IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF OCTOBER, 2026

BEFORE

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

CRIMINAL PETITION NO.1287 OF 2020

BETWEEN:

1. MR. MADHUKAR,
S/O. K. NAGARAJ,
AGED ABOUT 39 YEARS,
DIRECTOR,
M/S. SUPER ROYAL HOLIDAY INDIA PVT. LTD.,
NO.39/1, 1ST FLOOR, 2ND PHASE
3RD CROSS, CHANDRA LAYOUT
BENGALURU-560072.

2. MR. PRASHANTH BHADRAPPAN,
S/O BHADRAPPAN,
AGED ABOUT 39 YEARS,
R/AT NO.68, 'SAMRUDHI'
3RD CROSS, VINAYAKA LAYOUT,
NAGARABHAVI,
BENGALURU-560072.
[FORMER DIRECTOR].

...PETITIONERS

(BY SRI. VIJAY BHONSLE, ADVOCATE)

AND:

1. THE REGISTRAR OF COMPANIES,
II FLOOR, 'E' WING,
KENDRIYA SADAN,
KORAMANAGALA,
BENGALURU-560034.

...RESPONDENT

(BY SMT. ANUPAMA HEGDE, ADVOCATE)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH OR SET ASIDE THE ORDER DATED 15.03.2019 PASSED BY THE HON'BLE COURT OF THE SPECIAL COURT (ECONOMIC OFFENCES) BENGALURU IN C.C.NO.62/2019 AT ANNEUXRE-A.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 08.10.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

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

CAV ORDER

Heard the learned counsel for the petitioners and the learned counsel for the respondent.

2. This petition is filed praying this Court to quash or set aside the order dated 15.03.2019 passed by the Special Court (Economic Offences), Bengaluru in C.C.No.62/2019 at Annexure-A and pass such other order as deems fit in the circumstances of the case.

3. Before considering the factual aspect, this Court would like to extract the order of taking of cognizance dated 15.03.2019, which reads as follows:

> *"The complainant filed the complaint U/s.200 of Cr.P.C alleging that accused-1 to 3 committed the offence under sec.217(4) of the Companies Act, 2013 which is punishable under sec.217(6) of the Companies Act, 2013. Perused the complaint and cognizance is taken.*

The complainant is public servant; hence recording of sworn statement is dispensed with. It is averred that the accused-A-1 to 3 are the Directors of M/s Super Royal Holidays (India) Pvt., Ltd., and officers in default. It is alleged that during the course of investigation proceedings, it came to the notice of the inspector that the company is running Ponzi scheme under which it has enrolled around 2,00,000 members. In order to ascertain further information about the scheme being run by the company and their modus operandi, the Inspector had issued summons to the A-1 to 3 calling them to appear before the Inspectors on 15-12-2017. In pursuant that A-1 and 2 had appeared and deposed on oath. A-3 is failed to appear. There by accused committed the offence p/u/sec.217 (4) of the Companies Act, 2013. The complainant averments coupled with the documents produced along with complaint at this stage prima facie discloses that accused-1 to 3 committed the offence 217(4) of Companies Act, 2013 for violation of the provisions of the Companies Act, 2013 which is p/u/s. 217(6) of Companies Act, 2013. Hence the following:

ORDER

Office is to register the case against the accused-1 to 3 for the offence p/u/s.217(6) of Companies Act, 2013 in III register and issue summons to the accused-1 to 3 through RPAD r/by.16-04-2019."

4. The case of the respondent/complainant before the Trial Court while filing the private complaint under Section 200 of Cr.P.C. invoking the offence under Section 217(4) of the Companies Act, 2013, is that accused Nos.1, 2 and 3 are the Directors of M/s. Super Royal Holidays (India) Pvt. Ltd. and officers in default within the meaning of Section 2(60) of the Companies Act, 2013. The Ministry of Corporate Affairs (MCA) vide order No.03/312/2016-CLII dated 15.11.2017 had ordered investigation of the accused concern under Section 216 read with Section 210(1)(c) of the Companies Act, 2013. It is stated that during the course of investigation proceedings, it came to the notice of the Inspector that the company is running Ponzi scheme under which it has enrolled around 2,00,000 members. In order to ascertain further information about the scheme being run by the company and their modus operandi, the Inspectors had issued summons to the Directors viz. Mr.Madhukara, Mr.Prashanth Badhirappan and Mr.Beru Kodige Srinivasa Nayari Sathisha calling them to appear before the Inspectors on 15.12.2017. Pursuant to that, only respondent Nos.1 and 2 had appeared and deposed on oath. The respondent No.3 failed to appear.

5. Thereafter, the Directors were once again summoned on 19.01.2018 and in response to the same, Mr.Madhukara alone appeared on 24.01.2018 and he was questioned about the affairs of the company. Mr.Madhukara assured to submit the information asked for. Consequently, a letter was also issued on 25.01.2018 to the Company calling for information immediately based on the questioning on 24.01.2018. Company sought time for reply vide their letter dated 13.02.2018. Further letter dated 14.02.2018 was issued to the company to reply failing which their bank accounts may be freezed. But the company, again sought time vide their mail dated 22.02.2018 to furnish reply. However, no information was furnished by the company as committed. Hence, invoked the offence under Section 217(4) of the Companies Act, 2013 and filed the complaint. The Trial Court, having considered the contents of the complaint and the allegation made in the complaint, proceeded to take cognizance in terms of the above order referred supra. Hence, the present petition is filed before this Court.

6. The main contention of the learned counsel for the petitioners before this Court is that the Court below failed to appreciate that the petitioners have not committed any offence,

much less the offence alleged against them by the respondent in its complaint and committed an error in taking the cognizance. The Court below having observed the fact that the petitioners had appeared and deposed on oath before the Inspector during the investigation, has wrongly taken cognizance of the said complaint. The petitioners have promptly answered and responded to every query raised by the Inspector and though petitioner No.2 being physically handicapped had taken the pain of attending before the Investigating Officer/Inspector at Hyderabad as and when required. The Investigating Officer/Inspector by seeing the condition of petitioner No.2 had himself exempted him from appearing for enquiry on two occasions. When such being the case, there cannot be any violation of provisions of Section 217(4) of the Companies Act. The learned counsel also relied upon the documents of Annexures-A to W in support of the contention and relies upon the statement recorded as per Annexures-J1 and J2 and copy of the list of documents submitted to the Inspector as per Annexure-K. The learned counsel submits that whenever the respondent called upon the petitioners, the petitioners appeared and responded. The learned counsel relies upon Annexures-L, M, N, O and P so also

the copy of the letter dated 12.03.2018 as per Annexure-Q. The learned counsel contend that the company auditor was also asked to clarify certain aspects with respect to the deposits of amounts and auditor vide his letter and e-mail dated 29.10.2018 had clarified the alleged discrepancies which were mentioned in the letter dated 23.10.2018 and furnished necessary statement of accounts in that regard. The learned counsel also relies upon the letters dated 12.10.2018, 23.10.2018, 29.10.2018 and e-mail dated 30.10.2018 i.e., Annexures-R, S, T and V. The learned counsel would contend that when all the details are furnished, there cannot be any violation of Section 217(4) of the Companies Act and the petitioners promptly attended the same. The learned counsel also brought to the notice of this Court Section 217(4) and also the provision of Section 206 of the Companies Act and contend that there is no reason that the explanation given by the petitioners is not satisfactory and no such opinion is formed that reply and documents furnished are not satisfactory and hence, there cannot be any prosecution against the petitioners.

7. Per contra, the learned counsel for the respondent in her argument would vehemently contend that copy of the investigation report dated 28.02.2018 is produced as document

No.1 and the said report is submitted by the Inspectors along with the covering letter of the Regional Director to the Director General of Corporate Affairs. The said report is very clear that the Inspectors have pointed out the violation of Section 217 and 143 of the Companies Act, 2013. The Inspectors have also pointed out certain violations falling within the purview of Income Tax and Customs and Central Excise Departments with which the undersigned concurs. The learned counsel also relies upon the document No.2 - letter dated 22.06.2018 issued by the Joint Director of the respondent, wherein also details are mentioned with regard to the main object and present business activities, capital structure and share holding pattern and so also managing pattern and financial results for the period of last 3 financial years and working results and invest of complaints and process of investigation and findings of the investigation and such document No.2 is also very clear with regard to the very modus operandi of the company and details of summoning of the same is mentioned in point 11.2. The espondent No.3 did not choose to even appear and comply with the demand and the Directors have not co-operated in the investigation process and violated the provisions of Companies Act. The effort is made by the Inspectors for the purpose of

finding further details about the commission paid and during the course of investigation, it is ascertained from the said member that the company pays 5% commission to him who in turn brings 10 additional persons and gets 5% commission again on the business brought by entire chain of members below him. It is noticed from the latest financial statement as at 31.03.2017 that the company is earning revenue from membership fee and service charges to the tune of Rs.45.61 Crores and therefrom it is paying commission of Rs.31.06 Crores to its members/agents which is nothing but interest on the deposits and Rs.2.09 Crores as achievers awards to commission agents. Further, it is seen that around 73% of the revenue earned is being returned to the commission agents under the guise of commission and awards. This practice of the company is not only unlawful but also beyond the established prudent norms of the business.

8. The learned counsel also brought to the notice of this Court document No.3 - copy of the show cause notice dated 15.11.2018 issued by the respondent to the petitioners' company. In the said report, it is stated that the company is accepting cash deposits of more than Rs.20,000/- in contravention of Section 269SS of Income Tax Act. The matter

may be referred to the Income Tax Department for further examination. In terms of document No.3 it is specifically stated with regard to violation of Section 217 of the Companies Act. These are the materials to be considered during the course of trial and the Trial Court took the cognizance based on the contents of the complaint and the documents placed before the Court. Hence, there cannot be any quashing of the cognizance order.

9. Having heard the learned counsel for the petitioners and the learned counsel for the respondent, the points that would arise for the consideration of this Court are:

(i) Whether the Trial Court committed an error in taking the cognizance for the offence punishable under Section 217(4) of the Companies Act 2013?

(ii) What order?

Point No.(i):

10. Having perused the contents of the complaint, specific averments are made in paragraph No.5 that accused Nos.1 to 3 are the Directors of M/s. Super Royal Holidays (India) Pvt. Ltd., and officers in default within the meaning of Section 2(60) of the Companies Act. In paragraph No.7 specific

accusation is made and also calling them to appear before the Inspectors on 15.12.2017. Pursuant to which the petitioners appeared and also given the statement on oath, but accused No.3 did not appear and so also time was sought and time was also given. No doubt, the learned counsel for the petitioners also produces the documents at Annexures-R, S, T and V for having given details for the month of October 2018. The Trial Court while taking the cognizance taken note of the company is running Ponzi scheme under which it has enrolled around 2,00,000 members. In order to ascertain further information, notices are exchanged between them. The Trial Court taken note of the fact that accused Nos.1 and 2 had appeared and given statement on oath, but accused No.3 failed to appear. The Trial Court taking into note the contents of the complaint, comes to the conclusion that the complaint averments coupled with the documents produced along with complaint prima facie discloses that accused have committed the offence under Section 217(4) of the Companies Act. The order is also very clear for having taken the cognizance and issuance of summons. While entertaining the complaint, the Court has to look into the contents of the complaint and documents. No doubt, certain documents are also produced before this Court

as referred supra by the learned counsel for the petitioners and given explanation. But the very contention of the respondent is that the reply which they have given is not satisfactory and specific accusation is made against the petitioners as per document Nos.1 to 3, which have been relied upon by the learned counsel for the respondent.

11. This Court also taken note of the factual aspects of the case while considering the documents which have been relied upon, particularly in paragraph Nos.11.1 and 11.2 salient features of the scheme are mentioned and so also the correspondence between the parties. An allegation is made that its Directors have not co-operated in the investigation process in spite of sufficient time was taken from 2017 to October 2018. Specific allegations are made in paragraph Nos.12 and 13 of document No.1. No doubt, when the reply was given, proceeded to file the complaint in view of non-compliance. The Trial Court applied its mind while taking cognizance of the matter and issuing process and the matter requires trial. The arguments canvassed by the learned counsel for the petitioners relying upon the documents produced by them could be used as defence during the course of trial. The grounds which have been urged by the petitioners

cannot be considered as a defence at this stage. At the time of taking cognizance, the powers of the Trial Court i.e., Special Court are limited and only can look into the contents of the complaint and the documents produced. There cannot be any mini trial at the time of taking cognizance and the Court need not consider the evidence and only need to look into the prima facie case for proceeding against the petitioners. Having considered the order passed by the Trial Court, reasoned order has been passed while taking cognizance and not any single line order. It is settled law that only while rejecting the complaint, the Trial Court has to give reasons. But while taking the cognizance only to make out a case whether there is a prima facie case. The Trial Court made it clear that the complaint averments coupled with the documents produced along with the complaint at this stage prima facie discloses that accused Nos.1 to 3 have committed the offence punishable under Section 217(4) of Companies Act and the same is an application of mind. Hence, I do not find any force in the contention of the learned counsel for the petitioners and those contentions could be urged before the Trial Court at the time of trial and the documents which have been relied upon could be

used as a defence at the time of trial. Accordingly, I answer the point in the negative.

Point No.(ii):

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

ORDER

The petition is dismissed.

Sd/-
(H.P.SANDESH)
JUDGE

MD