

AND:

1. STATE OF KARNATAKA
BY N.R.PURA POLICE
CHICKMAGALURU – 577 134
REPRESENTED BY HCGP
HIGH COURT OF KARNATAKA
BENGALURU – 01.
- 2.

... RESPONDENTS

(BY SRI B.J.ROHITH, HCGP FOR R1)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO QUASH THE PROCEEDINGS INITIATED AGAINST THE PETITIONER IN CR.NO.12/2022 PENDING BEFORE THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, FTSC-1, CHIKKAMAGALURU FOR THE OFFENCES P/U/S 354A OF IPC AND SECTION 10 AND 12 OF POCSO ACT.

THESE CRIMINAL PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 17.03.2022, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

The petitioner is before this Court calling in question proceedings in Crime –

- (i) No.06/2022 concerning CrI.P.No.2015 of 2022;
- (ii) No.17/2022 concerning CrI.P.No.1729 of 2022;
- (iii) No.05/2022 concerning CrI.P.No.1730 of 2022;
- (iv) No.08/2022 concerning CrI.P.No.1731 of 2022;
- (v) No.11/2022 concerning CrI.P.No.1733 of 2022;
- (vi) No.14/2022 concerning CrI.P.No.1734 of 2022;
- (vii) No.16/2022 concerning CrI.P.No.2008 of 2022;
- (viii) No.10/2022 concerning CrI.P.No.2010 of 2022;
- (ix) No.07/2022 concerning CrI.P.No.2024 of 2022;
- (x) No.13/2022 concerning CrI.P.No.2025 of 2022;
- (xi) No.09/2022 concerning CrI.P.No.2038 of 2022;
- (xii) No.15/2022 concerning CrI.P.No.2113 of 2022;
- (xiii) No.12/2022 concerning CrI.P.No.2116 of 2022

all registered for offences punishable under Section 354A of the IPC and Sections 10 and 12 of the Protection of Children from Sexual Offences Act, 2012 ('Act' for short) except in Criminal Petition No.1729 of 2022 where Sections 8, 10 and 12 of the Act 2008 are invoked; in Criminal Petition No.2008 of 2022 where Sections 8 and 10 of the Act are invoked and in Criminal Petition No.2113 of 2022 where Sections 8 and 10 of the Act are invoked, in addition to the IPC section. Since common facts and grounds are urged, all these petitions are clubbed together and heard.

2. Heard Sri K.S. Ganesha, learned counsel for the petitioner in all these cases and Sri B.J.Rohith, learned High Court Government Pleader for respondent No.1-State.

3. Brief facts leading to the filing of the present petitions, as borne out from the pleadings are as follows:

The petitioner who is common in all the petitions is a Physical Education Teacher in KPS School at N.R.Pura. A colleague of the petitioner who also works as a teacher in the same school submits a report against the petitioner that he has behaved in an uncivilized manner with the girl students and has sexually harassed them. This report was submitted to the BEO of N.R.Pura who in turn makes a complaint to the N.R.Pura Police Station where the crime is registered in Crime No.4 of 2022. The petitioner has not challenged the registration of this Crime No.4 of 2022 and it is pending before the jurisdictional Sessions Court with bail granted to the petitioner.

4. Having come to know the registration of crime No.4 of 2022 against the petitioner, the parents of the students having

learnt sexual assault against their children registered crimes on different dates against the petitioner which resulted in FIRs. The allegation against the petitioner is that he was indulging in sexual harassment against those students. It is for that reason crimes for offences punishable under Section 354A of the IPC and Sections 8, 10 and 12 of the Act were alleged against the petitioner. The matters are pending consideration before the Additional District and Sessions Judge, FTSC-1, Chickmagalur. After registration of the FIR in Crime No.4 of 2022 which was first in the line and on commencement of investigation, successive FIRs are registered against the petitioner for the same offence, by parents of different students. It is those FIRs that are registered against the petitioner for the same offence, by different complainants, that are called in question in these cases.

5. The learned counsel appearing for the petitioner, in all these cases, would contend with vehemence that on the same incident in respect of which a case has already been registered

and investigation is underway, successive FIRs could not have been registered and fresh investigation would not have been ordered thereto for the same offence. It is submitted that it would violate the fundamental right of the accused. The learned counsel places reliance upon several judgments of the Apex Court to buttress his submission on that score and seeks quashment of multiple FIRs and retention of only one FIR in Crime No.4 of 2022 in which, investigation is underway.

6. On the other hand, the learned High Court Government Pleader would refute the submissions to contend that the complaints registered against the petitioner are by different complainants and, therefore, different FIRs are registered and as such, no fault can be found in the action of the Police in registering different FIRs, in the peculiar facts of these cases and would submit that the matter is still in the stage of investigation and seeks dismissal of the petitions.

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

8. The petitioner functions as a Physical Education Teacher in KPS School. Alleging that the petitioner has committed offences punishable under Sections 8, 10 and 12 of the Act and Section 354A of the IPC, a report was made by a colleague of the petitioner which ultimately becomes the basis for a FIR in Crime No.4 of 2022. This is the first of the FIRs so registered against the petitioner. After registration of the said crime, several complaints were made by parents of the respective children who have been subjected to sexual assault by the petitioner. The first of the complaint which becomes FIR in Crime No.4 of 2022 reads as follows:

“ಈ ಮೇಲ್ಕಂಡ ವಿಷಯ ಮತ್ತು ಉಲ್ಲೇಖಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಈ ಮೂಲಕ ತಮ್ಮಲ್ಲಿ ಕೇಳಿಕೊಳ್ಳುವುದೇನೆಂದರೆ, ನಾನು 2020 ನೇ ಸಾಲಿನ ಫೆಬ್ರವರಿ ತಿಂಗಳಿನಿಂದ ನರಸಿಂಹರಾಜಪುರ ತಾಲ್ಲೂಕ್ ಕ್ಷೇತ್ರ ಶಿಕ್ಷಣಾಧಿಕಾರಿಗಳಾಗಿ ಕೆಲಸ ಮಾಡಿಕೊಂಡಿರುತ್ತೇನೆ. ಪ್ರಭುನಾಯ್ಕ ರವರು 2021 ನೇ ಸಾಲಿನ ಸೆಪ್ಟೆಂಬರ್ ತಿಂಗಳಿನಿಂದ ನ.ರಾ.ಪುರ ಪಟ್ಟಣದ ಕೆಪಿಎಸ್ ಪ್ರಾಥಮಿಕ ಶಾಲೆಯ ಪ್ರಭಾರೆ ಮುಖ್ಯ ಶಿಕ್ಷಕರಾಗಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸಿಕೊಂಡಿರುತ್ತಾರೆ. ಇವರು ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿರುವ ಶಾಲೆಯಲ್ಲಿ ಎಲ್.ಕೆ.ಜಿ. ಯಿಂದ 7ನೇ ತರಗತಿಯವರೆಗೆ ವಿದ್ಯಾರ್ಥಿಗಳು ವ್ಯಾಸಂಗ ಮಾಡಿಕೊಂಡಿರುತ್ತಾರೆ. ದಿನಾಂಕ 03.01.2022 ರಂದು ನರಸಿಂಹರಾಜಪುರ ಪಟ್ಟಣದ ಕೆಪಿಎಸ್ ಪ್ರಾಥಮಿಕ ಶಾಲೆಯ ಹಿರಿಯ ಶಿಕ್ಷಕರಾದ ಯಶೋಧ ಭಟ್ ರವರು ಲಿಖಿತ

ವರದಿಯನ್ನು ನೀಡಿದ್ದು ವರದಿಯಲ್ಲಿ ಶ್ರೀ ಪ್ರಭುನಾಯ್ಕ ಪ್ರಭಾರಿ ಮುಖ್ಯ ಶಿಕ್ಷಕರು (ದೈ.ಶಿ.ಶಿ) ಕೆಪಿಎಸ್ ಪ್ರಾಥಮಿಕ ಶಾಲೆ ನರಸಿಂಹರಾಜಪುರ ಇವರು ಶಾಲಾ ಹೆಣ್ಣು ಮಕ್ಕಳ ಜೊತೆ ಅಸಭ್ಯವಾಗಿ ನಡೆದುಕೊಂಡಿರುವ ಬಗ್ಗೆ ಪೋಷಕರು ನೀಡಿರುವ ದೂರಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಸದರಿಯವರನ್ನು ಶಾಲಾ ಕರ್ತವ್ಯದಿಂದ ಬಿಡುಗಡೆಗೊಳಿಸಲು ಶಾಲಾಭಿವೃದ್ಧಿ ಸಮಿತಿಯವರು ದಿನಾಂಕ 03.01.2022 ರಂದು ನಡೆಸಿದ ಸಭೆಯಲ್ಲಿ ತೀರ್ಮಾನ ಮಾಡಿರುವ ಕುರಿತು ಉಲ್ಲೇಖ 1 ರಂತೆ ವರದಿ ನೀಡಿರುತ್ತಾರೆ. ಆದರಂತೆ ಪ್ರಸ್ತುತ ಸದರಿ ಶಿಕ್ಷಕರನ್ನು ದಿ. 03.01.2022 ರಿಂದ ಜಾರಿಗೆ ಬರುವಂತೆ 15 ದಿನಗಳ ಕಡ್ಡಾಯ ರಜೆಯಲ್ಲಿ ಕಳುಹಿಸಿ ಈ ಬಗ್ಗೆ ವಿಚಾರಣೆ ನಡೆಸಿ ವರದಿಯನ್ನು ನೀಡಲು ಇಸಿಟಿ ಆದ ಬಿ.ಎಂ. ವಾಸು ಮತ್ತು ಶ್ರೀಮತಿ ತ್ರಿವೇಣಿ ಸಹ ಶಿಕ್ಷಕರು ಸಕಾರಿ ಪದವಿ ಪೂರ್ವ ಕಾಲೇಜು ಪ್ರೌಢಶಾಲಾ ವಿಭಾಗ ಮುತ್ತಿನಕೊಪ್ಪರವರನ್ನು ನೇಮಕ ಮಾಡಿರುತ್ತದೆ.

ದಿ. 14.01.2022ರಂದು ಮಕ್ಕಳ ಸಹಾಯವಾಣಿ ಸಿಬ್ಬಂದಿಯವರು ಶಾಲೆಗೆ ಭೇಟಿ ನೀಡಿ ಸದರಿ ಶಿಕ್ಷಕರು ಮಕ್ಕಳ ಜೊತೆ ಅಸಭ್ಯವಾಗಿ ವರ್ತಿಸುವುದು ಮತ್ತು ಲೈಂಗಿಕ ಕಿರುಕುಳ ನೀಡಿರುವ ಆರೋಪದ ಬಗ್ಗೆ ವಿಚಾರಣೆ ನಡೆಸಿದ್ದು, ಪೋಷಕರು ಮಾಡಿರುವ ಆರೋಪದ ಬಗ್ಗೆ ಮಕ್ಕಳನ್ನು ವಿಚಾರಿಸಿದಾಗ ಪೋಷಕರು ನೀಡುವ ಹೇಳಿಕೆಯನ್ನೇ ಮಕ್ಕಳು ನೀಡಿರುವುದಾಗಿ ಉಲ್ಲೇಖ 2 ರಲ್ಲಿ ಪ್ರಸ್ತುತ ಮುಖ್ಯ ಶಿಕ್ಷಕರ ಪ್ರಭಾರದಲ್ಲಿರುವ ಶ್ರೀ ರಾನುನಾಯ್ಕರವರು ವರದಿ ನೀಡಿರುತ್ತಾರೆ. ಸದರಿ ವಿಚಾರವಾಗಿ ಪ್ರಾಥಮಿಕ ವಿಚಾರಣೆ ನಡೆಸಿ ವರದಿ ನೀಡಲು ನೇಮಕ ಮಾಡಿದವರಿಂದ ವರದಿಬಾರದೆ ಇದ್ದುದರಿಂದ ಈ ದಿನ ತಡವಾಗಿ ಬಂದು ಪ್ರಭಾರೆ ಮುಖ್ಯ ಶಿಕ್ಷಕರ ವರದಿಯಲ್ಲಿರುವಂತೆ ಶಾಲಾ ಮಕ್ಕಳಿಗೆ ಲೈಂಗಿಕ ಕಿರುಕುಳ ನೀಡಿ ಅವರ ಜೊತೆ ಅಸಭ್ಯವಾಗಿ ವರ್ತಿಸಿರುವ ಪ್ರಭುನಾಯ್ಕ ರವರ ಮೇಲೆ ಕಾನೂನು ರೀತಿಯ ಕ್ರಮ ಕೈಗೊಳ್ಳಲು ಈ ಮೂಲಕ ಕೋರಿಕೊಳ್ಳುತ್ತೇನೆ. ಇದರೊಂದಿಗೆ ಕೆಪಿಎಸ್ ಪ್ರಾಥಮಿಕ ಶಾಲೆಯ ಹಿರಿಯ ಶಿಕ್ಷಕರು ದಿನಾಂಕ 03.01.2022 ರಂದು ನೀಡಿರುವ ವರದಿ ಮತ್ತು 14.01.2022 ರಂದು ಪ್ರಭಾರೆ ಮುಖ್ಯ ಶಿಕ್ಷಕರಾದ ಶ್ರೀ ರಾಮಾನಯ್ಕ ರವರು ನೀಡಿರುವ ವರದಿಯ ದೃಢೀಕೃತ ನಕಲು ಹಾಗೂ ಎಸ್.ಡಿ.ಎಂ.ಸಿ. ಯವರು ದಿನಾಂಕ 03.01.2022 ರಂದು ನಡೆಸಿದ ಸಭೆಯ ನಡವಳಿಯ ನಕಲನ್ನು ಲಗತ್ತಿಸಿರುತ್ತದೆ.”

The matter was investigated into by the Police. While the investigation was on, several complaints emerged which are registered by the parents of the children on coming to know that a complaint has been registered against the petitioner for the alleged offences. It is then every parent seems to have opened up

with regard to the mannerism of the petitioner who is alleged to have inappropriately touched the children which would become offences under Sections 8, 10 and 12 of the Act and Section 354A of the IPC.

9. To consider the submission of the learned counsel for the petitioner it is germane to notice few of the complaints registered by the parents of the children against the petitioner. On a perusal of the complaints so registered, it reveals that the incident had not happened on a single day. In one of the complaints the allegation is that, the petitioner has indulged in such sexual assault on the child for the last one month and in the other complaint for the last two months and in few of the complaints for the last three months. There is no date indicated for the alleged offence. The allegation is common but dates are different. Therefore, it cannot be said that for a solitary incident on a solitary date multiple FIRs are registered.

10. The crime committed by the petitioner against each individual student is complained of by their parents and the incidents spans over one month to three months. Every fact or facet that is necessary for investigation in each case may vary, as the complainant is entitled to produce such evidence, instance of which has happened on a particular day against her by the petitioner which would become offence punishable under Sections 8, 10 and 12 of the Act.

11. It would have been an altogether different circumstance if all the complaints, though they look same would complain of an incident of a particular day. Every complaint varies in the period. As observed hereinabove, it varies from one month to three months. No complaint narrates incident of a particular day. They indicate that all the incidents have happened not on a particular day or a particular time of a particular day, though the accused in all these cases is common i.e., the petitioner. The victims in all these cases are not common but are different. The period of such offence ranges

from 1-09-2021 to 3-01-2022 and first of the complaint is registered on 15-01-2022 in Crime No.4 of 2022. With no certain time and period and the complainants being different, the contention of the learned counsel appearing for the petitioner that the same is hit by doctrine of sameness is unacceptable.

12. The judgments relied on by the learned counsel for the petitioner to buttress his submission are all cases where on a solitary incident multiple FIRs were registered. The incidents in the cases at hand, as observed hereinabove, are not solitary. Therefore, every victim who has been subjected to such sexual assault from the hands of the petitioner has complained and the complaints are of different dates, instances vary from period to period and not of a specific date. Therefore, registration of crimes in multiple FIRs against the petitioner, in the peculiar facts of these cases, cannot be found fault with. It is for the petitioner to defend himself for the alleged acts against each of the victim.

13. The further contention of the petitioner that out of spite or ill-will by people who are inimical towards him in the institution these complaints are generated or brought up by luring the parents of such harassment is required to be noticed only to be repelled, as it is, to say the least, preposterous, as no parent would come forward and without any rhyme or reason register complaint against the petitioner that too alleging that her child has been sexually abused. It is too far-fetched for this Court, at this juncture, to even consider the said submission of the learned counsel for the petitioner. Spite or ill-will against him by other teachers of the institution cannot mean that those who are inimical towards the petitioner want to shoot him from the shoulder of a child through its parents. Such arguments cannot be accepted. Therefore, the impugned actions brought before this Court, in these cases, do not warrant any interference.

14. For the aforesaid reasons, all these petitions lack any merit and are accordingly dismissed.

It is made clear that the observations made in the course of this order are only for the purpose of consideration of the case of petitioner under Section 482 of Cr.P.C. and the same shall not bind or influence the proceedings pending before learned Sessions Judge.

In view of dismissal of the petitions, pending applications also stand disposed of.

**Sd/-
JUDGE**

bkp
CT:MJ