

ITEM NO.33

COURT NO.13

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 7880/2024

(Arising out of impugned final judgment and order dated 23-05-2024 in IA No.2/2024 passed by the High Court of Karnataka at Bengaluru)

 Petitioner(s)

VERSUS

THE STATE OF KARNATAKA & ORS.

Respondent(s)

(IA No. 129315/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 10-06-2024 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
(VACATION BENCH)

For Petitioner(s) Mr. A Velan, AOR
Ms. Navpreet Kaur, Adv.

For Respondent(s) Mr. Shikhil Suri, Adv.
Ms. Ishita Ahuja, Adv.
Ms. Divya Swami, Adv.

UPON hearing the counsel, the Court made the following
O R D E R

1. Applications for exemption from filing a certified copy of the impugned judgment and Official Translation are allowed.
2. Issue notice, returnable on 9th August, 2024.
3. Permission is also granted to serve the standing Counsel for the State of Karnataka.

4. Mr. Shikhil Suri, learned senior counsel, appears on caveat for Respondent No. 2. It is stated that the said caveat petition was filed on 30th May, 2024, after the filing of this Special Leave Petition on 28th May, 2024.
5. The earlier order passed by the High Court on 24th April, 2024, required respondent No. 2 to cooperate with the Investigating Officer for the purpose of investigation and, subject to the same, the respondent-Police were directed not to take any coercive action against him. Pursuant thereto, the Investigating Officer issued a notice under Section 41-A of the Code of Criminal Procedure, 1973, on 17th May, 2024, requiring respondent No. 2 to undergo a medical examination for the purpose of investigation in the case. He was directed to appear at the Police Station on 18th May, 2024 at 10.00 a.m.
6. Respondent No. 2, thereupon, filed IA No. 2 of 2024 before the High Court. Perusal thereof reflects that he did not wish to subject himself to medical examination. He stated therein that the Investigating Officer was threatening him with arrest if he did not tender himself for medical examination at the same hospital where the victim was examined.
7. As respondent No. 2 stood protected from coercive action by the earlier order of the High Court, this statement on his

part does not inspire confidence. In any event, his clear statement to the effect that he did not want to be subjected to medical examination shows that he is not willing to cooperate with the investigation.

8. Mr. Shikil Suri, learned senior counsel, would state that such reluctance on the part of respondent No.2 does not stem from his right against self-incrimination under Article 20(3) of the Constitution.
9. If so, respondent No.2 has to comply with the Section 41-A notice and subject himself to medical examination as directed by the Investigating Officer. He cannot voice apprehensions about the medical facility that he is being referred to without any tenable basis.
10. In such circumstances, we are constrained to stay the order dated 23rd May, 2024 passed by the High Court of Karnataka in IA No. 2 of 2024. Respondent No. 2 shall present himself before the Investigating Officer on 10th July, 2024 at 10.00 a.m. for being subjected to medical examination.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(RENU BALA GAMBHIR)
COURT MASTER (NSH)