



HC-KAR

NC: 2026:KHC:21597
WP No. 29541 of 2024

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU**DATED THIS THE 21ST DAY OF APRIL, 2026****BEFORE****THE HON'BLE MR. JUSTICE M.NAGAPRASANNA****WRIT PETITION NO. 29541 OF 2024 (GM-RES)****BETWEEN:**

SRI. PRADEEPKUMAR,
S/O LAKSHMANA,
AGED ABOUT 34 YEARS,
RESIDING AT NO. 617,
1ST MAIN ROAD, RAGHAVENDRA BLOCK,
SRINAGARA, BENGALURU – 560 050.

...PETITIONER

(BY SRI. SARAVANA S., ADVOCATE)

AND:

1. THE STATE BY VIDHANA SOUDHA
POLICE STATION,
DEPARTMENT OF HOME,
VIDHANA SOUDHA,
BENGALURU – 560 001,
REPRESENTED BY SPP.

2. SMT. SEEMA H.,
W/O HARSHAD H. K @ MARISWAMY,
AGED ABOUT 38 YEARS,
NO.4, KADUMALLESHWARA,
GUEST HOUSE, BENGALURU - 560 003.

...RESPONDENTS

(BY SRI. B.N.JAGADEESHA, ADDL. SPP FOR R1;
SRI. B.S.SACHIN, ADVOCATE FOR R2)

THIS WP IS FILED UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA READ WITH SECTION 482 OF
CR.P.C., PRAYING TO CALL FOR ENTIRE RECORDS IN CRIME





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NO 94/2024 AND ON THE FILE OF THE 41ST ADDL. CHIEF METROPOLITAN MAGISTRATE, BANGALORE CITY, BANGALORE; QUASH THE FIR DATED 08.10.2024 IN CRIME NO. 94/2024 VIDE ANNEXURE-A ON THE FILE OF THE 41ST ADDL. CHIEF METROPOLITAN MAGISTRATE, BANGALORE AGAINST THE PETITIONER PURSUANT TO NOTICE BEARING NO.VSPS/CRIME/94/2024 DATED 16.10.2024 VIDE ANNEXURE-C1, IN THE ENDS OF JUSTICE AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

ORAL ORDER

The petitioner - an advocate by profession, now stands at the doors of this Court calling in question the registration of a crime in Crime No.94/2024 against several accused in which the petitioner is arrayed as accused No.4.

2. Heard Sri.Saravana S, learned counsel appearing for the petitioner, Sri.B.N.Jagadeesha, learned Addl. SPP appearing for respondent No.1, Sri.B.S.Sachin, learned counsel appearing for respondent No.2 and have perused the material on record.

3. Brief facts unfurled are as follows:



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3.1. The second respondent is the complainant. The second respondent is said to be working as Assistant Conservator of Forest in the Department of Forest, Government of Karnataka. On 11.08.2017, a missing complaint is registered by father of accused Nos.2 and 3 against the complainant that accused No.3 one Vinod V, was abducted by the second respondent-Complainant. When the second respondent learns about the complaint so registered, drops accused No.3 to Bangalore from Chikkamagalur where he was detained. Thereafter accused No.3 files a complaint against the second respondent in Crime Nos.134 & 137/2017 against the second respondent. The petitioner was nowhere in the picture. On 07.10.2017, a matrimonial case in M.C.No.4953/2017 is filed before the Family Court seeking restitution of conjugal rights alleging that the second respondent's marriage was solemnized with accused No.3. The petitioner now comes into the picture, files power/vakalath for accused No.3 who is the respondent in the matrimonial case so filed by the second respondent-Complainant in M.C.No.4953/2017. A detailed Statement of Objections was also filed by the petitioner in favour of accused No.3 before the concerned Court.



3.2. When things stood thus, a private complaint in PCR No.30/2018 is filed by the second respondent-Complainant against accused Nos.2 and 3 and other family members alleging demand of dowry and abuse of the caste of the complainant. The concerned Court on 12.07.2018, refers the matter for investigation to the jurisdictional police when then becomes a crime in Crime No.102/2018 for offences punishable under Section 498A of the IPC and Sections 3 & 4 of the Dowry Prohibition Act, 1961 and Section 3(1)(r)(u) & (s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 [hereinafter referred to as 'the Atrocities Act' for short].

3.3. Here again, the petitioner had no role to play. He only files vakalath in favour of accused Nos.2 and 3 in the said private complaint and on instructions from accused Nos.2 and 3 in whose favour he had filed his vakalath, files an application under the Right to Information Act to Sri.Vidhya Mandira School seeking certain information about the second respondent to place it before the Family Court. The School is said to have furnished incomplete information which led to filing of another



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application seeking complete information. It is then the School is said to have furnished complete information relating to the caste of the second respondent. Immediately thereon, comes the impugned complaint against the petitioner and several others for the offences punishable under Sections 336(2), 336(3) and 340 of the BNS. The complaint then becomes a crime in Crime No.94/2024, the registration of the crime is what has driven the petitioner-accused No.4 to this Court in the subject petition.

4. Learned counsel Sri.Saravana S, appearing for the petitioner would vehemently contend that a frivolous case in misuse of the criminal justice system is registered by the second respondent-Complainant. The allegation in the complaint only relates to the petitioner's appearance for accused Nos.2 and 3 in a separate proceeding and seeking information under Right to Information Act with regard to the caste of the second respondent. This forms the fulcrum of the complaint. If this is permitted to be investigated into, particularly against the petitioner, it would on the face of it



become an abuse of the process of the law, is the emphatic submission of the counsel for the petitioner.

5. Learned counsel appearing for the respondent-complainant would refute the submission in contending that on the complaint, crime is registered and the moment crime is registered, the subject petition is filed. There should at least be investigation into the matter with regard to the role of the petitioner which cannot be dubbed as a frivolous case. The prayer in the writ petition itself would clearly indicate that the petitioner-Advocate is wanting to get to know beyond what is necessary for presentation before the concerned Court. He would seek dismissal of the petition.

6. Learned Addl. SPP Sri.B.N.Jagadeesha, appearing for the respondent-State would also refute the submission to contend that the crime is registered and the moment the crime is registered, there is an interim order of stay operating. Therefore, the matter must be permitted to be investigated into leaving open the remedy available to the petitioner to knock at the doors of this Court at the appropriate time.



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

8. The afore-narrated facts are a matter of record in so far as it concerns the petitioner-accused No.4. Therefore, those facts would not require any iteration. The role of the petitioner in the entire episode of crime is appearing as counsel for accused Nos.2 and 3 and seeking information about the caste status of the complainant. The complaint comes to be registered by the second respondent-complainant on 08.10.2024. Since the entire issue is now triggered from the complaint, the same is required to be noticed and it reads as follows:

“ರವರಿಗೆ :

ದಿನಾಂಕ: 08.10.2024

ಪೊಲೀಸ್ ಸಬ್ ಇನ್ಸ್‌ಪೆಕ್ಟರ್
ವಿಧಾನಸೌಧ ಪೊಲೀಸ್ ಠಾಣೆ
ವಿಧಾನಸೌಧ
ಬೆಂಗಳೂರು
8073316965

ಮಾನ್ಯರೇ

ವಿಷಯ: ನನ್ನ ಹೆಸರು ನನ್ನ ಅಧಿಕೃತ ಸರ್ಕಾರಿ ವಿಳಾಸ, ನನ್ನ ಸರ್ಕಾರಿ ಹುದ್ದೆಯ
ಹೆಸರನ್ನು ದುರ್ಬಳಕೆ ಮಾಡಿಕೊಂಡು ಹಾಗೂ ನನ್ನ ಸಹಿಯನ್ನು ನಕಲು



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ಮಾಡಿ ನನಗೆ ಕಳಂಕ ತಂದಿರುವವರ ವಿರುದ್ಧ ಕಾನೂನು ಕ್ರಮಕ್ಕಾಗಿ ಸಲ್ಲಿಸಿದ ದೂರು.

ಈ ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ನನ್ನ ಹೆಸರು ಸೀಮಾ ಹೆಚ್, ನನ್ನ ಹುದ್ದೆ ಸಹಾಯಕ ಅರಣ್ಯ ಸಂರಕ್ಷಣಾಧಿಕಾರಿಯಾಗಿದ್ದು, ನನ್ನ ಸರ್ಕಾರಿ ವಿಳಾಸ ಮೇಲಿನಂತಿರುತ್ತದೆ. ನಾನು ದಿನಾಂಕ 30.05.2024 ರಂದು ಸಹಾಯಕ ಅರಣ್ಯ ಸಂರಕ್ಷಣಾಧಿಕಾರಿ, ಸಂಶೋಧನ, 1ನೇ ಆಡ್ಡರನ್ವೆ, ಅರೆಕರೆ, ಮೈಕೋಬಡಾವಣೆ, ದೊರೆಸಾನಿಪಾಳ್ಯ, ಬನ್ನೇರುಘಟ್ಟ, ಬೆಂಗಳೂರಿನಲ್ಲಿ ಕಾರ್ಯವರದಿ ಮಾಡಿಕೊಂಡು ನಾನು ನನ್ನ ಸರ್ಕಾರಿ ಕೆಲಸ ನಿರ್ವಹಿಸುತ್ತಿರುತ್ತೇನೆ. ನಾನು ಕರ್ನಾಟಕ ಅರಣ್ಯ ಸೇವೆಯ ಎ ದರ್ಜೆಯ ಜುನಿಯರ್ ಅಧಿಕಾರಿಯಾಗಿರುತ್ತೇನೆ.

ನಾನು ನಮ್ಮ ಇಲಾಖೆಯ ಹಿರಿಯ ಅಧಿಕಾರಿಗಳಾದ ಶ್ರೀ ಪ್ರಭಾಸ್ ಚಂದ್ರ ರೇ, ಭಾ.ಅ.ಸೇ. ಸರ್ಕಾರದ ಪ್ರಧಾನ ಕಾರ್ಯದರ್ಶಿಗಳು ಅರಣ್ಯ ಪರಿಸರ ಮತ್ತು ಜೀವಶಾಸ್ತ್ರ, ಇಲಾಖೆ, ಬಹು ಮಹಡಿಗಳ ಕಟ್ಟಡ ಬೆಂಗಳೂರರವರನ್ನು ಭೇಟಿ ಮಾಡಿ ಇಲಾಖೆಯ ಸಮಸ್ಯೆಗಳ ಬಗ್ಗೆ ತಿಳಿಸಿ ಪರಿಹರ ಪಡೆದುಕೊಳ್ಳಲು ಹೋದಾಗ ಸದರಿ ಅಧಿಕಾರಿಯವರು ನನ್ನ ಹೆಸರಿನಲ್ಲಿ ಬೇರೆ ಯಾರೋ ಬರೆಯಲಾದ ಪತ್ರದ ಬಗ್ಗೆ ನನಗೆ ತಿಳಿಸಿ ವಿಚಾರಣೆ ನಡೆಸಿ ಪ್ರತಿಯನ್ನು ನೀಡಿರುತ್ತಾರೆ.ನಾನು ಸದರಿ ಪತ್ರವನ್ನು ಓದಲಾಗಿ ಆ ಪತ್ರದಲ್ಲಿರುವ ವಿಚಾರವನ್ನು ನಾನು ಬರೆದಿರುವುದಿಲ್ಲ. ನನ್ನ ಸಹಿಯನ್ನು ನಾನು ಪರಿಶೀಲಿಸಲಾಗಿ ಅದು ನಕಲು ಆಗಿರುವುದು ಕಂಡು ಬಂದಿರುತ್ತದೆ. ಸದರಿ ಪತ್ರವನ್ನು ಬೇರೆ ಯಾರೋ ಬರೆದವರು ನನ್ನ ಭಾಷಾ ಶೈಲಿಯಲ್ಲಿ ನಮ್ಮ ಇಲಾಖೆಯ ಹಿರಿಯ ಅಧಿಕಾರಿಗಳಾದ ಶ್ರೀ ಎ.ಕೆ.ಸಿಂಗ್ ಅವರ ಪ್ರಧಾನ ಮುಖ್ಯ ಸಂರಕ್ಷಣಾಧಿಕಾರಿಗಳು, ಸಂಶೋಧನೆ, ದೊರೆಸಾನಿಪಾಳ್ಯ, ಬೆಂಗಳೂರರವರ ಮೇಲೆ ಸುಳ್ಳು, ಆಧಾರರಹಿತ ಆರೋಪ ಮಾಡಿ ಮಾನ್ಯ ಶ್ರೀ ಈಶ್ವರ ಭೀ ಖಂದ್ರೆ, ಅರಣ್ಯ ಸಚಿವರು, ಕರ್ನಾಟಕ ಸರ್ಕಾರವರಿಗೆ ಪತ್ರ ಬರೆದಿರುತ್ತಾರೆ. ಸದರಿ ಪತ್ರಕ್ಕೂ ನನ್ನಗೂ ಯಾವುದೇ ಸಂಬಂಧವಿರುವುದಿಲ್ಲ.

ಯಾರೋ ನನ್ನ ಹೆಸರು ನನ್ನ ಅಧಿಕೃತ ಸರ್ಕಾರಿ ವಿಳಾಸ,ನನ್ನ ಸರ್ಕಾರಿ ಹುದ್ದೆಯ ಹೆಸರುಗಳನ್ನು ದುರ್ಬಳಕೆ ಮಾಡಿಕೊಂಡು ಹಾಗೂ ನನ್ನ ಸಹಿಯನ್ನು ನಕಲು ಮಾಡಿ ದುರುಪಯೋಗ ಪಡಿಸಿಕೊಂಡು ನನಗೆ ಕೆಟ್ಟ ಹೆಸರು ತರಲು ನನ್ನ ಘನತೆ, ಗೌರವಕ್ಕೆ, ದಕ್ಕೆ ತರಲು ನನಗೆ ಹಾನಿಯುಂಟು ಮಾಡಲು ನನ್ನ ಸರ್ಕಾರಿ ಕೆಲಸಕ್ಕೆ ಅಡ್ಡಿ ಉಂಟುಮಾಡಲು, ನಮ್ಮ ಸರ್ಕಾರಿ ಕಛೇರಿಯ ವಾತಾವರಣ ಹಾಳು ಮಾಡಲು ಈ ರೀತಿ ಪತ್ರ ಬರೆದಿರಬಹುದು.(ಪತ್ರದ ಪ್ರತಿ ಲಗತ್ತಿಸಿದೆ). ಸದರಿ ಪತ್ರದಲ್ಲಿ ನನ್ನ ಸಾವಿನ ಬಗ್ಗೆ ಪ್ರಸ್ತಾಪಿಸಿರುವುದರಿಂದ ಯಾರೋ ದುಷ್ಕರ್ಮಿಗಳ ನನ್ನ ಹತ್ಯೆ ಮಾಡಿ ಅದನ್ನು Suicide ಎಂದೂ ತಿರುಚಲು ಈ ಪತ್ರ ಬರೆದಿರಬಹುದೇನೋ ಎಂಬ ಸಂಷಯವಿದೆ.ಆದ್ದರಿಂದ ತಾವು ಈ ದೂರನ್ನು ದಾಖಲಿಸಿಕೊಂಡು ತಾವು ಹೆಚ್ಚಿನ ಗಮನ ವಹಿಸಿ ಸೂಕ್ತ ತಯನ್ನು ಅರಿತುಕೊಂಡು ತನಿಖೆ ನಡೆಸಿ,ಆರೋಪಿಗಳನ್ನು ಪತ್ತೆಹಚ್ಚಿ, ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳಬೇಕೆಂದು ಈ ದೂರನ್ನು ತಮ್ಮಲ್ಲಿ ನೀಡಿದೆ ಹಾಗೂ ನನಗೆ ಸೂಕ್ತ ಭದ್ರತೆಯನ್ನು ನೀಡಲು ಕೋರಿದೆ.



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ಮುಂದುವರೆದು ನನಗೆ ಈ ಕೆಳಗೆ ಹೆಸರಿಸಲಾದ ವ್ಯಕ್ತಿಗಳ ಬಗ್ಗೆ, ಅನುಮಾನವಿದ್ದು, ಅವರುಗಳನ್ನು ತೀವ್ರತರವಾದ ವಿಚಾರಣೆಗೆ ಒಳಪಡಿಸಿದರೆ ಅವರಾಧದ ಹೆಜ್ಜೆಗಳು ಗೋಚರಿಸಬಹುದಾಗಿ ನಂಬುತ್ತೇನೆ.

1. ಶಿವಶಂಕರ್ ಸಿ.ಆರ್
#69,3ನೇ ಕ್ರಾಸ್ ,
ಪಟೇಲ್ ಗುಂಡಪ್ಪ ಬ್ಲಾಕ್,
ಜೆ.ಸಿ ರೋಡ್,
ಬೆಂಗಳೂರು 560006.
ಫೋನ್: 8660756414
2. ಪ್ರದೀಪ್ ಕುಮಾರ್ ಹೆಚ್.ಎಲ್
(ಕಾಂಗ್ರೆಸ್ ರಾಜಕೀಯ ಹಿನ್ನೆಲೆ ಉಳ್ಳವರು)
ವಕೀಲರು,
ನಂ.7/6 2ನೇ ಕ್ರಾಸ್ ರಸ್ತೆ
ಚಂದಾವರ್ಕರ್ ಲೇಔಟ್
ಬೆಂಗಳೂರು 560020.
ಫೋನ್: 9535555558
3. ವಿನೋದ್ ವಿ (ಶಿವಶಂಕರ್ ಸಿ.ಆರ್ ಇವರ ಅಣ್ಣನ ಮಗ)
C/O ಶಿವಶಂಕರ್.
#69,3 ನೇ ಕ್ರಾಸ್ ,
ಪಟೇಲ್ ಗುಂಡಪ್ಪ ಬ್ಲಾಕ್,
ಜೆ.ಸಿ ರೋಡ್,
ಬೆಂಗಳೂರು.
ಫೋನ್: 8660766414

ಏಕೆಂದರೆ ಇವರುಗಳನ್ನು ಆರಣ್ಯ ಇಲಾಖೆಯ ಕಛೇರಿಗಳಿಗೆ ಮಾಹಿತಿ ಹಕ್ಕು ಅಧಿನಿಯಮ 2005ರ ಅಡಿಯಲ್ಲಿ ಪತ್ರ ಬರೆದು ನನಗೆ ಸಂಬಂಧಿಸಿದ ಮಾಹಿತಿಗಳನ್ನು ಪಡೆದುಕೊಳ್ಳುತ್ತಿರುವುದಲ್ಲದೇ ನನ್ನ ಇಲಾಖಾ ದಾಖಲೆಯಾದ ಲಾಗ್ ಬುಕ್, ದಿನಚರಿಗಳ ಮಾಹಿತಿಗಳನ್ನು ಪಡೆದುಕೊಳ್ಳುತ್ತಿರುತ್ತಾರೆ. ಲಾಗ್ ಬುಕ್ ಮತ್ತು ದಿನಚರಿಯ ಮಾಹಿತಿಗಳು ಇವರಿಗೆ ಏಕೆ ಬೇಕಾಗಿರುತ್ತದೆ. ದಿನಚರಿಯ ಮಾಹಿತಿಯನ್ನು ಪಡೆದುಕೊಂಡು ಇವರು ನನ್ನ ಚಲನವಲನಗಳ ಬಗ್ಗೆ ನಿಗೆ ಇಟ್ಟಿರುವಂತೆ ಭಾಸವಾಗುತ್ತಿದೆ. ಸದರಿ ಪ್ರಸ್ತಾಪಿತ ಪತ್ರದಲ್ಲಿ ನನ್ನ ಸಾವಿನ ಬಗ್ಗೆ, ಪ್ರಸ್ತಾಪಿಸಿರುವುದರಿಂದ ನನಗೆ ಇವರುಗಳ ಬಗ್ಗೆ ಹೆಚ್ಚು ಅನುಮಾನವಿದ್ದು ಇವರುಗಳನ್ನು ತೀವ್ರತರದ ವಿಚಾರಣೆಗೆ ಗುರಿಪಡಿಸಬೇಕಾಗಿ ಕೋರಿದೆ. (ದಾಖಲೆಗಳು ಲಗತ್ತಿಸಿದೆ, ಪುಟಸಂಖ್ಯೆ -20)



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4. ಹೆಚ್.ಕೆ. ಮರಿಸ್ವಾಮಿ
S/O Late Rtd RFO ಕಾಳಜವರಯ್ಯ
ನಿವೃತ್ತ ವಲಯ ಅರಣ್ಯಾಧಿಕಾರಿ(ಅರಣ್ಯ ಇಲಾಖೆ)
ಮಾತೃಶ್ರೀ ನಿಲಯ,
ಸದಾಶಿವನಗರ,ತೇಜೂರು ರಸ್ತೆ
ಹಾಸನ -573219.
ಫೋನ್: 8762055569

ಏಕೆಂದರೆ ಇವರು ನನ್ನ ತಂದೆಯಾಗಿದ್ದು, ನಾನು ಕೆಲಸಕ್ಕೆ ಸೇರುವ ಬಹಳ ಹಿಂದೆಯೇ ನಮ್ಮಗಳನ್ನು ತೊರೆದು ಬೇರೆ ಮದುವೆಯಾಗಿದ್ದು, ನನ್ನ ಸಂಪರ್ಕದಲ್ಲಿಲ್ಲ. ನಾನು ವಿದ್ಯಾಭ್ಯಾಸ ಮುಗಿಸಿ ಕರ್ನಾಟಕ ಅರಣ್ಯ ಸೇವೆಗೆ ನೇಮಕಗೊಂಡು ಎ.ಸಿ.ಎಫ್ ಹುದ್ದೆ ಆಲಂಕರಿಸಿರುವುದರಿಂದ ನನ್ನ ತಂದೆಗೆ ನನ್ನನ್ನು ಕಂಡರೆ ಹೊಟ್ಟೆಕಿಚ್ಚು ಇವರು ನನ್ನ ಹೆಸರಿಗೆ ಮನಿ ಬಳಿಯುವ ಸಲುವಾಗಿ ಮಾಡಿರಬಹುದಲ್ಲದೇ ಇವರು ಅರಣ್ಯ ಇಲಾಖೆಯಲ್ಲಿ ಸೇವೆ ಸಲ್ಲಿಸಿ ನಿವೃತ್ತರಾಗಿರುವುದರಿಂದ ಇಲಾಖೆಯಲ್ಲಿ ಹಲವರು ಪರಿಚಿತರಿದ್ದು, ಇಲಾಖೆಯ ಹಲವರಲ್ಲಿ ನನ್ನ ಬಗ್ಗೆ ವಿಚಾರಿಸುತ್ತಾ ನಿಂದಿಸುತ್ತಿರುತ್ತಾರೆ ಎಂದು ಬಗ್ಗೆ ಹಲವಾರು ಮಂದಿ ನನಗೆ ತಿಳಿಸಿರುತ್ತಾರೆ.

ಅಲ್ಲದೆ ಇವರು ಇಲಾಖೆಯಲ್ಲಿ ಹಲವು ವಿಚಾರಣೆಗಳನ್ನು ಎದರಿಸುತ್ತಿರುತ್ತಾರೆ ಹೆಚ್ ಕೆ. ಮರಿಸ್ವಾಮಿ ನಿವೃತ್ತರಾದರು ಸಹ ನಾನು ಕೆಲಸ ಮಾಡುವ ಕಛೇರಿಯ ಹಿರಿಯ ಅಧಿಕಾರಿಗಳಿಗೆ ಹಾಗೂ ನಾನು ಕೆಲಸ ಮಾಡುವ ಕಛೇರಿಯ ಲ್ಯಾಂಡ್‌ಲೈನ್‌ಗೆ ನನ್ನ ಸಿಬ್ಬಂದಿಗಳಿಗೆ ಫೋನ್ ಮಾಡಿ ನನ್ನ ಬಗ್ಗೆ ಮಾಹಿತಿ ಪಡೆಯುತ್ತಿರುತ್ತಾರೆ. ಆದ್ದರಿಂದ ಇವರ Mobile Tower Location, Whatsapp, ವಸತಿ ಮತ್ತು Call ರಿಜಿಸ್ಟರ್ ಪರಿಶೀಲಿಸಿ ತೀವ್ರತರಹದ ವಿಚಾರಣೆಗೆ ಒಳಪಡಿಸಿದರೆ ಅಪರಾಧದ ಗುರುತುಗಳು ದೊರೆಯಬಹುದು ಎನಿಸುತ್ತದೆ. (ಹೆಚ್.ಕೆ. ಮರಿಸ್ವಾಮಿಯವರ ಅಕ್ಕನ ಮಗ Sujith DIG Office ನಲ್ಲಿ FDA ಆಗಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿರುತ್ತಾರೆ ಹಾಗೂ ಅವರ ಅಳಿಯ ನಿತಿಸ್ ಕೋಟಿ ಪಿಎಸ್‌ಐ ಆಗಿ ಇಲಾಖೆಯಲ್ಲಿ ಸೇವೆ ಸಲ್ಲಿಸುತ್ತಿರುತ್ತಾರೆ. ಇವರುಗಳ ಪ್ರಭಾವವನ್ನು ಬಳಸುವ ಸಂಭವವಿರುತ್ತದೆ)

ಆದ್ದರಿಂದ ತನಿಖೆ ನಡೆಸಿ ಅಪರಾಧಿಗಳನ್ನು ಪತ್ತೆಹಚ್ಚಿ ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮಕೈಗೊಂಡು ನನಗೆ ಸೂಕ್ತ ರಕ್ಷಣೆ ನೀಡಬೇಕಾಗಿ ಕೋರಿದೆ.

ತಮ್ಮ ನಂಬುಗೆಯು.

ಸಹಿ/-

(ನೀಮಾ ಹೆಚ್)

ಸಹಾಯಕ ಅರಣ್ಯ ಸಂರಕ್ಷಣಾಧಿಕಾರಿ,



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ಸಂಶೋಧನೆ,ದೊರೆಸಾನಿಪಾಳ್ಯ
ಬೆಂಗಳೂರು.”

The complaint becomes a crime in Crime No.94/2024 for the offences punishable under Sections 336(2), 336(3) and 340 of the BNS, 2023. On registration of the crime on 08.10.2024, the subject petition is preferred immediately and this Court on 05.11.2024 passes a detailed interim order, which reads as follows:

" ORAL ORDER ON I.A.NO.2/2024

Heard Sri D.R.Ravishankar, learned senior counsel for the petitioner.

The petitioner - accused No.4 is before this Court calling in question registration of a crime in Crime No.94/2024 registered for the offences under Sections 336(2), 336(3) and 340 of the BNS, 2023. The offences alleged are for forgery and using a forged document as genuine. The complainant is one Seema H., presently working as Assistant Conservator of Forest in the Forest Department.

The gist of the complaint, reads as follows:

“ಯಾರೋ ನನ್ನ ಹೆಸರು ನನ್ನ ಅಧಿಕೃತ ಸರ್ಕಾರಿ ವಿಳಾಸ,ನನ್ನ ಸರ್ಕಾರಿ ಹುದ್ದೆಯ ಹೆಸರುಗಳನ್ನು ದುರ್ಬಳಕೆ ಮಾಡಿಕೊಂಡು ಹಾಗೂ ನನ್ನ ಸಹಿಯನ್ನು ನಕಲು ಮಾಡಿ ದುರುಪಯೋಗ ಪಡಿಸಿಕೊಂಡು ನನಗೆ ಕೆಟ್ಟ ಹೆಸರು ತರಲು ನನ್ನ ಘನತೆ, ಗೌರವಕ್ಕೆ, ದಕ್ಕೆ ತರಲು ನನಗೆ ಹಾನಿಯುಂಟು ಮಾಡಲು ನನ್ನ ಸರ್ಕಾರಿ ಕೆಲಸಕ್ಕೆ ಅಡ್ಡಿ ಉಂಟುಮಾಡಲು, ನಮ್ಮ ಸರ್ಕಾರಿ ಕಛೇರಿಯ ವಾತಾವರಣ ಹಾಳು ಮಾಡಲು ಈ ರೀತಿ ಪತ್ರ ಬರೆದಿರಬಹುದು.(ಪತ್ರದ ಪ್ರತಿ ಲಗತ್ತಿಸಿದೆ). ಸದರಿ ಪತ್ರದಲ್ಲಿ ನನ್ನ ಸಾವಿನ ಬಗ್ಗೆ ಪ್ರಸ್ತಾಪಿಸಿರುವುದರಿಂದ ಯಾರೋ ದುಷ್ಕರ್ಮಿಗಳ ನನ್ನ ಹತ್ಯೆ ಮಾಡಿ ಅದನ್ನು Suicide ಎಂದೂ ತಿರುಚಲು ಈ ಪತ್ರ ಬರೆದಿರಬಹುದೇನೋ ಎಂಬ ಸಂಷಯವಿದೆ.ಆದ್ದರಿಂದ ತಾವು ಈ ದೂರನ್ನು ದಾಖಲಿಸಿಕೊಂಡು



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ತಾವು ಹೆಚ್ಚಿನ ಗಮನ ವಹಿಸಿ ಸೂಕ್ಷ್ಮತೆಯನ್ನು ಅರಿತುಕೊಂಡು ತನಿಖೆ ನಡೆಸಿ, ಆರೋಪಿಗಳನ್ನು ಪತ್ತೆಹಚ್ಚಿ, ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳಬೇಕೆಂದು ಈ ದೂರನ್ನು ತಮ್ಮಲ್ಲಿ ನೀಡಿದೆ ಹಾಗೂ ನನಗೆ ಸೂಕ್ತ ಭದ್ರತೆಯನ್ನು ನೀಡಲು ಕೋರಿದೆ.

ಮುಂದುವರೆದು ನನಗೆ ಈ ಕೆಳಗೆ ಹೆಸರಿಸಲಾದ ವ್ಯಕ್ತಿಗಳ ಬಗ್ಗೆ, ಅನುಮಾನವಿದ್ದು, ಅವರುಗಳನ್ನು ತೀವ್ರಕರವಾದ ವಿಚಾರಣೆಗೆ ಒಳಪಡಿಸಿದರೆ ಅಪರಾಧದ ಹೆಜ್ಜೆಗಳು ಗೋಚರಿಸಬಹುದಾಗಿ ನಂಬುತ್ತೇನೆ.

1. ಶಿವಶಂಕರ್ ಸಿ.ಆರ್
#69,3ನೇ ಕ್ರಾಸ್ ,
ಪಟೇಲ್ ಗುಂಡಪ್ಪ ಬ್ಲಾಕ್,
ಜೆ.ಸಿ ರೋಡ್,
ಬೆಂಗಳೂರು 560006.
ಫೋನ್: 8660756414
2. ಪ್ರದೀಪ್ ಕುಮಾರ್ ಹೆಚ್.ಎಲ್
(ಕಾಂಗ್ರೆಸ್ ರಾಜಕೀಯ ಹಿನ್ನೆಲೆ ಉಳ್ಳವರು)
ವಕೀಲರು,
ನಂ.7/6 2ನೇ ಕ್ರಾಸ್ ರಸ್ತೆ
ಚಂದಾವರ್ಕರ್ ಲೇಔಟ್
ಬೆಂಗಳೂರು 560020.
ಫೋನ್: 9535555558
3. ವಿನೋದ್ ವಿ (ಶಿವಶಂಕರ್ ಸಿ.ಆರ್ ಇವರ ಅಣ್ಣನ ಮಗ)
C/O ಶಿವಶಂಕರ್.
#69,3 ನೇ ಕ್ರಾಸ್ ,
ಪಟೇಲ್ ಗುಂಡಪ್ಪ ಬ್ಲಾಕ್,
ಜೆ.ಸಿ ರೋಡ್,
ಬೆಂಗಳೂರು.
ಫೋನ್: 8660766414

ಏಕೆಂದರೆ ಇವರುಗಳನ್ನು ಆರಣ್ಯ ಇಲಾಖೆಯ ಕಛೇರಿಗಳಿಗೆ ಮಾಹಿತಿ ಹಕ್ಕು ಅಧಿನಿಯಮ 2005ರ ಅಡಿಯಲ್ಲಿ ಪತ್ರ ಬರೆದು ನನಗೆ ಸಂಬಂಧಿಸಿದ ಮಾಹಿತಿಗಳನ್ನು ಪಡೆದುಕೊಳ್ಳುತ್ತಿರುವುದಲ್ಲದೇ ನನ್ನ ಇಲಾಖಾ ದಾಖಲೆಯಾದ ಲಾಗ್ ಬುಕ್, ದಿನಚರಿಗಳ ಮಾಹಿತಿಗಳನ್ನು ಪಡೆದುಕೊಳ್ಳುತ್ತಿರುತ್ತಾರೆ. ಲಾಗ್ ಬುಕ್ ಮತ್ತು ದಿನಚರಿಯ ಮಾಹಿತಿಗಳು ಇವರಿಗೆ ಏಕೆ ಬೇಕಾಗಿರುತ್ತದೆ. ದಿನಚರಿಯ ಮಾಹಿತಿಯನ್ನು ಪಡೆದುಕೊಂಡು ಇವರು ನನ್ನ ಚಲನವಲನಗಳ ಬಗ್ಗೆ ನಿಗ ಇಟ್ಟಿರುವಂತೆ ಭಾಸವಾಗುತ್ತಿದೆ. ಸದರಿ ಪ್ರಸ್ತಾಪಿತ ಪತ್ರದಲ್ಲಿ ನನ್ನ



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ಸಾವಿನ ಬಗ್ಗೆ, ಪ್ರಸ್ತಾಪಿಸಿರುವುದರಿಂದ ನನಗೆ ಇವರುಗಳ ಬಗ್ಗೆ ಹೆಚ್ಚು ಅನುಮಾನವಿದ್ದು ಇವರುಗಳನ್ನು ತೀವ್ರತರದ ವಿಚಾರಣೆಗೆ ಗುರಿಪಡಿಸಬೇಕಾಗಿ ಕೋರಿದೆ. (ದಾಖಲೆಗಳು ಲಗತ್ತಿಸಿದೆ, ಪುಟಸಂಖ್ಯೆ -20)

4. ಹೆಚ್.ಕೆ. ಮರಿಸ್ವಾಮಿ
S/O Late Rtd RFO ಕಾಳಜವರಯ್ಯ
ನಿವೃತ್ತ ವಲಯ ಅರಣ್ಯಾಧಿಕಾರಿ(ಅರಣ್ಯ ಇಲಾಖೆ)
ಮಾತ್ರೋತ್ತರ ನಿಲಯ,
ಸದಾಶಿವನಗರ,ತೇಜೂರು ರಸ್ತೆ
ಹಾಸನ -573219.
ಫೋನ್: 8762055569

ಏಕೆಂದರೆ ಇವರು ನನ್‌ನ ತಂದೆಯಾಗಿದ್ದು, ನಾನು ಕೆಲಸಕ್ಕೆ ಸೇರುವ ಬಹಳ ಹಿಂದೆಯೇ ನಮ್ಮಗಳನ್ನು ತೊರೆದು ಬೇರೆ ಮದುವೆಯಾಗಿದ್ದು, ನನ್ನ ಸಂಪರ್ಕದಲ್ಲಿಲ್ಲ. ನಾನು ವಿದ್ಯಾಭ್ಯಾಸ ಮುಗಿಸಿ ಕರ್ನಾಟಕ ಅರಣ್ಯ ಸೇವೆಗೆ ನೇಮಕಗೊಂಡು ಎ.ಸಿ.ಎಫ್ ಹುದ್ದೆ ಆಲಂಕರಿಸಿರುವುದರಿಂದ ನನ್ನ ತಂದೆಗೆ ನನ್ನನ್ನು ಕಂಡರೆ ಹೊಟ್ಟೆಕಿಚ್ಚು ಇವರು ನನ್ನ ಹೆಸರಿಗೆ ಮನಿ ಬಳಿಯುವ ಸಲುವಾಗಿ ಮಾಡಿರಬಹುದಲ್ಲದೇ ಇವರು ಅರಣ್ಯ ಇಲಾಖೆಯಲ್ಲಿ ಸೇವೆ ಸಲ್ಲಿಸಿ ನಿವೃತ್ತರಾಗಿರುವುದರಿಂದ ಇಲೆಖೆಯಲ್ಲಿ ಹಲವರು ಪರಿಚಿತರಿದ್ದು, ಇಲಾಖೆಯ ಹಲವರಲ್ಲಿ ನನ್ನ ಬಗ್ಗೆ ವಿಚಾರಿಸುತ್ತಾ ನಿಂದಿಸುತ್ತಿರುತ್ತಾರೆ ಎಂದು ಬಗ್ಗೆ ಹಲವಾರು ಮಂದಿ ನನಗೆ ತಿಳಿಸಿರುತ್ತಾರೆ.”

The complainant narrates that she and her father are not in good terms. Her father who was an employee of the forest department is completely jealous of her success and her father has left her and her family long ago.

The complainant further narrates that she comes to know that someone is verifying her details and suspects that the petitioner is the one who is seeking her details, registers the subject crime for the afore-quoted offences. Therefore, the petitioner in the impugned crime is arrayed as accused No.4.

Sri D.R.Ravishankar, learned senior counsel for the petitioner would take this Court through a little backdrop to the registration of the complaint. He would refer to the marks card of the SSLC, of the complainant issued in the month of March, 2001. The names of the mother of the complainant is shown as 'Pyarijan' and the father of the complainant is shown as 'Harshad H.K.M.' It is the



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submission of the learned senior counsel that the parents are Muslims and the complainant is therefore, by birth, a Muslim.

The complainant institutes a original suit in O.S.No.6551/2014 seeking declaration and injunction that her father's name is not 'H.K.M.Harshad' but 'H.K.Mariswamy' and he is a Hindu belonging to Adi Karnataka, a scheduled caste.

In the suit, there were four defendants, all are Officers of the State, and they remain *ex-parte*. An *ex-parte* decree is granted declaring that the name of the father of the complainant is not 'H.K.M. Harshad' but it is 'H.K.Mariswamy' and he belongs to a scheduled caste. After the decree obtained by the complainant, her sister follows it by instituting a suit in O.S.No.757/2018, for the same declaration of change of the name of the father as 'H.K.Mariswamy' from 'Harshad H.K.M.'. So *prima facie*, Harshad H.K.M., who is depicted to be a Muslim, overnight becomes a Hindu – Scheduled Caste and the name is changed.

After obtaining the decree, the school records of the complainant and her siblings is changed from Muslim to Hindu and one belonging to scheduled caste. He would take this Court through those school records.

Whether the complainant has secured employment contending that she is the one belonging to scheduled caste or not, is a matter which requires to be noticed and considered by the State.

The role of the petitioner is, in a complaint registered by the present complainant against one Vinod V., and his family members alleging for the offences under the Dowry Prohibition Act and the Scheduled Castes and the Scheduled Tribes (Prohibition of Atrocities) Act, 1989, on 12.07.2018, in Crime No.102/2018, and in the proceedings seeking restitution of conjugal rights against said Vinod, the petitioner is said to have represented the said Vinod V., as his advocate. The learned senior counsel would further submit that the marriage between Vinod and the complainant is said to have taken place in a park, named Jinkevana, at Chikkamagalur, when the complainant was



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working as an Assistant Conservator of Forest, at Chikkamagalur.

Not a titter of ingredients of the offences are found against the petitioner. Therefore, further investigation and all further proceedings in Crime No.94/2024, pending before the 41st Additional Chief Metropolitan Magistrate, Bengaluru, *qua* the petitioner shall remain stayed.

Learned Additional State Public Prosecutor waives notice for respondent No.1.

Issue emergent notice to respondent No.2 returnable by 10.12.2024.

Learned counsel for the petitioner to serve a copy of the petition papers upon the learned Additional State Public Prosecutor, forthwith.

The learned Additional State Public Prosecutor to produce all records with regard to the employment of the complainant before this Court on the next date of hearing.

Learned Additional State Public Prosecutor to secure investigation papers in the subject crime and also the information as to what has happened to all the crimes that are registered by the complainant - Assistant Conservator of Forest and the proceedings initiated against several persons from time to time, by the next date of hearing.

Heard in-part.

List this matter on **10.12.2024, for further hearing."**

9. The interim order is subsisting even as on date. The issue now would be as to what is the role of the petitioner in the entire episode of alleged crime against the petitioner.



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10. Section 336 of the BNS, 2023 reads as follows:

"336. Forgery.—(1) Whoever makes any false document or false electronic record or part of a document or electronic record, with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

(2) Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

(3) Whoever commits forgery, intending that the document or electronic record forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

(4) Whoever commits forgery, intending that the document or electronic record forged shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine."

11. Section 336 of the BNS deals with the offence of forgery. Sub-section (2) thereof prescribes punishment for a person who commits forgery, while Section 336(1) defines the contours of the offence. A plain reading of the provision would unmistakably indicate that, for the offence to stand attracted, there must exist making of a false document or false electronic record with the intention of causing damage, injury or unlawful



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prejudice. Yet, how such ingredients can even remotely be attributed to the petitioner remains shrouded in complete mystery.

12. The role attributed to the petitioner is singularly confined to procuring certain documents from the school in which the 2nd respondent/complainant has studied and that too at the instance of accused Nos.2 and 3 whom the petitioner represented in his professional capacity, as an Advocate. Beyond this limited and purely professional act, the complaint is conspicuously silent as to any participation, connivance, fabrication or fraudulent intent on the part of the petitioner. The allegations, therefore, are loosely laid against the petitioner in particular. Equally untenable is the invocation of Section 336(3) of the BNS. The said provision contemplates where forgery is committed with the intention of using the forged document for the purpose of cheating. Even here the complaint fails to disclose how the petitioner could be alleged of the ingredients of the said offence. The invocation of the provision against the petitioner in particular is wholly incomprehensible in law.



13. The other offence alleged is Section 340 of the BNS, which too revolves around the use or existence of a forged document. If the foundation under Section 336(2) is not even met, the offence under Section 340 of the BNS cannot independently survive. Therefore, the offences under the BNS cannot even be permitted to be investigated into against the petitioner.

14. What remains is the offence under Section 3(1)(r) & (s) of the Atrocities Act, which reads as follows:

"3. Punishments for offences 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."

15. A perusal at the complaint would nowhere indicate that petitioner-accused No.4 has indulged in hurling of abuses against the complainant in a public place or a place of public view. The interpretation of Section 3(1)(r) & (s) of the



Atrocities Act need not detain this Court for long or delve deep into the matter.

16. The Apex Court in the case of **KARUPPUDAYAR v. STATE**¹ has held as follows:

"....

8. For appreciating the rival submissions, it will be apposite to refer to the provisions of Sections 3(1)(r) and 3(1)(s) of the SC-ST Act, which read thus:

"3. Punishments for offences of atrocities.—(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

(a)

(b)

xxx xxx xxx

(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;"

9. A perusal of Section 3(1)(r) of the SC-ST Act would reveal that for constituting an offence thereunder, it has to be established that the accused intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view. Similarly, for constituting an offence under Section

¹ 2025 SCC Online SC 215



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3(1)(s) of the SC-ST Act, it will be necessary that the accused abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view.

10. The term “any place within public view” initially came up for consideration before this Court in the case of *Swaran Singh v. State through Standing Counsel*². This Court in the case of *Hitesh Verma v. State of Uttarakhand*³ referred to *Swaran Singh* (supra) and reiterated the legal position as under:

“**14.** Another key ingredient of the provision is insult or intimidation in “any place within public view”. What is to be regarded as “place in public view” had come up for consideration before this Court in the judgment reported as *Swaran Singh v. State* [*Swaran Singh v. State*, (2008) 8 SCC 435 : (2008) 3 SCC (Cri) 527]. The Court had drawn distinction between the expression “public place” and “in any place within public view”. It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view (*sic*) [**Ed.** : This sentence appears to be contrary to what is stated below in the extract from *Swaran Singh*, (2008) 8 SCC 435, at p. 736d-e, and in the application of this principle in para 15, below: “Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view.”]. The Court held as under : (SCC pp. 443-44, para 28)

“28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by Appellants 2 and 3 (by calling him a “chamar”) when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, and also



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was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the expression "place within public view" with the expression "public place". A place can be a private place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies."

(emphasis in original)"

11. It could thus be seen that, to be a place 'within public view', the place should be open where the members of the public can witness or hear the utterance made by the accused to the victim. If the alleged offence takes place within the four corners of the wall where members of the public are not present, then it cannot be said that it has taken place at a place within public view."

(Emphasis supplied)

17. The said judgment is followed by the Apex Court in the case of **GUNJAN @ GIRIJA KUMARI v. STATE**² wherein the Apex Court has held as follows:

"....

5.1 Sections 3(1)(r) and 3(1)(s) of the SC/ST Act read as under,

² 2026 SCC Online SC 834



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"3. Punishments for offences atrocities.— 3(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

(a) to (q)

(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;"

5.1.1 The offence under Section 3(1)(r) of the SC/ST Act can be said to have been committed when a person not belonging to Scheduled Caste or Scheduled Tribe intentionally insults or intimidates with an intent to humiliate a person belonging to Scheduled Caste or Scheduled Tribe in any place within public view. Offence under Section 3(1)(s) of the SC/ST Act is made out when any member of the Scheduled Caste or Scheduled Tribe is abused by caste name in any place within public view.

5.2 The ingredients of the offences are that there has to be an intentional insult or intimidation which has to be with an intent to humiliate a member of Scheduled Caste or Scheduled Tribe or that such member of Scheduled Caste or Scheduled Tribe is abused by caste name by a person who does not belong to Scheduled Caste or Scheduled Tribe. The common essential for constituting the offence under both the Sections is that the insult or intimidation under sub-clause (r) or hurling of abuses under sub-clause (s) have taken place "in any place within public view".

5.3 All the appellants are framed for the offence under Section 506 read with Section 34, IPC. Section 506, IPC is about punishment for the offence of criminal intimidation whereas the offence of criminal intimidation is defined in Section 503, IPC. It says that whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of anyone in whom



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that person is interested, and when the same is done with an intent to cause alarm to that person, commits criminal intimidation. Section 34, IPC speaks about the acts done by several persons in furtherance of common intention.

5.4 Before examining the sustainability of the charge framed and the charge-sheet for its details and contents in respect of the aforesaid offences under Sections 3(1)(r) and 3(1)(s) of the SC/ST Act, it would be useful to survey few decisions of this Court which have explained the scope and purport of the phrase “in any place within public view” pinpointing that the said requirement is indispensable to be fulfilled in order that the offence under the SC/ST Act is constituted.

5.5 In *Swaran Singh v. State through Standing Counsel*², the place where the informant was insulted by the appellant by calling him ‘chamar’ was one where he had been standing near the car which was parked at the gate of the premises of his employer. This Court held that such place was “a place within public view”. The argument that the alleged act was not committed in a public place and hence did not come within the purview of the offence under the SC/ST Act was negated by explaining a fine distinction between the expression ‘in any place within public view’ as used in the provision and the expression ‘public place’.

5.5.1 It was stated that the expression ‘a place within public view’ could not be confused with the expression ‘public place’. It was highlighted that a place can be a private place yet can be within public view,

“....It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or



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friends) then also it would be an offence since it is in the public view....”

(Para 28)

5.6 *Swaran Singh* (supra) came to be relied on by this Court in *Hitesh Verma v. State of Uttarakhand*⁸ in respect of the concept of ‘place within public view’ as an ingredient of the offence. The very observations in *Swaran Singh* (supra) were reiterated in paragraph 14 in *Hitesh Verma* (supra) when the Court noticed the allegations in the FIR about abusing the informant. **It was stated in the FIR that the incident of abuse happened within the four walls of the building of the informant, and it was not the case of the informant that any member of the public was present at the time of the incident in the house. The Court, therefore, ruled that the basic requirement that the abusive words were uttered in ‘a place within public view’ was not made out.** It was further noticed that witnesses whose names were appended to the chargesheet were not the persons present within the four walls of the building.

5.7 In a more recent decision in *Karuppudayar v. State represented by the Deputy Superintendent of Police, Lalgudi Trichy*⁹, this Court considered its own decisions in *Swaran Singh* (supra) as well as *Hitesh Verma* (supra), and elucidated an ironed-out proposition of law as under,

“It could thus be seen that, to be a place ‘within public view’, the place should be open where the members of the public can witness or hear the utterance made by the accused to the victim. If the alleged offence takes place within the four corners of the wall where members of the public are not present, then it cannot be said that it has taken place at a place within public view.”

(Para 11)

5.7.1 The Court observed that even by taking the allegations in the FIR at their face value, what was alleged was that when the complainant was in



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the office, the accused came there, made inquiries from the complainant and upon not being satisfied, started abusing the complainant in the name of his caste and insulted him. Thereafter, three colleagues of the complainant came later to pacify the accused and took him away. The Court thus noticed that the incident had taken place within the four corners of the chambers of the complainant, which was not "a place within public view".

5.8 A decision of the Karnataka High Court in *Sri Rithesh Pais v. State of Karnataka, by Puttur Town P.S.*¹⁰ may also be noticed to be relevant, in which the offence was held to be not made out as the chargesheet material showed that the hurling of the abuses had happened in the basement and within the walls of the basement, holding that the basement of the building was not "a place within public view".

5.9 A conclusive statement of law that emanates from the *ratio* of the decisions of this Court discussed above is that in order to make out the offence under Section 3(1)(r) and/or Section 3(1)(s) of the SC/ST Act, the occurrence of the incident and the act and conduct of hurling of caste-based abuses must take place at "a place within public view". It must be a place within the public gaze. Even happens to be a private place, then in such eventuality a public-eye must have an access to be able to notice what happens there or what is taking place that will only make the "place within public view".

6. Having appreciated the aspect that the requirement that the occurrence of the incident of insult or abuse, towards the member of the Scheduled Caste or Scheduled Tribe has to be in "a place within public view", making the same a necessary condition for constituting the offence under the SC/ST Act, the facts in the present case may be attentively noticed.

6.1 In the FIR, while referring to the incident of abuse, on 28.01.2021, the statements were made by respondent No. 2-complainant that the appellants were in the habit of harassing and hurling caste-based slurs at him for over a year and that they used



to do it when some other persons or friends come to meet him, by using the abusive words from their balcony or at the ground floor of the house.

6.2 These allegations about the alleged continuous conduct did not speak of any specific instance or happening on a particular day and they are too irrelevant to contribute to make out an offence under Section 3(1)(r) or Section 3(1)(s) of the SC/ST Act. It was next stated that because of such behaviour of the appellants, respondent No. 1-complainant had to send his son in a separate house. Such general accusations lead nowhere when it comes to allegation about the commission of offence.

6.3 As per the averments in the FIR, on the relevant date that is on 28.01.2021, the altercation occurred at the time when the appellants were trying to break open the house of respondent No. 2-complainant. According to respondent No. 2-complainant, appellant No. 1 hurled casteist slur in an abusive way to insult him and his wife. All the appellants-accused, it was further alleged, intimidated respondent No. 2-complainant and also threatened to implicate him in molestation charge.

6.4 It was noticeable that in the complaint/FIR, nowhere it was stated that the said incident wherein appellant No. 1 and other appellants are stated to have abused and threatened respondent No. 1-complainant, took place where there was a public gaze. The necessary ingredient of occurrence of the incident "in a place within public view" was conspicuously absent.

6.5 Not only that it was not stated that it was "a place within public view" or that the outsiders or the members of the family were present at the time, the details mentioned in the FIR clearly indicated that the place of occurrence of the incident was inside the residential house. Referring to the facts stated and the contents of FIR in this regard, firstly the FIR is silent about the place of occurrence of the alleged incident. Secondly, point No. 5(b) in the FIR mentioned the place of occurrence at the address



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stated as "7/38, Ramesh Nagar, New Delhi", which was admittedly a residential home. Similarly was recorded the address of respondent No. 2-complainant in point No. 6(e) in the FIR to reinforce that it was the place of residential house where the occurrence took place. Thirdly, in the charge-sheet filed before the court, the very residential address "7/38, Ramesh Nagar, Kirti Nagar, Delhi" was mentioned to suggest the place of occurrence.

6.6 Respondent No. 2-complainant named two witnesses, one Love Manchanda and another named Chandra Prakash. Not only that both were the friends of respondent No. 2-complainant, from their statements, nothing could be elicited to show that they witnessed the incident. Love Manchanda stated that "on 28.12.2020, Bhim Sain (complainant) asked me to accompany him to his house where he wanted to take a picture of the locked lock of his house". In his statement, Chandra Prakash stated that "he went to the house at Ramesh Nagar with the complainant Bhim Sain and when he wanted to open the lock of his house, the accused interjected".

6.7 All material facts go to suggest that the alleged incident took place in a private place and within four walls of the house of respondent No. 2-complainant and the appellants, who all are family members. While the allegation in the FIR was, as stated, that respondent No. 2-complainant had been suffering similar kind of incidents since long and for last one year, it was not stated anything specific in respect of those earlier incidents with regard to the incident for which the complaint was filed, it was not indicated that any independent member of public was present to witness the occurrence. Once that is so, to suggest that the house place was not exposed to public eye or public gaze, a residential house in no way becomes "a place within public view".

7. For any criminal proceedings to initiate, the starting point is filing of a complaint and registration of FIR. The complaint/FIR provides the first account of the happening of events and incidents alleged as commission of offence. A reaction and revelation at the first blush is always natural and therefore



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becomes creditworthy. The contents of the complaint giving the initial and primary description could be treated as more reliable, for, at the subsequent stage, there would be a scope and room for improvisation.

8. In *State of Haryana v. Bhajan Lal*¹¹, this Court laid down the acid test that if the contents of the FIR, taken at their face value, do not make out any case against the accused, such an FIR registered with ulterior motive deserves to be quashed. In *Hitesh Verma* (supra), in addition to the ingredient of "a place within public view", the details in the FIR or the charge-sheet failed to disclose the precise contents of abusive language employed by the applicant to attract the offence under the SC/ST Act. In other words, when the essentials to constitute the offence did not come out from and were not satisfied in the contents of the FIR, the offence was held to have not been made out, rendering the FIR liable to be quashed.

8.1 In *Amar Nath Jha v. Nand Kishore Singh*¹², this Court noted that the defect in the FIR was in the nature of non-mentioning of the name of material witness PW-1 which was treated as a basic defect in the hypothesis portrayed by the prosecution. The Court, in that context, observed, "although we accept that the FIR need not be an encyclopaedia of the crime, but absence of certain essential facts which are conspicuously missing in the present FIR, point towards suspicion that the crime itself may have been staged".

8.2 Also in *Ramesh Chandra Vaishya v. State of Uttar Pradesh*¹³, this Court found absence of requisite ingredients of the offence under the SC/ST Act holding that the offence was not committed at "a place within public view". It was observed that even though the appellant in that case might have abused the complainant, but such abuse by itself and without anything more does not warrant subjecting the appellant to face a trial, particularly in view of the clear absence of the ingredients necessary to constitute the offence.



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9. Thus, it is trite principle that the FIR becomes liable in law to be quashed when it, in its bare reading, does not disclose the necessary ingredients to constitute the offence alleged therein. The basic constituents of the offence alleged in the FIR must stem and stand disclosed from the contents of the FIR. In order that the FIR alleging any action is sustainable in law to be a good and acceptable document to proceed criminally against any accused named therein or any person to be made accused on its basis, it must manifest and reveal basic ingredient of the offence(s) alleged therein. For an offence to be made out under Sections 3(1)(r) and 3(1)(s) of the SC/ST Act, as is the question in the instant case, the requirement that the occurrence has to be "in a place within public view" is not satisfied, is missing and absent.

9.1 It could be said that the occurrence of the incident to become an offence under the SC/ST Act must have happened "in a place within public view", is in a way, a principal requirement amongst the other ingredients. The other aspects namely "intentional insult or intimidation" and "an intent to humiliate", gathers a kind of intensity when the insult, intimidation, humiliation or abusive utterances, as the case may be, takes place in "a place within public view", in the presence of members of the public. The requirement that the place must be one "within public view" can be said to be substantiating the other elements of the offence under the SC/ST Act. It is therefore a *sine qua non* for making out the offence under the SC/ST Act."

(Emphasis supplied)

18. If the complaint is tested on the anvil of the law elucidated by the Apex Court, what emerges with unmistakable clarity is that the allegations pertaining to the offences under the Atrocities Act are woven in the most fragile and nebulous



manner against the petitioner. The complaint, even when read as a whole and accepted as true, fails to disclose foundational ingredients that would constitute the offence so alleged. There is not even a whisper of any overt act attributable to the petitioner which could legitimately invite the rigour of penal provisions against him. In such circumstance, permitting investigation to continue its course against the petitioner would amount to abuse of the process of the law and result in miscarriage of justice.

19. Before parting with the matter, this Court considers it both necessary and appropriate to record its deep, disquiet and increasingly disturbing trend that has surfaced in recent times. This Court is encountering plethora of cases, wherein Advocates, who merely represent parties before Courts of law in the discharge of their professional obligations, are themselves being dragged into criminal proceedings and arrayed as accused. The only "fault" attributable to such Advocates, is that they appeared for their clients and



articulated their cause before the concerned judicial forum.

20. Such tendency strikes at the very heart of independence of the bar, by necessary extension the purity of administration of justice itself. Advocates are officers of the Court, they function within the confines of professional duty, acting upon the instructions of their client and presenting their cause within the four corners of law. If every Advocate, merely by a reason of appearing for a litigant is exposed to criminal prosecution and trauma of investigative proceedings, the inevitable consequence would be a chilling and paralyzing effect upon fearless discharge of professional responsibilities. The majesty of legal profession cannot be permitted to be diminished by disgruntled litigants to wield criminal law as a weapon of intimidation against the members of the bar.

21. In the case at hand, the 2nd respondent/complainant, without even a semblance of lawful justification, has chosen to



implicate the petitioner as accused No.4 while setting the criminal law into motion. Such conduct, particularly emanating from a public servant, displays a reckless misuse of authority and abuse of coercive powers vested in the state machinery. The complainant, therefore, deserves to be unequivocally admonished for such irresponsible invocation of criminal process against the petitioner, an Advocate. This Court deems it apposite to observe that any reiteration of such conduct in future, bereft of legal foundation, shall not only invite strict judicial scrutiny, but would also be viewed with utmost seriousness, **for the dignity of legal profession and the sanctity of justice delivery system must remain inviolable.**

22. For the aforesaid reasons, the following:

ORDER

[I] Writ Petition is **allowed**.

[II] Proceedings in Crime No.94/2024 pending before the 41st Addl. Chief Metropolitan Magistrate,



Bangalore City, Bangalore, *qua* the petitioner,
stands quashed.

[III] It is made clear that the observations made during
the course of this order are only for the purpose of
consideration of the case of the petitioner and the
same would not become applicable, bind or
influence the other accused.

Sd/-
(M.NAGAPRASANNA)
JUDGE