. On

16.12.2015, a request was sent to the Government to accord sanction to prosecute respondent No.3. The request was returned on 17.10.2016 by the Government directing the appellant to submit all documents in support of the request. Once again on 29.12.2016, a letter was addressed to respondent No.1 enclosing all documents. The State passed an Order dated 28.01.2017 refusing to accord sanction for prosecution. This was under challenge before the learned Single Judge. The learned Single Judge held that the appellant did not have the *locus standi* to maintain the writ petition and further held that there was no error in declining to grant sanction. Aggrieved by the order dated 13.12.2021, the appellant is in appeal.

3. The learned counsel appearing for the appellant contended that the learned Single Judge failed to take note of the fact that the appellant, being the Investigating Agency, had investigated the matter and concluded that respondent No.3 had amassed assets disproportionate to his known sources of income to the extent of 100%. It is further contended that, as the competent authority rejected

the appellant's request for according sanction, the appellant is an aggrieved person and therefore has the standing to maintain the writ petition.

4. It is further contended that the learned Single Judge failed to take note of the judgment of the Apex Court in ***Jasbhai Motibhai Desai v. Roshan Kumar, Haji Bashir Ahmed and others*** reported in ***(1976) 1 SCC 671***, wherein the tests to determine whether a person can be said to be an aggrieved person have been laid down, and the Court could not have treated the appellant as a stranger to the proceedings.

5. It is further contended that the learned Single Judge has adopted a narrow interpretation of Section 19 of the Prevention of Corruption Act. Further, the learned Single Judge failed to appreciate that the sanctioning authority acted as an appellate authority by appreciating the material on record, which is erroneous. It is further contended that the discretion exercised by the competent authority in rejecting the appellant's request is arbitrary and has been influenced by the material placed by respondent No.3, which

is *per se* illegal. The competent authority has taken into account irrelevant explanations furnished by respondent No.3 before the Additional Chief Secretary while considering the appellant's request.

6. It is also contended that respondent No.1 conducted a mini trial while examining the issue of sanction, which is impermissible in law. It is also contended that respondent No.1 failed to take note of the fact that the agricultural income considered was neither declared in the income tax returns nor reflected in the annual returns. Further, no material was produced by respondent No.3 to establish that he had sold the agricultural produce, however, this aspect was not considered by the competent authority.

7. The learned counsel appearing for the appellant places reliance on the following judgments:-

- ***Sri. B.S. Yedyurappa v. Sri. Sirajin Basha*** by Order dated ***29.11.2013*** passed in ***W.A.No.4052/2013 c/w. W.A.No.4053/2013 (GM-RES);*** and

- ***State of Karnataka v. Sri. H.T. Vasantha*** by Order dated ***22.03.2021*** passed in ***W.A.No.622/2020 (GM-RES).***

8. The learned Additional Government Advocate appearing for respondents No.1 and 2/State as well as the learned counsel appearing for respondent No.3 have raised a preliminary objection contending that a writ appeal is not maintainable against an Order passed by the learned Single Judge exercising jurisdiction under Section 482 of the Code of Criminal Procedure. It is submitted that though the matter is filed as one under Articles 226 and 227 of the Constitution of India, the challenge against an Order declining prosecution sanction can be assailed only under Section 482 of the Code of Criminal Procedure. It is therefore contended that the learned Single Judge was not exercising original jurisdiction under Article 226 of the Constitution of India or the supervisory jurisdiction under Article 227 of the Constitution of India. What was actually being exercised was the inherent power of the High Court under Section 482 of the Code of Criminal Procedure and a

writ appeal is not maintainable against the exercise or refusal to exercise the said inherent power.

9. It is submitted that the Apex Court has clearly held that the grant of sanction for prosecution is a solemn act which affords protection to Government servants against frivolous prosecutions and that an independent application of mind by the Government is required and a refusal of prosecution sanction, after due consideration of the facts, cannot be lightly interfered with. It is submitted that a Sanction Order cannot be passed on the dictates of any Authority and it is for the Government to take an independent decision taking note of all the relevant facts of the matter.

10. Respondent No.3 had also placed objections on record in the writ petition as well as in the writ appeal and seeks a ruling on the preliminary objection. It is further contended that on merits as well, the State has considered all relevant aspects and has come to a conclusion that sanction for prosecution need not be granted. It is submitted that there were no merits in the contentions raised by the

appellant before the learned Single Judge or before this Court.

11. The learned counsel appearing for respondent No.3 places reliance on the following decisions:-

- ***Mansukhlal Vithaldas Chauhan v. State of Gujarat*** reported in ***(1997) 7 SCC 622;***
- ***State of Himachal Pradesh v. Nishant Sareen*** reported in ***(2010) 14 SCC 527;*** and
- ***Central Bureau of Investigation v. Ashok Kumar Aggarwal*** reported in ***(2014) 14 SCC 295.***

12. We are of the opinion that the preliminary objection with regard to the maintainability of the writ appeal has to be addressed in the first instance. The learned counsel appearing for respondent No.3 submits that the decisions relied on by the learned counsel for the appellant are not specifically on the question raised in this appeal. It is further contended that a challenge against an Order refusing to grant prosecution sanction can only be one passed under Section 482 of the Code of Criminal Procedure and no appeal would be maintainable against such an order.

13. Section 4 of the Karnataka High Court Act, 1961 reads as follows:

> ***4. Appeals from decisions of a single Judge of the High Court.***—*An appeal from a judgment, decree, order or sentence passed by a single Judge in the exercise of the original jurisdiction of the High Court under this Act or under any law for the time being in force, shall lie to and be heard by a Bench consisting of two other Judges of the High Court.*

Section 10 (iv-a) of the Karnataka High Court Act further reads as under:

> *(iva) an appeal from any original judgment, order or decree passed by a single Judge in exercise of the powers under clause (1) of article 226, article 227 and article 228 of the Constitution of India.*

14. A Division Bench of this Court in ***Shreemad Jagadguru Shankaracharya Shree Shree Raghaveshwara Bharathi Swamiji v. State of Karnataka, Girinagara Police Station and Others*** reported in ***ILR 2015 KAR 842***, has held as under:

> "*11. In view of the above discussion, we hold that the petition filed before the Learned Single Judge, notwithstanding its nomenclature, as one filed under Articles 226 and 227 of the*

Constitution of India read with Section 482 Cr. P.C., was actually one filed under Section 482 Cr. P.C. The Learned Single Judge was justified in treating and deciding the petition under Section 482 Cr. P.C.

Therefore, this writ appeal filed under Section 4 of the Karnataka High Court Act, 1961, is not maintainable."

15. The Apex Court in ***Ram Kishan Fauji v. State of Haryana*** reported in ***(2017) 5 SCC 533***, has also held as follows:-

"18. *On a plain reading of the aforesaid clause of the Letters Patent, it is manifest that no appeal lies against the order passed by the Single Judge in exercise of criminal jurisdiction. Thus, the question that is required to be posed is whether the learned Single Judge, in the obtaining factual matrix has exercised criminal jurisdiction or not.*

46. *The crux of the present matter is whether the learned Single Judge has exercised "civil jurisdiction" or "criminal jurisdiction". In that regard, Mr Visen has strenuously contended that the Lokayukta is a quasi-judicial authority and the proceeding being quasi-judicial in nature, it cannot be regarded as one relatable to criminal jurisdiction, but it may be treated as a different kind or category of civil proceeding. His argument is supported by the Full Bench decision of the High Court of Andhra Pradesh in Gangaram Kandaram v. Sunder Chikha. In the said case, a writ petition was filed for issue of a writ of mandamus to declare the action of the respondents in registering crimes under Sections 420 and*

406 of the Penal Code against the writ petitioner in FIRs Nos. 14, 137 and 77 of 1997 as illegal and to quash the same. The learned Single Judge had allowed the writ petition by order dated 6-8-1997 and quashed the FIRs. The order passed by the learned Single Judge was assailed by the seventh respondent in intra-court appeal. The Full Bench posed the following question : (Gangaram

> *"2. … '… (ii) Whether appeal under Clause 15 of the Letters Patent of the Court lies against the judgment in such a case. In other words, whether a proceeding for quashing of investigation in a criminal case under Article 226 of the Constitution of India is a civil proceeding and the judgment as above is a judgment in a civil proceeding in exercise of the original jurisdiction of the Court for the purposes of appeal under Clause 15 of the Letters Patent.*

60. *On the aforesaid basis, the Division Bench in Adishwar Jain ruled that in a proceeding under Article 226 consisting of civil rights, the proceedings are civil in nature falling within the ambit of Clause 10 of the Letters Patent. In the said case, the detention was under the COFEPOSA Act. The Court observed that the said detention is purely preventive without any trial in a criminal court and the challenge to such detention is for the enforcement of a fundamental civil right and, therefore, a writ under Article 226 for issue of habeas corpus in such like matters cannot be considered as a proceeding under criminal jurisdiction even though the writ petition is identified as a criminal writ petition under the High Court Rules and others. The said decision has to*

be carefully appreciated. The nomenclature of a writ petition is not the governing factor. What is relevant is what is eventually being sought to be enforced. The Division Bench observed that as there is a preventive detention, there is a violation of fundamental civil right. The said decision, as is noticeable, was rendered in a different context. We are only inclined to say that the said authority does not assist the proposition expounded by the learned counsel for the State.

61. *In the case at hand, the writ petition was filed under Article 226 of the Constitution for quashing of the recommendation of the Lokayukta. The said recommendation would have led to launching of criminal prosecution, and, as the factual matrix reveals, FIR was registered and criminal investigation was initiated. The learned Single Judge analysed the report and the ultimate recommendation of the statutory authority and thought it seemly to quash the same and after quashing the same, as he found that FIR had been registered, he annulled it treating the same as a natural consequence. Thus, the effort of the writ petitioner was to avoid a criminal investigation and the final order of the writ court is quashment of the registration of FIR and the subsequent investigation. In such a situation, to hold that the learned Single Judge, in exercise of jurisdiction under Article 226 of the Constitution, has passed an order in a civil proceeding as the order that was challenged was that of the quasi-judicial authority, that is, the Lokayukta, would be conceptually fallacious. It is because what matters is the nature of the proceeding, and that is the litmus test."*

16. In ***Yedyurappa****'s case* (supra), the Division Bench of this Court, while considering a situation where an appeal was preferred against a judgment of the learned Single Judge with regard to quashing of private complaints, held that the quashing of private complaints could as well be considered under Article 226 of the Constitution of India. Therefore, the writ appeals were maintainable.

17. Having considered the contentions advanced, we are of the opinion that, in case the power exercised by the learned Single Judge was one referable to Article 226 of the Constitution of India, then an appeal would be maintainable under Section 4, read with Section 10(iva) of the Karnataka High Court Act. In the instant case, since the writ petition was filed against a judgment refusing to interfere in an Order which refused sanction for prosecution and since there were no criminal proceedings whatsoever pending before the Criminal Courts, we are of the opinion that what was exercised or refused to be exercised was the original power of the learned Single Judge under Article 226 of the

Constitution of India. If that be so, an appeal would be maintainable.

18. On the merits of the case, we find that the question of prosecution sanction is one which has to be considered by the Government, considering the material placed before it independently. We are of the opinion that the said exercise has been carried out by the Government. The learned Single Judge has also considered this aspect specifically as point No.2 and has come to the conclusion that the State Government has exercised the discretion vested in it under Section 19 of the Prevention of Corruption Act, 1988, not once, but thrice on a finding that the case on hand is not one fit for grant of sanction or prosecution.

19. We notice that though contentions have been raised by the appellants, the main contention is that the recommendation of the Lokayuktha has not been accepted by the Government. We are of the opinion that it is for the Government to take an independent decision as to prosecution sanction on the basis of the material placed before it. The recommendation of the Lokayuktha is only one

of the materials before the Government. If the Government, after considering the relevant material, comes to the conclusion that prosecution sanction need not be granted, then the Government is only exercising its discretion which is specifically provided to it under the statute.

20. The learned Single Judge has specifically considered the legality of the Order refusing sanction and has upheld the same.

21. In the above factual situation, we are of the opinion that there is no requirement for interference in the refusal to exercise the jurisdiction by the learned Single Judge. The appeal therefore fails and the same is accordingly ***dismissed***.

All pending interlocutory applications shall stand *disposed of*.

Sd/-
(ANU SIVARAMAN)
JUDGE

Sd/-
(TARA VITASTA GANJU)
JUDGE

cp*