NC: 2023:KHC-D:11174
CRL.P No. 100396 of 2022

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 23RD DAY OF SEPTEMBER 2023

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BEFORE

THE HON'BLE MR JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO.100396 OF 2022

BETWEEN:

SHIVALINGAPPA B. KERAKALAMATTI

... PETITIONER

(BY SRI. AVINASH M. ANGADI, ADVOCATE)

AND:

1. STATE OF KARNATAKA,
   BY BAGALKOT RURAL POLICE STATION,
   R/BY ITS STATE PUBLIC PROSECUTOR,
   HIGH COURT OF KARNATAKA, DHARWAD-580001.

2. CHANDRU RATHOD S/O LACHHU RATHOD,

... RESPONDENTS

(BY SRI. MADANMOHAN M. KHANNUR, AGA FOR R1;
SRI. D.M. MALLI AND
SRI. GANGADHAR HOSAKERI, ADVOCATES FOR R2)

THIS CRIMINAL PETITION IS FILED U/S 482 OF CR.P.C., SEEKING TO ALLOW THIS PETITION AND QUASH THE COMPLAINT, FIR IN CRIME NO.141/2020 REGISTERED BY BAGALKOT RURAL POLICE, BAGALKOT, CHARGE SHEET DATED 16.08.2020 AND ORDER OF TAKING COGNIZANCE DATED 04.12.2020 IN SPL.C.C. NO.80/2020 BY THE II ADDITIONAL

DISTRICT AND SESSIONS JUDGE, BAGALKOT FOR OFFENCES PUNISHABLE U/S 323, 341, 504, 506 OF IPC AND SECTION 3(1)(r), 3(1)(s) OF SC AND ST (PREVENTION OF ATROCITIES) ACT, 1989 AND ALL FURTHER PROCEEDINGS PURSUANT TO THEREIN IN RESPECT OF THE PETITIONER HEREIN.

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

ORDER

The petitioner is before this Court calling in question proceedings in Special C.C.No.80 of 2020 arising out of crime No.141 of 2020 registered for offences punishable under Sections 323, 342, 504 and 506 of the Indian Penal Code and Section 3(1)(r) and (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('the Act' for short).

2. *Shorn* of unnecessary details, facts, in brief, germane are as follows:-

The petitioner is the Head Master of one Maradi Malleshwara School at Hunagund Taluk, Bagalkot District. The 2nd respondent is the complainant. The 2nd respondent was a teacher working under the petitioner. The complainant is said to have joined the school in the year 1988. On 5-12-2012 alleging certain omissions and commissions, the complainant is said to have been dismissed from service. He then approaches

the competent judicial fora and then the matter gets closed before this Court. This Court had directed reinstatement of the complainant with back wages on 27-01-2020. The complainant on the strength of the order passed by this Court approaches the Head Master with a representation for reinstatement and payment of arrears of salary. Pending reinstatement and payment of arrears of salary it is alleged that the Head Master for reinstatement had demanded `10,00,000/- notwithstanding the order of this Court. It is averred that on the said demand the complainant had registered Crime No.69 of 2020 against the management and the Head Master, the petitioner herein. This is the background.

3. An incident is said to have taken place on 23-06-2020 when the complainant was on his motor cycle and on his way to work. It is at that time, the petitioner along with two others are said to have stopped the complainant and abused him taking the name of his caste and assaulted him with a cycle chain. Based upon this incident, a complaint comes to be registered before the Police – Bagalkot Rural Police Station on 28-06-2020 which then becomes a crime in Crime No.141 of

2020 for offences punishable under Sections 341, 323, 324, 307, 504, 506 and 34 of the IPC and Section 3(1)(s), 3(1)(r) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2015. The Police conduct investigation and file a charge sheet and the matter is now pending as Special C.C.No.80 of 2020 before the II Additional District and Sessions Judge at Bagalkot, as the offences alleged are the ones punishable under the provisions of the Act. Filing of the charge sheet against the petitioner, is what has driven him to this Court, in the subject petition.

4. Heard Sri Avinash M. Angadi, learned counsel appearing for the petitioner, Sri Madanmohan M. Khannur, learned Additional Government Advocate appearing for respondent No.1 and Sri D.M.Malli, learned counsel appearing for respondent No.2/ complainant.

5. The learned counsel Sri Avinash M. Angadi appearing for the petitioner would vehemently contend that the complaint is in the habit of registering frivolous complaints misusing the provisions of the Act on the score that he belongs to Scheduled

Caste. He registers frivolous complaints, seeks assistance from the State Government through the Social Welfare Department which has become a business for him to generate money out of public funds. Even in the case at hand, the learned counsel would submit that there is no narration as to where the assault took place or abuses have been hurled. In the complaint it is the case of the complainant that there were three people along with the petitioner at the time of assault. But, when he gives his further statement he says that except the petitioner nobody was present at the alleged scene of crime and the petitioner alone has assaulted the complainant. This kind of contradictory statements would clearly depict misuse of the provisions of law. He would further submit that earlier complaints of similar nature have either been quashed or the Police after investigation filed 'B' report and those proceedings have been closed. He would seek quashment of entire proceedings.

6. *Per contra*, the learned counsel representing the 2nd respondent/complainant would submit that the complainant has been subjected to abuses only, on the ground that he belongs to Scheduled Caste. He had been terminated from service only

on the ground that he belongs to Scheduled Caste. It is not the habit of the complainant to register frivolous complaints but as and when the cause of action arises on facing abuses, complaints have been registered. He would admit that earlier complaints have either been closed or 'B' report have been filed, as they are a matter of record.

7. The learned Additional Government Advocate would though seek dismissal of the petition on the ground that charge sheet has been filed, submits that the Police in another complaint have filed 'B' report and in filing 'B' report they have observed that the complainant is habitual in registering frivolous complaints. Nonetheless, he would seek dismissal of the petition on the score that the charge sheet has been filed.

8. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

9. The afore-narrated facts that led to registration of impugned complaint is what is narrated hereinabove. The

contents of the complaint are to be noticed as the entire issue now springs from the impugned complaint. The complaint reads as follows:

> *"ಮಾನ್ಯರವರಲ್ಲಿ ಕೇಳಿಕೊಳ್ಳುವುದೇನೆಂದರೆ ನಾನು ಚಂದ್ರು ತಂದೆ ಲಚ್ಚು ರಾಠೋಡ ವಯಾ 53 ವರ್ಷ ಕಳೆದ ಸನ್ 1988 ರಿಂದ ಸಾ॥ ಶ್ರೀ ಮರಡಿ ಮಲ್ಲೇಶ್ವರ ಪ್ರೌಢಶಾಲೆ ಮೂಗನೂರ ತಾ॥ ಹುನಗುಂದ ರಲ್ಲಿ ಚಿತ್ರ ಕಲಾ ಶಿಕ್ಷಕರು ಅಂತಾ ಸೇವೆ ಸಲ್ಲಿಸುತ್ತಾ ಬಂದಿದ್ದು ಇರುತ್ತದೆ. ಈಗ ನಾನು ಬಾಗಲಕೋಟದ ನವನಗರ ಸೇಕ್ಟರ ನಂಬರ 18 ರಲ್ಲಿ ನನ್ನ ಕುಟುಂಬದೊಂದಿಗೆ ವಾಸವಾಗಿರುತ್ತೇನೆ.*
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> *ಶ್ರೀ ಮರಡಿ ಮಲ್ಲೇಶ್ವರ ಪ್ರೌಢಶಾಲೆ ಮೂಗನೂರ ಇದರ ಮುಖ್ಯೋಪಾದ್ಯಾಯರು ಮತ್ತು ಆಡಳಿತ ಮಂಡಳಿಯವರು ಕೆಲವೊಂದು ಆರೋಪ ಮಾಡಿ ಸೇವೆಯಿಂದ ದಿನಾಂಕ: 05.12.2012 ರಂದು ವಜಾಗೊಳಿಸಿದರು. ಇದರಿಂದ ಕಾನೂನು ರೀತಿ ಹೋರಾಟ ಮಾಡಿ ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದ ವರದಿಗೆ ಹೋರಾಡಿದ್ದರಿಂದ ಮಾನ್ಯ ನ್ಯಾಯಾಲಯವು ನನ್ನ ಸಾಕ್ಷಿಗಳನ್ನು ಪುಷ್ಟಿ ನೀಡಿ ನನಗೆ ದಿನಾಂಕ: 27.01.2020 ರಂದು ಮರು ಸೇವೆಗೆ ಸೇರುವಂತೆ ಮತ್ತು ಈ ಹಿಂದೆ ಉಳಿದ ವೇತನ ಹಾಗೂ ಎಲ್ಲಾ ಸೌಲಭ್ಯಗಳನ್ನು ಒದಗಿಸಿಬೇಕೆಂದು ಆದೇಶ ಮಾಡಿದ್ದು ಇರುತ್ತದೆ. ಸದರಿ ಮಾನ್ಯ ನ್ಯಾಯಾಲಯದ ಆದೇಶದಂತೆ ನಾನು ದಿನಾಂಕ: 31.01.2020 ರಂದು ಸದರಿ ಶ್ರೀ ಮರಡಿ ಮಲ್ಲೇಶ್ವರ ಪ್ರೌಢಶಾಲೆ ಮೂಗನೂರ ರಲ್ಲಿ ಮುಖ್ಯ ಗುರುಗಳಾದ ಶ್ರೀ ಶಿವಲಿಂಗಪ್ಪ ಭೀಮಪ್ಪ ಕೆರಕಲಮಟ್ಟಿ ರವರ ಮುಂದೆ ವರದಿ ಮಾಡಿಕೊಂಡು ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸಿಕೊಂಡು ಬಂದಿರುತ್ತೇನೆ. ನಾನು ಪ್ರತಿ ದಿವಸ ಬಾಗಲಕೋಟ ನವನಗರದಿಂದ ಮೂಗನೂರಕ್ಕೆ ನನ್ನ ಮೋಟರ್ ಸೈಕಲ್ ಮೇಲೆ ಬೆನಕಟ್ಟಿ ಮಾರ್ಗವಾಗಿ ಹೋಗಿ ಬಂದು ಮಾಡುತ್ತಿರುತ್ತೇನೆ.*
>
> *ನನಗೆ ಕಳೆದ 10 ವರ್ಷಗಳ ಹಿಂದೆ ವೇತನ ಜಾರಿ ಬರುವಂತೆ ಶಿವಲಿಂಗಪ್ಪ ಭೀಮಪ್ಪ ಕೆರಕಲಮಟ್ಟಿ ರವರಿಗೆ ಮನವರಿಕೆ ಮಾಡಿ ನಾನು ಕಳೆದ 10 ವರ್ಷಗಳಿಂದ ಸಾಕಷ್ಟು ಹಣ ಹಾಳು ಮಾಡಿದ್ದೇನೆ ಬೇಗನೆ ವೇತನ ಬರುವಂತೆ ಮಾಡಿ ಅಂತಾ ಹೇಳಿದಾಗ ಸದರಿ ಮುಖ್ಯಗುರುಗಳು ಮತ್ತು ಆಡಳಿತ ಮಂಡಳಿಯವರು ನನಗೆ 10 ಲಕ್ಷ ಹಣ ಕೊಡು ಇಲ್ಲಾಂದ್ರ ನಿನಗೆ ವೇತನ ಕೊಡಿಸುವುದಿಲ್ಲ ಅಂತಾ ಹೇಳಿದ್ದರಿಂದ ನಾನು ಸದರಿ 10 ಲಕ್ಷ ಡಿಮ್ಯಾಂಡ ಮಾಡಿದ್ದರ ಬಗ್ಗೆ ಅಮೀನಗಡ ಪೊಲೀಸ ಠಾಣೆಯಲ್ಲಿ ದಿನಾಂಕ: 19.06.2020 ರಂದು ಫಿರ್ಯಾದಿ ನೀಡಿದ್ದರಿಂದ ಅಲ್ಲಿನ ಅಪರಾಧ ಸಂಖ್ಯೆ 69/2020 ರಂತೆ ಪ್ರಕರಣ ದಾಖಲಿಸಿದ್ದು ಇರುತ್ತದೆ. ಸದರಿ ಅಪರಾಧ ದಾಖಲಿಸಿದ್ದರಿಂದ ಸದರಿ ಮುಖ್ಯ ಗುರುಗಳು ಮತ್ತು ಆಡಳಿತ ಮಂಡಳಿಯವರು ನನ್ನ ಮೇಲೆ ಸಿಟ್ಟಾಗಿದ್ದರು. ನಾನು ದಿನಾಲು ಶಾಲೆಗೆ ಹೋದಾಗ ಮುಖ್ಯ ಗುರುಗಳು ನನಗೆ ಬಾಯಿಗೆ ಬಂದಂತೆ ಇಲ್ಲಸಲ್ಲದನ್ನು ಅವಾಚ್ಯವಾಗಿ ಬೈದಾಡಿ ನನಗೆ ಜೀವದ ಧಮಕಿಯನ್ನು ಹಾಕಿದ್ದು ಇರುತ್ತದೆ. ಆಗ ಅಲ್ಲಿ ಸಹ ಶಿಕ್ಷಕರಾದ 1) ಎಸ್ ಬಿ ಕುಂಬಾರ 2) ಕೆ.ಡಿ ಓಲೆಕಾರ 3) ಎಮ್.ಎಚ್. ಮಾಗಿ ರವರು ಸಹ ಇದ್ದರು. ಆದರೂ ಸಹ ನಾನು ಸುಮ್ಮನೆ ಇದ್ದೇನು.*

ಪ್ರತಿ ದಿವಸದಂತೆ ನಾನು ದಿನಾಂಕ: 23.06.2020 ರಂದು ಮುಂಜಾನೆ 08.30 ಗಂಟೆ ಸುಮಾರಿಗೆ ನವನಗರದಿಂದ ಮೂಗನೂರಕ್ಕೆ ಬೆನಕಟ್ಟಿ ಮಾರ್ಗವಾಗಿ ಮೋಟರ್ ಸೈಕಲ್ ಮೇಲೆ ನನ್ನ ಕರ್ತವ್ಯಕ್ಕೆ ಹೋಗುತ್ತಿದ್ದಾಗ ಬೆನಕಟ್ಟಿ ದಾಟಿ ಸ್ವಲ್ಪ ಮುಂದೆ ಕೆರೆಯ ಹತ್ತಿರ ಗುಡಿಯ ಮುಂದೆ ಹೋರಟಾಗ ಶಿವಲಿಂಗಪ್ಪ ಕೆರಕಲಮಟ್ಟಿ ಹಾಗೂ ಇನ್ನು ಇಬ್ಬರು ನಾನು ಬರುವುದನ್ನು ನೋಡುತ್ತಾ ಕುಳಿತು ನಾನು ಹೋಗುವುದನ್ನು ನೋಡಿ ಒಮ್ಮೆಲೆ ನನ್ನ ಮೋಟರ್ ಸೈಕಲ್ ಗೆ ಅಡ್ಡಗಟ್ಟಿ ಕೆಳಗೆ ಕೆಡವಿದರು. ನಂತರ ಮೂರು ಜನರು ಬಂದು ಲೇ ಸೂಳೆ ಮಗನೇ ನಿನಗೆ ರೊಕ್ಕ ಬೇಕಾ ಅಂತಾ ಬೈದಾಡಿ ಕೈಯಿಂದ ಮೈ ಕೈಗೆ ಗುದ್ದಿದರು ಎರಡು ಕಾಲುಗಳಿಗೆ ಮೋಟರ್ ಸೈಕಲ್ ಚೈನಿನಿಂದ ಆರೋಪಿ ನಂಬರ 1 ಶಿವಲಿಂಗಪ್ಪ ಕೆರಕಲಮಟ್ಟಿ ಇತನು ಹೊಡೆದು ರಕ್ತಗಾಯ ಪಡಿಸಿದನು ನಂತರ ಇವರು ನನಗೆ ಕೈ ಯಿಂದ ಮತ್ತು ಕಲ್ಲಿನಿಂದ ಮೈ ಕೈಗೆ ಹೊಡಿಬಡಿ ಮಾಡಿದ್ದು ಅಲ್ಲದೇ ನನ್ನ ಕುತ್ತಿಗೆಗೆ ಚೈನಿನಿಂದ ಬಿಗಿದು ಕೊಲೆ ಮಾಡಲು ಪ್ರಯತ್ನಿಸಿದ್ದು ಇರುತ್ತದೆ. ಇದರಿಂದ ನನಗೆ ಗಾಯ ನೋವು ಆಗಿದ್ದು ಇರುತ್ತದೆ. ನಂತರ ಎಲ್ಲರು ಸೇರಿ ಲೇ ಸೂಳೆ ಮಗನೇ ಲಮಾಣ್ಯಾ ನೀನು ಕಂಟ್ಯಾಗ ಬಾಳ್ಲೆ ಮಾಡೋರು ನಿಮಗೆ ಈಗ ಸೊಕ್ಕ ಬಹಳ ಬಂದೈತಿ. ನೀವು ಎಲ್ಲಿ ಇರಬೇಕೋ ಅಲ್ಲಿ ಇದ್ದರೆ ಚಂದ ನೀವು ನೌಕರಿ ಬಂದೈತಿ ಸೊಕ್ಕ ಬಹಳ ಬಂದೈತಿ ಅಂತಾ ಬೈದಾಡಿ ನನಗೆ ಜಾತಿ ನಿಂದನೆ ಮಾಡಿದರು. ಅಷ್ಟರಲ್ಲಿ ಬೆನಕಟ್ಟಿ ಕಡೆಯಿಂದ ಕಮತಗಿ ಕಡೆಗೆ ಹೊರಟ ಮೋಟರ್ ಸೈಕಲದವರು ತಮ್ಮ ಮೋಟರ್ ಸೈಕಲ್ ನಿಲ್ಲಿಸಿ ಇಬ್ಬರು ಬಂದು ಯಾಕೆ ಜಗಳ ಮಾಡುತ್ತಿದ್ದೀರಿ ಅಂತಾ ಹೇಳಿದಾಗ ನನಗೆ ಅವರು ಮತ್ತೊಮ್ಮೆ ಬಲವಾಗಿ ಹೊಡೆದರು ನಾನು ನೆಲಕ್ಕೆ ಬಿದ್ದೇನು. ಅಲ್ಲಿಗೆ ಬಂದಿದ್ದ ಇಬ್ಬರು ಜಗಳ ಬಿಡಿಸಿದರು ಆಗ 3 ಜನ ಆರೋಪಿತರು ಇವತ್ತಿ ಉಳಿದಿ ಮಗನ ಮುಂದೆ ಬಾಳ್ಲೆ ಹೇಗೆ ಮಾಡುತ್ತಿಯಾ ನಾವು ನೋಡಿಕೊಳ್ಳುತ್ತೇವೆ ಅಂತಾ ಬೈದಾಡಿ ಜೀವದ ಧಮಕಿ ಹಾಕಿ ಹೋದರು. ನಂತರ ನನಗೆ ಅಲ್ಲಿಗೆ ಬಂದಿದ್ದ ಇಬ್ಬರು ನನಗೆ ಎಬ್ಬಿಸಿದರು. ಅಷ್ಟರಲ್ಲಿ ಆರೋಪಿತರು ನಂಬರ ಪ್ಲೇಟ ಇಲ್ಲದೆ ಇರುವ ಮೋಟರ್ ಸೈಕಲ್ ತೆಗೆದುಕೊಂಡು ಹೋದರು. ಸದರಿ ಘಟನೆಯು ದಿನಾಂಕ: 23.06.2020 ರಂದು ಮುಂಜಾನೆ 09.00 ಗಂಟೆ ಸುಮಾರಿಗೆ ಬೆನಕಟ್ಟಿ ಗ್ರಾಮ ದಾಟಿ ಕೆರೆಯ ಹತ್ತಿರ ಗುಡಿಯ ಮುಂದೆ ರಸ್ತೆಯ ಮೇಲೆ ಆಗಿದ್ದು ಇರುತ್ತದೆ. ನನಗೆ ಎಬ್ಬಿಸಿ ಘಟನೆಯ ನೋಡಿದವರ ಹೆಸರು ವಿಳಾಸ ಕೇಳಿ ತಿಳಿದುಕೊಳ್ಳಲಾಗಿ ಬಸಪ್ಪ ಸಿದ್ದಪ್ಪ ಅಮರಗೋಳ ಸಾ॥ ಬೇವೂರ ಹಾಗೂ ಸಿದ್ದಪ್ಪ ರಾಮಪ್ಪ ವಾಲಿಕಾರ ಸಾ॥ ಸಂಗೊಂದಿ ಅಂತಾ ತಿಳಿಸಿದರು. ನಂತರ ನಾನು ಒದ್ದಾಡುತ್ತಾ ನನ್ನ ಮೋಟರ್ ಸೈಕಲ್ ಮೇಲೆ ನನಗೆ ಆದ ಗಾಯ ನೋವಿ ಮತ್ತು ಚಿಕಿತ್ಸೆ ಪಡೆದುಕೊಳ್ಳುವ ಸಲುವಾಗಿ ಬಾಗಲಕೋಟೆಯ 50 ಹಾಸಿಗೆ ಸಾರ್ವಜನಿಕ ಆಸ್ಪತ್ರೆಗೆ ಬಂದು ಚಿಕಿತ್ಸೆ ಪಡೆದುಕೊಂಡಿರುತ್ತೇನೆ. ಅದಕ್ಕೆ ವೈದ್ಯರು ಚಿಕಿತ್ಸೆ ನೀಡಿ ಎಮ್.ಎಲ್.ಸಿ. ಮಾಡಿರುತ್ತಾರೆ. ನನಗೆ ತೊಂದರೆ ಇದ್ದು ಮನೆಯಲ್ಲಿ ವಿಶ್ರಾಂತಿ ಪಡೆದು ಮತ್ತು ಸದರಿ ವಿಷಯದ ಬಗ್ಗೆ ನಮ್ಮ ಮನೆಯಲ್ಲಿ ವಿಚಾರಿಸಿ ನಂತರ ಠಾಣೆಗೆ ಬಂದು ಪಿರ್ಯಾದಿ ಕೊಡಲು ತಡವಾಗಿದ್ದು ಇರುತ್ತದೆ.

ಮೇಲೆ ನಮೂದು ಮಾಡಿದ ಆರೋಪಿ ನಂಬರ 1 ಶಿವಲಿಂಗಪ್ಪ ಭೀಮಪ್ಪ ಕೆರಕಲಮಟ್ಟಿ ಇವನು ಹಿಂದೂ ಗಾಣಿಗ ಜಾತಿಗೆ ಸೇರಿದವನಿದ್ದು, ಉಳಿದ 2 ಇಬ್ಬರು ಆರೋಪಿತರು ಯಾವ ಜಾತಿಗೆ ಸೇರಿದವರು ಅಂತಾ ತಿಳಿದಿರುವುದಿಲ್ಲ. ಸದರಿ ಮೂರು ಜನರ ಆರೋಪಿತರು ಸೇರಿಕೊಂಡು ನನಗೆ ನನ್ನ ಮೋಟರ್ ಸೈಕಲ್ ಅಡ್ಡಗಟ್ಟಿ ನಿಲ್ಲಿಸಿ ಕೆಳಗೆ ಬಿಳಿಸಿ ಅವಾಚ್ಯ ಶಬ್ದಗಳಿಂದ ಬೈದಾಡಿ ಕೈಯಿಂದ ಮತ್ತು ಕಲ್ಲಿಂದ ಹೊಡಿಬಡಿ ಮಾಡಿ ನಂತರ ಮೋಟರ್ ಸೈಕಲ ಚೈನಿಂದ ಸಹ ಹೊಡಿ ಬಡಿ ಮಾಡಿಲ್ಲದೇ ಸದರಿ ಚೈನಿನಿಂದ ನನ್ನ ಕುತ್ತಿಗೆಗೆ ಬಿಗಿದು ಕೊಲೆ ಮಾಡಲು ಪ್ರಯತ್ನಿಸಿದ್ದರಿಂದ ಕುತ್ತಿಗೆಗೆ ಮತ್ತು ಎರಡು ಕಾಲಿಗೆ ಗಾಯ ನೋವು ಪಡಿಸಿ ಮತ್ತು ಬೆನ್ನಿಗೆ ಹಾಗೂ ಬಲ ಕಣ್ಣಿನ ಹತ್ತಿರ ಗಾಯ ನೋವು ಪಡಿಸಿದಲ್ಲದೇ ಲೇ ಲಮಾಣ್ಯ ಅಂತಾ ಬೈದಾಡಿ ಜಾತಿ ನಿಂದನೇ ಮಾಡಿದ್ದಲ್ಲದೇ ಜೀವದ ಧಮಕಿ ಹಾಕಿದ್ದು ಇರುತ್ತದೆ. ಸದರಿ ಘಟನೆ ಬಗ್ಗೆ 3 ಜನರ ಮೇಲೆ ನನ್ನ ಪಿರ್ಯಾದಿ ಇದ್ದು ಮುಂದಿನ ಕಾನೂನು ರೀತಿ ಕ್ರಮ ಕೈಗೊಳ್ಳಲು ಮಾನ್ಯರವರಲ್ಲಿ ವಿನಂತಿ."

(Emphasis added)

It is the case of the complainant tracing history to 2012 when the complainant had been dismissed from service on certain omissions and commissions up to the date on which the alleged incident of assault took place i.e., on 23-06-2020. It is the case of the complainant that the petitioner along with two others stopped the complainant on his motor cycle, did not permit him to go anywhere and indulged in assault. Based upon the said complaint, the Police took investigation and product of investigation is the final report/charge sheet against the petitioner and others. It becomes germane to notice the summary of the charge sheet as obtaining in Col.No.17 and it reads as follows:

> *"17. ಕೇಸಿನ ಸಂಕ್ಷಿಪ್ತ ಸಾರಾಂಶ*
> *ಸನ್ನಿಧಿ ಕೋರ್ಟ ಸ್ಥಳ ಸಿಮೇಯ ಬಾಗಲಕೋಟ ಗ್ರಾಮೀಣ ಪೊಲೀಸ ಠಾಣೆಯ ಹದ್ದಿಯ ಪೈಕಿ ಬೆನಕಟ್ಟಿ ಬಸರಕಟ್ಟೆ ರಸ್ತೆಯ ಮಗ್ಗಲು ಗುಡ್ಡದ ಯಲಮ್ಮನ ದೇವಸ್ಥಾನದ ಹತ್ತಿರ ಖುಲ್ಲಾ ಜಾಗೆಯಲ್ಲಿ ದಿನಾಂಕ:23–06–2020 ರಂದು 09–30 ಗಂಟೆಗೆ ಚಾರ್ಜಶೀಟ ಕಾಲಂ ನಂ.11 ರಲ್ಲಿ ನಮೂದ ಮಾಡಿದ ಆರೋಪಿತನಾದ ಶಿವಲಿಂಗಪ್ಪ ಬೀಮಪ್ಪ ಕೆರಕಲಮಟ್ಟಿ, ಸಾ॥ ಮೂಗನೂರ ತಾ: ಹುನಗುಂದ ಈತನು ಪಿರ್ಯಾದಿಯು ತನ್ನ ಹಿಂದಿನ ವೇತನ ಮಂಜೂರಿ ಮಾಡುವ ಸಲುವಾಗಿ ಅರ್ಜಿಯನ್ನು ಕೊಟ್ಟು ಸ್ವೀಕೃತಿ ತೆಗೆದುಕೊಂಡು ಬೇಗನೆ ವೇತನ ಬರುವಂತೆ ಮಾಡಿರಿ ಅಂತಾ ಕೇಳಿಕೊಂಡಿದ್ದಕ್ಕೆ, ಹಣದ ಬೇಡಿಕೆಯನ್ನು ಇಟ್ಟದು, ಈ ಬಗ್ಗೆ ಪಿರ್ಯಾದಿಯು ಅಮೀನಗಡ ಪೊಲೀಸ ಠಾಣೆಯಲ್ಲಿ* ***ಕೇಸು ಮಾಡಿದ್ದು ಅದರ ಸಿಟ್ಟಿನಿಂದ ಆರೋಪಿತನು ಪಿರ್ಯಾದಿಯು ಪರಿಶಿಷ್ಟ ಜಾತಿಗೆ ಸೇರಿದವನು ಇರುತ್ತಾನೆ ಅಂತಾ ತಿಳಿದು ಅವನಿಗೆ ಅಡ್ಡಗಟ್ಟಿ ಮುಂದೆ ಹೋಗದಂತೆ ಮಾಡಿ ಜಾತಿ ಎತ್ತಿ ಬೈದು ಜಾತಿ ನಿಂದನೆ ಮಾಡಿ ಕೈಯಿಂದ ಹೊಡಿಬಡಿ ಮಾಡಿ ಒಳಪೆಟ್ಟು ಪಡಿಸಿ***

ಜೀವದ ಬೆದರಿಕೆ ಹಾಕಿದ ಅಪರಾಧ. ಕಲಂ 323, 341, 504, 506 ಐಪಿಸಿ ಮತ್ತು 3 (1)(ಎಸ್) (ಆರ್) ಎಸ್ ಸಿ ಎಸ್ ಟಿ ಕಾಯ್ದೆ."

(Emphasis added)

If the complaint and the summary of the charge sheet are juxta posed to be read in tandem what would unmistakably emerge is the complaint is glorified. The summary of the charge sheet is in effect nullifying such glorification, as nothing that the complainant has sought to project in the complaint has been established by way of proof. The summary of the charge sheet does not indicate where and when the abuses have been hurled and where the complainant was stopped from moving any direction for it to become an offence under Section 341 of the IPC. The submission of the learned counsel for the petitioner merits acceptance insofar as contradictions that the complainant himself generates *qua* the contents in the complaint and his further statement. Further statement of the complainant rendered on 6.07.2020 just before filing the charge sheet runs as follows:

"ಪುನಃ ಹೇಳಿಕೆ

ದಿನಾಂಕ:–06–07–2020
ಬಾಗಲಕೋಟ

ನಾನು ಚಂದ್ರು ಲಚ್ಚು ರಾಥೋಡ, ವಯಾ 53 ವರ್ಷ ಜಾತಿ ಹಿಂದೂ ಲಂಬಾಣಿ ಉದ್ಯೋಗ : ಚಿತ್ರಕಲಾ ಶಿಕ್ಷಕ ಸಾಃ ಬಾಗಲಕೋಟ ನವನಗರ ಹೇಳಿ ಗಣಕೀಕೃತ ಮಾಡಿಸಿದ ಪುನಃ ಹೇಳಿಕೆ.

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ದಿನಾಂಕ:–28–06–2020 ರಂದು ನಾನು ಬಾಗಲಕೋಟ ಗ್ರಾಮೀಣ ಪೊಲೀಸ ಠಾಣೆಯಲ್ಲಿ ಪಿರ್ಯಾದವನ್ನು ಸಲ್ಲಿಸಿದ್ದು ಅದನ್ನು ಈಗ ತಾವು ತೋರಿಸಿದ್ದು ಓದಿ ತಿಳಿದುಕೊಂಡೆನು ಅದರಲ್ಲಿ ದಿನಾಂಕ: 23–06–2020 ರಂದು ಮುಂಜಾನೆ 9–00 ಗಂಟೆ ಸುಮಾರಿಗೆ ನಾನು ನನ್ನ ಸೈಕಲ್ ಮೋಟಾರ ಮೇಲೆ ನವನಗರದಿಂದ ಮೂಗನೂರಕ್ಕೆ ಹೋಗುವಾಗ ಬೆನಕಟ್ಟಿ ಗ್ರಾಮದ ಗುಡ್ಡದ ಯಲ್ಲಮ್ಮನ ಗುಡಿಯ ಹತ್ತಿರ ಆರೋಪಿತನಾದ ಎಸ್ ಬಿ ಕೆರಕಲಮಟ್ಟಿ ಹಾಗೂ ಇನ್ನು ಇಬ್ಬರೂ ಕೂಡಿಕೊಂಡು ನನ್ನ ಸೈಕಲ ಮೋಟಾರಕ್ಕೆ ಅಡ್ಡಗಟ್ಟಿ ನಿಲ್ಲಿಸಿ ಸೈಕಲ ಮೋಟಾರ ಬೈನದಿಂದ ಹೊಡಿಬಡಿ ಮಾಡಿ ಕುತ್ತಿಗೆಗೆ ಹಾಕಿ ಕೊಲೆ ಮಾಡಲು ಪ್ರಯತ್ನಿಸಿದ್ದು ಇರುತ್ತದೆ ಅಂತಾ ಬರೆಯಿಸಿದ್ದು ಇತ್ತು.

ಆದರೇ ಪಿರ್ಯಾದಿಯಲ್ಲಿ ನಮೂದ ಮಾಡಿದಂತೆ ನನಗೆ ಎಸ್ ಬಿ ಕೆರಕಲಮಟ್ಟಿ ಇವರನ್ನು ಬಿಟ್ಟು ಬೇರೆ ಯಾರು ಹೊಡಿಬಡಿ ಮಾಡಿರುವುದಿಲ್ಲಾ ಆರೋಪಿತನು ನನ್ನ ವೇತನವನ್ನು ಮಾಡಲು ಕೇಳಿಕೊಂಡಾಗ ಅದಕ್ಕೆ ಸ್ಪಂದಿಸದೇ ನನಗೆ ಬೈದಾಡಿದ್ದು ಮತ್ತು ದಿನಾಂಕ: 23–06–2020 ರಂದು ಮುಂಜಾನೆ 11–00 ಗಂಟೆ ಸುಮಾರಿಗೆ ನಾನು ನನ್ನ ಸೈಕಲ ಮೋಟಾರ ಮೇಲೆ ನವನಗರದಿಂದ ಮೂಗನೂರಕ್ಕೆ ಹೋಗುವಾಗ ಸಹ ನನ್ನ ಸಂಗಡ ಜಗಳ ತೆಗೆದು ಜಾತಿ ನಿಂದನೆ ಮಾಡಿ ಕೈಯಿಂದ ಹೊಡೆದಿದ್ದು ಇರುತ್ತದೆ. ಎಸ್ ಬಿ ಕೆರಕಲಮಟ್ಟಿ ಇವನು ನನಗೆ ಹೊಡಿಬಡಿ ಮಾಡಿದ್ದರೆ ಸಿಟ್ಟಿನಿಂದ ಅವನಿಗೆ ಒಂದು ಗತಿ ಕಾಣಿಸಬೇಕು ಅಂತಾ ಸಿಟ್ಟಿನ ಬರದಲ್ಲಿ ಇನ್ನು ಇಬ್ಬರೂ ಇದ್ದರು ಮತ್ತು ಕೊಲೆ ಮಾಡಲು ಪ್ರಯತ್ನಿಸಿದರು. ಅಂತಾ ಬರೆದುಕೊಟ್ಟಿದ್ದು ಇನ್ನಿಬ್ಬರೂ ಯಾರು ಇರುವುದಿಲ್ಲಾ ಮತ್ತು ನನಗೆ ಯಾರು ಕೊಲೆ ಮಾಡಲು ಪ್ರಯತ್ನಿಸಿರುವುದಿಲ್ಲಾ.

ಓ ಹೇ ಕೇ ಸರಿ ಅದೆ
ನನ್ನ ಸಮಕ್ಷಮ
ಡಿ ಡಿ. ಎಸ್ ಪಿ ಬಾಗಲಕೋಟ"

(Emphasis added)

The narration in the further statement is that there was nobody else except the petitioner at the scene of crime. He specifically narrates that it is the petitioner alone who has assaulted the complainant. This is in complete contradiction to what the complaint narrated. If the complaint, summary of the charge sheet and the further statement of the complainant are read in tandem that would clearly indicate that the incident itself is inherently improbable.

10. The complaint or the further statement and the summary of the charge sheet narrate that the complainant was assaulted and he had suffered blood injuries. It is also the averment that he has taken treatment at the hospital. What is the injury and what is the certificate of wound issued by the Doctor to the police during investigation is germane to be noticed and it reads as follows:

"To *Date: 8-07-2020*

The Rural Police Station (DYCP office)

Bagalkot.

Respected Sir,

Subject: Regarding wound certificate.

--

Hereby the patient by name Chandru Lachu Rathod came with history of assault by the neighbours by on his own self on 23-06-2020 at 1;04 p.m. OPD No.13206. He had small abrasion over ® & (L) leg, along with generalized body ache with severe head ache. No other external injuries seen over the body. The person has been treated on OPD basis.

Thanking you,

Yours faithfully,

Sd/-

Date:8-07-2020

Place: Bagalkot.

Senior Specialist Doctor,
50 Bed General hospital,
Bagalkot."

(Emphasis added)

The narration is that the complainant came with a history of assault by neighbours, on his own and had a small abrasion and also with generalized body ache. There were no injuries seen. He was treated in OPD and was sent away. The narration by the doctor is again vindication of the submission of the learned counsel for the petitioner that it was a frivolous complaint and the incident as narrated by the complainant has not even happened.

11. The offences alleged are the ones punishable under Sections 341, 323, 504 and 506 of the IPC. Section 341 reads as follows:

"341. Punishment for wrongful restraint.—*Whoever wrongfully restrains any person, shall be punished with simple*

imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both."

Section 341 has its ingredients in Section 339 of the IPC. Section 339 reads as follows:

> ***"339. Wrongful restraint.—Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.***
>
> ***Exception.—The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section."***
>
> *(Emphasis supplied)*

Section 339 mandates that for an incident to become an offence under Section 341 which deals with wrongful restraint, every ingredient of Section 339 must be present. If the victim could not be permitted to move in any direction, it has to be treated as an offence for wrongful restraint with criminal intent. That is not the allegation in the case at hand. The complaint is that three to four people stopped the complainant on his motor cycle and assaulted. The further statement is only the petitioner stopped the complainant on the motor cycle and assaulted. The summary of the charge sheet is that the

accused has indulged in assault. Therefore, no where the complainant has been stopped from movement as is necessary for an offence under Section 339 of the IPC. The Apex Court in the case of ***KEKI HORMUSI GHARDA v. MEHERVAN RUSTOM IRANI***[1] has held as follows:

> ***"12. "Wrongful restraint" has been defined under Section 339 IPC in the following words:***
>
> > ***"339. Wrongful restraint.—Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.***
> >
> > ***Exception.—The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section."***
>
> ***The essential ingredients of the aforementioned provision are:***
>
> > ***(1) Accused obstructs voluntarily;***
> >
> > ***(2) The victim is prevented from proceeding in any direction;***
> >
> > ***(3) Such victim has every right to proceed in that direction.***
>
> ***13. Section 341 IPC provides that:***
>
> > ***"341. Punishment for wrongful restraint.—Whoever wrongfully restrains any person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine***

[1] (2009) 6 SCC 475

> ***which may extend to five hundred rupees, or with both."***
>
> ***14. The word "voluntary" is significant. It connotes that obstruction should be direct. The obstructions must be a restriction on the normal movement of a person. It should be a physical one. They should have common intention to cause obstruction."***
>
> *(Emphasis supplied)*

In the light of the facts narrated hereinabove and the judgment of the Apex Court it can hardly be said that there are any ingredients of Section 341 present in the case at hand.

12. The other offences alleged are the ones punishable under Sections 323, 504 and 506 of the IPC. For an offence to become punishable under Section 323, there should be assault and assault resulting in hurt. Hurt, is defined under Section 319 of the IPC. Section 319 of the IPC reads as follows:

> *"Section 319 :- Hurt -*
>
> *Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt."*

If the facts and the wound intimation is noticed, it nowhere can become an ingredient of Section 319, as there is not even an external injury caused due to the alleged assault. If there was

no injury caused, there is no hurt. If there is no hurt, it cannot become an offence under Section 323 of the IPC. The Apex Court in the case of ***RAMESH CHANDRA VAISHYA V. STATE OF UTTAR PRADESH***[2], in a case concerning the offences under the Atrocities Act itself, where the allegation was the offence punishable under Section 323 of the IPC, apart from the ones alleged under the Atrocities Act, has held as follows:

> ***"21.*** *Section 323, IPC prescribes punishment for voluntarily causing hurt. Hurt is defined in section 319, IPC as causing bodily pain, disease or infirmity to any person. The allegation in the first F.I.R. is that the appellant had beaten up the complainant for which he sustained multiple injuries. Although the complainant alleged that such incident was witnessed by many persons and that he sustained injuries on his hand, the charge-sheet does neither refer to any eye-witness other than the complainant's wife and son nor to any medical report. The nature of hurt suffered by the complainant in the process is neither reflected from the first F.I.R. nor the charge-sheet. On the contrary, the appellant had the injuries suffered by him treated immediately after the incident. In the counter-affidavit filed by the first respondent (State) in the present proceeding, there is no material worthy of consideration in this behalf except a bald statement that the complainant sustained multiple injuries "in his hand and other body parts". If indeed the complainant's version were to be believed, the I.O. ought to have asked for a medical report to support the same. Completion of investigation within a day in a given case could be appreciated but in the present case it has resulted in more disservice than service to the cause of justice. The situation becomes all the more glaring when in course of this proceeding the parties including the first respondent are unable to apprise us the outcome of the second F.I.R. In any event, we do not find any ring of truth in the prosecution case to allow the proceedings to continue vis-à-vis section 323, IPC."*

[2] ***2023 SCC OnLine SC 668***

Therefore, the offence under Section 323 of the IPC is undoubtedly imaginarily laid against the petitioner.

13. Sections 504 and 506 of the IPC have been without rhyme or reason imputed into these proceedings. Sections 504 and 506 which deal with intimidation or intentional insult to provoke breach of peace would require ingredients as necessary under Section 503 to be present. Reference being made to the judgment of the Apex Court noticing, quoting and analyzing Sections 504 and 506 in the circumstances becomes apposite. The Apex Court in the case of ***MOHAMMAD WAJID v. STATE OF UTTAR PRADESH***[3] has held as follows:

> ***"SECTIONS 503, 504 AND 506 OF THE IPC***
>
> ***24. Chapter XXII of the IPC relates to Criminal Intimidation, Insult and Annoyance. Section 503 reads thus:—***
>
> > ***"Section 503. Criminal intimidation. — Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.***

[3] 2023 SCC OnLine SC 951

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

Illustration

A, for the purpose of inducing B to resist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation."

25. Section 504 reads thus:—

"Section 504. Intentional insult with intent to provoke breach of the peace.—Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

26. Section 506 reads thus:—

"Section 506. Punishment for criminal intimidation. —Whoever commits, the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

If threat be to cause death or grievous hurt, etc.—And if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both."

27. *An offence under Section 503 has following essentials:—*

1) Threatening a person with any injury;

(i) to his person, reputation or property; or

(ii) to the person, or reputation of any one in whom that person is interested.

2) The threat must be with intent;

(i) to cause alarm to that person; or

(ii) to cause that person to do any act which he is not legally bound to do as the means of avoiding the execution of such threat; or

(iii) to cause that person to omit to do any act which that person is legally entitled to do as the means of avoiding the execution of such threat.

28. Section 504 of the IPC contemplates intentionally insulting a person and thereby provoking such person insulted to breach the peace or intentionally insulting a person knowing it to be likely that the person insulted may be provoked so as to cause a breach of the public peace or to commit any other offence. Mere abuse may not come within the purview of the section. But, the words of abuse in a particular case might amount to an intentional insult provoking the person insulted to commit a breach of the public peace or to commit any other offence. If abusive language is used intentionally and is of such a nature as would in the ordinary course of events lead the person insulted to break the peace or to commit an offence under the law, the case is not taken away from the purview of the Section merely because the insulted person did not actually break the peace or commit any offence having exercised self control or having been subjected to abject terror by the offender. In judging whether particular abusive language is attracted by Section 504, IPC, the court has to find out what, in the ordinary circumstances, would be the effect of the abusive language used and not what the complainant actually did as a result of his peculiar idiosyncrasy or cool temperament or sense of discipline. It is the ordinary general nature of the abusive language that is the test for considering whether the abusive language is an

intentional insult likely to provoke the person insulted to commit a breach of the peace and not the particular conduct or temperament of the complainant.

29. Mere abuse, discourtesy, rudeness or insolence, may not amount to an intentional insult within the meaning of Section 504, IPC if it does not have the necessary element of being likely to incite the person insulted to commit a breach of the peace of an offence and the other element of the accused intending to provoke the person insulted to commit a breach of the peace or knowing that the person insulted is likely to commit a breach of the peace. Each case of abusive language shall have to be decided in the light of the facts and circumstances of that case and there cannot be a general proposition that no one commits an offence under Section 504, IPC if he merely uses abusive language against the complainant. In King Emperor v. Chunnibhai Dayabhai, (1902) 4 Bom LR 78, a Division Bench of the Bombay High Court pointed out that:—

"To constitute an offence under Section 504, I.P.C. it is sufficient if the insult is of a kind calculated to cause the other party to lose his temper and say or do something violent. Public peace can be broken by angry words as well as deeds."

(Emphasis supplied)

30. A bare perusal of Section 506 of the IPC makes it clear that a part of it relates to criminal intimidation. Before an offence of criminal intimidation is made out, it must be established that the accused had an intention to cause alarm to the complainant.

31. In the facts and circumstances of the case and more particularly, considering the nature of the allegations levelled in the FIR, a prima facie case to constitute the offence punishable under Section 506 of the IPC may probably could be said to have been disclosed but not under Section 504 of the IPC. The allegations with respect to the offence punishable under Section 504 of the IPC can also be looked at from a different perspective. In the FIR, all that the first informant has stated is that abusive language was used by the accused persons. What exactly was uttered in the

form of abuses is not stated in the FIR. One of the essential elements, as discussed above, constituting an offence under Section 504 of the IPC is that there should have been an act or conduct amounting to intentional insult. Where that act is the use of the abusive words, it is necessary to know what those words were in order to decide whether the use of those words amounted to intentional insult. In the absence of these words, it is not possible to decide whether the ingredient of intentional insult is present.

32. *However, as observed earlier, the entire case put up by the first informant on the face of it appears to be concocted and fabricated. At this stage, we may refer to the parameters laid down by this Court for quashing of an FIR in the case of Bhajan Lal (supra). The parameters are:—*

"(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

33. *In our opinion, the present case falls within the parameters Nos. 1, 5 and 7 resply referred to above.*

34. *At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not.* ***In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage***

of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.

35. *In State of Andhra Pradesh v. Golconda Linga Swamy, (2004) 6 SCC 522, a two-Judge Bench of this Court elaborated on the types of materials the High Court can assess to quash an FIR. The Court drew a fine distinction between consideration of materials that were tendered as evidence and appreciation of such evidence. Only such material that manifestly fails to prove the accusation in the FIR can be considered for quashing an FIR. The Court held:—*

> *"5. …Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent such abuse. It would be an abuse of the process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact.* ***When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto****.*
>
> *6. In R.P. Kapur v. State of Punjab, AIR 1960 SC 866 : 1960 Cri LJ 1239, this Court summarised some categories of cases where inherent power can and should be exercised to quash the proceedings : (AIR p. 869, para 6)*

(i) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;

(ii) where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged;

(iii) ***where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge****.*

7. ***In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge****. Judicial process, no doubt should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death…..”*

(Emphasis supplied in original)”

(Emphasis supplied)

The Apex Court considering the entire spectrum of law holds that judicial process should not become an instrument of oppression or, needless harassment.

14. What remains to be noticed would be the offences punishable under the Atrocities Act. The ones that are urged are clauses (r) and (s) of sub-section (1) of Section 3. They read as follows:

> ***"3. Punishments for offences of atrocities.—(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—***
>
> ***... ... ...***
>
> ***(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;***
>
> ***(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;"***
>
> *(Emphasis supplied)*

For an offence to become punishable under Section 3(1)(r) & (s) what is necessary is hurling of abuses in a public place or in a place of public view. The assault is as indicated hereinabove and hurling of abuses is again as indicated hereinabove. Whether it was in a public place or in a place of public view is not forthcoming in the statements or in the summary of the charge sheet. If it is neither in a public place nor in a place of

public view, it can hardly be said that it meets the ingredients of Section 3(1)(r) & (s). The Apex Court in the case of ***HITESH VERMA v. STATE OF UTTARAKHAND***[4] has held as follows:

> *"15. As per the FIR, the allegations of abusing the informant were within the four walls of her building. It is not the case of the informant that there was any member of the public (not merely relatives or friends) at the time of the incident in the house. Therefore, the basic ingredient that the words were uttered "in any place within public view" is not made out. In the list of witnesses appended to the charge-sheet, certain witnesses are named but it could not be said that those were the persons present within the four walls of the building. The offence is alleged to have taken place within the four walls of the building. Therefore, in view of the judgment of this Court in Swaran Singh [Swaran Singh v. State, (2008) 8 SCC 435 : (2008) 3 SCC (Cri) 527] , it cannot be said to be a place within public view as none was said to be present within the four walls of the building as per the FIR and/or charge-sheet.*
>
> *16. There is a dispute about the possession of the land which is the subject-matter of civil dispute between the parties as per Respondent 2 herself. Due to dispute, the appellant and others were not permitting Respondent 2 to cultivate the land for the last six months. Since the matter is regarding possession of property pending before the civil court, any dispute arising on account of possession of the said property would not disclose an offence under the Act unless the victim is abused, intimidated or harassed only for the*

[4] ***(2020) 10 SCC 710***

reason that she belongs to Scheduled Caste or Scheduled Tribe.

17. In another judgment reported as Khuman Singh v. State of M.P. [Khuman Singh v. State of M.P., (2020) 18 SCC 763 : 2019 SCC OnLine SC 1104] , this Court held that in a case for applicability of Section 3(2)(v) of the Act, the fact that the deceased belonged to Scheduled Caste would not be enough to inflict enhanced punishment. This Court held that there was nothing to suggest that the offence was committed by the appellant only because the deceased belonged to Scheduled Caste. The Court held as under:

> *"15. As held by the Supreme Court, the offence must be such so as to attract the offence under Section 3(2)(v) of the Act. The offence must have been committed against the person on the ground that such person is a member of Scheduled Caste and Scheduled Tribe. In the present case, the fact that the deceased was belonging to "Khangar" Scheduled Caste is not disputed. There is no evidence to show that the offence was committed only on the ground that the victim was a member of the Scheduled Caste and therefore, the conviction of the appellant-accused under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is not sustainable."*

18. Therefore, offence under the Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste. In the present case, the parties are litigating over possession of the land. The allegation of hurling of abuses is against a person who claims title over the property. If

such person happens to be a Scheduled Caste, the offence under Section 3(1)(r) of the Act is not made out.

19. This Court in a judgment reported as Subhash Kashinath Mahajan v. State of Maharashtra [Subhash Kashinath Mahajan v. State of Maharashtra, (2018) 6 SCC 454 : (2018) 3 SCC (Cri) 124] issued certain directions in respect of investigations required to be conducted under the Act. In a review filed by the Union against the said judgment, this Court in a judgment reported as Union of India v. State of Maharashtra [Union of India v. State of Maharashtra, (2020) 4 SCC 761 : (2020) 2 SCC (Cri) 686] reviewed the directions issued by this Court and held that if there is a false and unsubstantiated FIR, the proceedings under Section 482 of the Code can be invoked. The Court held as under : (Union of India case [Union of India v. State of Maharashtra, (2020) 4 SCC 761 : (2020) 2 SCC (Cri) 686] , SCC p. 797, para 52)

> *"52. There is no presumption that the members of the Scheduled Castes and Scheduled Tribes may misuse the provisions of law as a class and it is not resorted to by the members of the upper castes or the members of the elite class. For lodging a false report, it cannot be said that the caste of a person is the cause. It is due to the human failing and not due to the caste factor. Caste is not attributable to such an act. On the other hand, members of the Scheduled Castes and Scheduled Tribes due to backwardness hardly muster the courage to lodge even a first information report, much less, a false one. In case it is found to be false/unsubstantiated, it may be due to the faulty investigation or for other various reasons including human failings irrespective of caste factor. There may be certain cases which may be false that can be a ground for interference by the Court, but the law cannot be*

changed due to such misuse. In such a situation, it can be taken care of in proceeding under Section 482 CrPC."

… … …. …

21. In Gorige Pentaiah [Gorige Pentaiah v. State of A.P., (2008) 12 SCC 531 : (2009) 1 SCC (Cri) 446] , one of the arguments raised was non-disclosure of the caste of the accused but the facts were almost similar as there was civil dispute between parties pending and the allegation was that the accused has called abuses in the name of the caste of the victim. The High Court herein has misread the judgment of this Court in Ashabai Machindra Adhagale [Ashabai Machindra Adhagale v. State of Maharashtra, (2009) 3 SCC 789 : (2009) 2 SCC (Cri) 20] as it was not a case about the caste of the victim but the fact that the accused was belonging to upper caste was not mentioned in the FIR. The High Court of Bombay had quashed the proceedings for the reason that the caste of the accused was not mentioned in the FIR, therefore, the offence under Section 3(1)(xi) of the Act is not made out. In an appeal against the decision of the Bombay High Court, this Court held that this will be the matter of investigation as to whether the accused either belongs to or does not belong to Scheduled Caste or Scheduled Tribe. Therefore, the High Court erred in law to dismiss the quashing petition relying upon later larger Bench judgment.

22. The appellant had sought quashing of the charge-sheet on the ground that the allegation does not make out an offence under the Act against the appellant merely because Respondent 2 was a Scheduled Caste since the property dispute was not on account of the fact that Respondent 2 was a Scheduled Caste. The property disputes between a vulnerable section of

the society and a person of upper caste will not disclose any offence under the Act unless, the allegations are on account of the victim being a Scheduled Caste. Still further, the finding that the appellant was aware of the caste of the informant is wholly inconsequential as the knowledge does not bar any person to protect his rights by way of a procedure established by law.

23. *This Court in a judgment reported as Ishwar Pratap Singh v. State of U.P. [Ishwar Pratap Singh v. State of U.P., (2018) 13 SCC 612 : (2018) 3 SCC (Cri) 818] held that there is no prohibition under the law for quashing the charge-sheet in part. In a petition filed under Section 482 of the Code, the High Court is required to examine as to whether its intervention is required for prevention of abuse of process of law or otherwise to secure the ends of justice. The Court held as under : (SCC p. 618, para 9)*

> *"9. Having regard to the settled legal position on external interference in investigation and the specific facts of this case, we are of the view that the High Court ought to have exercised its jurisdiction under Section 482 CrPC to secure the ends of justice. There is no prohibition under law for quashing a charge-sheet in part. A person may be accused of several offences under different penal statutes, as in the instant case. He could be aggrieved of prosecution only on a particular charge or charges, on any ground available to him in law. Under Section 482, all that the High Court is required to examine is whether its intervention is required for implementing orders under the Criminal Procedure Code or for prevention of abuse of process, or otherwise to secure the ends of justice. A charge-sheet filed at the dictate of somebody other than the police would amount to abuse of the process of law and hence the High Court ought to have exercised its inherent powers under Section 482 to the extent of the abuse. There is no requirement that the charge-sheet has to be quashed as a*

> *whole and not in part. Accordingly, this appeal is allowed. The supplementary report filed by the police, at the direction of the Commission, is quashed."*
>
> ***24.*** *In view of the above facts, we find that the charges against the appellant under Section 3(1)(r) of the Act are not made out. Consequently, the charge-sheet to that extent is quashed. The appeal is disposed of in the above terms."*
>
> *(Emphasis supplied)*

The Apex Court as an extra rider observes that even if it is in a public place or a place of public view, mere utterance of the word of a person belonging to the caste is not enough and it should be with an intention to insult as the provision of law i.e., Section 3(1)(r) & (s) clearly mandate that there should be intention to insult. Therefore, in the facts of the case the happenings of the alleged incident in a public place or in a place of public view is doubtful nor there was any deliberate intention to malign the complainant taking the name of his caste. In the absence of all these ingredients and the judgment of the Apex Court, permitting further proceedings would become a repeated abuse of the process of law.

15. The phrase 'repeated abuse of the process of law' is consciously used for the reason that the complainant has been

repeatedly abusing the process of law. This very complainant against this very petitioner had registered an identical complaint before the Navanagar Police Station which had become a crime in Crime No.32 of 2019 and charge sheet had been filed by the Police on 26-05-2019. This was challenged by the petitioner before this Court in Criminal Petition No.102543 of 2019. This Court noticing the submissions of respective parties and holding that it was a frivolous case quashed the proceedings by rendering the following reasons:

> *"11. The charge sheet material placed before the Special Judge at the time of taking cognizance on 19.06.2019 does not contain any caste certificate of respondent No.2. In the absence of any caste certificate of respondent No.2, learned Special Judge ought not to have taken cognizance for the offences under Sections 3(1)(r) and 3(1)(s) of SC & ST (POA) Act, 1989.*
>
> *12. Learned HCGP submits that the caste certificate of respondent No.2 has been produced before the Special Judge on 03.10.2019 by the Investigating Officer and as per the said caste certificate, respondent No.2 is of the Hindu Lamani caste coming under Scheduled castes. The said caste certificate was not part of the charge sheet as on the date of taking cognizance by the learned Special Judge.*
>
> *13. In the entire charge sheet, there is no mention of seeking permission for further investigation under Section 173(8) of Cr.P.C. by the Investigating Officer.*
>
> *14. CW4 to 9 are stated to be eye witnesses to the incident. They have not stated anything with regard to*

the petitioner abusing taking his caste in filthy language. Therefore, there were no material before the Special Judge for taking cognizance for offence under Sections 3(1)(r) and 3(1)(s) of SC & ST (POA) Act, 1989. Therefore, taking of the cognizance for the said offences by the learned Special Judge is bad in law.

15. As pointed out by the learned counsel for the petitioner that there are contradictions in the statements of CW4 to 9. On considering the entire statements of CW4 to 9, there are materials that the petitioner has quarreled with respondent No.2 on 20.04.2019 near the puncture shop of CW7 Murthuj Kuradgi and assaulted with hand and with rod on his right leg and biting on the left little finger of respondent No.2.

16. The wound certificate of respondent No.2 supports the statement of respondent No.2 and CW4 to 9 with regard to assault by the hand, with rod on left leg and bite injuries on left little finger.

17. On perusal of the entire statements of CW4 to 9 nothing has been stated by them with regard to abusing respondent No.2 and giving him life threat. Therefore, the offences under Sections 504 and 506 are not attracted.

18. Therefore, for the aforesaid reasons, taking of the cognizance by the learned Special Judge for the offence under Sections 3(1)(r) and 3(1)(s) of SC & ST (POA) Act, 1989 and Sections 504 and 506 of IPC requires to be quashed. As there are materials the petitioner has to face trial for offence under Sections under Sections 323 and 324 of IPC."

The offences alleged are the same as alleged in the present case and the style of narration is also the same. The incident alleged also is identical. What was alleged therein was Section

324 of the IPC and what is alleged in the case at hand is Section 341 of the IPC. The rest remain the same. The quashment has become final. Therefore, the complainant first registers a complaint before the Navanagar Police Station. This is the first of the complaints.

16. The impugned complaint is registered before the Bagalkot Rural Police Station. The impugned complaint is the second in line, narrating similar circumstances. The complainant, after registering both these complaints had registered a complaint before the Amingad Police Station for the same offences. The Police conduct investigation and file a 'B' report. The projection of offences was that the petitioner had tried to kill the complainant. The Police while filing the 'B' report completely narrate the complaint that the complainant has gone on registering complaints on the petitioner. According to the 'B' report the impugned complaint is the fifth in line. Therefore, it becomes necessary to notice the 'B' report so filed by the Police in a crime registered before the Amingad Police Station in Crime No.116 of 2020. The contents of the 'B' report are as follows:

"ಈ ಎಲ್ಲ ಎಫ್.ಐ.ಆರ್ ಗಳನ್ನು ಪರಿಶೀಲನೆ ಮಾಡಿ ಪಿರ್ಯಾದಿದಾರರ ಗುಣ ನಡತೆಯ ಬಗ್ಗೆ ನಾವು ಇಲ್ಲಿಯವರೆಗೆ ಪರಿಶೀಲಿಸಿದ್ದು ಈ ಕೆಳಗಿನಂತೆ ಗುಣ ನಡತೆಯನ್ನು ಹೊಂದಿರುತ್ತಾರೆ ಎಂದು ತಿಳಿದು ಬರುತ್ತದೆ.

ಖಂಡಿಕೆ–1. ಇದರಲ್ಲಿಯ ಪಿರ್ಯಾದಿದಾರರು ತನಗೆ ಆಗದವರ ಮೇಲೆ ಪ್ರಕರಣಗಳನ್ನು ದಾಖಲಿಸಿ ಹೆದರಿಸುವ ಸ್ವಭಾವವನ್ನು ರೂಡಿ ಮಾಡಿಕೊಂಡು ಬಂದಿದ್ದು ಕಂಡು ಬಂದಿರುತ್ತದೆ.

ಖಂಡಿಕೆ:–2. ಪಿರ್ಯಾದಿದಾರರು ಯಾವದೇ ಪೊಲೀಸ ಠಾಣೆಗೆ ಹೋದಾಗ ತಾವು ಪಿರ್ಯಾದಿಯನ್ನು ಸಲ್ಲಿಸುವಾಗ ಈ ಮೊದಲು ನಾನು ಬಾಗಲಕೋಟ ಗ್ರಾಮೀಣ ಪೊಲೀಸ ಠಾಣೆಯಲ್ಲಿ ಪಿರ್ಯಾದವನ್ನು ಕೊಟ್ಟಿದ್ದು ಪಿ.ಎಸ್.ಐ ರವರು ನನ್ನ ಪ್ರಕರಣವನ್ನು ಸರಿಯಾಗಿ ನಿರ್ವಹಸದೇ ಇದ್ದುದರಿಂದ ಅವರ ಮೇಲೆ ಹೈಕೋರ್ಟಿಗೆ ಹೋಗಿ ಅವರನ್ನು ಸೇವೆಯಿಂದ ಅಮಾನತ್ತು ಮಾಡಿಸಿರುತ್ತೇನೆ. ನೋಡಿ ನೀವು ನನ್ನ ಪ್ರಕರಣವನ್ನು ನಾನು ಹೇಳಿದ ಹಾಗೆ ಮಾಡಬೇಕು ಅಂತಾ ಬೆದರಿಕೆ ಹಾಕುವ ಸ್ವಭಾವವನ್ನು ಹೊಂದಿದ್ದು ಮತ್ತು ಮೋಬೈಲ ರಿಕಾರ್ಡಿಂಗ ಮಾಡಿಕೊಳ್ಳುವ ಸ್ವಭಾವದದನು ಇರುತ್ತಾನೆ.

ಖಂಡಿಕೆ:–3. ಇದರಲ್ಲಿಯ ಪಿರ್ಯಾದಿದಾರರು ತನ್ನ ಪ್ರತಿಯೊಂದು ಪ್ರಕರಣಕ್ಕೂ ಪಂಚರು ಅಂತಾ ಮತ್ತು ಸಾಕ್ಷಿದಾರರು ಅಂತಾ ತನಗೆ ಚಿರಪರಿಚಿತರಾದ ಒಂದೇ ಜನರ ಹೆಸರನ್ನು ನಮೂದ ಮಾಡಿ ಅವರನ್ನೇ ಪಂಚರು ಮತ್ತು ಸಾಕ್ಷಿದಾರರು ಅಂತಾ ಕರೆದುಕೊಂಡು ಬರುವದು ರೂಡಿ ಮಾಡಿಕೊಂಡಿದ್ದು ಸಾಕ್ಷಿದಾರರ ಹೆಸರುಗಳು 1) ಬಸಪ್ಪ ಸಿದ್ದಪ್ಪ ಅಮರಗೋಳ 2) ಸಿದ್ದಪ್ಪ ರಾಮಪ್ಪ ವಾಲಿಕಾರ, ಸಾ:ಸಂಗೊಂದಿ 3) ಮಹಾಂತಪ್ಪ ಮಹಾಗುಂಡಪ್ಪ ಕೆರಗಿ, ಸಾ:ತಿರೂರ ಇರುತ್ತವೆ. ಇದರಿಂದ ಪಿರ್ಯಾದಿದಾರರು ಸುಳ್ಳು ಸಾಕ್ಷಿದಾರರನ್ನು ಸೃಷ್ಟಿ ಮಾಡುತ್ತಿರುವುದು ತಿಳಿದು ಬರುತ್ತದೆ. ಎಲ್ಲ ಸಾಕ್ಷಿದಾರರ ಮೋಬೈಲ ಕಾಲ ಡಿಟೇಲ್ಸಗಳನ್ನು ಪಡೆದುಕೊಂಡು ಪರಿಶೀಲನೆ ಮಾಡಿದ್ದು ಎಲ್ಲರೂ ಘಟನೆಯ ದಿನಾಂಕದಂದು ಬೇವೂರ ಗ್ರಾಮದಲ್ಲಿ ಮತ್ತು ಬೇರೆ ಗ್ರಾಮಗಳಲ್ಲಿ ಇದ್ದ ಬಗ್ಗೆ ತಿಳಿದು ಬರುತ್ತದೆ.

ಖಂಡಿಕೆ–4. ಇದರಲ್ಲಿಯ ಪಿರ್ಯಾದಿದಾರರು ಪೊಲೀಸ ಸಿಬ್ಬಂದಿಯವರ ಮೇಲೆ ಮತ್ತು ಪೊಲೀಸ ಅಧಿಕಾರಿಗಳ ಮೇಲೆ ಅರ್ಜಿಯನ್ನು ಮಾಡುವ ಸ್ವಭಾವದವನಾಗಿದ್ದು ಮತ್ತು ಅಮೀನಗಡ ಪಿ ಎಸ್ ಗುನ್ನೇ ನಂ 116/2020 ನೇದ್ದರಲ್ಲಿಯ ಸಾಕ್ಷಿದಾರ 1) ಬಸಪ್ಪ ಸಿದ್ದಪ್ಪ ಅಮರಗೋಳ ಸಾ: ಬೇವೂರ ಇವರು ಸಾಕ್ಷಿ ನುಡಿಯಲು ಬರಲು ತಿಳಿಸಿದಾಗ ಪೋನ ಮಾಡಿ ನಮ್ಮ ಸಿಬ್ಬಂದಿಯವರಿಗೆ ಬೆದರಿಕೆ ಕೂಡಾ ಹಾಕಿದ್ದು ಇರುತ್ತದೆ.

ಖಂಡಿಕೆ:–5. ಪಿರ್ಯಾದಿದಾರರು ತಾವು ಕೆಲಸ ಮಾಡುವ ಸಂಸ್ಥೆಯ ಸದಸ್ಯರಿಗೆ ಹೆದರಿಸುವ ಉದ್ದೇಶದಿಂದ ಶಾಲಾ ಮುಖ್ಯೋಪಾಧ್ಯಯರ ವಿರುದ್ಧವಾಗಿ ಪ್ರಕರಣಗಳನ್ನು ದಾಖಲಿಸುವದು ಮತ್ತು ಮುಖ್ಯೋಪಾಧ್ಯಯರೊಂದಿಗೆ ಇನ್ನಿತರರು ಇದ್ದರು ಅಂತಾ ನಮೂದ ಮಾಡಿ ಪಿರ್ಯಾದಿವನ್ನು ಸಲ್ಲಿಸುವದು ಇನ್ನಿತರ ಅರೋಪಿತರ ಹೆಸರು ವಿಳಾಸದ ಬಗ್ಗೆ ವಿಚಾರಿಸಿದಲ್ಲಿ ಮತ್ತು ತನಿಖೆಯ ಬಗ್ಗೆ ಹೆಚ್ಚಿಗೆ ವಿಚಾರಿಸಿದಲ್ಲಿ ಪೊಲೀಸ ಅಧಿಕಾರಿಗಳು ಹಾಗೂ ಸಿಬ್ಬಂದಿಯ ಮೇಲೆ ಆರೋಪ ಮಾಡುವ ಚಾಳಿಯವನು ಇರುತ್ತಾನೆ.

ಖಂಡಿಕೆ–6. ಅಮೀನಗಡ ಪಿಎಸ್ ಗುನ್ನೆ ನಂ. 116/2020 ನೇದ್ದರ ತನಿಖೆ ಕುರಿತು ಹೋದಾಗ ಪಿರ್ಯಾದಿದಾರರಿಗೆ ಒಂದೇ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಪ್ರಕರಣಗಳನ್ನು ಅಂಮೀನಗಡ ಪಿ ಎಸ್ ಗುನ್ನೇ ನಂ 69/2020 ಕಲಂ 385 386 120(ಎ) 120(ಬಿ) 504 506 ರೇವು 34 ಐಪಿಸಿ, ಬಾಗಲಕೋಟ ಗ್ರಾಮೀಣ ಪಿ ಎಸ್ ಗುನ್ನೆ ನಂ 141/2020 ಕಲಂ 323 324 341 307 504 506 ರೇವು 3(1)(ಎಸ್)(ಆರ್) 3 (2) (5ಎ) 577 1 ಎಸ್ ಸಿ ಎಸ್‌ಟಿ ಕಾಯ್ದೆ ನೇದ್ದವುಗಳನ್ನು ದಿನಾಂಕ, ಸಮಯ, ಹಾಗೂ ಸ್ಥಳವನ್ನು ಬದಲಾಯಿಸಿ ದಾಖಲಿಸಿರುವಿರಿ ಯಾಕೆ? ಅಂತಾ ವಿಚಾರಿಸಿದ್ದು, ಸದರ ವಿಷಯಕ್ಕೆ ಯಾವುದೇ ಸ್ಪಂದನೆ ನೀಡಿರುವುದಿಲ್ಲಾ.

ಖಂಡಿಕೆ:–7. ಪಿರ್ಯಾದಿದಾರರು ಹಠಮಾರಿ ಸ್ವಭಾವದರು ಇದ್ದು ತಾನು ಹೇಳಿದಂತೆ ಆಗಬೇಕು ಇಲ್ಲದಿದ್ದಲ್ಲಿ ಅರ್ಜಿ ಮಾಡಿಕೊಳ್ಳುವದು ಮತ್ತು ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಖಾಸಗಿ ಪಿರ್ಯಾದಿಯನ್ನು ಸಲ್ಲಿಸುವದು ಇಂತಹ ಹಲವಾರು ದುಷ್ಕೃತ್ಯ ಮಾಡುತ್ತಾ ಬಂದಿದ್ದು ಇರುತ್ತದೆ.

ಖಂಡಿಕೆ–8. ಇದರಲ್ಲಿಯ ಪಿರ್ಯಾದಿದಾರರು ತಮ್ಮ ಸೇವಾ ವಜಾ ಅವಧಿಯಲ್ಲಿ ಸುಮಾರು 10–11 ವರ್ಷಗಳ ಕಾಲವಧಿಯನ್ನು ನ್ಯಾಯವಾದಿಗಳ ಹತ್ತಿರ ಕೆಲಸ ಮಾಡಿಕೊಂಡು ಇದ್ದು ಕಾನೂನಿನ ಜ್ಞಾನವನ್ನು ಹೊಂದಿರುತ್ತಾನೆ. ಸದರ ಕಾನೂನಿನ ಜ್ಞಾನವನ್ನು ಸದುಪಯೋಗ ಮಾಡಿಕೊಳ್ಳದೇ ಅದರ ದುರುಪಯೋಗ ಪಡಿಸಿಕೊಳ್ಳುವ ಬಗ್ಗೆ ಕಂಡು ಬರುತ್ತದೆ.

ಈ ಎಲ್ಲ ಕಾರಣಗಳಿಂದ ಪಿರ್ಯಾದಿದಾರನು ಈ ಮೊದಲು ಆಪಾದಿತನ ಮೇಲೆ ಈ ವಿಷಯವಾಗಿ ದೂರನ್ನು ದಾಖಲಿಸಿದ್ದು ಪುನಃ ಪುನಃ ಅದೇ ವಿಷಯವನ್ನು ಮುಂದೆ ಮಾಡಿಕೊಂಡು ಆಪಾದಿತನಾದ ಎಸ್ ಬಿ ಕೆರಕಲಮಟ್ಟಿ ಮುಖ್ಯೋಪಾಧ್ಯಾಯರು ಮರಡಿ ಮಲ್ಲೇಶ್ವರ ಪ್ರೌಡ ಶಾಲೆ ಮೂಗನೂರ ತಾ: ಹುನಗುಂದ ಇವರಿಗೆ ತೊಂದರೆ ಕೊಡುವ ಉದ್ದೇಶದಿಂದ ಅವರ ಮೇಲೆ ಪಿರ್ಯಾದವನ್ನು ಸಲ್ಲಿಸಿದ ಬಗ್ಗೆ ತಿಳಿದು ಬಂದಿದ್ದು ಇರುತ್ತದೆ. ಮತ್ತು ಪುನಃ ಪುನಃ ಅವರ ಮೇಲೆ ಪ್ರಕರಣಗಳನ್ನು ದಾಖಲಿಸಿ ಅವರಿಗೆ ಮಾನಸಿಕವಾಗಿ ಹಿಂಸೆ ನೀಡುವ ಸ್ವಭಾವವನ್ನು ರೂಢಿ ಮಾಡಿಕೊಂಡಿದ್ದು ಪೊಲೀಸ ಇಲಾಖೆಯ ಸಮಯವನ್ನು ಹಾಳು ಮಾಡುತ್ತ ಬಂದ ಬಗ್ಗೆ ತನಿಖೆಯಿಂದ ತಿಳಿದು ಬಂದಿದ್ದು ಪಿರ್ಯಾದಿದಾರರು ಸಲ್ಲಿಸಿದ ಪಿರ್ಯಾದವು ಸುಳ್ಳು ವಿಷಯ ಆಧಾರಿತವಾಗಿದ್ದು ಕಾರಣ ಸದರ ಪ್ರಕರಣದಲ್ಲಿ "ಬಿ" ಸುಳ್ಳು ಅಂತಾ ಅಂತಿಮ ವರದಿಯನ್ನು ಸಲ್ಲಿಸಲು ಅನುಮತಿ ಕುರಿತು ಮಾನ್ಯ ಐಜಿಪಿ ಎನ್ ಆರ್ ಬೆಳಗಾವಿ ರವರ ಕಡೆಗೆ ವರದಿಯನ್ನು ಸಲ್ಲಿಸಿದ್ದು ಮಾನ್ಯರವರು ತಮ್ಮ ಪತ್ರ ನಂ ಅಪರಾದ/ಬಿ/ಅನುಮತಿ/03/ಉವ/2021. ದಿನಾಂಕ:11–08–2021 ರ ಕೆಳಗೆ ಅನುಮತಿಯನ್ನು ನೀಡಿದ್ದು ಅದರಂತೆ ಸದರ ಪ್ರಕರಣದಲ್ಲಿ "ಬಿ" ಸುಳ್ಳು ಅಂತಾ ಅಂತಿಮ ವರದಿಯನ್ನು ತಯಾರಿಸಿ ಸಲ್ಲಿಸಿದ್ದು ಸಮರಿ ಮಂಜೂರಿಯಾಗಲು ವಿನಂತಿ ಅದೆ."

(Emphasis added)

The narration is that the complainant is habitual and he has stock witnesses with him. Names of witnesses are also

indicated in the 'B' report. He uses those witnesses to all the complaints that he registers. They are Siddaramappa Ramappa Sirura, Thippanna Nariyappa Kirasura and Parasappa Basappa Sirura. The witnesses in the case at hand are also the same. Therefore, it can be inferred without a shadow of doubt, that the complainant, is a habitual complainant and has stock witnesses with him to depose on all the complaints that he registers. If this cannot be construed as an abuse of the process of law or misuse of the provisions of the Act, I fail to understand what else can be.

17. The issue does not stop at that. What shocks the Court is that the complainant would do every time he registers the complaint against the petitioner, he approaches the Social Welfare Department and claims aid for continuing the litigation. For three crimes he has registered against the petitioner, all for the same offences and all within a span of one year, legal aid of `3,50,000/- is paid to the complainant by the Social Welfare Department. This is paid out of public money, all in aid to register frivolous cases or frivolous cases being fought with the aid of Government. ***It is for this reason that genuine cases***

of Scheduled Castes and Scheduled Tribes who would actually suffer abuses, are lost in the multitude of such frivolous cases. Haystack of frivolous cases have mushroomed to a large extent that searching a genuine case in the haystack has become like searching for a needle in a haystack, as most the cases are in abuse and misuse of the process of law, like the kind in hand. It is therefore, the Apex Court in the case of ***GHULAM MUSTAFA VS. STATE OF KARNATAKA AND ANOTHER***[5] has held as follows:

> ***"38. This Court would indicate that the officers, who institute an FIR, based on any complaint, are duty-bound to be vigilant before invoking any provision of a very stringent statute, like the SC/ST Act, which imposes serious penal consequences on the concerned accused. The officer has to be satisfied that the provisions he seeks to invoke prima facie apply to the case at hand****. We clarify that our remarks, in no manner, are to dilute the applicability of special/stringent statutes, but only to remind the police not to mechanically apply the law, dehors reference to the factual position."*
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> *(Emphasis supplied)*

It is therefore, necessary for every Officer who would institute a crime based on any complaint to be vigilant in registering such crimes without appropriate verification. The case at hand

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should become an eye opener to the Officers who would seek to register crimes on such allegations to follow the dictum of the Apex Court *supra*. As the Apex Court has observed that this cannot be treated as a manner to dilute the applicability of the stringent statute but only reminder not to mechanically apply the law, dehors reference to the factual position.

18. A further proceeding becomes germane to be noticed. The office of the Deputy Commissioner, Bagalkot communicates to the Police Inspector, Bagalkot and the Social Welfare Department noticing that the crime registered in Amingad in Crime No.116 of 2020 has been held to be frivolous and the complainant has sought aid of `50,000/- for registering the said crime. The recovery is directed to be made. A memo is filed by the State before the learned Sessions Judge before whom cognizance had been taken in Crime No.116 of 220 that the complainant has received aid of `3,50,000/- which has to be recovered. The learned Sessions Judge has passed the following order on the memo:

"***ORDERS ON MEMO DATED 26.10.2021.***

Case taken on board.

2. Counsel for the accused Sri. Saleem R. Hanagi, filed a memo with documents stating that the charges against the accused under the provisions of S.C. S.T. (P.O.A.) Act is quashed by the Hon'ble High Court of Karnataka in Criminal Petition No.102543/2019 and the case is now transferred before the jurisdictional Magistrate to try the remaining offences exclusively triable by the court of Magistrate. Further it is contended that the complainant after lodging the first information under the provisions of S.C. S.T. (P.O.A.) Act has received a sum of Rs.1,50,000/- from Social Welfare Department, Bagalkot in Bagalkot Rural P.S., Crime No.141/2020 on 28.6.2020. Also received a sum of Rs.50,000/- in Aminagad P.S Cr. No.116/2020 on 1.11.2020 though a 'B' false report is filed by the investigation officer and received a sum of Rs.1,50,000/- in Navanagar P.S. Cr. No.32/2019 on 20.4.2019. Therefore, he prays to issue suitable directions to the Deputy Director, Social Welfare Department, Bagalkot to recover a sum of Rs.1,50,000/- paid to the complainant as compensation in Navanagar Cr. No.32/2019. He also submitted that the complainant is a habitual person who files false complaints against innocent persons taking undue advantage of the S.C. S.T. (P.O.A.) Act in order to seek compensation. Along with the memo a true copy of the letter issued to the Superintendent of Police, Bagalkot is filed to show the compensation paid to the complainant in different cases.

3. It is true that the Hon'ble High Court of Karnataka has quashed the proceedings in respect of the charges made against the accused Basavaraj @ Basu Parasappa Tatabeeri under the provisions of S.C. S.T. (P.O.A.) Act. This court on 18.10.2021 transferred entire case file to the jurisdictional Magistrate to try the case for remaining offences. Now, by virtue of the documents placed by the learned counsel for the accused, it is seen that the complainant has been granted a sum of Rs.1,50,000/- towards the compensation after filing of the charge sheet by the investigation officer in the present case. When no case is made out under the provisions of S.C. S.T. (P.O.A.) Act, compensation under the Act cannot be paid and the interim compensation which is paid out of public funds shall not be mis-utilized. It is the duty of the State to safeguard the public money and public interest, and to see that the compensation is paid to the deserving people as guaranteed under the Act. In the background of the orders passed by

the Hon'ble High Court of Karnataka, now it is incumbent on the part of the Authorities to initiate suitable action to recover the interim compensation paid to the complainant in Navanagar P.S. Cr. No.32/2019 on 20.4.2019 if the same is provided under law. Hence, I proceed to pass the following:

O R D E R

Office is hereby directed to communicate the copy of this order to the Deputy Director, Social Welfare Department, Bagalkot and Deputy Commissioner, Bagalkot for further needful action in accordance with law with reference to the aforesaid subject, along with the copy of the order passed by the Hon'ble High Court of Karnataka, Dharwad Bench in Criminal Petition No.102543/2019 and to seek compliance report thereof."

The order is that the Deputy Director of Social Welfare Department should recover the amount paid out of public funds as it has been mis-utilised, and it is the duty of the State to safeguard public money and public interest and legal aid or compensation should be paid only to deserving people. The learned Additional Government Advocate would submit that recovery process is in progress. What would unmistakably emerge in all the afore-narrated facts is the case becoming a classic illustration of gross abuse of the process of law and misuse of the provisions of the Act. Therefore, the complainant is hereby admonished to forthwith stop registering such frivolous complaints taking recourse to filing of identical

complaints before different Police Stations, having stock witnesses to depose, in his favour. If any case of this kind is brought before this Court, the matter would be viewed seriously and a direction to initiate proceedings against the complainant for malicious prosecution would also be permitted apart from imposing exemplary costs.

19. It is not in dispute that the complainant on registering the impugned crime, against the petitioner has sought aid from the social welfare department to the tune of Rs.1,50,000. The crime is third in line, which is now held to be frivolous vexatious and malicious, in the light of the aforesaid finding. Therefore, it becomes necessary for the State to recover Rs.1,50,000 that is granted to the complainant for prosecuting the impugned proceedings, as it is paid out of public money for prosecuting a frivolous case.

20. It is also necessary for the state to scrutinize the papers before grant of any aid, so that the amount is spent upon cases where members belonging to the scheduled caste/scheduled tribe, who actually suffer abuses are given such aid, and not such frivolous litigants. If no direction of the

kind is issued it would amount to putting a premium on the frivolous litigative persistence of the complainant, therefore it is necessary that recovery of Rs.1,50,000 be made from the complainant in accordance with law.

21. Finding no ring of truth in the case at hand, if further proceedings are permitted to continue, it would become an abuse of the process of law and result in patent injustice.

22. For the aforesaid reasons, I pass the following:

O R D E R

(i) The Criminal Petition is allowed.

(ii) The proceedings in Special C.C.No.80 of 2020 before the II Additional District and Sessions Judge, Bagalkot arising out of Crime No.141 of 2020 registered before the Bagalkot Rural Police Station stand quashed.

(iii) The State is directed to recover the amount of Rs.1,50,000/- paid in aid to subject litigation to the complainant in accordance with law.

Sd/-
JUDGE

kmv
ct:bck.