IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF JUNE 2023

BEFORE

THE HON'BLE MR. JUSTICE K.NATARAJAN

CRIMINAL PETITION NO.4835 OF 2021

BETWEEN

1 . GOPALA SADASHIVA GAYATRI
S/O SADASHIVA GAYATRI ONI
AGED ABOUT 35 YEARS
R/A NEAR GOVERNMETN HOSPITAL
BUNKIKODLA
GOKARNA KUMTA TALUK
UTTARAKANNADA DISTRICT

2 . SRI RAJGOPAL ADDI @ RAJU ADDI
S/O MAHADEV ADDI
AGED ABOUT 30 YEARS
R/A RAJA BEEDHI
GOKARNA
KUMTA TALUK
UTTARAKANNADA DISTRICT

3 . SRI SHESHANAND VISHWESHWARA ADDI
S/O VISHVESHWARA ADDI
AGED ABOUT 38 YEARS
R/A GANAVISHVESHWARA TEMPLE
NEELEGULLI GOKARNA
KUMTA TQ
UTTARAKANNADA DISTRICT

4 . SRI AMITH NADAKARNI
S/O VIVEK NADAKARNI
AGED 33 YEARS
R/A NEAR GOVT. HOSPITAL
BUNKIKODLA
GOKARNA KUMTA TQ
UTTARAKANNADA DISTRICT

5 . GANAPATHI GAJANNA HIRE
S/O GAJANANA KRISHNA HIRE
AGED ABOUT 40 YEARS
R/A KOTI THEERTHA KATTE
GOKARNA KUMTA TQ
UTTARAKANNADA DISTRICT

... PETITIONERS

(BY SMT PADMAVATHI N., ADVOCATE)

AND

1 . STATE BY GIRINAGARA POLICE
BANGALORE-560085
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BANGALORE-560001

2 . SRI KRISHNA GANESH BHATT
S/O OF GANESH BHATT
AGED MAJOR
CHIEF ADMINISTRATOR OFFICER
RAMACHANDRA MATTA
GIRINAGARA
BANGALORE-18

... RESPONDENTS

(BY SRI S. VISHWA MURTHY, HCGP FOR R1
SRI MANMOHAN P.N., ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C. PRAYING TO QUASH THE ENTIRE PROCEEDINGS AGAINST THE PETITIONER IN C.C.NO.13527/2014 ON THE FILE OF THE 32nd ACMM, BANGALORE FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 384,504,506,511 READ WITH SECTION 34 OF IPC IN CR.NO.47/2014 OF GIRINAGAR POLICE, BANGALORE.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 19.6.2023, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed by the petitioners-accused Nos.3 to 7 under Section 482 of Cr.P.C. for quashing the criminal proceedings in C.C.No.13527/2014 pending on the file of 32nd ACMM, Bengaluru for the offences punishable under Sections 384, 504, 506, 511 read with Section 34 of IPC arising out of Crime No.47/2014 registered by Girinagar Police Station, Bengaluru.

2. Heard the arguments of Smt. Padmavathi N, learned counsel for the petitioners, learned High Court Government Pleader for respondent No.1-State and Sri P.N.Manmohan, learned counsel for respondent No.2.

3. The case of the prosecution is that on the complaint of one Krishna Ganesh Bhat, the Girinagar Police registered a case against the accused persons on 21.03.2014. It is alleged that the accused persons demanded money from respondent No.2 for withdrawing the Public Interest Litigation (PIL) filed before the High Court. It is further alleged that the complainant is CEO of

Sri Ramachandrapura Mutt, that on 26.02.2014, a phone call received by the incharge of the Ramachandrapura Mutt from one Mallikarjun Patil (the accused No.1) stating that he is said to be an advocate and informed that the PIL is coming before the High Court for hearing on 10.03.2014 and they want to discuss with the same. Then the said information was forwarded to Arun Shyam, who is an advocate looking after the legal issues of the Ramachandrapura Mutt. Accordingly, the said Arun Shyam contacted Mallikarjun Patil and they met on 27.02.2014 at Suwarna News Channel office, where the accused demanded Rs.1.00 Crore in order to withdraw the PIL. Then on 28.02.2014, once again they demanded the said amount and the said incident was video recorded. Thereafter, on 01.03.2014, they shown the documents and demanded Rs.5.00 crore in order to rectify all the disputes. On 10.03.2014, on the date of hearing, the accused No.1-Mallikarjun introduced accused No.2-Chandan to the advocate-Arun Shyam stating that the applicant Gokarna Hitha Rakshana Samithi and another Association were all

demanded money for withdrawing the PIL petition. Then on 17.03.2014, the said Mallikarjun Patil-accused No.1 summoned the advocate-Arun Shyam and introduced Mohan Bhaskar Hegde, Secretary and demanded money. Hence, the complaint has been filed. Subsequently, a trap was laid while accepting money of Rs.10.00 lakh, accused Nos.1 and 2 were caught red handed and seized under the panchanama. Then, the investigation was conducted and filed the charge sheet by showing these accused persons as accused Nos.3 to 7 who are the Executive members of the Gokarna Hitha Rakshana Samithi, which is under challenge.

4. The learned counsel for the petitioners has contended that the allegations are against the accused Nos.1 and 2 and there is no allegation that these petitioners as these petitioners have participated either in the criminal conspiracy or in demanding money from the complainant. Though the applicants are also the members of Gokarna Hitha Rakshana Samithi, but they have not at

all involved in demanding money by accused Nos.1 and 2 and the alleged statements of two witnesses i.e., CWs.25 and 26 are inimical towards the petitioners. They are the witnesses in other cases pertaining to the complainant. Therefore, their statement shall not be taken into consideration. The petitioners are also not the parties in the PIL case. Therefore, prayed for allowing the petition and to quash the proceedings.

5. The respondent No.2 appeared through the counsel and filed statement of objections contending that the petitioners-accused Nos.3 to 7 are directly involved in the crime for having demanded Rs.1.00 Crore and accepted Rs.10.00 lakhs through accused Nos.1 and 2. The PIL filed by the petitioners' Association wherein, they are the members and the said PIL is dismissed with cost. There is a *prima facie* material against them. The discharge application were rightly rejected by the trial Court and hence, prayed for dismissing the petition.

6. The learned High Court Government Pleader also objected the petition and contended that accused Nos.3 and 4 are also members of the conspiracy and the witnesses seen while conspiring by the accused while demanding money. Therefore, prayed for dismissing the petition.

7. Having heard the arguments and perused the records, it is seen from the record, accused No.1 is said to be an advocate was caught red handed while accepting Rs.10.00 lakh for withdrawing the PIL case filed by the two associations namely, Asthra and Gokarna Hitha Rakshana Samithi. This Asthra Associatilon has been represented by accused No.2-Chandan (he is not a petitioner herein) and the 2nd petitioner- Gokarna Hitha Rakshana Samithi was represented by accused No.7-Ganapathi Gajanana Hire who is petitioner No.5 before this Court. The Investigation Officer collected the call detail register (CDR) extracts which reveals all the accused persons were in touch with the accused Nos.1, 2 and 7 and it is not in dispute, both the associations have filed PIL case and in order to withdraw the said case, definitely the consent of the

members are required and accused No.1-a middleman who was contacted the complainant and an advoate-Arun Shyam who acted as decoy and accused No.1 and 2 were caught red handed while accepting cash of Rs.10 lakhs. CWs.25 and 26 are the witnesses who gave statement before the police that there were conspiracy in the Gokarna Temple. The learned counsel for the petitioners has contended that their statements shall not be acceptable as there was delay in recording statement. Of course, in the charge sheet, the accused Nos.3 to 7 are shown as absconding. The Investigating Officer requested for liberty to file additional charge sheet. Without going to the trial, the statement of CWs.25 and 26 cannot be disbelieved and the Court cannot hold a mini trial for quashing the criminal proceedings. There is sufficient material placed on record including call details records (CDR), as the accused persons were continuously speaking to each other prior to the trap and apprehending accused Nos.1 and 2. Therefore, I hold, it is not a fit case for quashing the criminal proceedings at this stage.

8. The learned counsel for respondent has relied upon the judgment of the Hon'ble Supreme Court in the case of ***State of Rajasthan vs. Ashok Kumar Kashyap*** reported in ***(2021) 11 SCC 191***.

9. Considering the facts and circumstances of the case, the offence committed by the accused cannot be taken in a lighter way as they have filed PIL case and demanded Rs.5.00 crores for withdrawing the said case and caught red handed while accepting Rs.10.00 lakh. The Police have thoroughly investigated the matter and filed the charge sheet. Therefore, there is a *prima facie* material for framing of charges against the accused persons. Therefore, the proceedings cannot be quashed.

10. Accordingly, the criminal petition is ***dismissed***.

Sd/-
JUDGE

GBB