

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF MAY, 2021

PRESENT

THE HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA

AND

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.8939/2021 (GM- RES- PIL)

BETWEEN

SHRI S.BALAKRISHNAN
S/O P.SRINIVASAN,
AGED ABOUT 62 YEARS,
ADDRESS: "PRESTIGE CENTER POINT"
NO.311, 3RD FLOOR,
CUNNINGHAM MAIN ROAD,
VASANTH NAGAR
BENGALURU – 560 051.

... PETITIONER

(BY SRI BALAKRISHNAN, PARTY - IN - PERSON)

AND

1. STATE OF KARNATAKA
BY HOME SECRETARY,
VIDHANA SOUDHA,
BENGALURU.
2. INSPECTOR GENERAL AND DIRECTOR -
GENERAL OF POLICE,
NRUPATHUNGA ROAD,
BENGALURU.

3. COMMISSIONER OF POLICE
INFANTRY ROAD,
BENGALURU.

... RESPONDENTS

(BY SRI R.SRINIVASA GOWDA, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO a) RESPONDENTS TO DIRECT THE CONCERNED SHO_s TO REGISTER FIR AGAINST THE ERRING POLICE OFFICIALS WITHIN WHOSE JURISDICTION, THE OFFENSES ARE COMMITTED; b) DIRECT THE RESPONDENTS TO HOD DISCIPLINARY PROCEEDINGS AGAINST THE POLICE OFFICIALS IRRESPECTIVE OF THEIR RANKS IN THE HIERARCHY WITHIN THE DEPARTMENT AND PUNISH THEM AS PER THE LAW AND ETC.

THIS WRIT PETITION COMING ON FOR ORDERS THROUGH VIDEO CONFERENCING THIS DAY, **SATISH CHANDRA SHARMA J.**, MADE THE FOLLOWING:

ORDER

The petitioner is before this Court who is an Advocate and has stated in the writ petition that he is a trade unionist as well as a social activist has filed this present public interest litigation stating that the Karnataka Police is assaulting persons as and when they are going out from houses during the lockdown period. Except for making bald statements in the writ petition nothing has been brought on record in respect

of so called alleged police atrocities. Learned counsel who is appearing in person wants a roving enquiry to be done by this Court on the basis of unsubstantiated allegations made in the public interest litigation writ petition.

2. Learned Government Advocate appearing on advance notice on behalf of the State has vehemently opposed the prayer made in the writ petition. This Court has carefully gone through the pleadings in the writ petition and also heard the parties at length.

3. The petitioner has not quoted before this Court any single instance or any documentary proof has been brought on record to demonstrate that persons have been assaulted by the police for violating the lockdown orders. In case even a stray incident has taken place the person aggrieved has a remedy to file a FIR. The petitioner being a party in person, who is also an Advocate is fully aware of the process of filing a F.I.R and in case, the police is not registering a case, he has a

remedy of filing a complaint under Section 200 of Code of Criminal Procedure, 1973.

4. The entire world is facing a very grave situation on account of COVID – 19 pandemic and it is resulting in loss of lakhs and lakhs of human lives all over the globe.

5. Keeping people confined to their home is certainly reducing the risk of infections. The frontline workers who are police personnel also are exposed to infections more than the common man. Despite hundreds of hundreds of deaths of doctors, police personnel, paramedical staffs, frontline workers etc. even though there being a threat to life, they are performing their duties religiously. The police personnel are on the streets doing their duty diligently in Uniform. This Court does not rule out the possibility of one or two cases of such alleged atrocities, but there is a remedy available in law of filing a complaint under the Code of Criminal Procedure.

Roving enquiry cannot be done as prayed for by the learned counsel for petitioner.

6. In the writ petition, the petitioner has gone to the extent of comparing the incident of lathi charge over Lala Lajpat Rai. This Court deprecates the conduct of the petitioner in making such a comparison. The freedom struggle cannot be compared to the lockdown imposed due to COVID - 19 pandemic. The police force in Karnataka as well as all over the Country are the people who in spite of COVID - 19 pandemic are working day and night, they are providing assistance to common citizens and by no stretch of imagination it can be said they are committing atrocities during the COVID - 19 pandemic as contended in the writ petition.

7. It has been brought to the notice of this Court that 41 Police personnel have lost their lives on account of COVID - 19 between April - 1 and May - 13. A 28 year old

Police Sub-Inspector who was expecting a child, succumbed to COVID- 19 in Kolar District on Tuesday only. In the first wave of Pandemic, about 103 police officials succumbed to COVID - 19. A frivolous Public Interest Litigation containing unsubstantiated allegations deserves to be dismissed in order to preserve purity and sanctity of public interest litigations. [See State of Uttranchal V. Balwant Singh Chauhal (2010) 3 SCC 402]

8. The Hon'ble Supreme Court in the case of Tehseen Poonawalla V. Union of India, (2018) 6 SCC 72, has held as under:

"Misuse of Public Interest Litigation is a serious matter of concern for the judicial process. Frivolous are motivated petitions, ostensibly involving the public interest detracts from time and attention which Courts must devote to genuine causes."

Frivolous Public Interest Litigation Petitions deserves to be dismissed at the threshold.

9. In the considered opinion of this Court, the petition is a frivolous public interest litigation which deserves to be dismissed with costs of Rs.1,000/- (Rupees One Thousand Only). The cost be deposited to the Karnataka Legal Services Authority within a period of thirty days from today. The compliance report in this regard be filed.

Writ petition is dismissed.

**Sd/-
JUDGE**

**Sd/-
JUDGE**