

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10<sup>TH</sup> DAY OF OCTOBER, 2019

BEFORE

**THE HON'BLE MR.JUSTICE P.B. BAJANTHRI**

**Crl.P. No.8635/2018**

**BETWEEN:**

1. Sri Suresh K  
s/o late Rukmayya Gowda  
aged about 36 years  
Kundadka House  
Kunthooru village  
Puttur Taluku – 574201  
D K District.
2. Francis @ Manjunath  
s/o Joseph  
Aged about 29 years  
Pallamajalu House  
Mooda village, Bantwala Taluk  
D K District – 574203. ... Petitioners

(By Sri Aruna Shyam M, Advocate)

**AND:**

1. The State of Karnataka  
Represented by Kadaba  
Police Station, Kadaba  
Puttur Taluk, D K District – 574 201.
2. The Geologist  
Mines & Minerals Department  
Mangaluru – 574001.  
D K District. ... Respondents

(By Sri R D Renukaradhya, HCGP for R1,  
R2 served but unrepresented)

This petition is filed under section 482 of Cr.PC praying to quash the entire proceedings in CC No.594/2015 on the file of the Additional Civil Judge and JMFC, Puttur, D K district including complaint, FIR and charge sheet in crime No.88/2014 on the file of the Kadaba police station for the offence p/u/s 4(1) and 21(A) of Mines and Minerals (Development and Regulation) Act r/w Rules 31(R), 42 of Karnataka Minor Mineral Concession Rules, and r/w Section 379 of IPC which are produced here with and marked as document No.1, 2, 3 and 4 respectively.

This petition is coming on for admission this day, the Court made the following:-

ORDER

In the instant petition, petitioner has prayed for the following relief.

Quash the entire proceedings in CC No.594/2015 on the file of the Addl. Civil Judge and JMFC, Puttur, D K District including complaint, FIR and charge sheet in Crime No.88/2014 on the file of Kadaba P.S for the offence punishable under Sections 4(1) and 21(A) of Mines and Minerals (Development and Regulation) Act, 1957 r/w Rules 31(R), 42 of Karnataka Minor Mineral Concession Rules, 1994 and r/w section 379 of the Indian Penal Code which are produced here with and marked as Document No.1, 2, 3 and 4 respectively.

2. On the allegation that petitioners were illegally mining the sand from the government land. On credible information, respondents raided in the place of

one Dr.Suresh Kumar (accused No.1) and conducted search, seizure and further they were taken into custody. The 2<sup>nd</sup> respondent-police have registered Crime No.88/2014 for the offences punishable under Sections 4(1) and 21(A) of Mines and Minerals (Development and Regulation) Act, 1957 (for short 'Act, 1957') r/w Rules 31(R) and 42 of Karnataka Minor Mineral Concession Rules, 1994 and r/w Section 379 of IPC.

3. On 25.7.2014, the Department of Mines and Geology compounded the offences by collecting Rs.45,000/- vide document No.6. In this backdrop, learned counsel for the petitioners submitted that before raiding the relevant spot, in order to put the petitioner for violation under the provisions of the Act, 1957 and Rules 1994, FIR should have been filed. In this regard, learned counsel for the petitioners relied on a decision of the Supreme Court in the case of Lalitha Kumari -vs- Government of Uttar Pradesh and others reported in AIR 2014 SC 187. It was further contended that under the Act, 1957, competent Authority is required to file a

complaint before the jurisdictional Magistrate. Further, once the compoundable offence has been closed by collecting fine of Rs.45,000/-, Section 379 of IPC cannot be gone into.

4. On the other hand, learned counsel for the respondent – State has not disputed the aforesaid factual aspects.

5. In view of document No.6, the offences have been compounded by collecting fine of Rs.45,000/-. After issuance of notice to the petitioners, further action pursuant to CC No.594/2015 in Crime No.88/2014 registered by the Kadaba Police Station, Kadaba for the offences punishable under Sections 4(1) and 21(A) of the Act, 1957 read with Rules 31( R), 42 of Rules, 1994 do not survive for consideration.

Accordingly, petition is allowed. Consequently, the entire proceedings in CC No.594/2015 on the file of the Addl. Civil Judge and JMFC, Puttur, D.K. District stands quashed.

Sd/-  
**JUDGE**

**Bkm**