

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF FEBRUARY, 2021

BEFORE

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

WRIT PETITION No.13910/2019 (GM-RES)

BETWEEN:

1. SRI B V HARISH
AGED ABOUT 38 YEARS,
S/O SRI B N VIJAYA KUMAR,
PRESENTLY R/AT KAUSTHUBHA,
7TH CROSS, 4TH MAIN ROAD,
NEAR VENKATESHWARA TEMPLE,
JAYANAGAR WEST,
TUMKUR, KARNATAKA-572102
2. SRI SATHVIK VISHWANATH
AGED ABOUT 36 YEARS,
S/O SRI VISHWANATH GUPTA N K,
PRESENTLY R/AT HIMAGIRI,
IST CROSS, S S PURAM,
TUMKUR, KARNATAKA-572102

... PETITIONERS

(BY SRI JAIDEEP REDDY, ADVOCATE FOR
SRI CYRIL PRASAD PAIS, ADV., THROUGH PHYSICAL APPEARANCE)

AND:

1. THE STATE OF KARNATAKA
REP. BY THE POLICE INSPECTOR,
CYBER CRIME POLICE STATION,
PALACE ROAD, BENGALURU-560 001.

2. POLICE INSPECTOR
FRAUD AND MISAPPROPRIATION WING, CCB,
BENGALURU-560 001.
3. COMMISSIONER OF POLICE
INFANTRY ROAD,
BENGALURU-560 001.

... RESPONDENTS

(BY SMT.NAMITHA MAHESH B.G., HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA R/W SECTION 482 OF CR.P.C., PRAYING TO QUASH THE IMPUGNED FIR DATED 23.10.2018 WHICH IS AT ANENXURE-A1 IN CRIME NO.3761/2018 BEARING GENERAL DAIRY REFERENCE ENTRY NO.35 AT 12.20 HOURS AND LODGED BY R-2 AND ALL PROCEEDINGS IN CRIME NO.3761/2018 ARISING THEREFROM BEFORE THE HON'BLE 1ST A.C.M.M., BENGALURU AS NON-EST, NULL AND VOID AB INITIO, AND ILLEGAL.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed under Articles 226 and 227 of the Constitution of India r/w Section 482 of Cr.P.C., praying this Court to issue a writ in the nature of certiorari and/or any other writ or order or direction or declaration to quash the impugned FIR dated

23.10.2018 bearing General Dairy reference entry No.35 at 12:20 hours and lodged by respondent No.2 (Annexure-A1), impugned charge sheet dated 03.05.2019 filed by respondent No.2 before I ACMM, Bengaluru (Annexure-A7), the order dated 20.05.2019 of I ACMM, Bengaluru, taking cognizance of offences (Annexure-A7) and all proceedings in Crime No.3761/2018 arising therefrom before I ACMM; issue a writ in the nature of mandamus or any other writ or order or direction directing the respondents or other appropriate authority to return the property of the petitioners and Unocoin Technologies Private Limited which has been seized as a result of the impugned proceedings (as set out in the impugned charge sheet) and to direct the relevant banks to release/unfreeze the petitioners' bank accounts which have been frozen as a result of the impugned proceedings (as set out in the impugned charge sheet) and such other reliefs.

2. The factual matrix of the case is that, the case has been registered against the petitioners based on the Circular dated 06.04.2018 issued by the Reserve Bank of India (Annexure-B) and FIR was registered, investigation was conducted and charge sheet has been filed.

3. The learned HCGP for the respondents-State, in support of her arguments, would submit that the Hon'ble Apex Court in the case of ***Internet and Mobile Association of India Vs. Reserve Bank of India*** reported in ***(2020) 10 SCC 274*** has set aside the Circular dated 06.04.2018 with regard to prohibition of virtual currencies.

4. Learned counsel for the petitioners has brought to the notice of this Court the paragraph No.225.1 of ***Internet and Mobile Association of India's case*** referred (*supra*), wherein the Hon'ble Apex Court has held that in the light of the above discussion,

the petitioners are entitled to succeed and the impugned Circular dated 06.04.2018 is liable to be set aside on the ground of proportionality and allowed the writ petitions and set aside the Circular dated 06.04.2018.

5. Per contra, learned HCGP for the respondents does not dispute the decision of the Hon'ble Apex Court in ***Internet and Mobile Association of India's case*** referred (*supra*) and also submits that the Circular dated 06.04.2018 (Annexure-B) has been quashed by the Hon'ble Apex Court.

6. Having heard the learned counsel for the petitioners and also learned HCGP for the respondents and also looking into the principles laid down by the Hon'ble Apex Court in ***Internet and Mobile Association of India's case*** referred (*supra*), wherein the Hon'ble Apex Court has categorically held that the Circular dated 06.04.2018 issued by the Reserve Bank of India is liable to be set aside. In the case on hand

also, proceedings have been initiated against the petitioners based on the Circular dated 06.04.2018 (Annexure-B) and when the very Circular dated 06.04.2018 issued by the Reserve Bank of India is set aside by the Hon'ble Apex Court and when the proceedings initiated against the petitioners on the strength of Annexure-B, the very proceedings initiated against these petitioners is liable to be set aside.

7. Hence, the writ petition is allowed. The registration of FIR (Annexure-A1) and the charge sheet (Annexure-A7) filed against these petitioners are hereby quashed. Consequently, the proceeding initiated against the petitioners in Crime No.3761/2018 is quashed.

**Sd/-
JUDGE**

PB