

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF JULY, 2023

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.5497 OF 2022

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BETWEEN:

- 1 . SRI RASIK LAL PATEL
S/O LATE K.J. PATEL
AGED ABOUT 53 YEARS.

- 2 . SRI PURUSHOTHAM PATEL
S/O LATE K.J.PATEL
AGED ABOUT 57 YEARS.

**BOTH THE PETITIONERS ARE
RESIDING AT:**

H NO.45/1, J.K.TIMBERS
BANASWADI MAIN ROAD
RAMAMURTHY NAGAR
BENGALURU – 560 016.

**PRESENTLY BOTH PETITIONERS
ARE REISIDING AT:**

NO.180/3
OUTER RING ROAD, J.K.KUNJ
BANASWADI, HORAMAVU
BENGALURU EAST TALUK
BENGALURU – 560 043.

... PETITIONERS

(BY MS.IRFANA NAZEER, ADVOCATE)

AND:

- 1 . THE STATE OF KARNATAKA
RAMAMURTHY NAGAR P.S.,
REPRESENTED BY SPP
HIGH COURT OF KARNATAKA
BENGALURU – 560 001.

- 2 . SRI PURUSHOTHAM
S/O LATE KRISHNAMURTHY
AGED ABOUT 33 YEARS
RESIDING AT H.NO.45
OPP. BUS STOP
B.CHANNASANDRA VILLAGE
K.R.PURAM HOBLI
BENGALURU EAST TALUK – 560 043.

ALSO AT:

KEMPFORT APARTMENT,
NO.121, 1ST FLOOR,
G-04, 4TH CROSS,
BABUSAPALYA, KALYAN NAGAR,
BENGALURU – 560 043.

... RESPONDENTS

(BY SRI MAHESH SHETTY, HCGP FOR R1;
SRI BHARATH PRAKASH G., ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO a) QUASH THE FIR DATED 05.05.2018, COMPLAINT DATED 04.05.2018 AND CHARGE SHEET DATED 03.02.2020, IN CR.NO.219/2018 FOR THE OFFENCE P/U/S 465, 468, 471, 420, 506 R/W 34 OF IPC AND SECTION 3(1)(f)(p)(r)(s), 3(2)(va) OF SC/ST (POA) ACT, 1989 (ANNEXURE - A, B AND C) AND ETC.,

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 08.06.2023, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

The petitioners are before this Court calling in question proceedings in Special Case No.132 of 2020 pending before the LXX Additional City Civil & Sessions Judge and Special Judge, Bangalore arising out of Crime No.219 of 2018 registered for offences punishable under Sections 465, 468, 471, 420, 506 r/w 34 of the IPC and Sections 3(1)(f), (p), (r), (s) and Section 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Act' for short).

2. Facts, in brief, adumbrated are as follows:-

The 2nd respondent is the complainant and the petitioners are accused Nos.2 and 3. The 2nd respondent is the son of one late V.Krishnamurthy. Late V.Krishnamurthy and V.Muniyappa are sons of one A.K. Venkatappa. During the life time of V.Muniyappa and V.Krishnamurthy they had purchased several properties in their joint names. One such property is the subject property. After purchase of several properties, they got the lands converted from agriculture to non-agricultural purposes on 15-07-1970 and later

registered a partition deed on 07-06-1974 entering into partition of properties that they had jointly owned. Several of the properties fell to the share of V.Krishnamurthy, father of the complainant. On 20-07-1988 a sale deed comes to be registered by V.Muniyappa and V.Krishnamurthy as joint vendors of one of the subject properties in favour of the father of the petitioners. Pursuant to the sale deed, the father of the petitioners became the absolute owner and in possession of the property. Certain other sites that were in the name of the father of the complainant and V.Muniyappa had also become a subject matter of sale deeds executed in favour of the father of the petitioners at intermittent intervals. Those sale deeds dated 18-02-1993 and 30-10-2002 were executed by the power of attorney holder of V.Muniyappa and V.Krishnamurthy. The properties purchased by the father of the petitioners measuring 14,100 sq.ft. and the properties that were held by the children of V.Muniyappa and V.Krishnamurthy abut each other.

3. The father of the petitioners, in the property purchased by him as aforesaid, established a timber business in the name and style of J.K.Timber Traders after claiming to have taken all

necessary approvals from the statutory authorities. After the death of the father of the petitioners, the petitioners have inherited all his properties. When things stood thus, the 2nd respondent/complainant claiming interest over the sites in question files a suit in O.S.No.429 of 2015 against one Smt. Saraswathi, the petitioners and others seeking a relief of partition and separate possession in respect of certain sites mentioned in the plaint. Those were the very sites that complainant's father V.Krishnamurthy and his uncle V.Muniyappa sold by executing certain sale deeds in favour of the father of the petitioners. In the said suit an application was filed by the complainant under Order 39 Rules 1 and 2 of the CPC seeking temporary injunction not to alienate or create any charge over the properties. Written statement was filed by the petitioners and the matter is pending consideration before the competent civil Court.

4. On an allegation that the complainant is trying to continuously harass the petitioners by interference with their peaceful possession, the petitioners register an independent suit in O.S.No.442 of 2018 seeking injunction against the complainant. The concerned Court orders temporary injunction injuncting

interference by the complainant with the properties belonging to the petitioners. The complainant did not stop at that. It is then the petitioners file a complaint before the jurisdictional Police on 23-01-2018 for offences punishable under Sections 143, 149, 427, 448 and 506 of the IPC in Crime No.38 of 2018. The Police conduct investigation, file a charge sheet against the complainant on 10.05.2018 and the concerned Court takes cognizance of the offences against the complainant.

5. On coming to know that the Police are filing charge sheet in the said case, the complainant registers the impugned complaint on 05-05-2018 alleging that the petitioners and their father have concocted several documents and are in possession of the properties without the knowledge of the complainant and in the light of the fact that the complainant belongs to Scheduled Caste several offences under the Act are also alleged. The complaint becomes a crime in Crime No.219 of 2018. The Police, after investigation, file a charge sheet against the petitioners for the afore-quoted offences and the matter is then registered as Special Case No.132 of 2020. The learned Sessions Judge takes cognizance

of the offences against the petitioners and issues summons. It is then, the petitioners knock at the doors of this Court in the subject petition. This Court, in terms of its order dated 24-06-2022, grants an interim order of stay of all further proceedings and the same is in operation even as on date.

6. Heard Ms. Irfana Nazeer, learned counsel appearing for the petitioners, Sri Mahesh Shetty, learned High Court Government Pleader appearing for respondent No.1/State and Sri G. Bharath Prakash, learned counsel appearing for respondent No.2.

7. The learned counsel for the petitioners would vehemently contend that all the transactions have happened between the father of the complainant and the father of the petitioners during their life time. The petitioners have been in possession of the subject property for the last about 50 years. The family of the complainant is completely aware of all these factors. The properties of the petitioners and the properties that have fallen to the share of the father of the complainant abut each other. She would contend that the matter which is purely civil in nature is sought to be given a

colour of crime, as the complainant himself is before the civil Court seeking partition of the very properties and the petitioners are before the civil Court seeking injunction against the complainant. On the constant harassment by the complainant, the petitioners were constrained to register a crime against the complainant in which the Police after investigation have filed a charge sheet. When the charge sheet was about to be filed, the impugned complaint comes to be registered racking out issues that are pending before the civil Court which are 50 years old. The learned counsel would contend that if further proceedings are permitted to continue, it would become an abuse of the process of law.

8. On the other hand, the learned counsel appearing for the 2nd respondent would contend that the Police after investigation have filed a charge sheet. The offences alleged are forgery, tampering of records and under the Act. Since Police have filed the charge sheet, further proceedings should be permitted to continue against the petitioners as the petitioners themselves have registered a crime against the complainant. He would also admit

that a civil suit is filed by the complainant and the matter is pending consideration on the very subject property.

9. The learned High Court Government Pleader would toe the lines of the learned counsel appearing for the 2nd respondent contending that since charge sheet is filed by the jurisdictional police, the matter should be permitted to be continued and if the petitioners have a good case, they would be acquitted in the matter. Quashing of proceedings is not warranted at this stage is the submission of the State.

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

11. The afore-narrated facts are not in dispute. The transactions between respective fathers i.e., father of the petitioners and the father of the complainant have gone on since 15-07-1970 which is now 53 years old. The transaction is concerning the subject property which was acquired jointly by one

V.Muniyappa and V.Krishnamurthy. Partition had happened between V.Muniyappa and V.Krishnamurthy and properties that had fallen to the share of V.Krishnamurthy, father of the complainant were sold to the father of the petitioners in three different sale deeds. The first sale deed was executed on 20-07-1988 selling a portion of the property that belonged to V.Krishnamurthy. The sale deed is appended to the petition. The second sale takes place through the General Power of Attorney holder of the father of the complainant on 18-02-1993 and the third sale deed again through the General Power of Attorney holder takes place on 30-10-2002. Therefore, the petitioners become absolute owners of the properties pursuant to aforesaid sale deeds and have been in possession of the properties since then. The possession of the petitioners of the properties is not in dispute and the transactions between the father of the petitioners and the father of the complainant concerning the very subject matter are all a matter of record. Certain disputes arose with regard to drawing up of boundaries after the aforesaid sale deeds and a rectification deed only with regard to boundaries was executed on 25-01-2005. The said rectification deed is also appended to the petition.

12. The petitioners have set up a business in the land belonging to them in the name and style of J.K. Timber Traders which appears to have got into the ire of the complainant. The complainant then files a civil suit in O.S.No.429 of 2015 seeking partition and separate possession in respect of certain sites against one Smt. Saraswathi, the petitioners and several others. The pleadings in the plaint that are relevant read as follows:-

"

10. It is further stated that the defendant-1 by colluding with each other have illegally trying to create third party rights over the schedule property to have an illegal enrichment, without any justification and for no legal necessity. In that regard it is reliably learnt that the defendant-1 by colluding with defendants 2 to 4 and have created documents, have made an open offer to the general public for alienating the schedule property ignoring the rights of the plaintiff and without consenting the plaintiffs. In that regard it is reliably learnt that some third parties are visiting the schedule property day in and day out and some secret negotiations stealthily going on between the defendants. Having learnt the same the plaintiff has questioned the correctness and legal propriety of defendants and for which they failed to give proper explanation and convincing answers and at that juncture the plaintiff demanded defendants to effect partition of the suit schedule property by metes and bounds and to give his legitimate share to the plaintiff in the suit schedule property and the said demand was on 17-12-2014 and for which the defendant-1 refused to effect the partition and denied any share to the plaintiff illegally and unjustifiedly. Any transactions taken place between the defendants are not binding on the share of the plaintiff. Accordingly, in the facts and circumstances stated

above the plaintiff left with no other option except to file the present suit for partition and consequential relief.

10A. The plaintiff submits that, during the life time of father of the plaintiff Krishnamurthy and V.Muniyappa, they have jointly sold site No.1, 2 4 (half portion), 5 and 6 in Sy.No.45/1 in favour of defendant No.2 vide sale deed dated 20-07-1988 registered as Document No.5177/1988-89.

10B. The plaintiff submits that, during the life time of father of the plaintiff Krishnamurthy the said Krishnamurthy has illegally obtained GPA from his brother V.Muniyappa and illegally sold the site No.3, katha No.490; in Sy.No. 45/1, measuring 40x41 feet vide sale deed dated 18-02-1993, registered as Document No.8058/1993-93 in favour of 2nd defendant.

10C. The plaintiff submits that, during the life time of father of the plaintiff Krishnamurthy and V.Muniyappa, they have jointly sold Site No.4 (half portion), and site No.7 in Sy.No.45/1 in favour of defendant No.3 vide sale deed dated 30-10-2022, registered as Document No.11292 /2002-03 in the office of the Sub-Registrar, Krishnarajapura, Bangalore and Rectification deed dated 25-01-2005, registered as Document No.KRI-I-28836/2004-05, Book-1, CD No.KRID107 in the office of the Sub-Registrar, K.R.Pura, Bangalore.

10D. All the above said transactions are not within the knowledge of the plaintiff and the plaintiff is not party to the alleged transactions and schedule properties is ancestral properties wherein the plaintiff share is yet to be determined. Hence, the alleged transactions are not binding on the share of the plaintiff. The plaintiff has incorporated the ancestral properties in the schedule which were sold by his father, after the birth of the plaintiff.

11. The cause of action has arisen as and when the third parties started visiting the schedule property on the guise of entering into alleged dealing with the defendants and on 17-12-2014 when the plaintiff demanded for partition and refusal of the defendants to effect partition and on subsequent dates within the territorial limits of this Hon'ble Court."

The complainant admits that the subject properties were jointly acquired by V.Muniyappa and his father and they were sold to the father of the petitioners on different dates by three sale deeds as mentioned hereinabove, but seeks to contend that he is not aware of execution of sale deeds as he is not a party to them. The said suit is pending consideration before the concerned Court. Notwithstanding the aforesaid facts, it appears that the complainant did not stop interference with the possession of the petitioners. Therefore, the petitioners register a suit for injunction in O.S.No.442 of 2018 and the concerned Court by a detailed order restrained the complainant from interfering with the peaceful possession of the petitioners. The order reads as follows:

"This is a suit filed by the plaintiffs for decree of permanent injunction against defendant and other reliefs along with I.A.No.I U/O 39 R.1 and 2 of CPC praying to restrain the defendant from interfering with the plaintiffs peaceful possession and enjoyment of the suit schedule property till disposal of the suit.

Perused the contents of I.A.No.I, plaint averments and the documents. It is contended in the plaint that the plaintiffs are owners of suit schedule property and they have purchased the same under different registered sale deeds as detailed in the plaint. Pursuant to purchase, the plaintiffs are in peaceful possession and enjoyment of the same and the katha and other revenue documents are standing in the name of plaintiffs.

It is alleged that the defendant without having any right, title or possession over the suit schedule property, is trying to interfere into peaceful possession and enjoyment of the suit schedule property by the plaintiff. Hence, the suit. Copies of documents produced along with the plaint goes to show that the suit schedule property is standing in the name of plaintiffs and the photographs produced goes to show that the plaintiffs are running saw mill in the suit schedule property. Hence, there is emergent situation and the purpose of the suit will be defeated by delay. As such, in order to avoid multiplicity of proceedings, I proceed to pass the following:

ORDER

Issue Ex-parte T.I. against the defendant restraining him from interfering with the plaintiffs peaceful possession and enjoyment of the suit schedule property in any manner till next date of hearing.

Plaintiffs to comply order 39 Rule 3 of CPC.

Issue T.I. order and summons to defendant after compliance of O.39 R 3 of CPC.

Call on by 9-04-2018.”

(Emphasis added)

In the teeth of the aforesaid facts a complaint comes to be registered by the petitioners. The reason for registration of the complaint is constant harassment and house trespass by the complainant. The complaint comes to be registered on 23-01-2018, which becomes a crime in Crime No.38 of 2018 for offences punishable under Sections 427, 506, 149, 448 and 143 IPC. The Police, after investigation, file a charge sheet against the

complainant on 10-05-2018 for offences punishable under Sections 427, 448 and 506 IPC. The moment the charge sheet was filed against the complainant, the impugned complaint springs on 05-05-2018 alleging several offences under the Act and the IPC. It is necessary to notice the offences so alleged in the FIR.

13. The offences alleged in the FIR are an amalgam of all the provisions of the Act and Sections 465, 471, 420 and 468 of the IPC. The crime is registered on the basis of a complaint so made which by itself depicts an abuse of the process of law. The relevant portion of the complaint is quoted herein for the purpose of quick reference:

"....

ನಮ್ಮ ತಂದೆಯವರು ಬದುಕಿದ್ದಾಗ ನಮ್ಮ ಗಮನಕ್ಕೆ ತಾರದೆ ಮೇಲ್ಕಂಡ ಬಾಣಸವಾಡಿ ಸರ್ವೆ ನಂ 45/1 ರಲ್ಲಿನ 28. 1/2 ಗುಂಟೆ ಜಮೀನಿನ ಪೈಕಿ ಸ್ವಲ್ಪ ಭಾಗದಲ್ಲಿ ಕೆ.ಜೆ ಪಟೇಲ್, ರಸಿಕ್ ಲಾಲ್ ಪಟೇಲ್, ಪುರುಶೋತ್ತಮ್ ಪಟೇಲ್ ಎಂಬುವವರಿಗೆ ಟೆಂಬರ್ ವ್ಯಾಪಾರ ಮಾಡಲು ಸ್ಥಳವನ್ನು ಬಾಡಿಗೆಗೆ ಕೊಟ್ಟಿದ್ದರು. ಅವರ ಮರಣಾನಂತರ ಈ ವಿಚಾರ ನಮಗೆ ತಿಳಿದು ಬಂದು ಈ ಬಗ್ಗೆ ವಿಚಾರ ಮಾಡಲು ನಾನು ಕೆ.ಜೆ ಪಟೇಲ್ ರವರನ್ನು ವಿಚಾರ ಮಾಡಿದಾಗ ನಿಮ್ಮ ತಂದೆಯವರು ಜಮೀನನ್ನು ತಮ್ಮ ಹೆಸರಿಗೆ ಕ್ರಯಮಾಡಿಕೊಟ್ಟಿದ್ದಾರೆಂದು, ನಿಮಗೆ ಸೇರಬೇಕಾದ್ದು ಇಲ್ಲಿ ಏನೂ ಇರುವುದಿಲ್ಲವೆಂದು ಹೇಳಿದರು, ಈ ಬಗ್ಗೆ ಅವರ ಬಳಿ ದಾಖಲಾತಿ ಕೇಳಿದಾಗ ಅವರು ಯಾವುದೇ ದಾಖಲಾತಿಗಳನ್ನು ನೀಡಲಿಲ್ಲ.

ಈ ಬಗ್ಗೆ ನಾನು ಸಂಬಂಧಪಟ್ಟ ಕಛೇರಿಗಳಿಂದ ಮೇಲ್ಕಂಡ ನಮ್ಮ ತಂದೆಯವರಿಗೆ ಸೇರಿದ ಜಮೀನಿನ ದಾಖಲಾತಿಗಳನ್ನು ಸಂಗ್ರಹಿಸಿಕೊಂಡು ನೋಡಲಾಗಿ ಸದರಿ ಕೆ.ಜೆ.ಪಟೇಲ್ ರವರು ತಮಗೆ ಕೃಷ್ಣಮೂರ್ತಿ ರವರು ಜಿ.ಪಿ.ಎ ಮಾಡಿಕೊಟ್ಟಿರುವುದಾಗಿ ಹೇಳಿಕೊಂಡು ಅವರ ತಮ್ಮಂದಿರಾದ ರಸಿಕ್‌ಲಾಲ್ ಪಟೇಲ್, ಪುರುಶೋತ್ತಮ್ ಪಟೇಲ್ ರವರ ಹೆಸರುಗಳಿಗೆ ಸೇಲ್‌ಡೀಡ್ ಮತ್ತು ಅಬಾಲಿಷನ್ ಡೀಡ್‌ಗಳನ್ನು ಅವರೇ ಸೃಷ್ಟಿಸಿಕೊಂಡಿರುವ ನಕಲಿ ಜಿ.ಪಿ.ಎ ಇದರ ಆಧಾರದ ಮೇಲೆ ಮಾಡಿಕೊಂಡಿರುತ್ತಾರೆ. ಇದರಿಂದ ನಾನು ಸದರಿ ಕೆ.ಜೆ.ಪಟೇಲ್, ರಸಿಕ್‌ಲಾಲ್ ಪಟೇಲ್ ಮತ್ತು

ಪುರುಷೋತ್ತಮ್ ಪಟೇಲ್ ರವರುಗಳ ವಿರುದ್ಧ ನಗರದ ಸಿಟಿ ಸಿವಿಲ್ ಕೋರ್ಟ್ ನಂ 38 ರಲ್ಲಿ 2015 ರಲ್ಲಿ ಸಿವಿಲ್ ದಾವೆ ಹೂಡಿದ್ದು ಪ್ರಕರಣವು ವಿಚಾರಣೆಯಲ್ಲಿರುತ್ತದೆ. ಸದರಿಯವರುಗಳು ನ್ಯಾಯಾಲಯಕ್ಕೆ ಮೂಲ ದಾಖಲೆಯಾದ ಜಿ.ಪಿ.ಎ ಯನ್ನು ಹಾಜರುಪಡಿಸಿರುವುದಿಲ್ಲ.

ಇದರ ಜೊತೆಗೆ ಸದರಿಯವರುಗಳು ಮೇಲ್ಕಂಡ ನಮ್ಮ ಪಿತ್ರಾರ್ಜಿತ ಸ್ವತ್ತಿಗೆ ನಕಲಿ ಖಾತೆಯನ್ನು ಸೃಷ್ಟಿಸಿಕೊಂಡು ಅಕ್ರಮವಾಗಿ ವಿದ್ಯುತ್ ಸಂಪರ್ಕವನ್ನೂ ಸಹಾ ಪಡೆದುಕೊಂಡು ಸದರಿ ಸ್ಥಳದಲ್ಲಿ ಜೆ.ಕೆ ಟೆಂಬರ್ ಎಂಬ ಅಂಗಡಿಯನ್ನು ನಡೆಸುತ್ತಿರುತ್ತಾರೆ. ಈ ಬಗ್ಗೆ ನಾನು ವಿದ್ಯುತ್ ಸಂಪರ್ಕ ಕಡಿತಗೊಳಿಸಲು ಸಂಬಂಧಪಟ್ಟ ಅಧಿಕಾರಿಗಳಿಗೆ ಕೋರಿಕೆಗಳನ್ನು ನೀಡಿರುತ್ತೇನೆ.

ಇದಾದ ನಂತರ ನಾನು ನಮ್ಮ ತಂದೆಯವರ ಹೆಸರಿನಿಂದ ನನ್ನ ಹೆಸರಿಗೆ ಕಂದಾಯ ದಾಖಲಾತಿಗಳನ್ನು ಅಂದರೆ ಫವತಿ ಖಾತೆ ಮಾಡಿಸಿಕೊಂಡು, ಜಮೀನಿಗೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ಕಂದಾಯ ಪಾವತಿ ಮಾಡಿಕೊಂಡು ಬರುತ್ತಿರುತ್ತೇನೆ. ಈ ಬಗ್ಗೆ ಆರ್.ಟಿ.ಸಿ ಸಹ ನನ್ನ ಹೆಸರಿನಲ್ಲಿ ಇರುತ್ತದೆ. ಸದರಿ ಕೆ.ಜೆ ಪಟೇಲ್, ರಸಿಕ್ ಲಾಲ್ ಪಟೇಲ್ ಹಾಗೂ ಪುರುಷೋತ್ತಮ್ ಪಟೇಲ್ ರವರುಗಳಿಂದ ನನಗೆ ಜಮೀನನ್ನು ಬಿಡಿಸಿಕೊಡುವಂತೆ ನಾನು ರಾಮಮೂರ್ತಿನಗರ ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ದೂರು ನೀಡಿದ್ದು ಎನ್.ಸಿ.ಆರ್ ನಂ 1513/2017 ಆಗಿರುತ್ತದೆ. ಇದರಿಂದ ಯಾವುದೇ ಪ್ರಯೋಜನವಾಗದೇ ಇದ್ದಾಗ ಮಾನ್ಯ ಪೊಲೀಸ್ ಕಮಿಷನರ್ ರವರಿಗೆ ದಿನಾಂಕ:20-01-2018 ರಂದು ದೂರು ಅರ್ಜಿ ನೀಡಿರುತ್ತೇನೆ. ಆದರೂ ಯಾವುದೇ ಪ್ರಯೋಜನವಾಗಿರುವುದಿಲ್ಲ.

ಮಧ್ಯೆ ಕೆ.ಜೆ ಪಟೇಲ್, ರಸಿಕ್ ಲಾಲ್ ಪಟೇಲ್ ಮತ್ತು ಪುರುಷೋತ್ತಮ್ ಪಟೇಲ್ ರವರು ಜಮೀನು ಕೈ ತಪ್ಪುವ ಬೀತಿಯಿಂದ ನನ್ನನ್ನು ದಿನಾಂಕ:11-01-2018 ರಂದು ಮತ್ತು ದಿನಾಂಕ:23-01-2018 ಜಮೀನಿನ ವ್ಯವಹಾರವನ್ನು ಮಾತನಾಡಿ ಸೆಟಲ್‌ಮೆಂಟ್ ಮಾಡಿಕೊಳ್ಳೋಣವೆಂದು ಅವರು ನಡೆಸುತ್ತಿರುವ ಜೆ.ಕೆ ಟೆಂಬರ್‌ನ ಬಳಿಗೆ ಕರೆಸಿಕೊಂಡರು, ನಾನು ಅಲ್ಲಿಗೆ ಹೋದಾದ ಅಲ್ಲಿದ್ದ ಕೆ.ಜೆ ಪಟೇಲ್, ರಸಿಕ್ ಲಾಲ್ ಪಟೇಲ್ ಮತ್ತು ಪುರುಷೋತ್ತಮ್ ಪಟೇಲ್ ರವರುಗಳು ನನ್ನನ್ನು ಕುರಿತು, “ಏನೋ ಹೊಲೆ ಮಾದಿಗ ನನ್ನ ಮಗನೇ, ನಿನಗೆ ಇಷ್ಟು ತಿಕ ಕೊಬ್ಬಿದೆಯಾ? ಕಮ್ಮಿಜಾತಿ ಲೋಗ್ ನೀನು, ನಾವು ಹೇಳಿದಷ್ಟಕ್ಕೆ ಸೆಟಲ್‌ಮೆಂಟ್ ಮಾಡಿಕೋ ಇಲ್ಲದಿದ್ದರೆ ನಮಗಿರುವ ಇನ್‌ಫ್ಲೂಯೆನ್ಸ್ ಬಳಸಿ ನಿನ್ನನ್ನುಯ ಎತ್ತಿಬಿಡುತ್ತೇವಿ, ಹೇಳಿದಷ್ಟು ಕೇಳಿಕೊಂಡು ಇರು, ಕಮ್ಮಿಜಾತಿಯವರು ನಮಗೆ ತೊಂದರೆ ಕೊಟ್ಟರೆ ನಾವು ಸುಮ್ಮನಿರುತ್ತೇವಾ ಎಂಬ್ಯಾತಿಯಾಗಿ ನನ್ನ ಜಾತಿಯ ಹೆಸರಿಡು ಬೈದು ಸಾರ್ವಜನಿಕವಾಗಿ ನಿಂದಿಸಿ ಅವಮಾನಿಸಿದರು, ನಾನು ಅವರಿಗೆ ಸೆಟಲ್‌ಮೆಂಟ್‌ಗೆ ಅಂತ ಕರೆಸಿ ಈ ರೀತಿ ಮಾತನಾಡುವುದು ಸರಿಯಲ್ಲವೆಂದು ಹೇಳಿದರೂ ಕೇಳದೆ, ಅವರು ಮಾತನಾಡುವ ಬಾಷೆಯಲ್ಲಿ ಕಮ್‌ಜಾತ್ ಲೋಗ್ ಇತ್ಯಾದಿಯಾಗಿ ಬೈಯುತ್ತಿದ್ದರು. ನಾನು ಬೇರೆ ದಾರಿ ಕಾಣದೆ ಅಲ್ಲಿಂದ ಹೊರಟು ಹೋದೆ. ಆದರೆ ದಿನಾಂಕ:23-01-2018ರಂದು ಸದರಿಯವರುಗಳು ರಾಮಮೂರ್ತಿನಗರ ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ನಾನು ಅವರ ಟೆಂಬರ್ ಅಂಗಡಿಗೆ ಅಕ್ರಮಕೂಟ ಕಟ್ಟಿಕೊಂಡು ಅತಿಕ್ರಮ ಪ್ರವೇಶ ಮಾಡಿ ನಷ್ಟವುಂಟು ಮಾಡಿ ಬೆದರಿಕೆ ಹಾಕಿರುತ್ತೇನೆಂದು ಸುಳ್ಳು ದೂರನ್ನು ನನ್ನ ವಿರುದ್ಧ ದಾಖಲಿಸುವ ಮೂಲಕ ಕಿರುಕುಳ ನೀಡಿದ್ದು, ನಾನು ಈ ಕೇಸಿನಲ್ಲಿ ಜಮೀನು ಪಡೆದುಕೊಂಡಿರುತ್ತೇನೆ. ಅಲ್ಲದೆ ಮೇಲ್ಕಂಡವರು ದಿನಾಂಕ:17-01-2018ರಂದು ಸಿವಿಲ್ ಕೋರ್ಟ್‌ನಲ್ಲಿ ನನ್ನ ವಿರುದ್ಧ ಓ.ಎಸ್ ನಂ 442/18 ರಲ್ಲಿ ದಾವೆ ಹೂಡಿ ನಾನು ಮನೆಯಲ್ಲಿಯೇ ವಾಸವಾಗಿದ್ದರೂ ಸಹಾ ನನಗೆ ಯಾವುದೇ ನೋಟೀಸ್ ಬಾರದಂತೆ ಮಾಡಿ ಎಕ್ಸ್‌ಪಾರ್ಟ್ ಟೆಂಪ್ಲೆಟ್ ಇಂಜಿಂಕ್ಸ್ ಆರ್ಡರ್ ತೆಗೆದುಕೊಂಡು ನನ್ನನ್ನು ವಿನಾಕಾರಣ ಕಛೇರಿಗಳು / ನ್ಯಾಯಾಲಯಗಳಿಗೆ ಅಲೆದಾಡುವಂತೆ ಕಿರುಕುಳಕರವಾದ ದಾವೆಗಳನ್ನು ಹೂಡುತ್ತಿರುತ್ತಾರೆ.

ಆದುದರಿಂದ ಪರಿಶಿಷ್ಟ ಜಾತಿ ಆದಿ ಕರ್ನಾಟಕ ಜಾತಿಗೆ ಸೇರಿದವನಾದ ನನಗೆ ಪಿತ್ರಾರ್ಜಿತವಾಗಿ ಬಂದಿರುವ ಮೇಲ್ಕಂಡ ಆಸ್ತಿಯನ್ನು ಅತಿಕ್ರಮಿಸಿಕೊಂಡು ಸದರಿ ಜಮೀನಿಗೆ ನಕಲಿ ದಾಖಲಾತಿಗಳನ್ನು ಸೃಷ್ಟಿಸಿಕೊಂಡು, ಸುಳ್ಳು ಸ್ವಪ್ನನೆಗಳನ್ನು ನೀಡುತ್ತಾ, ಜಮೀನನ್ನು ಬಿಡಿಸಿಕೊಳ್ಳುವ ಬಗ್ಗೆ ಕೇಳಲು ಹೋದ ನನಗೆ ಜಾತಿಯ ಹೆಸರಿಡಿದು ಬೈದು ಸಾರ್ವಜನಿಕವಾಗಿ ಅವಮಾನ ಮಾಡಿ, ನನ್ನ ವಿರುದ್ಧ ಸುಳ್ಳು

ಕಿರುಕುಳಕರ ದಾವೆಗಳನ್ನು ಹೂಡುತ್ತಿರುವ ಕೆ.ಜಿ.ಪಟೇಲ್, ರಸಿಕಾಲಾಲ್ ಪಟೇಲ್ ಮತ್ತು ಪುರುಷೋತ್ತಮ್ ಪಟೇಲ್ ರವರುಗಳ ವಿರುದ್ಧ ಪರಿಶಿಷ್ಟ ಜಾತಿಗಳ ಮತ್ತು ಪರಿಶಿಷ್ಟ ಬುಡಕಟ್ಟುಗಳ (ದೌರ್ಜನ್ಯ ಪ್ರತಿಬಂಧ) ಅಧಿನಿಯಮ-1989 ಮತ್ತು ತಿದ್ದುಪಡಿ ಅಧಿನಿಯಮ 2016ರ ಅನ್ವಯ ಪ್ರಕರಣ ದಾಖಲಿಸಿಕೊಂಡು ತನಿಖೆ ನಡೆಸಿ ಸದರಿಯವರುಗಳ ವಿರುದ್ಧ ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳಬೇಕೆಂದು ತಮ್ಮಲ್ಲಿ ಕೋರುತ್ತೇನೆ.”

(Emphasis added)

The complainant himself narrates that his father has sold subject properties in favour of the father of petitioners and he is not aware of the fact of such sale. The documents of sale are all forged and because he belongs to Scheduled Caste the petitioners have taken away the properties belonging to a member of Scheduled Caste and therefore, it amounts to offence under the Act. The abuse of the process of law is writ large in every sentence in the complaint as whatever is pleaded in the original suit filed by him are made sentences in the complaint. It also states that the petitioners have filed a suit for permanent injunction against the complainant and, therefore, he is aggrieved. Not stopping at that, after investigation the Police file a charge sheet against the petitioners on 03-02-2020 for offences punishable under Sections 465, 468, 471, 420, 506 r/w 34 of the IPC and Sections 3(1)(f), (p), (r), (s) and 3(2), (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of

Atrocities) Act, 1989. The summary of the charge sheet as found in Column No.7 reads as follows:

"ಕಲಂ 465-468-471-420-506 ಸಹಿತ 34 ಐ.ಪಿ.ಸಿ ಮತ್ತು ಕಲಂ 3(1)(ಎಫ್), (ಬಿ), (ಆರ್), (ಎಸ್), 3(2)(Vಎ) ಎಸ್ಸಿ/ಎಸ್ಸಿ (ಪಿಟಿಎ) ಆಕ್ಟ್ - 1989."

"ರಾಮಮೂರ್ತಿನಗರ ಪೊಲೀಸ್ ಠಾಣಾ ಸರಹದ್ದಿಗೆ ಸೇರಿದ ರಾಮಮೂರ್ತಿನಗರ ಮುಖ್ಯರಸ್ತೆಯಲ್ಲಿರುವ ಸರ್ವೆ ನಂ 45/1 ರಲ್ಲಿ 1 ಎಕರೆ 17 ಗುಂಟೆ ಜಮೀನು ಅಂದಿನ ವಿಶೇಷ ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು, ಅಬಾಲಿಷನ್ ಆಫ್ ಅನಾಮ್ಸ್ ಬೆಂಗಳೂರು ಕೋಲಾರ ಜಿಲ್ಲೆ ರವರ ಇನಾಂ ರದ್ದಿ ಆದೇಶ ಕೇಸ್ ನಂ 19 ದಿನಾಂಕ:03-05-1958ರ ಆದೇಶದಂತೆ ಪರಿಶಿಷ್ಟ ಜಾತಿಯ ಆದಿ ಕರ್ನಾಟಕ ಜಾತಿಗೆ ಸೇರಿದ ಸಾಕ್ಷಿ-1 ರವರ ತಾತನವರಾದ ಲೇಟ್ ಎ.ಕೆ.ವೆಂಕಟಪ್ಪ ಎಂಬುವವರಿಗೆ ಮಂಜೂರಾಗಿದ್ದು, ಸದರಿಯವರ ಮರಣಾನಂತರ ಅವರ ಮಕ್ಕಳಾದ ಸಾಕ್ಷಿ-6 ಶ್ರೀವಿ.ಮುನಿಯಪ್ಪ ಮತ್ತು ಅವರ ತಮ್ಮನಾದ ಲೇಟ್ ಕೃಷ್ಣಮೂರ್ತಿ ರವರಿಗೆ ತಲಾ 28.1/2 ಗುಂಟೆ ಜಮೀನು ದಸ್ತಾವೇಜು ಸಂಖ್ಯೆ 2328/74-75ರ ವಿಭಾಗ ಪತ್ರದ ಮೂಲಕ ಬಂದಿರುತ್ತದೆ. ಸಾಕ್ಷಿ-1 ರವರ ತಂದೆ ಲೇಟ್ ಕೃಷ್ಣಮೂರ್ತಿ ರವರು ಅವರಿಗೆ ಬಂದಿದ್ದ 28.1/2 ಗುಂಟೆ ಜಮೀನಲ್ಲಿ ಅವರು ಬದುಕಿದ್ದಾಗಲೇ ಸ್ವಲ್ಪ ಸ್ಥಳವನ್ನು ಸರ್ವೇಯ ಗುಜರಾತಿ ಫೋಕಾರ್ ಜಾತಿಗೆ ಸೇರಿದ ಎ-1, ಎ-2, ಎ-3 ಆರೋಪಿಗಳಿಗೆ ಟೆಂಬರ್ ವ್ಯಾಪಾರ ಮಾಡಲು ಬಾಡಿಗೆಗೆ ಕೊಟ್ಟಿದ್ದ ಮೇಲ್ಕಂಡ ಸ್ವತ್ತಿನ ಜಾಗವನ್ನು ಆರೋಪಿಗಳು ಮೋಸದಿಂದ ಸಾಕ್ಷಿ-1 ರವರ ದೊಡ್ಡಪ್ಪ ಅಂದರೆ ಸಾಕ್ಷಿ-6 ರವರು ತನ್ನ ತಮ್ಮ ಲೇಟ್ ಕೃಷ್ಣಮೂರ್ತಿ ರವರಿಗೆ ಸೇರಿದ ಸ್ವತ್ತನ್ನು ಜಿಪಿಎ ಮೂಲಕ ತಮಗೆ ಮಾರಾಟ ಮಾಡಿರುವಂತೆ, ಭೂ ಪರಿವರ್ತನೆಯಾದಂತೆ ಸುಳ್ಳು ಸ್ಪಷ್ಟನೆಗಳನ್ನು ನೀಡಿ ನಕಲಿ ದಾಖಲಾತಿಗಳನ್ನು ಸೃಷ್ಟಿಸಿಕೊಂಡು, ಅವುಗಳನ್ನೇ ಸಾಚಾ ದಾಖಲಾತಿಗಳಂತೆ ಬಿಂಬಿಸಿ ಸುಳ್ಳು ದಸ್ತಾವೇಜುಗಳನ್ನು ಸೃಷ್ಟಿಸಿಕೊಂಡು ಪರಿಶಿಷ್ಟ ಜಾತಿಯ ಆದಿ ಕರ್ನಾಟಕ ಜಾತಿಗೆ ಸೇರಿದ ಸಾಕ್ಷಿ-1 ರವರಿಗೆ ಪಿತ್ರಾರ್ಪಿತವಾಗಿ ಸೇರಬೇಕಾದ ಇನಾಂ ರದ್ದಿ ಆದೇಶದ ಮೂಲಕ ಮಂಜೂರಾಗಿರುವ ಜಮೀನನ್ನು ಅತಿಕ್ರಮಿಸಿಕೊಂಡು ಸ್ವಾಧೀನ ತಪ್ಪಿಸಿದ್ದು, ವಿಷಯ ತಿಳಿದ ಸಾಕ್ಷಿ-1 ರವರು ಓ.ಎಸ್ ನಂ 429/2015 ರಲ್ಲಿ ಆರೋಪಿಗಳ ವಿರುದ್ಧ ಸಿವಿಲ್ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ದಾವೆ ಹೂಡಿದ್ದು ಜಮೀನು ಕೈ ತಪ್ಪುವ ಭೀತಿಯಿಂದ ಆರೋಪಿಗಳು ಸಾಕ್ಷಿ-1 ರವರನ್ನು ಜಮೀನಿನ ವ್ಯವಹಾರವನ್ನು ಮಾತನಾಡಿ ಸೆಟಲ್‌ಮೆಂಟ್ ಮಾಡಿಕೊಳ್ಳೋಣವೆಂದು ದಿನಾಂಕ:11-01-2018 ರಂದು ಬೆಳಿಗ್ಗೆ 10-00 ಗಂಟೆಗೆ ಮತ್ತು ದಿನಾಂಕ:23-01-2018 ರಂದು 10-30 ಗಂಟೆಯಿಂದ 12-00 ಗಂಟೆಯ ನಡುವೆ ಆರೋಪಿಗಳು ವಿವಾದಿತ ಸ್ವತ್ತಿನಲ್ಲಿ ನಡೆಸುತ್ತಿರುವ ಜೆ.ಕೆ.ಟೆಂಬರ್‌ನ ಬಳಿಗೆ ಕರೆಸಿಕೊಂಡು ಸಾಕ್ಷಿ-1 ರವರಿಗೆ ಎ-1, ಎ-2, ಎ-3 ಆರೋಪಿಗಳು "ಏನೋ ಹೊಲೆ ಮಾದಿಗ ನನ್ನ ಮಗನೇ, ನಿನಗೆ ಇಷ್ಟು ತಿಕ ಕೊಬ್ಬಿದೆಯಾ? ಕಮ್ಮಿಜಾತಿ ಲೋಗ್ ನೀನು, ನಾವು ಹೇಳಿದಷ್ಟಕ್ಕೆ ಸೆಟಲ್‌ಮೆಂಟ್ ಮಾಡಿಕೋ ಇಲ್ಲದಿದ್ದರೆ ನಮಗಿರುವ ಇನ್‌ಫ್ಲೂಯೆನ್ಸ್ ಬಳಸಿ ನಿನ್ನನ್ನು ಎತ್ತಿಬಿಡುತ್ತೀವಿ, ಹೇಳಿದಷ್ಟು ಕೇಳಿಕೊಂಡು ಇದು, ಕಮ್ಮಿಜಾತಿಯವರು ನಮಗೆ ತೊಂದರೆ ಕೊಟ್ಟರೆ ನಾವು ಸುಮ್ಮನಿರುತ್ತೀವಾ" ಎಂದು ಸಾರ್ವಜನಿಕವಾಗಿ ಜಾತಿಯ ಹೆಸರಿಡು ಬೈದು ಜಾತಿ ನಿಂದನೆ ಮಾಡಿ ಅವಮಾನಿಸಿದಾಗ ಸಾಕ್ಷಿ-1 ರವರು ಸೆಟಲ್‌ಮೆಂಟ್‌ಗೆ ಅಂತ ಕರೆಸಿ ಈ ರೀತಿ ಮಾತನಾಡುವುದು ಸರಿಯಲ್ಲವೆಂದು ಹೇಳಿದರೂ ಕೇಳದೆ, ಆರೋಪಿಗಳು ಮಾತನಾಡುವ ಗುಜರಾತಿ ಭಾಷೆಯಲ್ಲಿ "ಕಮ್‌ಜಾತ್ ಲೋಗ್" ಎಂಬಿತ್ಯಾದಿಯಾಗಿ ಬೈದು ಜಾತಿ ನಿಂದನೆ ಮಾಡಿದ್ದು ಅಲ್ಲದೆ ಮೇಲ್ಕಂಡ ಸ್ವತ್ತು ಪರಿಶಿಷ್ಟ ಜಾತಿಯ ಆದಿ ಕರ್ನಾಟಕ ಜಾತಿಗೆ ಸೇರಿದ ಸಾಕ್ಷಿ-1 ರವರಿಗೆ ಸೇರಿದ್ದೆಂದು ಗೊತ್ತಿದ್ದಲ್ಲಿ ಸಹಾ ಆರೋಪಿಗಳು ಪಿರಾದುದಾರರ ವಿರುದ್ಧ ದಿನಾಂಕ:23-01-2018 ರಂದು ರಾಮಮೂರ್ತಿನಗರ ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ಪಿರಾದಿಯು ಆರೋಪಿಗಳ ಟೆಂಬರ್ ಅಂಗಡಿಗೆ ಅಕ್ರಮಕೂಟ ಕಟ್ಟಿಕೊಂಡು ಅತಿಕ್ರಮ ಪ್ರವೇಶ ಮಾಡಿ ನಷ್ಟವುಂಟು ಮಾಡಿ ಬೆದರಿಕೆ ಹಾಕಿರುತ್ತಾನೆಂದು ಮೊ.ಸಂ 38/2018 ಕಲಂ 427-506-149-448-143 ಐ.ಪಿ.ಸಿ ರೀತ್ಯ ದೂರನ್ನು ದಾಖಲಿಸುವ ಮೂಲಕ ಮತ್ತು ಸಿವಿಲ್ ಕೋರ್ಟಿನಲ್ಲಿ ಪಿರಾದಿಯ

ವಿರುದ್ಧ ಓ.ಎಸ್ ನಂ 442/18 ರಲ್ಲಿ ದಾವೆ ಹೂಡಿ ಪಿರಾದಿಗೆ ಯಾವುದೇ ನೋಟೀಸ್ ಬಾರದಂತೆ ಮಾಡಿ ಎಕ್ಸ್‌ಪಾಟರ್ ಟೆಂಪ್ಲೆವರಿ ಇಂಜಿಕ್ಟನ್ ಆರ್ಡರ್ ತೆಗೆದುಕೊಂಡು ಪಿರಾದುದಾರರು, ವಿನಾಕಾರಣ ಕಛೇರಿಗಳು ಮತ್ತು ನ್ಯಾಯಾಲಯಗಳಿಗೆ ಅಲೆದಾಡುವಂತೆ ಕಿರುಕುಳಕರವಾದ ದಾವೆಗಳನ್ನು ಹೂಡಿರುವುದರ ಮೇರೆಗೆ ಆರೋಪಿಗಳು ಮೇಲ್ಕಂಡ ಕಲಂಗಳ ರೀತ್ಯ ಶಿಕ್ಷಾರ್ಹರಾಗಿರುತ್ತಾರೆ.

ಆದುದರಿಂದ ಎ-1, ಎ-2, ಎ-3 ಆರೋಪಿಗಳ ವಿರುದ್ಧ ದೋಷಾರೋಪಣಾ ಪಟ್ಟಿ.”

The summary of the charge sheet is verbatim similar to what the complainant alleges in the complaint. The issue now is, in the teeth of the aforesaid facts which on the face of it is purely civil in nature, proceedings against the petitioners should be permitted to be continued or otherwise.

14. It is not one but there are several hues of abuses of the process of law in the case at hand. The afore-noted proceedings are all a matter of record. Therefore, knowing full well that the father of the complainant had sold the properties to the petitioners or the father of the petitioners, the crime comes to be registered contending that he is not aware of the same and, therefore, the documents are forged. All of them are registered public documents pursuant to which the petitioners or their father have been in possession of the properties for the last 50 years. It is understandable as to how a crime could be registered on the

aforesaid facts. The allegations in the charge sheet are the ones punishable under Sections 465, 468, 471, 420 and 506 of IPC. Sections 465 to 477 all deal with forgery. How on earth forgery can now be alleged of public documents that have been in existence for the last 50 years is what becomes ununderstandable. There is no ingredient of any of the offences under Sections 465, 468 or 471 exist in the *lis*, be it in the complaint or in the summary of the charge sheet.

15. Section 465 of the IPC deals with punishment for forgery and forgery is dealt with under Section 463 of the IPC. Whoever makes false documents or creates false electronic records result of which would cause to a person to part with the property is said to be committing forgery. The other offences spring from forgery. Section 468 deals with forgery for the purpose of cheating which again has its ingredients in Section 463 of the IPC. Section 471 deals with using as genuine a forged document. I do not find any such ingredients either in the complaint or in the charge sheet. I refrain from further consideration of these offences as they are the

ones that are alleged in the civil suit. Any further reference would prejudice the case of the complainant in the civil suit.

16. The other offences are the ones punishable under the Act. The offences alleged are under Sections 3(1)(f), (p), (r) and (s) and 3(2)(va) of the Act. They read as follows:

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

... ..

(f) *wrongfully occupies or cultivates any land, owned by, or in the possession of or allotted to, or notified by any competent authority to be allotted to, a member, of a Scheduled Caste or a Scheduled Tribe, or gets such land transferred;*

... ..

(p) *institutes false, malicious or vexatious suit or criminal or other legal proceedings against 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;"*

Section 3(2)(va) reads as follows:

"(2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

... ..

(v-a) commits any offence specified in the Schedule, against a person or property, knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with such punishment as specified under the Indian Penal Code (45 of 1860) for such offences and shall also be liable to fine."

Section 3(1)(f) directs whoever wrongfully occupies or cultivates the land owned by a Scheduled Caste. The petitioners are in possession of the property for the last 50 years and they are in peaceful enjoyment of their own land. Therefore, they have not wrongfully occupied the land belonging to either member of a Scheduled Caste or a Scheduled Tribe – complainant herein. Section 3(1)(p) deals with 'institutes false, malicious or vexatious suit or criminal or other legal proceedings against member of a Scheduled Caste or a Scheduled Tribe. The petitioners have on their own right instituted proceedings both civil and criminal against the complainant alleging harassment by him and disturbance of peaceful possession. It can neither be malicious or vexatious or even false. Therefore, the said provision also cannot be invoked in the case at hand. The other provisions are Section 3(1)(r) & (s) of

the Act – hurling of abuses in a public place or in a place of public view. Neither of them are present in the case at hand, as the property of the petitioners and the complainant abut each other. The ingredients of clauses (r) and (s) are sought to be pumped into the complaint or the summary of the charge sheet only to wreck vengeance against the petitioners for having registered a crime against the complainant in which the Police have filed a charge sheet. Therefore, the provisions under clauses (r) and (s) are only a counter blast to what is aforesaid. Now coming to Section 3(2)(va) of the Act, whoever commits any offence against a person or property knowing that it is belonging to a member of Scheduled Caste or Scheduled Tribe becomes liable for punishment. It is again understandable how the said provision could be invoked, as the complainant in the complaint avers that pursuant to certain sale deeds, the petitioners were put in possession of the property, not today but decades ago. Therefore, the said provision is loosely laid against the petitioners.

17. On the entire gamut of consideration made hereinabove, what would unmistakably emerge is misuse and abuse of the

provisions of the Act. This case forms a classic illustration of scores and scores of cases where the provisions of the Act are misused for ulterior motives or pressurize the accused in collateral proceedings. Therefore, none of the offences either under the IPC or under the Act are present even on their foundational basis, let alone building a castle on such foundation. In the teeth of aforesaid facts, if further proceedings are permitted to continue, it would be putting a premium on the abuse of the process of law by the complainant in a manner which on the face of it civil in nature. If the impugned crime is not a case where a civil proceeding is dressed with a colour of crime, I fail to understand what else it can be.

18. In the aforesaid circumstances reference being made to the judgments of the Apex Court would be apposite. In the case of **R.NAGENDER YADAV v. STATE OF TELANGANA AND ANOTHER**¹ the Apex Court holds as follows:

“....

9. *The appellant herein went before the High Court with an application filed under Section 482CrPC and prayed for quashing of the criminal prosecution. The High Court declined to quash the criminal prosecution as in its view there is a prima*

¹ (2023) 2 SCC 195

facie case against the appellant for being put to trial for the alleged offence.

10. *Being dissatisfied with the impugned order [R. Nagender Yadav v. State of Telangana, 2021 SCC OnLine TS 3598] passed by the High Court rejecting the quashing application filed by the appellant, the appellant is here before this Court with the present appeal.*

Analysis

11. *We have heard the learned counsel appearing for the respective parties and have also gone through the entire records.*

12. *As stated earlier, the police could be said to have made a mockery of the entire investigation. When it is the specific case of the original complainant that at no point of time he had executed the disputed sale deed dated 29-12-2010 and his signature on the disputed sale deed has been forged, then the first thing the police should have done was to obtain the specimen handwritings of the complainant so as to be compared with the disputed signature on the sale deed through a handwriting expert. We are informed that as on date there is no report of the handwritings expert in regard to the genuineness of the signature of the complainant on the disputed sale deed.*

13. *Second thing which the investigating agency ought to have done is to investigate whether the sale consideration had been paid to the purchaser of the disputed plot or not and if the sale deed consideration had been paid, then in what manner. There is nothing on record in this regard. We fail to understand on what basis the police filed charge-sheet against the appellant herein. If it is the case of the original complainant that a conspiracy was hatched, then in such circumstances why did the police drop the purchaser and the other individuals from the charge-sheet stating that they are the bona fide purchasers of the plot in question for value without notice.*

14. As on date, there is no convincing legal evidence on record to put the appellant herein to trial for the alleged offences. Since the purchaser of the plot in question and others have not been arrayed as accused, the entire theory of criminal conspiracy collapses like a pack of cards. Of course, it is true that the stance of the appellant herein is very clear that it is the complainant who executed the sale deed dated 29-12-2010 in favour of Smt Kalpana Yadav Mangalarapu for the sale consideration as shown in the sale deed on his own free will and volition and in the said sale deed, he attested the signature of the vendor i.e. the original complainant.

15. It appears that the aforesaid aspects of the matter have been overlooked by the High Court. We are conscious of the fact that perfunctory investigation cannot be a ground either to quash the criminal proceedings or even to acquit the accused. We take notice of the fact that as on date the parties are before the civil court. The civil suit being Original Suit No. 1343 of 2016 between the parties is pending wherein the contention of the complainant as a plaintiff is that no sale deed dated 29-12-2010 was executed, whereas the contention of the appellant herein as a defendant in the suit is that the sale deed had been executed by the complainant. The civil court is therefore seized of the question as regards the legality and validity of the disputed sale deed. The matter is sub judice in the civil court."

(Emphasis supplied)

The Apex Court again in the case of **USHA CHAKRABORTY AND ANOTHER v. STATE OF WEST BENGAL AND ANOTHER**² has held as follows:

"... .."

15. The materials on record pertaining to the said pleadings instituted in the Civil Suit, produced in this

² 2023 SCC OnLine SC 90

proceeding would reveal that the respondent was in fact ousted from the membership of the trust. In the counter affidavit filed in this proceeding, the respondent has virtually admitted the pendency of the suit filed against his removal from the post of Secretary and the trusteeship and its pendency. The factum of passing of adverse orders in the interlocutory applications in the said Civil Suit as also the prima facie finding and conclusion arrived at by the Civil Court that the respondent stands removed from the post of Secretary and also from the trusteeship are also not disputed therein. Then, the question is why would the respondent conceal those relevant aspects? The indisputable and undisputed facts (admitted in the counter-affidavit by the respondent) would reveal the existence of the civil dispute on removal of the respondent from the post of Secretary of the school as also from the trusteeship. Obviously, it can only be taken that since the removal from the office of the Secretary and the trusteeship was the causative incident, he concealed the pendency of the civil suit to cover up the civil nature of the dispute.

16. By non-disclosure the respondent has, in truth, concealed the existence of a pending civil suit between him and the appellants herein before a competent civil court which obviously is the causative incident for the respondent's allegation of perpetration of the aforesaid offences against the appellants. We will deal with it further and also its impact a little later. There cannot be any doubt with respect to the position that in order to cause registration of an F.I.R. and consequential investigation based on the same the petition filed under Section 156(3), Cr. P.C., must satisfy the essential ingredients to attract the alleged offences. In other words, if such allegations in the petition are vague and are not specific with respect to the alleged offences it cannot lead to an order for registration of an F.I.R. and investigation on the accusation of commission of the offences alleged. As noticed hereinbefore, the respondent alleged commission of offences under Sections 323, 384, 406, 423, 467, 468, 420 and 120B, IPC against the appellants. A bare perusal of the said allegation and the ingredients to attract them, as adverted to hereinbefore would reveal that the allegations are vague and they did not carry the

essential ingredients to constitute the alleged offences. There is absolutely no allegation in the complaint that the appellants herein had caused hurt on the respondent so also, they did not reveal a case that the appellants had intentionally put the respondent in fear of injury either to himself or another or by putting him under such fear or injury, dishonestly induced him to deliver any property or valuable security. The same is the position with respect to the alleged offences punishable under Sections 406, 423, 467, 468, 420 and 120B, IPC. The ingredients to attract the alleged offence referred to hereinbefore and the nature of the allegations contained in the application filed by the respondent would undoubtedly make it clear that the respondent had failed to make specific allegation against the appellants herein in respect of the aforesaid offences. The factual position thus would reveal that the genesis as also the purpose of criminal proceedings are nothing but the aforesaid incident and further that the dispute involved is essentially of civil nature. The appellants and the respondents have given a cloak of criminal offence in the issue. In such circumstance when the respondent had already resorted to the available civil remedy and it is pending, going by the decision in Paramjit Batra (supra), the High Court would have quashed the criminal proceedings to prevent the abuse of the process of the Court but for the concealment.

17. In the aforesaid circumstances, coupled with the fact that in respect of the issue involved, which is of civil nature, the respondent had already approached the jurisdictional civil court by instituting a civil suit and it is pending, there can be no doubt with respect to the fact that the attempt on the part of the respondent is to use the criminal proceedings as weapon of harassment against the appellants. The indisputable facts that the respondent has filed the pending title suit in the year 2015, he got no case that he obtained an interim relief against his removal from the office of Secretary of the School Managing Committee as also the trusteeship, that he filed the stated application for an order for investigation only in April, 2017 together with absence of a case that despite such removal he got a right to get informed of the affairs of the school and also the trust, would only support the said conclusion. For all these

reasons, we are of the considered view that this case invites invocation of the power under Section 482 Cr. P.C. to quash the FIR registered based on the direction of the Magistrate Court in the afore-stated application and all further proceeding in pursuance thereof. Also, we have no hesitation to hold that permitting continuance of the criminal proceedings against the appellants in the aforesaid circumstances would result in abuse of the process of Court and also in miscarriage of justice.”

(Emphasis supplied)

In a later judgment, the Apex Court in the case of **DEEPAK GABA AND OTHERS v. STATE OF UTTAR PRADESH AND ANOTHER**³

has held as follows:

“....

17. *However, in the instant case, materials on record fail to satisfy the ingredients of Section 405IPC. The complaint does not directly refer to the ingredients of Section 405IPC and does not state how and in what manner, on facts, the requirements are satisfied. Pre-summoning evidence is also lacking and suffers on this account. On these aspects, the summoning order is equally quiet, albeit, it states that “a forged demand of Rs 6,37,252.16p had been raised by JIPL, which demand is not due in terms of statements by Shubhankar P. Tomar and Sakshi Tilak Chand”. A mere wrong demand or claim would not meet the conditions specified by Section 405IPC in the absence of evidence to establish entrustment, dishonest misappropriation, conversion, use or disposal, which action should be in violation of any direction of law, or legal contract touching the discharge of trust. **Hence, even if Respondent 2 complainant is of the opinion that the monetary demand or claim is incorrect and not payable, given the failure to prove the requirements of Section 405IPC, an offence under the same section is not constituted. In the absence of factual***

³ (2023) 3 SCC 423

allegations which satisfy the ingredients of the offence under Section 405IPC, a mere dispute on monetary demand of Rs 6,37,252.16p, does not attract criminal prosecution under Section 406IPC.

18. In order to apply Section 420IPC, namely, cheating and dishonestly inducing delivery of property, the ingredients of Section 415IPC have to be satisfied. To constitute an offence of cheating under Section 415IPC, a person should be induced, either fraudulently or dishonestly, to deliver any property to any person, or consent that any person shall retain any property. The second class of acts set forth in the section is the intentional inducement of doing or omitting to do anything which the person deceived would not do or omit to do, if she were not so deceived. Thus, the sine qua non of Section 415IPC is "fraudulence", "dishonesty", or "intentional inducement", and the absence of these elements would debase the offence of cheating. [Iridium India Telecom Ltd. v. Motorola Inc., (2011) 1 SCC 74 : (2010) 3 SCC (Cri) 1201]

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20. In the present case, the ingredients to constitute an offence under Section 420 read with Section 415IPC are absent. The pre-summoning evidence does not disclose and establish the essential ingredients of Section 415IPC. There is no assertion, much less legal evidence, to submit that JIPL had engaged in dishonesty, fraud, or intentional inducement to deliver a property. It is not the case of Respondent 2 complainant that JIPL had tried to deceive them, either by making a false or misleading representation, or by any other action or omission; nor is it their case that JIPL had offered any fraudulent or dishonest inducement to deliver a property. As such, given that the ingredients of Section 415IPC are not satisfied, the offence under Section 420IPC is not made out.

21. Section 471 IPC [“471. Using as genuine a forged document or electronic record.—Whoever fraudulently or

dishonestly uses as genuine any document or electronic record which he knows or has reason to believe to be a forged document or electronic record, shall be punished in the same manner as if he had forged such document or electronic record.”] is also not attracted. This Section is applicable when a person fraudulently or dishonestly uses as genuine any document or electronic record, which he knows or has reasons to believe to be a forged document or electronic record. This Court in *Mohd. Ibrahim* [*Mohd. Ibrahim v. State of Bihar*, (2009) 8 SCC 751: (2009) 3 SCC (Cri) 929. This Court, in this case, has cautioned that the ratio should not be misunderstood, to record the clarification, which in the present case, in our opinion, is not of any avail and help to Respondent 2 complainant. We respectfully concur with the clarification as well as the ratio explaining Sections 415, 464, etc. IPC.], has elucidated that the condition precedent of an offence under Section 471IPC is forgery by making a false document or false electronic record or part thereof. Further, to constitute the offence under Section 471IPC, it has to be proven that the document was “forged” in terms of Section 470 [**470. Forged document.**—A false document [or electronic record] made wholly or in part by forgery is designated “a forged document or electronic record.”], and “false” in terms of Section 464 IPC [**464. Making a false document.**—A person is said to make a false document or false electronic record—First.—Who dishonestly or fraudulently—(a) makes, signs, seals or executes a document or part of a document;(b) makes or transmits any electronic record or part of any electronic record;(c) affixes any electronic signature on any electronic record;(d) makes any mark denoting the execution of a document or the authenticity of the electronic signature, with the intention of causing it to be believed that such document or part of a document, electronic record or *[electronic signature] was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or* Substituted for “digital signature” by Act 10 of 2009, Section 51(e) (w.e.f. 27-10-2009)Secondly.—Who without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with electronic signature either by himself or by any other person, whether such person be living or dead at the time of such alteration; orThirdly.—Who

dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his electronic signature on any electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him, he does not know the contents of the document or electronic record or the nature of the alteration.”] .

22. Section 470 lays down that a document is “forged” if there is:

- (i) *fraudulent or dishonest use of a document as genuine; and*
- (ii) *knowledge or reasonable belief on the part of the person using the document that it is a forged one.*

Section 470 defines a “forged document” as a false document made by forgery.

23. As per Section 464IPC, a person is said to have made a “false document”:

- (i) *if he has made or executed a document claiming to be someone else or authorised by someone else;*
- (ii) *if he has altered or tampered a document; or*
- (iii) *if he has obtained a document by practising deception, or from a person not in control of his senses.*

24. Unless the document is false and forged in terms of Sections 464 and 470IPC respectively, the requirement of Section 471IPC would not be met.

... ..

30. Even though at the stage of issuing process to the accused the Magistrate is not required to record detailed reasons, there should be adequate evidence on record to set the criminal proceedings into motion. The requirement of Section 204 of the Code is that the Magistrate should carefully scrutinise the evidence brought on record. He/She may even put questions to complainant and his/her witnesses when examined under

Section 200 of the Code to elicit answers to find out the truth about the allegations. Only upon being satisfied that there is sufficient ground for summoning the accused to stand the trial, summons should be issued. [Birla Corpn. Ltd. v. Adventz Investments & Holdings Ltd., (2019) 16 SCC 610 : (2020) 2 SCC (Cri) 828 : (2020) 2 SCC (Civ) 713; Pepsi Foods Ltd. [Pepsi Foods Ltd. v. Judicial Magistrate, (1998) 5 SCC 749 : 1998 SCC (Cri) 1400]; and Mehmood Ul Rehman v. Khazir Mohammad Tunda, (2015) 12 SCC 420 : (2016) 1 SCC (Cri) 124.]

31. Summoning order is to be passed when the complainant discloses the offence, and when there is material that supports and constitutes essential ingredients of the offence. It should not be passed lightly or as a matter of course. When the violation of law alleged is clearly debatable and doubtful, either on account of paucity and lack of clarity of facts, or on application of law to the facts, the Magistrate must ensure clarification of the ambiguities. Summoning without appreciation of the legal provisions and their application to the facts may result in an innocent being summoned to stand the prosecution/trial. Initiation of prosecution and summoning of the accused to stand trial, apart from monetary loss, sacrifice of time, and effort to prepare a defence, also causes humiliation and disrepute in the society. It results in anxiety of uncertain times.

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34. We must also observe that the High Court, while dismissing the petition filed under Section 482 of the Code, failed to take due notice that criminal proceedings should not be allowed to be initiated when it is manifest that these proceedings have been initiated with ulterior motive of wreaking vengeance and with a view to spite the opposite side due to private or personal grudge. [Birla Corpn. Ltd. [Birla Corpn. Ltd. v. Adventz Investments & Holdings Ltd., (2019) 16 SCC 610 : (2020) 2 SCC (Cri) 828 : (2020) 2 SCC (Civ) 713]; Mehmood Ul Rehman [Mehmood Ul Rehman v. Khazir Mohammad Tunda, (2015) 12 SCC 420 : (2016) 1 SCC (Cri) 124]; R.P. Kapur v. State of Punjab, AIR 1960 SC 866; and State of

Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426.] Allegations in the complaint and the pre-summoning evidence on record, when taken on the face value and accepted in entirety, do not constitute the offence alleged. The inherent powers of the court can and should be exercised in such circumstances. When the allegations in the complaint are so absurd or inherently improbable, on the basis of which no prudent person can ever reach a just conclusion that there is sufficient wrong for proceeding against the accused, summons should not be issued."

(Emphasis supplied)

In the light of the aforesaid facts, glaring enough they are, what would unmistakably emerge is that, this case would form a classic illustration of misuse of the provisions of the Act and the penal provisions under the IPC. It is such cases which clog the criminal justice system and consume considerable time of the Courts, be it the Magistrates Court, Court of Session or this Court, while genuine cases where litigants have actually suffered would be waiting in the pipeline. Therefore, such cases, which on the face of it is an abuse of the process of the law, are necessarily required to be nipped, failing which, it would be a heavy burden on the criminal justice system, apart from it becoming a harassment to the petitioners and ultimately resulting in miscarriage of justice.

19. For the aforesaid reasons, I pass the following:

ORDER

- (i) Criminal petition is allowed.
- (ii) Proceedings in Special Case No.132 of 2020 pending before the LXX Additional City Civil and Sessions Judge and Special Judge, Bangalore arising out of FIR in Crime No.219 of 2018 registered by Ramamurthy Nagar Police Station stand quashed.
- (iii) It is made clear that the observations made in the course of the order are only for the purpose of consideration of the case of petitioners under Section 482 of Cr.P.C. and the same shall not bind or influence the proceedings pending between the parties before any other *fora*.

**Sd/-
JUDGE**

bkp