



... Petitioners

And:

1. State of Karnataka
Represented by its Chief Secretary,
Vidhana Soudha,
Bengaluru –560001.

2. Director General of Police (Karnataka)
Police Head Quarters, Nrupathunga Road,
Beside RBI, Bengaluru -560001

3. Commissioner of Police
Hubli and Dharwad
Navanagar, Hubballi,
Karnataka 580025

4. Bar Association ®, Hubli
Court Complex, Hubballi
Karnataka -580 029
Represented by its General Secretary, GF Hiremath.

5. Karnataka State Bar Council
Old K.G.I.D Building, Dr Ambedkar Rd,
Bengaluru 560001.
Represented by its Secretary

... Respondents

**MEMORANDUM OF WRIT PETITION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA**

1. The addresses of the Petitioners for service of court notices, summons and other process is as stated in the cause title. The Petitioners may also be served in these proceedings at the offices of their Advocates. The Respondents' address for the above purpose is as stated in the cause title.
2. The Petitioners in this Writ Petition are all advocates practicing within the State of Karnataka. They are filing this Petition as a public interest litigation, as the issues involved in this petition affect the right of legal representation of Accused and the dignity of the legal profession. The issues raised herein affect the larger public interest and the fundamental right to all persons to legal representation.
3. This Writ Petition, filed under Article 226 of the Constitution of India, seeks quashing of the Resolutions passed by the Bar Association ®, Hubli dated 15.02.2020, that has prohibited any advocate from appearing for the Accused in Cr. No. 10/2020 registered by the Gokul Road police station, Hubballi. The Petition also seeks for appropriate action to be taken in regard to the attempted attack on these students by Advocates and other persons within court premises.
4. The background facts against which this Petition has been filed for the consideration of this Hon'ble Court are set out below.

BRIEF FACTS

5. The instant Writ Petition is being filed in respect of the course of events following 14.02.2020, when an FIR was registered against three students of KLE Engineering College in Hubballi, Karnataka, hereinafter referred to as the Accused. It is submitted that on the basis of the complaint lodged by the Principal of KLE Engineering College, the Gokul Road P.S registered a First Information Report bearing Cr. No. 10/2020, under Sections 124A, 153A, 153B, 505(2), and 34 of the Indian Penal Code. Thereafter, the students were detained on the same day.
6. It is submitted that on the same day, i.e. on 15.02.2020, the Executive Committee of the Bar Association ®, Hubli, passed a resolution stating that no member of the Association shall file vakalath on behalf of the three students in Cr No. 10/2020 mentioned above. The said resolution has also been submitted to the Karnataka State Bar Council (KSBC), along with a letter requesting the KSBC to give a call to all Advocates to refrain from filing vakalath on behalf of these students. It is submitted that the said resolution is illegal and contrary to established law. A copy of the resolution dated 15.02.2020 issued by the Bar Association ®, Hubli, the 4th respondent herein, that has been obtained by the Petitioners is produced herewith and marked as **Annexure – A**. True and correct copy of the accompanying letter dated 15.02.2020 issued to the Karnataka State Bar Council is produced herewith and marked as **Annexure – B**.
7. It is submitted that on 17.02.2020, the Accused were produced before the Court of the JMFC, Hubli. They were unrepresented by any Advocate, consequent to the resolution of the Bar Association, Hubli, and were remanded by the Hon'ble Court to judicial custody for 14 days.
8. It is submitted that during the time they were produced before the Court, in an utterly unacceptable, illegal and horrifying incident, some persons attempted to assault the students within the court premises itself. Visuals captured from outside the court premises showed people attempting to hit the three students, with the police trying to keep the crowd at bay. Videos show that a large crowd of people surrounded the Judicial Magistrate-First Class court halls in Hubballi on Monday. A few men tried to assault the students, but the police personnel were seen pushing the said persons away. Even when the students were inside the police vehicle, some persons hit the sides of the police bus and people are seen throwing slippers and stones at the police van.

9. It is submitted that the resolution passed by the Hubli Bar Association is illegal, without the force of law and violates the fundamental right of the Accused under Article 22(1) of the Constitution of India, which states that all persons who are arrested or detained have a fundamental right to be represented by a legal practitioner of his or her choice. It is also in flagrant violation of the order of the Hon'ble Supreme Court in ***A.S. Mohammed Rafi Vs. State of Tamil Nadu Rep. by Home Dept. and Ors.*** [(2011) 1 SCC 688, AIR 2011 SC 308]
10. The said resolution has resulted in the creation of an atmosphere of fear and intimidation due to which none of the Advocates feel safe and secure to appear before the Hon'ble Court and this has had a chilling effect on advocates coming forward to represent the accused.
11. It is submitted that the resolution such as the impugned resolution passed hereunder have been held to be illegal by the Apex Court on several occasions. Despite the same, such resolutions continue to be passed resulting in creating a situation of fear and intimidation. In a similar situation, the Mysuru Bar Association had also passed a resolution preventing all members of the Association from appearing in respect of the bail petitions file in Crime No. 2/2020 of Jayalakshmipura Police Station, Mysuru under Section 124-A of the Indian Penal Code.
12. It is submitted that the Bar Associations discharge public duty and are subject to the writ jurisdiction of this Hon'ble Court.
13. It is humbly submitted that the Petitioners are filing the instant petition in public interest. The Petitioners do not have any personal interest in the said matter and the petition is not guided by self-gain.
14. Given the fact that the accused have gone without legal representation and there does not seem to be any other way of addressing this violation, the Petitioners are approaching this Hon'ble Court seeking necessary directions to ensure maintenance of law and order in the State in the facts and circumstances stated above. The Accused in question are presently in judicial custody and remain unrepresented.
15. The Petitioners have not presented any other Writ Petition before this Hon'ble Court or any other Forum on the same cause of action. The Petitioners, having no other efficacious or alternate remedy, have approached this Hon'ble Court by presenting this Writ Petition as a Public Interest Litigation under Article 226 of the Constitution on the following among other grounds:

GROUNDS

The actions and omissions of the 4th and 5th Respondents violate the fundamental rights under Article 22, and Article 21 of the Constitution of India.

16. The impugned actions and omissions of the Respondents violate Article 22(1) of the Constitution of India, which states that all persons who are arrested or detained have a fundamental right to be represented by a legal practitioner of his or her choice, as held in **AS Mohammed Rafi v. State of TN** (2011) 1 SCC 688 and **Francis Thomas v. The State of Haryana**, order of the Supreme Court in W.P. (Crl) No.139/2017, dated 18.9.2017.
17. The impugned actions and omissions of the Respondents deprive the fundamental right of accused to have a free and fair trial, which is the sine qua non of Article 21 of the Constitution as held in **Sri Jayendra Saraswathy Swamigal (II) v. State of T.N.** (2005) 8 SCC 771 and **K. Anbazhagan v. Supdt. of Police** (2004) 3 SCC 767.
18. A writ under Article 226 can lie against a "person" if it is a statutory body or performs a public function or discharges a public or statutory duty. **Praga Tools Corpn. v. C.A. Imanual** (1969) 1 SCC 585; **Shri Anadi Mukta Sadguru Trust v. V.R. Rudani** (1989) 2 SCC 691, 698 and **VST Industries Ltd. v. Workers' Union** (2001) 1 SCC 298. A "public function" is similar to or closely related to those performable by the State in its sovereign capacity as held in **G. Bassi Reddy v. International Crops Research Institute**, (2003) 4 SCC 225, 237.
19. The 4th Respondent Hubli Bar Association is a court-annexed bar association in the terms of the Supreme Court in **Supreme Court Bar Association v. B.D. Kaushik**, (2011) 13 SCC 774, 786:

12. There is no manner of doubt that court annexed Bar Associations constitute a separate class different from other lawyers associations such as Lawyers' Forum, All India Advocates' Association, etc. as they are always recognized by the concerned court. Court annexed Bar Associations function as part of the machinery for administration of justice. As is said often, the Bench and Bar are like two wheels of a chariot and one cannot function without the other. The court annexed Bar Associations start with the name of the court as part of the name of the Bar Association concerned. That is why we have Supreme Court

Bar Association, Tis Hazari District Court Bar Association, etc. The very nature of such a Bar Association necessarily means and implies that it is an association representing members regularly practicing in the court and responsible for proper conduct of its members in the court and for ensuring proper assistance to the court. ...

20. Recognizing the unique functions of court annexed Bar Associations, it was held by the Delhi High Court in ***P K Dash v. Bar Council of Delhi***, (2016) 230 DLT 325 (DB):

43...Bar Associations-like the respondents, apart from the statutory bodies such as Bar Councils, also occupy a pivotal role in Court administration and functioning. This can be gathered from the fact that Court procedure is framed after consultation with such Associations, important policy and administrative decisions such as rules to allot chambers, use of common spaces, allotment of commercial spaces, their identification (all meant for the use of the litigant public and members of the Bar) earmarking of parking lots, policies and rules for designation of senior counsel under the Advocates Act, are taken, more often than not, with the consultation and inputs from these Bar Associations, in view of their representative nature. Any dispute within such association invariably has repercussions in court functioning. Conflicts with members of the public, interface with the local administration and police authorities routinely - for security of court, court precincts, chambers, etc. need active participation by Bar Associations. Often, individual grievances of members of the Bar in court premises require intervention and deft handling on the part these Associations, in the absence of which Court proceedings would be disrupted. Above all, elections of Bar Associations quite often lead to large-scale requests for adjournments, and litigants have to pay the price. Intervention through court policies requiring discipline in canvassing for votes and what is permissible in the form of leaflets and pamphlets, use of speakers, etc, by the Bar Associations, if left unregulated would also seriously undermine court functioning. These show that Bar Associations' activities have a predominantly public character, and can, in many instances, affect court functioning. As a result, it is held that the nature of relief sought in these proceedings is intrinsically connected with public functioning of the court and affect

them. Consequently the present proceedings are maintainable under Article 226 of the Constitution of India.

21. Therefore, a writ under Article 226 would lie against the 4th Respondent Bar Association.

The impugned resolution passed by the 4th Respondent is illegal and arbitrary

22. The impugned resolution violates the common law "cab-rank rule" which is encoded into Indian statutory law in Rule 11 of the Bar Council of India Rules, under Section II titled "Duty to the Client" of Chapter II on "Standards of Professional Conduct and Etiquette" as follows:

An advocate is bound to accept any brief in the courts or tribunals or before any other authority in or before which he proposes to practise. He should levy fees which is at par with the fees collected by fellow advocates of his standing at the Bar and the nature of the case. Special circumstances may justify his refusal to accept a particular brief.

It has been categorically held by the Supreme Court in **AS Mohammed Rafi**, that such resolutions of Bar Associations are illegal as well as against the code of professional ethics of lawyers. The Court has even declared all such resolutions of Bar Associations to be "null and void" and held that "the right minded lawyers should ignore and defy such resolutions if they want democracy and rule of law to be upheld in this country" as it "is the duty of a lawyer to defend no matter what the consequences."

23. The impugned resolution cannot be defended on the basis of the Rule 11 exception for "special circumstances" which justify a refusal to accept a particular brief. Indeed, such special circumstances can never exist for a collective refusal by a whole Bar Association to accept a particular brief. This was recognised by the Uttarakhand High Court in **Kuldeep Agarwal v. State Of Uttarakhand and ors.** 2019 SCC OnLine Utt 856 in the following terms:

23. Clause 11 in Section II of Part VI, on which reliance is placed on behalf of the State Bar Council, stipulates that an Advocate is bound to accept any brief in the Court before which he professes to practice at a fee consistent with his standing at the Bar and the nature of the case; and special circumstances may justify his refusal to accept a particular brief. Ordinarily, on his being paid his fees consistent with his standing

at the Bar and the nature of the case, an Advocate is bound to accept any brief in the Court in which he practises. However, special circumstances may justify his refusal to accept a particular brief. The "special circumstances" mentioned in Clause II, justifying refusal of an Advocate to accept a particular brief, refers, by the use of the word "his", to the Advocate in his individual capacity, and not to the Bar Association whose members are Advocates. While an Advocate may chose, in special circumstances, not to appear in a particular case, his right to appear on behalf of an accused cannot be denied by any threat of removal of his membership of the Bar Association which cannot, legally or ethically, prohibit an Advocate from appearing for a particular accused.

24. The holding of the Supreme Court in **AS Mohammed Rafi** must be read in light of Section 30 of the Advocates Act, 1961 which recognises the right of any advocate to practice throughout the territory of India:

"an advocate whose name is enrolled in the State roll has the right to practice throughout the territory to which this Act extends, in all Courts including the Supreme Court, before any tribunal or person legally authorised to take evidence and before any other authority or person before whom such advocate is by or under law for the time being in force entitled to practice."

25. It is submitted that only the Bar Council possesses the power to deprive an advocate of the right to practice in courts, per Section 35 of the Advocates Act. It is respectfully submitted that neither the High Court (as held by the Allahabad HC in **Prayag Das v. Civil Judge, Bulandshahar & Ors.** AIR 1974 All 133) nor other lawyers (as held by the Uttarakhand HC in **Kuldeep Agarwal**) can deprive an advocate of the right to practice. In the terms of the Uttarakhand High Court:

24. ... No lawyer (or for that matter an Association of Lawyers) can obstruct or prevent another lawyer from discharging his professional duty of appearing in Court on behalf of his client. No lawyer can also be visited with any adverse consequences by the Bar Association or the Bar Council, and no threat or coercion of any nature, including that of expulsion, can be held out against him. If anyone does it, he commits a criminal offence, interferes with the administration of justice, commits contempt of Court, and is liable to be proceeded

against on all these counts. (Sri Jayendra Saraswathy Swamigal and B.L. Wadhera v. State of (NCT of Delhi)).

The impugned resolutions obstruct advocates from discharging their public duty to ensure the fair diligent and fearless representation of persons

26. The Impugned Resolution prevents advocates from performing their duty to the public and more specifically in this case, the Accused, in an environment free of fear and intimidation.
27. In passing the impugned resolution, the Respondents No. 4 is preventing Advocates from performing their public duty as officers of the court on whom a much wider ethical and legal obligation to assist in the administration of justice. This duty is encoded in Rule 15, Section II, Chapter II of the BCI Rules:

15. It shall be the duty of an advocate fearlessly to uphold the interests of his client by all fair and honourable means without regard to any unpleasant consequences to himself or any other. He shall defend a person accused of a crime regardless of his personal opinion as to the guilt of the accused, bearing in mind that his loyalty is to the law which requires that no man should be convicted without adequate evidence.
28. That the practice of passing resolutions prohibiting advocates from appearing for certain accused persons is illegal and contrary to the rule of law. Such actions have the affect of illegally curtailing the Accused's fundamental right to legal representation and right to fair trial.
29. That the practice of passing such resolutions has the affect of creating an atmosphere of terror and intimidation wherein advocates are coerced and forced, sometimes physically as well, from discharging their duties as advocates in appearing for the accused. These resolutions vitiate the entire legal arena and have a chilling effect on the free practice of the legal profession.
30. That resolutions such of those impugned here are illegal attempts of certain sections of advocates using fear and intimidatory tactics to control the legal profession even at the cost of accepted legal ethics. These resolutions affect the administration of justice by the Courts.
31. That it must also be remembered that an Advocate is an officer of the Court and enjoys special status in society and advocates have obligations and duties to ensure smooth functioning of the Court. Resolutions such as those

impugned in this petition interfere with administration of justice and places at stake the reputation of the legal profession.

The 5th Respondent, the Karnataka State Bar Council, has a statutory duty to take action against the errant members of the Bar in regard to the impugned resolutions

32. The impugned resolution was forwarded by the 4th Respondent to the 5th Respondent, the Karnataka State Bar Council, with a letter enlisting the Council's support in making a call to all other advocates in the State to not file vakalath for the Accused. The impugned resolution and the supporting letter, by seeking to deny legal representation to the Accused violates Rule 11 and 15, Section II, Chapter II or Part VI of the Bar Council of India Rules and thus qualifies as "professional misconduct". The Uttarakhand High Court in **Kuldeep Agarwal** considered the passage of a similar resolution by the local Bar Association also an instance of professional misconduct.

33. The Karnataka State Bar Council is duty-bound to uphold and safeguard professional ethics in the Bar, under Section 6 (1)(c) read with Section 35 of the Advocates Act, Part VII of the Bar Council of India Rules relates to disciplinary proceedings. Section 6(1)(c) reads:

6. Functions of State Bar Councils

(1) The functions of a State Bar Council shall be

(a) ...

(b) ..

(c) to entertain and determine cases of misconduct against advocates on its roll;

...

Section 35(1) reads:

35. Punishment of advocates for misconduct

(1) Where on receipt of a complaint or otherwise a State Bar Council has reason to believe that any advocate on roll has been guilty of professional or other misconduct, it shall refer the case for disposal to its disciplinary committee.

...

34. The State Bar Council's statutory duty was recognized in **N G Dastane v. Shrikant S. Shivde**, (2011) 6 SCC 135 by the Supreme Court in the following terms:

"When the Bar Council in its wider scope of supervision over the conduct of advocates in their professional duties comes across any instance of such misconduct, it is the duty of the Bar Council concerned to refer the matter to its Disciplinary Committee."

35. It was further held by seven judges of the Supreme Court in **Bar Council of Maharashtra v. M.V. Dabholkar**, (1975) 2 SCC 702, 711 that:

26. *With regard to the conduct of the advocates, the State Bar Council plays an important part, vis-a-vis the Disciplinary Committee constituted by the State Bar Council. First, under Section 35(1-A) of the Act the State Bar Council may either of its own motion or on an application made to it by any person interested, withdraw a proceeding pending before its Disciplinary Committee and direct the inquiry to be made by any other Disciplinary Committee of the State Bar Council. This indicates the watch that the State Bar Council has to keep. Its task does not cease on placing a matter before the Disciplinary Committee. This provision shows on one hand the abiding interest of the State Bar Council in the matter and on the other the duty of guarding the professional ethics with which it is entrusted. Second, under Section 36(2) of the Act, a State Bar Council may make a report to the Bar Council of India to withdraw before the Disciplinary Committee of the Bar Council of India any proceeding for disciplinary action against any advocate pending before the Disciplinary Committee of a State Bar Council. These provisions indicate that after the State Bar Council has placed the matter before its Disciplinary Committee, the Bar Council continues its check on the proceedings. These courses of action are procedural. These steps do not give the State Bar Council any power to deal with the decisions of the Disciplinary Committee. The reason why the State Bar Council is empowered under the Act to withdraw proceedings from one Disciplinary Committee and give it to another or to have the disciplinary proceedings withdrawn from the State for determination by the Disciplinary Committee of the Bar Council of India is that the State Bar Council is all the time interested in the task of preserving the profession against impurities in the standards of conduct. The Bar Council is the collective representative of the lawyers, the public, in regard to the observance of professional ethics by persons belonging to the noble profession.*

...

29. The pre-eminent question is: what are the interests of the Bar Council? The interests of the Bar Council are the maintenance of standards of professional conduct and etiquette. The Bar Council has no personal or pecuniary interest. The Bar Council has the statutory duty and interest to see that the rules laid down by the Bar Council of India in relation to professional conduct and etiquette are upheld and not violated. The Bar Council acts as the sentinel of professional code of conduct and is vitally interested in the rights and privileges of the advocates as well as the purity and dignity of the profession.

36. Since members of the Hubbli Bar Association are Advocates enrolled with the Karnataka State Bar Council, they fall within the jurisdiction of the the State Bar Council. Any omission in this regard unconstitutionally infringes the fundamental rights of the accused under Article 21 and 22(1) of the Constitution. The Uttarakhand High Court, in exercise of its power to direct the State Bar Council to exercise its statutory duty held in **Kuldeep Agarwal:**

35. In case such resolutions are passed in future by any of the recognized Bar Associations, including the Kotdwar Bar Association, the Uttarakhand State Bar Council shall forthwith initiate action against the office-bearers of such an Association, and the Advocates guilty of such acts of misconduct, referring the complaint to its Disciplinary Committee.

37. In **Ex. Captain Harish Uppal Vs. Respondent: Union of India (UOI) and Anr.** (2003) 2 SCC 45 the Apex Court held that no body or authority, statutory or not, including the Bar Council which vested with powers can abstain from exercising the powers when an occasion warranting such exercise arises since every power vested in a public authority is coupled with a duty to exercise it, when a situation calls for such exercise. The authority cannot refuse to act at its will or pleasure. It must be remembered that if such omission continues, particularly when there is an apparent threat to the administration of justice and fundamental rights of citizens, i.e. the litigating public, Courts will always have authority to compel or enforce the exercise of the power by the statutory authority. The Courts would then be compelled to issue directions as are necessary to compel the authority to do what it should have done on its own. In the instant case the Bar Council has failed to exercise any of its powers to contain the illegal practice of

resolutions barring advocates from appearing in certain matters, hence the relief sought for in this petition.

38. In ***U.P. Sales Tax Services Association*** ^{7 SEP} ***Vs*** ^{7 SEP} ***Respondent: Taxation Bar Association, Agra and others*** (1995) 5 SCC 716 the Apex Court cited the law laid down in ***Common Cause v. Union of India*** (1994) 5 SCC 557, wherein the Court was grappling with the problem of strike by Advocates wherein the Court held that no such member who appears in court or otherwise practices his legal profession, shall be visited with any adverse or penal consequences whatever by any association of lawyers, and shall not suffer any expulsion or threat of expulsion therefrom even while permitting other form of protest by lawyers. In fact, in ***Common Cause*** the Court placed the responsibility of compliance of its directions on the Bar Associations and the Bar Councils.

The failure of the police to protect the sanctity of the Court premises and the administration of justice is illegal and arbitrary.

ALL ABOUT LAW

39. The 1st and 2nd Respondents are duty-bound to "secure that the operation of the legal system promotes justice, on a basis of equal opportunity ..." under Article 39-A of the Constitution of India. However, the visuals clearly show that there was an assault by a mob of people within the court premises of the Judicial Magistrate First Class Court, Hubballi. Further, several persons have also attacked the police van with stones and slippers within the premises of the Court. The same shows a clear dereliction of duty on the part of the police who have failed to ensure a safe and conducive atmosphere that is essential for the administration of justice and has compromised the sanctity of the Court.
40. It is submitted that the attack on the Accused therein and the police vehicle within the Court premises constitutes an offence under Sections 143 (Member of unlawful assembly), 147 (Rioting), Section 352 (Assault or criminal force), 353 (Assault or criminal force to deter public servant from discharge of his duty), 426 (Mischief) and 506 (criminal intimidation) of the Indian Penal Code. To the best of the knowledge of the Petitioners, no FIR in this regard has been registered by the Police in this regard. The concerned police authorities were present in the Court premises at the time of the incident and ought to have taken steps to ensure the registration of an FIR.

However, they have failed to either ensure the registration of FIR and arrest the persons involved shows the further dereliction duty.

41. That the offences stated above are cognizable offences and it was mandatory for the police to register an FIR in this regard. This is also necessary since the same took place within the court premises and amounts to interference in the administration of justice. That the superintendence and control over all courts in Karnataka is by the Hon'ble High Court and it is sought that a judicial enquiry into the said incident be conducted.
42. That the violence that has taken place within the court premises is indefensible and a blot on the legal profession in Karnataka, besides being patently illegal and amounting to a crime.
43. That the use of violence in any form within the court premises undermines the majesty of the courts and the rule of law.
44. That the assurance of a fair trial is the first imperative of the dispensation of justice and the central criterion for the Courts to consider when the relief for transfer is made. It is prayed that Courts administering criminal justice cannot turn a blind eye to vexatious or oppressive conduct that has occurred in relation to proceedings, even if a fair trial is still possible, except at the risk of undermining the fair name and standing of the judges as impartial and independent adjudicators. One of the serious grounds which the Court could consider is the the absence of congenial atmosphere for a fair and impartial trial. Courts have taken judicial notice of frequent phenomenon in our country that court proceedings are being disturbed by rude hoodlums and unruly crowds, jostling, jeering or cheering and disrupting the judicial hearing with menaces, noises and worse and held that this tendency of toughs and street roughs to violate the serenity of court is obstructive of the course of justice and must surely be stamped out, hence the safety of the person of an accused is an essential condition for participation in a trial and where that is put in peril by commotion, tumult or threat on account of pathological conditions prevalent in a particular venue, the request for a transfer ought to be considered.
45. That ***in G. X. Francis And Ors. vs Banke Bihari Singh and Anr. [AIR 1958 SC 309]*** the Apex Court held that one of the good grounds for transfer was made out because of the bitterness of local communal feeling and the tenseness of the atmosphere there since the calm detached atmosphere of a fair and impartial judicial trial would be wanting, and even if justice were done it would not be "seen to be done".

46. That the ruckus caused in the Court premises and the resolution passed by the Bar Association effectively denies the accused their right to a free trial. These turbulent conditions put the physical safety of the accused at risk and may jettison public justice hence it is just and necessary for transfer of the case from that place. The transfer of the criminal case outside of Hubballi to Bengaluru city will secure a free and fair trial.

GROUND FOR INTERIM PRAYER

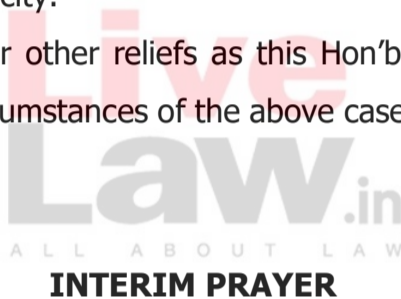
The impugned resolution has been passed by the 4th Respondent prohibiting advocates from representing the Accused in Crime No. 10/2020 of Gokul Road Police Station, Hubballi. The Accused therein have been remanded to judicial custody and their fundamental right under Article 22 has been violated. The said resolution prohibiting advocates from appearing in a case is also in violation of the duties of the advocates under the Bar Council of India Rules and the order of the Apex Court in *A.S. Mohammed Rafi Vs. State of Tamil Nadu Rep. by Home Dept. and Ors.* (2011) 1 SCC 688, AIR 2011 SC 308. That there was violence in the court premises including attempts by certain persons to cause physical harm to the Accused by using their hands and legs as also throwing stones at the police van. If the interim prayer is not granted the Accused in question would remain unrepresented and the illegal order would continue to stand in violation of the law. Per contra no harm or injury would be caused to the respondent.

PRAYER

WHEREFORE, the Petitioner respectfully prays that this Hon'ble Court may be pleased to –

1. Issue an appropriate Writ, order or direction quashing the resolution passed by the 4th Respondent dated 15.02.2020 placed as Annexure – A and declare the same to be illegal.
2. Issue an appropriate Writ, order or direction setting up a Judicial Committee to conduct an enquiry into the violence that took place within the Judicial Magistrate First Class, Court premises, Hubballi and to submit a report on the same.

3. Issue an appropriate Writ, order or direction directing the Respondents to register an FIR regarding the incident that took place on 17.02.2020 within the premises of the Court of the Hon'ble Judicial Magistrate First Class, Court premises, Hubballi and to investigate into the same.
4. Issue an appropriate Writ, order or direction directing the 2nd Respondent to ensure police protection to the Accused and the Advocates who represent the Accused in Crime No. 10/2020 of the Gokul Road P.S. throughout the course of the bail hearings and the trial.
5. Issue an appropriate Writ, order or direction directing the transfer of the criminal case in Cr. No. 10/2020 to any Court of jurisdiction in Bengaluru city.
6. Grant such or other reliefs as this Hon'ble Court deems fit in the facts and circumstances of the above case in the interests of justice and equity.



Pending disposal of the Writ Petition, the Hon'ble Court may be pleased to stay the operation of the resolution passed by the 4th Respondent dated 15.02.2020 placed as Annexure – A, and ensure the provision of police protection for the advocates who represent the Accused in Crime No. 10/2020 of the Gokul Road P.S. and further direct the Respondent No. 3 to secure all evidence of CCTV in from the Court premises and produce the same before this Hon'ble Court.

Place: Bengaluru

Advocate for the Petitioners

Date: 18.02.2020

Sruti Chaganti

Address for Service

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