

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL PETITION NO.5148 OF 2019

BETWEEN:

1. SRI. C. MOHAMMED KALEEMULLA,
(NAME SHOWN AS MOHAMMAD KALIMULLA
IN CC NO.1101/2006),
AGED ABOUT 66 YEARS,
S/O MOHAMMED,
ADDRESS SHOWN IN CC NO.1101/2006
AS EX-COMMISSIONER,
THE CITY MUNICIPAL COUNCIL,
KRISHNARAJAPURAM,
BENGALURU-560036.
PRESENTLY RESIDING AT NO.139,
4TH CROSS, JHBCS LAYOUT,
BANASHANKARI II STAGE,
BENGALURU-560078.

...PETITIONER

(BY SRI. SHRIVATSA, ADVOCATE FOR
SRI. B.V. SHANKARANARAYANA RAO, SENIOR ADVOCATE)

AND:

1. THE KARNATAKA STATE POLLUTION
CONTROL BOARD,
REGIONAL OFFICE, BENGALURU EAST-1,
ADDRESS SHOWN IN CC NO.1101/2006
AS EX COMMISSIONER,
22ND FLOOR, PUB, M.G.ROAD,
BENGALURU-560001.

PRESENTLY AT "PARISARA BHAVAN",
NO.49, 4TH AND 5TH FLOOR
CHURCH STREET,

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA

BENGALURU-560001,
REPRESENTED BY ITS
DEPUTY ENVIRONMENTAL OFFICER.

...RESPONDENT

(BY SRI. GURU RAGHAVENDRA M., ADVOCATE FOR
SRI. GURURAJ JOSHI, ADVOCATE)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE CRIMINAL PROSECUTION COGNIZANCE IN C.C.NO.1101/2006 TAKEN ON 27.11.2006 THEREOF BEFORE THE METROPOLITAN MAGISTRATE (TRAFFIC COURT-1), MAYO HALL UNIT, BENGALURU, IN SO FAR AS IT RELATES TO THE PETITIONER.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 01.10.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

CAV ORDER

Heard the learned Senior Counsel for the petitioner and the learned counsel for the respondent.

2. The prayer sought in the petition under Section 482 of Cr.P.C. is to quash the proceedings initiated against this petitioner/accused No.6 in C.C.No.1101/2006 dated 27.11.2006, under Section 49 of the Water (Prevention and Control of Pollution) Act, 1974 ('the said Act' for short) before the Metropolitan Magistrate (Traffic Court 1), Mayo Hall, Bangalore, and to grant such other relief as deemed fit in the circumstances of the case.

3. The factual matrix of the case of the complainant is that the complainant filed the complaint against seven accused persons, all of whom were alleged to be the Commissioners of the City Municipal Council, Krishnarajapuram, Bangalore, at various point of time. It is alleged in paragraph No.5 of the complaint that the accused persons had not obtained the consent from the respondent after 30.06.2006 and did not provide the sewage treatment plant and underground drainage facility and discharging the untreated sewage into the neighbouring water bodies, which constitutes the violation of Section 25 of the said Act, which is punishable under Section 44 of the said Act. It is contended in the petition that the petitioner who is accused No.6 was the Commissioner only for a period of 13 days i.e., from 18.05.2006 to 31.05.2006 and it was in his ex-officio capacity of holding the office of the Commissioner, the alleged offence was fastened against the petitioner. The said complaint was filed on 07.09.2006 and the address of the petitioner was shown as Commissioner, City Municipal Council, Krishnarajapuram, Bengaluru and not that of his then incumbent office he was holding or his residential address making it difficult for the petitioner to gain knowledge of the institution of the said complaint by the complainant.

Even though the respondent/complainant was aware that the petitioner herein did not hold the said post and was not available at the official address as stated by the complainant in the complaint, the complainant, for the reasons best known to it, had put the address of the petitioner where the petitioner did not reside and would not come to know about the filing of the complaint. It was only on 06.05.2019, the police have knocked the door of the petitioner at his present address. It is contended that the petitioner is an innocent for the alleged offences and he is also facing several medical ailments on account of the massive stroke he had suffered and initiation of the proceedings against the petitioner is unwarranted. The learned counsel also contend that this Court in Crl.P.Nos.2627/2012 c/w 1537/2011 and 1010/2011 seeking the quashing of the proceedings in the very same C.C. by the other co-accused, has clearly held that the Commissioner of Municipal Council and Chief Officer or Council cannot be termed as the Head of the Department and they cannot be prosecuted under Section 48 of the Act and the initiation of proceedings in respect of connected Commissioners has been quashed.

4. The learned counsel for the petitioner relying upon the order passed in the said judgment as well as the order

passed by the Division Bench in W.P.No.30610/2008, dated 30.10.2008, would vehemently contend that there cannot be any vicarious liability if the complaint does not disclose specific allegation. The learned counsel also contend that there is no negligence on the part of this petitioner. In paragraph No.5 of the complaint, allegation made against this petitioner is in respect of the renewal of license and the same is also only after the petitioner had left the office and hence, there cannot be any prosecution against this petitioner. The learned counsel also vehemently contend that the successors of the office have not done, but this Court cannot consider the same against this petitioner. The learned counsel also vehemently contend that while taking the cognizance, the learned Magistrate has not referred Sections 25 and 24 of the said Act and also the penal provisions. The learned counsel would contend that even though the Apex Court has set aside the order passed by this Court in Crl.P.No.2627/2012 and other connected matters, the same will not come in the way of this petitioner and the violation is not in respect of the period of this petitioner. The learned counsel would contend that different grounds are urged by the co-accused while seeking for quashing in the said petition. The learned counsel would contend that this petitioner

has not contravened Sections 24 and 25 of the said Act and the penal provisions under Sections 43 and 44 also not attracts. It is only a figment of imagination. No renewal of license is not set out in the particular sections. The learned counsel would contend that the petitioner is almost 70 years old and has suffered a paralytic stroke and there cannot be any prosecution against this petitioner.

5. Per contra, the learned counsel for the respondent submits that in paragraph No.5 of the complaint, it is specifically stated with regard to the violation is concerned and specific allegation is also that it is only after treating sewage in the STP, the accused should discharge the same. The complainant Board on 03.11.2005, had accorded a consent to the accused persons to discharge sewage effluent after treatment which was expired on 30.06.2006 and thereafter, the same has not been renewed, as no application was filed by the accused. One of the condition of the said consent was that the accused person should provide sewage treatment plant within six months to treat sewage generated in the CMC area, which has not been done so far, nor any steps has been taken in that regard. On the other hand, the accused persons are continuously discharging the untreated sewage into the water

bodies viz., ponds, lakes, natural valleys. Not providing sewage treatment plant and under ground drainage facility resulted in the contamination of the ground and surface water which clearly demonstrates that the accused persons have no regards for pollution laws nor they have any interest in prevention and control of pollution. Non-obtaining of consent after 30.06.2006 and not providing sewage treatment plant and underground drainage facility and discharging the untreated sewage waste into the neighbouring water bodies, constitutes the violation of Section 25 of the Act, which is punishable under Section 44 of the said Act.

6. The learned counsel also vehemently contend that the order passed by this Court in Crl.P.No.2627/2012 and other connected matters was set aside by the Apex Court when the challenge was made and hence, the learned counsel for the petitioner cannot rely upon the said judgment. The Apex Court in detail dealt with the same in its judgment in the case of **KARNATAKA STATE POLLUTION CONTROL BOARD v. B.HEERA NAIK AND OTHERS, ETC.** reported in **(2020) 16 SCC 298**. The learned counsel contend that the said petition is also arising out of the very same complaint and particularly in paragraph No.5, grounds which have been urged was taken

note of and also dealt with in detail even with regard to the Division Bench judgment of this Court passed in W.P.No.30610/2008 in the case of **V.C.Chinnappa Goudar**, which was relied upon by the petitioner counsel in paragraph No.9 and set aside the judgment of this Court and observed that the Metropolitan Magistrate may proceed with the complaints in accordance with law.

7. In reply to this argument, the learned counsel for the petitioner would vehemently contend that the period mentioned in the complaint in respect of this petitioner is concerned is 18.05.2006 to 31.05.2006.

8. Having heard the learned Senior Counsel for the petitioner and the learned counsel for the respondent and also considering the complaint, which is produced as Annexure-A, no doubt, the period of this petitioner is mentioned as 18.05.2006 to 31.05.2006. The paragraph No.5 of the complaint is very clear with regard to not obtaining of consent after 30.06.2006 and not providing sewage treatment plant and no drainage facility and discharging the untreated sewage into the neighbouring water bodies, constitute the violation of Section 25 of the Act, which is punishable under Section 44 of

the said Act. The Court has to take note of the fact that the most important statutory function of the accused is to provide water supply and provide UGD and sewage treatment plant system for collecting and treating the sewage generated in their area. It is also specifically stated in the complaint that it is only after treating sewage in the STP, the accused should discharge the same. It is also specifically stated that the complainant Board on 03.11.2005 had accorded a consent to the accused persons to discharge sewage effluent after treatment which was expired on 30.06.2006 and thereafter, the same has not been renewed as no application was filed by the accused. One of the condition of the said consent was that the accused persons should provide sewage treatment plant within six months to treat sewage generated in the CMC area which has not been done so far, nor any steps has been taken in that regard. On the other hand, the accused persons are continuously discharging the untreated sewage into the water bodies viz., ponds, lakes, natural valleys. Hence, it is very clear that even after according consent, the accused have not done the same. Even during the period of this petitioner also, though he was there was a short period of 13 days and when the same was not done, the cognizance was taken by the learned Magistrate.

9. It has to be noted that when this Court has quashed the proceedings in respect of three petitioners in Crl.P.No.2627/2012 and other connected matters, vide order dated 16.02.2015, the same was questioned before the Apex Court and the Apex Court has set aside the same and directed the Magistrate to proceed with the complainant's complaints in accordance with law, wherein also detailed discussion was made extracting Section 49 of the Act regarding cognizance of offences and even relied upon the judgment in the case of **V.C. Chinnappa Goudar** (supra), wherein discussion was made with regard to prior sanction under Section 197 of Cr.P.C. is not required for proceeding under Section 49 of the Act. Though the petitioner has not raised that ground before this Court, but the other grounds which have been urged before this Court is that the Trial Court has not mentioned in the cognizance order, Section 25 of the said Act and so also the penal provisions of Section 44. The Court has to take note of the taking of cognizance even though sections are not mentioned, but comes to the conclusion that the matter requires to be considered by the learned Magistrate and when the similar order was challenged before the Apex Court, the Apex Court affirmed the said order of taking cognizance and once again this Court

dealing with the same on the ground of no such offences are mentioned in the cognizance order cannot be accepted.

10. The other contention that different grounds are urged by co-accused while seeking quashing also cannot be accepted. The averment made in paragraph No.5 of the complaint is very clear with regard to the violation of Section 25 of the Act. Though the period of renewal of license is subsequent to the period of this petitioner, but not complied with the consent given earlier and the said period is applicable to the period of this petitioner is not in dispute. Hence, the matter requires to be considered by the learned Magistrate and the Apex Court also dealt with the matter in detail in the judgment referred supra by the learned counsel for the respondent and hence, I do not find any grounds to exercise the power under Section 482 of Cr.P.C. In paragraph No.5 of the complaint, in detail mentioned the period in respect of particular accused persons and no doubt, the renewal is subsequent to the petitioner had left the office, but the consent was given earlier to do certain act to discharge sewage effluent water after treatment which was expired on 30.06.2006 and during the earlier period also they have not done and hence, the very contention of the petitioner cannot be accepted.

Hence, I do not find any grounds to interfere with the taking of cognizance and proceeding against the petitioner.

11. In view of the discussions made above, I pass the following:

ORDER

The petition is dismissed.

**Sd/-
(H.P.SANDESH)
JUDGE**

MD