

**KARNATAKA LOKAYUKTA**No:Compt/Uplok/BCD-1432/2018/ARLO-1.Date:04-04-2022  
1/12**REPORT UNDER SECTION 12(3) OF KARNATAKA LOKAYUTKA  
ACT, 1984.**

Sub:- Initiation of proceedings against the respondent Sri. Melvin Francis, Sub-Inspector, Ramamurthy Nagara Police Station, Bengaluru about his misconduct as public/Government servants-reg.

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An investigation was taken up under section 9 of the Karnataka Lokayukta Act, 1984, on the basis of complaint filed by Sri. G.Venkatesh, No:127/A, 1<sup>st</sup> Cross, Tank Road, New Police Station Road, K.R.Puram, Bengaluru (hereinafter referred to as 'complainant' for short) against Sri. Melvin Francis, Sub-Inspector, Ramamurthy Nagara Police Station, Bengaluru (hereinafter referred to as 'Respondent' for short).

2. The instant complaint is filed by the complainant Sri.G.Venkatesh against the respondent/ Sri.Melvin Francis Sub Inspector, Ramamurthy Nagar Police Station, Ramamurthy Nagar, Bengaluru.

3. The allegations of the complainant are that he is Editor of Swarna Kasturi Kannada Masa Pathrike. As such he has published the illegalities of the respondent in his paper without any fear. Therefore the respondent has registered three false cases against him by misusing his authority. It is also alleged that the

respondent has acquired assets disproportionate to his known source of income. The complainant furnished the description of the properties which are alleged to have been acquired by the complainant illegally disproportionate to his known source of income as follows:

- i) Site property measuring 30 x 40 feet situated at Tumbuchetti palya, KR Puram, Bengaluru East Taluk.
- ii) Bungalow worth crores of rupees in Sy.No.30 of Seegehalli village is acquired in the name of wife of respondent Smt.Vargani Geetha.
- iii) Land in Sy.No.30/1A14 measuring 0.05.00.00 gunta situated at Seegehalli village acquired in the name of elder brother of respondent's wife by name Martin.
- iv) Land measuring 44 Acres at Gunte village of Mulbagalu taluk, Kolar Dist, while the respondent was working at Mulbagalu Police station by involving in illegal transportation of sand.
- v) Plot measuring 12 square situated in Sy.No.17/3 of Basavanapura village, KR Pura Hobli.
- vi) Land measuring 0.09.08.00 guntas in Sy.No.30/1A 16 situated at Seegehalli village acquired in the name of Martin the brother of the respondent's wife.

vii) It is also alleged that the respondent has invested money in Fixed Deposit at SBI, Batrahalli Branch, Biderahalli Hobli, Bangalore East Taluk in the name of his wife.

viii) It is also alleged that the respondent entered into sale agreement for purchase of site measuring 500 sq. ft in Sy.No.105/1 of KR Puram village worth of 15 lakhs.

ix) It is alleged that the respondent is having luxury cars.

On the above grounds the complainant has sought for action against the respondent.

4. Along with the complaint, the complainant filed copy of the sale deed dated 20/10/2016 and RTC Extracts.

5. As per the orders at para-5 of the note sheet the matter was referred to ACB for investigation and to submit the report.

6. The Addl. ADGP, ACB has filed the report dtd: 29/01/2019 along with the report of Suptd. of Police ACB dtd: 25/10/2018 and the report of IO (Investigation officer dtd: 17/10/2018).

7. In his report dtd: 29/01/2019 ADGP referring to the reports of Police Superintendent and Investigation officer/Police Inspector stated that as per the records secured at the time of investigation the allegations of acquiring assets disproportionate to his known source of income against the respondent has not been

substantiated. The perusal of the report of the Superintendent of Police, ACB dtd: 25/10/2018 submitted to the ADGP., ACB Karnataka also discloses that the allegation against the respondent is not substantiated.

8. The perusal of the report of the Investigation Officer i.e. the Inspector of Police dtd:17/10/2018 discloses that in his report IO has reported the source report, description of the property, estimated income, estimated expenses and also stated the quantum of total estimated property, total estimated expenses, total property and expenses and total estimated income. In his report the IO has stated that at the time of preparation of source report on the basis of the information and documents secured at the time of investigation, the acquisition of assets disproportionate to his known source of income by the respondent was not found.

9. In his report the IO has furnished the details of the property and the cost of the property wherein he has stated that the site property measuring 1725 sq. feet bearing site No.11 in Sy.No.44/2 Seegehalli KR Puram, Bangalore purchased by Malvin Francis/respondent in the name of his wife Smt.Vergini Geetha under sale deed dtd:16/12/2013 is worth of estimated cost of Rs.15 lakhs. The plot measuring 1110 ft situated at plot No.002 Green India Harmony Apartment Basavanapura Bengaluru purchased by Melvin Francis/respondent in the name of his wife Virgeni Geetha under a sale deed dtd: 20/10/2016 is worth of estimated Rs.10 lakhs. It is also stated that the Scoda car bearing KA 53 MB 3159 purchased in the name of brother of wife of respondent Sri. John William is worth Rs.9 lakhs.

10. It is also stated in the report that the Bungalow standing in the name of wife of the respondent in Sy.No.30 of Seegehalli village, is the ancestral property of the wife of the respondent and land measuring 9.08 acres in Sy.No.30/1A16 situated at Seegehalli and land measuring 5.00 guntas in Sy.No.30/1A 14 situated at Seegehalli village are acquired by Martin (brother of the wife of the respondent) through his ancestors and it is also stated that the land measuring 44 Acres at Mulbagalu is purchased prior to the check period.

11. The respondent submitted his comments dtd: 25/09/2019 stating that the complainant is a rowdy sheeter from the year 2011 and so many cases have been registered against him in the K.R. Puram Police station vide Cr.No.93/2010, Cr.No.130/2010, Cr.No.447/2010, Cr.No.34/2015, Cr.No.406/2017, Cr.No.12/2018, Cr.No.22/2018 and Cr.No.242/ 2018. It is also contended that in Cr.No.34/2015 registered alleging the offences under Sec.332, 353, 504 R/w sec.34 of IPC, the respondent himself is the complainant. Hence the complainant is in the habit of filing false regular complaints against the respondent and the colleagues of the respondent before the Karnataka Human Rights Commission, Karnataka, SC/ST Commission etc. Denying the rest of the complaint allegations, the respondent stated that due to the legal action taken against the complainant as per law by the respondent the complainant has filed a false complaint against him before this institution.

12. The respondent pleaded his ignorance regarding the property described at Sl.No.1 of the complaint. Respondent stated that property at Sl.No.2 of complaint has been acquired by his wife

through her ancestors and also stated that there is no relationship between himself and the other properties. But he stated that they have entered into an agreement of sale in respect of property in Sy.No.17/3 on 20/10/2016 by the savings of himself and his wife, but afterwards cancellation deed has been executed vide deed dtd: 22/11/2017. But the respondent did not state anything about the property which has been referred by the IO in his report bearing site No.11 in Sy.No.44/4 Seegehalli village measuring 1725 feet purchased under sale deed dtd: 16/12/2013 in the name of the wife of respondent Smt.Vargeni Geetha. The perusal of the copy of the sale deed dtd: 16/12/2013 filed by the IO discloses that the property bearing site No.11 in Sy.No.44/2 measuring 1725 sq. feet situated at Seegehalli village, K.R.Puram Hobli, has been purchased in the name of wife of the respondent Smt.Vargeni Geetha through her vendor one Purshothama. As far as this property referred by the IO in his report is concerned, the comments of the respondent is silent.

13. The perusal of the copy of the absolute sale deed dtd: 20/10/2016 discloses that the property in Sy.No.17/3 which has been referred by the IO in his report, has been purchased in the name of Smt. Vargeni Geetha wife of respondent from A.Jakob under the registered sale deed dtd: 20/10/2016 and the perusal of the cancellation deed dtd 22/11/2017 entered between the wife of the respondent and Mr.Jakob discloses that the said sale deed dtd: 20/10/2016 has been cancelled. As far as the other properties are concerned there are no materials to prove the allegations against the respondent.

14. As per the decision of Hon'ble Supreme Court of India in the case of State of Karnataka Vs. Kempaiah reported in AIR 1998 SC 3047, investigation into the allegation of amassing of wealth cannot be taken up under the provisions of Karnataka Lokayukta Act. Hence this investigation is restricted to violation of conduct rules by the respondent i.e non obtaining prior permission for acquisition of assets, not intimating the acquisition of assets and sources of funds for such acquisition, non obtaining of permission for raising loan etc, as stipulated in the conduct rules. In the instant case the ADGP, ACB has also filed his report based on the report of Suptd. of Police and IO/Inspector of Police that the allegations of acquiring assets by the respondent disproportionate to his known source of income has not been substantiated.

15. As far as the properties standing in the name of wife of the respondent under sale deeds dtd:16/12/2013 and 12/10/2016 which have been referred by the IO at Sl.No.1 & 2 of his report, the respondent did not furnish any explanation regarding acquisition of the said properties in the name of his wife except stating that the sale deed dtd; 20/10/2016 in the name of his wife has been cancelled vide registered cancellation deed dtd:22/11/2017.

16. The respondent was called upon to submit his explanation regarding obtaining prior permission in respect of the transactions under the sale deed dtd: 16/12/2013 and sale deed dated:20/10/2016 and the cancellation deed dtd:22/11/2017 in the name of his wife. In pursuance of the said notice the respondent submitted a letter dtd. 9/12/2021 stating that his wife has agreed to purchase a 2 BHK flat bearing No.G-002 measuring 1110 sq. feet with Car parking by paying Rs.10 lakhs advance

under a registered deed dtd: 20/10/2016 but later his wife did not purchase the same and on 22/11/2017 the same has been cancelled. The respondent also stated that there was no necessity to obtain prior permission to purchase the property as per proviso to rule 23(2) of Karnataka Civil Services (Conduct) Rules, 1966, wherein it is provided that the prior sanction of the prescribed authority shall be obtained by the Government servant if any such transaction is with a person having official dealing with the Government servant. It is also contended that as the respondent had no official dealings with said A.Jakob, there was no necessity to obtain permission. Hence he did not obtain the permission. As far as the property referred to by the IO in his report standing in the name of the wife of respondent namely Smt.Vargeni Geetha, purchased under sale deed dated 16/12/2013 is concerned, nothing has been stated by the respondent in his letter dtd: 09/12/2013. It is also pertinent to note that as per the service particulars furnished by the respondent, he joined the Government service on 3/9/2007 and the sale deed in the name of his wife is dtd: 16/12/2013 executed subsequent to joining Government service by the respondent. Nodoubt the sale deed dated:20/10/2016 and cancellation deed dated:22/11/2017 furnished by the IO discloses that the sale deed dtd:20/10/2016 has been cancelled by the subsequent cancellation deed, but the question is whether the contention of the respondent that there was no necessity to obtain prior permission from the competent authority to purchase the immovable property as per proviso to rule 23(2) of the Karnataka Civil Services (Conduct) Rules,1966 is acceptable. In this regard I feel it necessary to extract rule 23(2) of



the Karnataka Civil Services (Conduct) Rules, 1966 referred by the respondent in his reply, the same reads as follows:

Rule 23: Movable, immovable and valuable property;

(2) No Government Servant (or any member of his family) shall, except with the previous knowledge of the prescribed authority, acquire or dispose off any immovable property by lease, mortgage, purchase, sale, gift or otherwise either in his own name or in the name of any member of his family ;

Provided that the previous sanction of the prescribed authority shall be obtained by the Government Servant if any such transaction is :-

- i) with a person having official dealing with the government Servant or
- ii) otherwise than through a regular or reputed dealer.

(provided further that nothing in this sub-rule shall apply to the transaction entered into by a member of the family of the Government Servant out of his or her own funds ( including, gifts, inheritance etc) as distinct from the funds of the government servant himself/herself in his or her own name and in his or her own right).

17. A perusal of rule 23(2) of the Karnataka Civil Services (Conduct) Rules 1966, clearly discloses that no Government servant or any member of his family, except with the previous knowledge of the prescribed authority, acquire or dispose off any immovable property by lease, mortgage, purchase, sale, gift or

otherwise either in his own name or in the name of any member of his family. Proviso 1 to sub Sec.2 provides that the previous sanction of the prescribed authority shall be obtained by the Government servant if any such transaction is with a person having official dealings with the Government servants or otherwise than through a regular or reputed dealer.


18. But referring to the above proviso the respondent contended that he has no official dealings with the vendor of his wife from whom his wife purchased under a registered sale deed dtd:20/10/2016 and subsequently cancelled vide cancellation deed dtd 22/11/2017, hence there was no necessity to obtain previous sanction. It is pertinent to note that the said contention of the respondent cannot be accepted because it is not the case of the respondent that his wife purchased the properties through regular or reputed dealer as contemplated under rule 23(2) sub rule (ii) to proviso- I. It is also not the contention of the respondent that the said sale transaction has been entered into by his wife out of her own funds as provided under proviso II of rule 23 (2) of the Karnataka Civil Services, (Conduct) Rules 1966. It is also pertinent to note that rule 23(2) of the Karnataka Civil Services (Conduct) Rules 1966 will not exempt a Government servant to acquire or dispose off any immovable property without the previous knowledge of the prescribed authority. Hence under these circumstances, it clearly discloses that the respondent Sri. Melvin Francis, Sub-Inspector, Ramamurthy Nagara Police Station, Bengaluru has prima facie violated the relevant rule and committed misconducts under Rule 3(1) (i) to (iii) of the Karnataka Civil Services (Conduct) Rules 1966 (Karnataka Civil Services, (Conduct) Rules 2021)

without obtaining previous sanction by the Competent Authority for the sale transaction in the name of his wife under sale deed dtd: 16/12/2013 and sale deed dtd: 20/10/2016 and cancellation deed dtd: 22/11/2017.

19. Therefore there are prima facie materials to initiate action against the respondent Sri. Melvin Francis, Sub-Inspector, Ramamurthy Nagara Police Station, Bengaluru for the above said misconduct.

20. Hence, this report U/sec.12(3) of Karnataka Lokayukta Act, 1984 is sent to the Competent Authority to initiate Departmental Enquiry against the respondent Sri. Melvin Francis, Sub-Inspector, Ramamurthy Nagara Police Station, Bengaluru under Karnataka State Police (disciplinary proceedings) Rules.

21. Further as per section 12(4) of the Karnataka Lokayukta Act, 1984 the Competent Authority shall intimate the action taken or proposed to be taken on this report within three months from the date of receipt of this report. Connected records are enclosed.

 18/4/22  
[ Justice B.S.PATIL ]  
Upa-Lokayukta  
State of Karnataka,  
Bengaluru.

