



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 16TH DAY OF MARCH, 2023

BEFORE

THE HON'BLE MS. JUSTICE J.M.KHAZI

CRIMINAL PETITION NO. 104219 OF 2022 (482)

BETWEEN:

1. KHADAR BASHA S/O BABASAB,

2. MOHAMMED RAZIK

3. MOHAMMAD SADIK S/O ABUBAKKAR,

4. ALTAF HUSSAIN S/O M.KHAJA HUSSAIN,

5. MOHAMMED SOHAIL



6. USAMA MH S/O ABDUL GAFOOR,

7. MUJEEBULLHUQ S/O JAMEELAHAMMAD,

8. NADEEM BASEER GOTHE,

...PETITIONERS

(BY SRI. WAQAR AHMED SHAHPURI, ADVOCATE)

AND:

STATE OF KARNATAKA
BY JAMKHANDI CIRCLE P.S.,
JAMKHANDI, BAGALKOT,
R/BY HIGH COURT GOVT. PLEADER,
OFFICE AT DHARWAD
HIGH COURT, DHARWAD-580011.

...RESPONDENT

(BY SMT.GIRIJA S.HIREMATH, HCGP)

THIS CRIMINAL PETITION IS FILED U/S 482 OF CR.P.C.,
SEEKING TO QUASH ALL CONSEQUENTIAL PROCEEDING S
INITIATED AGAINST THE PETITIONERS/ACCUSED NO. 1 TO 8
IN CC NO. 1028/2022, PENDING ON THE FILE OF PRL. CIVIL
JUDGE AND JMFC JAMAKHANDI, BAGALKOT IMPUGNED
COMPLAINT, FIR AND CHARGE SHEET REGISTERED BY



JAMAKHANDI CIRCLE POLICE STATION, JAMAKHANDI, IN CONNECTION WITH THE CRIME NO. 73 OF 2021 FOR THE OFFENCES PUNISHABLE U/S 143, 270, 448 R/W 149 OF IPC 1860 AND SECTIONS 4 AND 5 OF THE EPIDEMIC DISEASES (AMENDMENT ORDINANCE 2020)

THIS PETITION COMING ON FOR ADMISSION, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Petitioners who are arraigned as accused No.1 to 8 have filed this petition under Section 482 Cr.P.C. to quash the criminal proceedings initiated against them in C.C.No.1028/2022 for the offences punishable under Sections 143, 270, 448 R/W Section 149 of Indian Penal Code, 1860 and Sections 4 and 5 of Epidemic Diseases (Amendment) Ordinance 2020.

2. It is contended by the petitioners that they are innocent of the offences alleged and they have been falsely implicated. The allegations made in the charge sheet does not attract the offences alleged. There is no evidence that petitioners were the organizers of alleged event. There is no evidence that anyone of the accused



including the petitioners were suffering from Covid-19 and as such, the entire proceedings are liable to be quashed and prays to allow the petition.

3. Learned High Court Government Pleader submitted that on 17.08.2021 at 11.00 a.m., all the accused persons including the petitioners, being the workers (ಕಾರ್ಯಕರ್ತರು) of Campus Front of India held a meeting at Dr.B.R.Ambedkar Bhavan situated on Jamkhandi-Kunchanur road about 2 k.m. from Jamkhandi city and gathered around 130 students from different places, though there was prohibition for such meetings on account of third wave of Covid-19 and thereby committed the offences punishable under Sections 143, 270, 448 R/W Section 149 of Indian Penal Code, 1860 and Sections 4 and 5 of Epidemic Diseases (Amendment) Ordinance 2020. After conducting detailed investigation, charge sheet is filed and at the stage the proceedings cannot be quashed and prays to dismiss the petition.



4. Heard learned counsel for the petitioners and learned HCGP for respondent-State and perused the record.

5. Complainant Smt.Jyothi Girish S., working as Municipal Commissioner, Jamkhandi has filed a complaint alleging that on 17.08.2021, when she was at her office, she received information regarding holding of a meeting at Dr.B.R.Ambedkar Bhavan by the workers of Campus Front of India. At 11.00 a.m. she went to the spot along with her staff and found about 130 people gathered in the hall. Despite there being third wave of the Covid-19, the said function was organized by accused No.1 to 9 without taking prior permission.

6. Section 270 Indian Penal Code punishes a malignant act which is likely to spread infectious diseases which are dangerous to life. In the present case, the allegation is that at the time when the accused persons were conducting meeting, the third wave of Covid-19 was going on and as such, there was possibility of spreading of



the same. However, no evidence is collected by the Investigating Officer to show that anyone of the accused persons or the spectators who had gathered was suffering from Covid-19 and therefore, the offence punishable under Section 270 cannot be invoked.

7. Sections 4 of the Karnataka Epidemic Diseases (Amendment) Ordinance 2020, specifies the power to take special measures and is a not penal provision so as to constitute an offence punishable under the said Act. Section 5 of Epidemic Diseases (Amendment) Ordinance 2020 specifies that no person shall obstruct any officer or any public servant while acting or purporting to act or discharging any duty in pursuance of any provision of this ordinance. In the instant case, there is no allegation that the petitioners obstructed any officer or any public servant while acting or purported to act or discharging any duty in pursuance of any provision of this Act. Hence, provisions of Section 4 and 5 of Epidemic Diseases (Amendment) Ordinance 2020 are also not attracted.



8. So far as offence punishable under Section 448 Indian Penal Code is concerned, there is no allegations by the owner / occupier of Dr.D.R.Ambedkar Bhavan that petitioners and others criminally trespassed into the premises in question. In the absence of any material that the petitioners criminally trespassed into the premises in question, the charge sheet filed for the offence punishable under Section 448 I.P.C. is also not attracted.

9. Moreover, already in Criminal Petition No.103790/2022, co-ordinate bench of this Court has quashed the criminal proceedings against accused No.9. Consequently and for the above reasons, petitioners are also entitled for quashing of the criminal proceedings initiated against them and accordingly, I pass the following:

ORDER

The petition is allowed.



The criminal proceedings against petitioners in C.C. No.1028/2022 on the file of the Principal Civil Judge and J.M.F.C., Jamkhandi, Dist: Bagalakote, is hereby quashed, so far as petitioners are concerned.

**SD/-
JUDGE**

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List No.: 1 SI No.: 34