

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF FEBRUARY, 2022

BEFORE

THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT

CRIMINAL PETITION NO.7980 CF 2014

BETWEEN:

- 1 . DR SHANTHA RAJ T.R.
- 2 . SRI. SUNIL KUMAR REDSON,
- 3 . SRI SUNDAR RAJ REDSON,
- 4 . SRI SHYAM SUNDER REDSON,
- 5 . SRI ANIL KUMAR H.S.,

6 . SRI. SUDHEER KUMAR REDSON,

...PETITIONERS

(BY SRI. SATHISH K., ADVOCATE FOR
SRI. M.S.BHAGWAT, ADVOCATE)

AND:

1 . THE STATE BY SUB-INSPECTOR OF POLICE,
UPPARPET POLICE STATION,
BANGALORE URBAN,
BANGALORE - 560 053.

2 . MRS. ROSHNI MATHAN PEREIRA,

3 . DR. SAVIO PEREIRA.

...RESPONDENTS

(BY SRI. RENUKARADHYA, HCGP)

THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO QUASH THE PRIVATE COMPLAINT REGISTER BEARING P.C.R.NO.63/13 AND THE ORDER DATED:6.12.13 PENDING ON THE FILE OF THE 2ND ADDL. C.C. AND S.J., BANGALORE (CCH-17) AND ALL PROCEEDINGS THEREON AND FIRST INFORMATION REPORT VIDE CRIME NO.46/14 REGISTERED BY HE 1ST RESPONDENT POLICE (ANNEXURE-A TO C) IN SO FAR AS THE PETRS. ARE CONCERNED.

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

ORDER

Petitioners are knocking at the doors of this Court invoking inherent jurisdiction u/s 482 of Cr.P.C., 1973 for the quashment of criminal proceedings in PCR No.63/2013 in which the learned Judge of the Court below in exercise of power u/s 156 (3) of the Code has referred the matter for investigation.

2. After service of notice, respondent No.1 has entered appearance through the learned HCGP; private Respondent No.2 & 3 despite service of process have remained unrepresented in their wisdom; learned HCGP makes submission in justification of the impugned order.

3. Having heard the learned counsel for the parties and having perused the petition papers, this Court is inclined to grant relief inasmuch as, the offences allegedly been committed ago i.e., on 18.10.1975; complaint was filed with inordinate delay with no plausible explanation for the same. ordinarily, the stale claims would not be entertained;

4. The above apart, the alleged acts do not constitute an offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, which is

prospective in operation, there being constitutional bar to the retrospectivity enacted in Article 20(2); it has been a settled principle of criminal jurisprudence that when the act complained of is not an offence when committed; a free citizen cannot be brought to book merely because such act is criminalized in a subsequent legislation.

5. The learned counsel for the petitioners is more than justified in contending that criminal law cannot be set in motion casually as held by the Apex Court in **PEPSI FOODS LTD. Vs. SPECIAL JUDICIAL MAGISTRATE 1998 SCC (CRI) 1400**; the learned trial Court Judge before referring the matter u/s 156 for further investigation ought to have been adverted to all these aspects and non-advertence has rendered the proceedings vulnerable for challenge.

In the above circumstances, this petition succeeds and as a consequence, the FIR No.46/2014 registered by respondent No.1-Police is also set at naught and the proceedings in PCR No.63/2013 are also set aside.

**Sd/-
JUDGE**