



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF NOVEMBER, 2023

BEFORE

THE HON'BLE MR JUSTICE MOHAMMAD NAWAZ

CRIMINAL APPEAL NO. 2039 OF 2023

BETWEEN:

1. MR. CHITTI BABU NAIDU,
S/O VARADARAJULU NAIDU,
AGED ABOUT 56 YEARS,
R/A.NO.154, 3RD CROSS,
GIRINAGAR 1ST PHASE,
BANASHANKARI III STAGE,
BANGALORE - 560 085.
2. MR. V. ANAANDA NAIDU,
(WRONGLY SHOWN AS
ANAND NAIDU IN THE COMPLAINT)
S/O CHENGARALAYA NAIDU,
AGED BAOUT 65 YEARS,
R/A.NO.#119, 8TH CROSS,
SURVEY NO.17, 30TH MAIN,
BANASHANAKARI III STAGE,
BANGALORE - 560 085.

...APPELLANTS

(BY SRI. SIDDHARTH B. MUCHANDI, ADVOCATE)

AND:

1. STATE OF KARNATAKA,
BY GIRINAGAR POLICE STATION,
GIRINAGAR, BANGALORE - 560 085,
BY THE STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BANGALORE - 560 001.





2. MR. SIDDARAJU,
S/O LATE MARIYAPPA @THANGAPPA,
AGED ABOUT 40 YEARS,
R/A.NO.97, 3RD CROSS,
SAPTHAGIRINAGAR, HOSAKEREHALLI,
BSK 3RD STAGE,
BANGALORE - 560 085.

...RESPONDENTS

(BY SRI. B. LAKSHMAN, HCGP FOR R1;
SRI. H.V. RAMACHANDRA, ADVOCATE FOR R2)

THIS CRL.A IS FILED U/S 14(A)(2) OF SC/ST
(PREVENTION OF ATROCITIES) ACT PRAYING TO ALLOW THIS
APPEAL AND SET ASIDE THE ORDER DATED 09.11.2023 IN
CRL.MISC.NO.10483/2023 PASSED BY THE HONBLE CITY CIVIL
AND SESSIONS JUDGE, BENGALURU (ANNEXURE-C) AND
ENLARGE THE APPELLANTS ON BAIL IN CR.NO.502/2023 FOR
THE ALLEGED OFFENCE P/U/S 420,447,506,149 OF IPC AND
SEC.3(1)(f),3(1)(g),3(1)(r) AND 3(1)(s) OF SC/ST (POA) ACT
(ANNEXURE-A) PENDING ON THE FILE OF THE HONBLE CITY
CIVIL AND SESSIONS JUDGE, BENGALURU.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY,
THE COURT DELIVERED THE FOLLOWING:

**JUDGMENT**

Aggrieved by the rejection of the bail petition filed under Section 438 of Cr.P.C by the learned Sessions Judge, the accused are before this Court praying to set aside the said order and to enlarge them on anticipatory bail.

2. Heard the learned counsel for the appellants, the learned HCGP for respondent No.1 and the learned counsel for respondent No.2/de-facto complainant.

3. Crime No.502/2023 of Girinagar Police Station is registered on a complaint lodged by respondent No.2, against the appellants and others, alleging offences punishable under Section 420, 447, 506 read with 149 of IPC, Section 3(1)(f), 3(1)(g), 3(1)(r) and 31(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "SC/ST POA Act").

4. It is alleged that the land bearing Sy.No.7 of Hosakerehalli, Uttarahalli Hobli, Bangalore South Taluk,



Bangalore, measuring 9 acres 20 guntas was purchased by complainant's grandfather by name Sri. Doddasiddaiah through Government auction, vide grant order No.LNDSR(03) 342/1961-62 dated 30.10.1960. Similarly agricultural land measuring 1 acre 18 guntas was granted to Sri. Doddasiddaiah's son Sri. Nijagallappa @ Chikkamariyappa, vide order No.LSDU 03/1979-80 dated 24.09.1980. The complainant and his family members were cultivating the said lands totally measuring 10 acres 38 guntas and they were also grazing cows and sheep and they were in possession of the land including the Kharab land. The complainant belongs to 'Valmiki Naik Community' coming under Scheduled Tribe and therefore, the PTCL law is applicable to them.

5. It is further alleged that on 19.06.2003 and 18.11.2004, out of the total extent of land owned by first informant's family, 2 acres of land was sold to accused No.2 and 1 acre was sold to accused No.1, however, permission was obtained from the Government only with



regard to 2 acres of land and the land purchased by accused No.1 from one Sri.Nagendra Prasad i.e., accused No.3 was without any sale permission. Further allegations are that the appellants along with brokers and BBMP revenue officers have illegally trespassed into the land of the first informant and held threat and other accused persons who have purchased the sites without any revenue process have put up constructions claiming to be the owners of the sites and they have abused the complainant and others with reference to their caste etc.

6. The learned HCGP has contended that the complaint averments *prima facie* disclose commission of offences under the SC/ST Act and therefore the appellants are not entitled for grant of anticipatory bail, in view of the bar under Section 18 of the SC/ST Act. She contends that the investigation is under progress and therefore, in the event of grant of relief to the appellants, they may thwart the investigation and influence the witnesses. She has therefore sought to dismiss the appeal.



7. The learned counsel for respondent No.2 has filed a detailed statement of objections. It is contended that all the properties are basically ancestral properties of the complainant and the lands were being cultivated by the complainant's family and they were in possession of the said properties. It is his contention that transactions have taken place without any sale permission from the Government as per the provisions of law and therefore the transactions are totally illegal. He contends that after the said illegal sale transaction, the appellants have illegally occupied the agricultural land to an extent of 12 acres 38 guntas without there being any phodi or hissa and they have sold the property to other accused persons. He further contended that the appellants are influential persons and they are capable of tampering the prosecution witnesses by their money power and support of rowdy elements. It is contended that the complainant belongs to 'Valmiki Naik Community' which comes under scheduled tribe and the offence committed against the complainant and his family members would attract the provisions of



SC/ST Act and therefore, the appellants are not entitled for anticipatory bail. Hence, sought for dismissal of the appeal.

8. Perused the entire material placed on record. It is the contention of the appellants that original grant of the land bearing Sy.No.7 of Hosakerehalli, Uttarahalli Hobli, Bangalore South Taluk, Bangalore, was made by Official Memorandum dated 23.11.1979 with regard to a total extent measuring 20 acres and sale permission dated 22.09.2004 was issued by the Deputy Commissioner to sell 5 acres of land and the same has attained finality and not being challenged or set aside by any authority or Court. Further, appellant No.2 purchased the land in the said Sy.No.7 to an extent of 2 acres through a registered said deed dated 18.11.2004 and he was put in physical possession of the land. Further, the land measuring 1 acre of Hosakerehalli was sold in favour of accused No.3 through a registered sale deed dated 10.12.1998 and appellant No.1 purchased the said land through a



registered sale deed dated 09.06.2003. Similarly land measuring 1 acre of Hosakerehalli was sold in favour of accused No.3 through a registered sale deed dated 04.01.1999 and appellant No.2 purchased the said land from accused No.3 through registered sale deed 09.06.2003 and thereafter he was put in possession of the said land. It is also contended that other family members have also executed confirmation deeds in favour of the appellants with regard to the said lands and based on the sale deeds, khatas have been mutated and RTC also reflects their names, etc. and these entries are not being challenged or set aside by any Court and therefore, they have attained finality. Subsequent to which, the appellants and others formed a residential layout of sites and procured conversion of the land from agricultural to non-agricultural purpose and the sites so formed were sold to various individuals through registered sale deeds between 2007 and 2011. The purchasers have constructed residential building houses in the sites and residing there since 16 years.



9. It is further contended by the learned counsel for the appellants that neither the informant nor any of his family members have challenged the sale even after a lapse of 20 years, but they are making illegal demands and harassing the appellants and others and with an ulterior motive they have filed a false case against the appellants and purchasers of the sites, who are more than 50 in number.

10. The learned Sessions Judge while dismissing the petition seeking anticipatory bail has come to the conclusion that there is no specific permission from the Deputy Commissioner in respect of certain lands. Therefore, other than 2 acres of land, the order of conversion has no consequence. The said conclusion is too premature. It is not in dispute that the respondent No.2 and others filed a suit in O.S.No.6720/2023, against the appellants herein and others seeking permanent injunction in respect of Sy.No.7 measuring 9 acres 20 guntas and 1 acre 18 guntas. It is also not disputed that



the said suit was withdrawn and one more suit in O.S.No.7138/2023 was filed for the same relief, which is pending. The dispute is civil in nature. A perusal of the complaint averments does not indicate that the offences alleged to have been committed by the appellants are on the ground that the complainant or his family members belong to scheduled caste or scheduled tribe. The judgment relied on by the learned counsel for respondent No.2 as per the memo furnished are therefore, not applicable to the facts of the present case. Further, in the complaint vague and omnibus allegations are made that the accused have abused in filthy language referring to complainant's caste.

11. In ***Hitesh varma v/s State of Uttarakand*** reported in **2020 (4) SCC 710 - para 13** the Apex Court has held as under:

"13. The offence under Section 3(1)(r) of the Act would indicate the ingredient of intentional insult and intimidation with an intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe. All insults or intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of victim belonging to



Scheduled Caste or Scheduled Tribe. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. Thus, an offence under the Act would be made out when a member of the vulnerable section of the Society is subjected to indignities, humiliations and harassment. The assertion of title over the land by either of the parties is not due to either the indignities, humiliations or harassment. Every citizen has a right to avail their remedies in accordance with law. Therefore, if the appellant or his family members have invoked jurisdiction of the civil court, or that respondent No. 2 has invoked the jurisdiction of the civil court, then the parties are availing their remedies in accordance with the procedure established by law. Such action is not for the reason that respondent No. 2 is member of Scheduled Caste."

12. In the complaint an omnibus allegations are made that accused have trespassed into the property by fraudulently acquiring the said property and then threatened the complainant and others and also abused them, referring to their caste etc. The allegations are vague without stating as to which of the accused have abused the complainant and others and as to when they have abused them. In the facts and circumstances, bar under Section 18 of the SC/ST Act will not come in the way of granting the relief sought by the appellants, as there is no prima facie case made out at this stage to



attract the provisions of the SC/ST Act. The impugned order is therefore liable to be set aside.

13. Accordingly, the following:

ORDER

- (1) Appeal is allowed.
- (2) The order dated 09.11.2023 in Crl.Misc.No.10483/2023 passed by the City Civil and Sessions Judge, Bengaluru (CCH-71) is set aside.
- (3) The appellants/accused Nos.1 and 2 in Crime No.502/2023 registered at Girinagar Police Station shall be released in the event of their arrest subject to following conditions:
 - a) Appellants/accused Nos.1 and 2 shall appear before the Investigation Officer within a period of 10 days from the date of receipt of copy of this order and shall execute a bond in a sum of Rs.1,00,000/- (Rupees



One Lakh Only) each with two sureties for the likesum.

- b) They shall furnish proof of their residential address and shall inform the Investigation Officer/Court, if there is any change in the address.
- c) They shall be available for the purpose of investigation as and when required and shall co-operate with the investigation.
- d) They shall not leave the jurisdiction of the trial Court without prior permission till completion of the investigation of the case.
- e) They shall not tamper with the prosecution witnesses either directly or indirectly.
- f) They shall be regular in attending the Court proceedings.

**Sd/-
JUDGE**