



HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 6143 OF 2023
(482(Cr.PC) / 528(BNSS))

R

BETWEEN:

RAGHAVENDRA H.M
SON OF SRI. MARIDEVARU,
AGED ABOUT 18 YEARS,
R/AT GANGENAHALLI POST,
HERANADASIKOPPALU,
BILIKERE HOBLI,
HUNSUR TALUK,
MYSURU - 571 103.

...PETITIONER

(BY SRI. RAGHAVA P., ADVOCATE)

AND:

1. STATE OF KARNATAKA,
REP. BY SPP,
BY BILIKERE POLICE STATION,
HUNSUR SUB DIVISION,
HUNSUR - 571 103,
MYSURU.
2. POLICE SUB INSPECTOR
BILIKERE POLICE STATION,
BILIKERE,
HUNSUR TALUK,
HUNSUR - 571 103,
MYSURU.





3. SRI. PARAMESHA
SON OF SRI. GIRIYALIAH,
AGED ABOUT 24 YEARS
4. SRI. GIRIYALIAH
SON OF LATE KALALIAH,
AGED ABOUT 56 YEARS,

RESPONDENT NOS.3 AND 4 ARE
RESIDING AT ERANDASIKOPPALU VILLAGE,
KASABA HOBLI,
HUNSUR TALUK - 571 103,
MYSURU DISTRICT.

...RESPONDENTS

(BY SRI. B.N. JAGADEESHA, ADDL. SPP FOR R1 AND R2;
SRI. S.A. SABOOR, ADVOCATE FOR R3 AND R4)

THIS CRL.P IS FILED UNDER SECTION 482 OF CR.PC
PRAYING TO QUASH THE FIR BEARING NO.57/2023,
REGISTERED FOR THE OFFENCES PUNISHABLE UNDER
SECTIONS 341, 323, 324, 504, 506, 354(B) AND 34 OF IPC,
DATED MARCH 18, 2023, FILED BY THE RESPONDENT -
BILIKERE POLICE STATION, HUNSUR, AGAINST THE
PETITIONER HEREIN AS PER ANNEXURE-A AND ETC.

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



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

ORAL ORDER

The petitioner is before this Court calling in question proceedings in C.C.No.165 of 2023 pending before the Additional Civil Judge (Junior Division) and JMFC, Hunsur arising out of crime in Crime No.57 of 2023 registered for offences punishable under Sections 341, 323, 324, 504, 506, 354B and 34 of the IPC.

2. Heard Sri Raghava P., learned counsel appearing for the petitioner, Sri B.N. Jagadeesha, learned Additional State Public Prosecutor appearing for respondent No.1 and 2 and Sri S.A. Saboor, learned counsel appearing for respondent Nos. 3 and 4.

3. Facts adumbrated are as follows: -

The petitioner/accused No.3 gets embroiled in Crime No.57 of 2023 for offences as afore-quoted. The crime is registered on 18-03-2023 on account of an incident that happens on 17.03.2023, the previous day. On the relevant date i.e., the date of the incident – 17-03-2023, the petitioner was below 18 years of age, his date of birth being 10th April, 2005.



HC-KAR

Therefore, he would complete 18 years on 9th April, 2023. The incident happens 20 days prior to the petitioner attaining the age of 18 years. On 17-03-2023 one Maridevaru was excavating land by removing soil using a JCB. Certain opposition comes about from the complainant stating that the land is in dispute and excavation should be stopped. On the said date, as alleged by the complainant, despite his resistance Smt. Kavitha pulled his collar and dragged him near the village circle, at which point in time the other accused including Maridevaru, Smt. Lalitha, Sri Raghavendra (the petitioner) and Sri Shekara are said to have approached the complainant with metal rods and stones. The complainant is said to have ran for safety into his house. However, the accused followed him and assaulted. This becomes the fulcrum of crime in Crime No.57 of 2023. The police conduct investigation and file a charge sheet against all the accused including the petitioner which is now pending as C.C.No.165 of 2023 for the afore-quoted offence. The issue in the *lis* does not pertain to merit of the matter but the very jurisdiction of the concerned Court to try the petitioner. It is on this plea, challenging the charge sheet, the petitioner is before the Court in the subject petition.

**SUBMISSIONS:****Petitioner:**

4. The learned counsel appearing for the petitioner submits that jurisdictional police had no jurisdiction to register the crime against the petitioner/accused No.3 as at the relevant date and time, the petitioner was 17 years and 9 months old and had to be tried only under Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as 'the Act' for short) and not for offences punishable under the IPC like any other accused. The learned counsel takes this Court through the summary of the charge sheet to indicate that the only offence against the petitioner is that he had caused injury by hitting the complainant on his head using a stone. Therefore, out of the offences so alleged what can at best be alleged against the petitioner is offence punishable under Section 324 of the IPC. He would submit that if that is to be the offence which is not termed to be heinous offence, the petitioner can only be tried under the Act.

STATE:

5. The learned Additional State Public Prosecutor on the other hand would refute the submissions to contend that the



HC-KAR

bar of registration of the crime does not relate to the offences that are not heinous or otherwise. The Police was well within its jurisdiction to register a FIR against a juvenile and continue the investigation and result of investigation is filing of charge sheet. The learned Additional State Public Prosecutor insofar as merit of the matter is concerned would submit that since the allegation against the petitioner/accused No.3 is also grave, it is a matter of trial for him to come out clean.

6. The learned counsel for the petitioner would now join issue in contending that the provisions of the Act are very clear with regard to bar of registration of FIR on certain circumstances and one such circumstance is that if it is a petty offence and not a heinous offence, the police would not get jurisdiction to register crime against a juvenile. Admittedly the petitioner was a juvenile at that point in time. Therefore, the prosecution against the juvenile at the relevant point in time cannot be permitted to continue. The learned Additional State Public Prosecutor now submits that if that would be the circumstance, the crime should be transferred to the juvenile police unit and they be permitted to continue prosecution before the Children's Court and proceedings should not be



HC-KAR

obliterated altogether as offence is prima facie established against the petitioner.

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

8. The afore-narrated facts are a matter of record. The entire issue is now triggered from the registration of complaint which becomes a crime in Crime No.57 of 2023 for the afore-quoted offences. At column 10 of the FIR, the gist of the crime is as follows:

"10. ಪ್ರಥಮ ವರ್ತಮಾನ ವರದಿಯ ವಿವರಗಳು

ದಿನಾಂಕ:18.03.2023 ರಂದು ಗಾಯಾಳು ಹುಣಸೂರು ಆಸ್ಪತ್ರೆಯಲ್ಲಿ ನೀಡಿದ ದೂರಿನ ಸಾರಾಂಶವೇನೆಂದರೆ, ನಮ್ಮ ತಂದೆ ಗಿರಿಯಮ್ಮ, ಚಿಕ್ಕಪ್ಪ ಮರಿದೇವರು ಇವರ ತಮ್ಮ ಶೇಖರ, ನನ್ನ ಅತ್ತೆ ಪುಟ್ಟಗಿರಿಯಮ್ಮ ರವರುಗಳ ನಡುವೆ ಜಮೀನಿನ ವಿಚಾರವಾಗಿ ಹುಣಸೂರು ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಕೇಸು ನಡೆಯುತ್ತಿದ್ದು ಕೂಡ, ದಿನಾಂಕ: 17.03.2023ರಂದು ಬೆಳಿಗ್ಗೆ ನನ್ನ ಚಿಕ್ಕಪ್ಪ ಮರಿದೇವರು ರವರು ಜಮೀನಿನಗೆ ಜೆ.ಸಿ.ಬಿ ಕರೆಯಿಸಿ ಮಣ್ಣು ತಗಸುತ್ತಿದ್ದರು, ಆಗ ನನ್ನ ತಂದೆಯವರಿಗೆ ವಿಚಾರ ತಿಳಿದು ಜಮೀನು ಬಳಿ ಹೋಗಿ ಜೆ.ಸಿ.ಬಿ ಯವರಿಗೆ ಮಣ್ಣನ್ನು ತೆಗೆಯ ಬೇಡಿ ಈ ಜಮೀನಿನ ವಿಚಾರವಾಗಿ ಕೇಸು ನಡೆಯುತ್ತಿದೆ ಎಂದು ಹೇಳಿ ನಂತರ ಬಿಳಿಕೆರೆ ಸ್ಟೇಷನ್ ಗೆ ಹೋಗಿ ಈ ಬಗ್ಗೆ ದೂರು ಮನೆಗೆ ಬಂದಿದ್ದರು, ನಂತರ ರಾತ್ರಿ 8.00 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ನಮ್ಮ ಗ್ರಾಮದ ಸರ್ಕಲ್ ಬಳಿ ಚುನಾವಣೆ ಬಗ್ಗೆ ಪ್ರಚಾರ ನಾಟಕಮಾಡಿಕೊಂಡು ಜನರಲ್ಲಿ ಅರಿವು ಮೂಡಿಸುತ್ತಿದ್ದರಿಂದ ನಾನು ಸ್ಕೂಲ್ ಕಾಂಪೌಂಡ್ ಬಳಿ ಕುಳಿತ್ತಿದ್ದೆನು ಆಗ ಸರ್ಕಲ್ ಬಳಿ ಚುನಾವಣೆ ಬಗ್ಗೆ ಪ್ರಚಾರ ನಾಟಕಮಾಡಿಕೊಂಡು ಜನರಲ್ಲಿ ಅರಿವು ಮೂಡಿಸುತ್ತಿದ್ದರಿಂದ ನಾನು ಸ್ಕೂಲ್ ಕಾಂಪೌಂಡ್ ಬಳಿ ಕುಳಿತ್ತಿದ್ದೆನು ಆಗ ಸರ್ಕಲ್ ಬಳಿಯೇ ಮನೆ ಮಾಡಿಕೊಂಡಿರುವ ನನ್ನ ಚಿಕ್ಕಪ್ಪ ಮರಿದೇವರು ಮತ್ತು ಅವರ ಹೆಂಡತಿ ಲಲಿತ, ಮಗನಾದ ರಾಘವೇಂದ್ರ ಮತ್ತು ಇನ್ನೊಬ್ಬ ಚಿಕ್ಕಪ್ಪ ಶೇಖರ ಮತ್ತು ಅವರ ಹೆಂಡತಿ ಕವಿತ ರವರುಗಳು ಮತ್ತು ಆತ್ಮಯಾದ ಪುಟ್ಟಗಿರಿಯಮ್ಮ ರವರೊಂದಿಗೆ ಜಮೀನಿನ ವಿಚಾರದಲ್ಲಿ ಬಾಯಿಗೆ ಬಂದಂತೆ ಅವಾಚ್ಯ ಶಬ್ದಗಳಿಂದ ಬೈಯುತ್ತ ಸರ್ಕಲ್ ಬಳಿ



HC-KAR

ನಿಂತಿದ್ದರು, ನಾನು ಇವರೇನಾದರೂ ಮಾಡಿಕೊಳ್ಳಲಿ ಎಂದು ಅಲ್ಲೇ ಕುಳಿತಿದ್ದೆ ಆದರೆ ಕವಿತ ರವರು ನನ್ನ ಬಳಿ ಬಂದು ನನ್ನ ಕತ್ತಿನ ಪಟ್ಟಿಯನ್ನು ಹಿಡಿದುಕೊಂಡು ಸರ್ಕಲ್ ಬಳಿ ಎಳೆಕೊಂಡು ಬಂದರು ಆಗ ನಾನು ಕವಿತರನ್ನು ನನ್ನ ಏಕೆ ಹಿಡಿದಿದ್ದೀಯ ಕೇಸು ಹಾಕಿರೋದು ನನ್ನ ಅಪ್ಪ ನೀವು ಅಕ್ಕ ತಮ್ಮಂದಿರುಗಳು ಏನಾದರೂ ಮಾಡಿಕೊಳ್ಳಿ ನನ್ನನು ಏಕೆ ಎಳೆತೀಯ ಎಂದು ಆಕೆಯಿಂದ ಬಿಡಿಸಿಕೊಂಡೆನು, ಆಗ ಮರಿದೇವರು ಅವರ ಹೆಂಡತಿ ಲಲಿತ ಮಗ ರಾಘವೇಂದ್ರ ಶೇಖರ ಮತ್ತು ಕವಿತ ರವರುಗಳು ಕಬ್ಬಿಣದ ರಾಡು ಕಲ್ಲುಗಳನ್ನು ಹಿಡಿದುಕೊಂಡು ಬಂದು ನನ್ನ ಮೇಲೆ ಗಲಾಟೆ ಮಾಡಲು ಬಂದರು ಆಗ ನಾನು ಅಲ್ಲಿಂದ ಓಡಿ ನನ್ನ ಮನೆಯ ಒಳಗೆ ಹೋದೆನು ನನ್ನನ್ನು ಓಡಿಸಿಕೊಂಡು ಅವರು ಬಂದಿದ್ದು, ಅಷ್ಟರಲ್ಲಿ ನನ್ನ ತಂದೆ ಮನೆಯ ಬಳಿ ಯಾಕೆ ಅವನನ್ನು ಓರಿಸಿಕೊಂಡು ಬರುತ್ತಿದ್ದೀರಿ ಎಂದು ಕೇಳಿದ್ದಕ್ಕೆ ಮೇಲ್ಕಂಡ 05 ಜನರು ಕೈಗಳಿಂದ ನನ್ನ ತಂದೆಯವರ ಮೈಕೈಗೆ ಹೊಡೆದು ಕೆಳಕ್ಕೆ ಕೆಡವಿಕೊಂಡು ಕಾಲಿನಿಂದ ತುಳಿಯುತ್ತಿದ್ದರು, ಅಷ್ಟರಲ್ಲಿ ನನ್ನ ತಾಯಿ ಗೌರಮ್ಮ ಯಾಕೆ ನನ್ನ ಗಂಡನಿಗೆ ಹೊಡೆಯುತ್ತಿದ್ದೀರ ಎಂದು ಕೇಳಲು ಬಂದಾಗ ಮರಿದೇವರು ನನ್ನ ತಾಯಿಯ ಸೀರೆ ಹಿಡಿದು ಎಳೆದಾಡಿ ಸೀರೆ ಕಳಚಿ ರಸ್ತೆಯಲ್ಲಿ ಅವಮಾನ ಮಾಡಿದನು, ನನ್ನ ತಾಯಿ ಸೀರೆ ಕಿತ್ತುಕೊಂಡು ಅವಮಾನದಿಂದ ಮನೆ ಒಳಕ್ಕೆ ಹೋದರು ನಾನು ಗಲಾಟೆ ಬಿಡಿಸಲು ಹೋದಾಗ ರಾಘವೇಂದ್ರ ಕಲ್ಲಿನಿಂದ ನನ್ನ ಎಡಭಾಗದ ತಲೆಗೆ ಹೊಡೆದು ರಕ್ತ ಗಾಯ ಮಾಡಿದನು ಅಷ್ಟರಲ್ಲಿ ಗಲಾಟೆ ಬಿಡಿಸಲು ನನ್ನ ಅಣ್ಣ ಮೋಹನಕುಮಾರ ಬಂದು ಗಲಾಟೆ ಬಿಡಿಸಿದನು, ಆಗ ನನ್ನ ಚಿಕ್ಕಪ್ಪ ಮರಿದೇವರು ಮತ್ತು ಶೇಖರ ಇಬ್ಬರು ಸೇರಿಕೊಂಡು ಹೆಂಗಿದ್ದರೂ ಕೇಸು ಹಾಕಿದ್ದೀಯ ನಿನ್ನನ್ನು ಕೊಲೆ ಮಾಡುತ್ತೇವೆ, ಮುಂದೆ ಅದೇನಾದರೂ ನೋಡಿಕೊಳ್ಳುತ್ತೇವೆಂದು ನನಗೆ ಕೊಲೆ ಬೆದರಿಕೆ ಹಾಕಿದರು, ನಂತರ ಗಾಯಗೊಂಡಿದ್ದ ನನ್ನನ್ನು ಮತ್ತು ನನ್ನ ತಂದೆಯನ್ನು ನನ್ನ ತಾಯಿ ಆಂಬುಲೆನ್ಸ್ ಕರೆಯಿಸಿ ಆಸ್ಪತ್ರೆಗೆ ಚಿಕಿತ್ಸೆಗೆ ದಾಖಲಿಸಿರುತ್ತಾರೆ. ನಮ್ಮಗಳ ಮೇಲೆ ಗಲಾಟೆ ಮಾಡಿರುವ ಮೇಲ್ಕಂಡ ಮರಿದೇವರು, ಲಲಿತ, ರಾಘವೇಂದ್ರ, ಶೇಖರ ಮತ್ತು ಕವಿತ ರವರುಗಳ ವಿರುದ್ಧ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳಬೇಕೆಂದು ಕೋರಿ ಆಸ್ಪತ್ರೆಯಲ್ಲಿ ನನ್ನ ಹೇಳಿಕೆ ದೂರು ನೀಡಿರುತ್ತೇಂದು ನೀಡಿದ ದೂರಿನ ಮೇರೆಗೆ ಪ್ರ.ವ.ವರದಿ."

(Emphasis added)

The police conduct investigation and file a charge sheet. The summary of the charge sheet, as obtaining in Column No.17, reads as follows:

"17. ಕೇಸಿನ ಸಂಕ್ಷಿಪ್ತ ಸಾರಾಂಶ

ಕಲಂ: 341, 323, 324, 354(ಬಿ), 504, 506 ರೆ/ವಿ 34 ಐಪಿಸಿ

ಬಿಳಿಕೆರೆ ಪೊಲೀಸ್ ಠಾಣಾ ಸರಹದ್ದಿಗೆ ಸೇರಿದ ಈರನದಾಸಿಕೊಪ್ಪಲು ಗ್ರಾಮದಲ್ಲಿ ವಾಸವಾಗಿರುವ ಸಾಕ್ಷಿ-3 ರವರಿಗೂ ಹಾಗೂ ಈ ದೋಷಾರೋಪಣ ಪತ್ರದ ಕಾಲಂ ನಂಬರ್ 12 ರಲ್ಲಿ ಕಂಡ ಆರೋಪಿಗಳಿಗೂ ಜಮೀನಿನ ವಿಚಾರದಲ್ಲಿ ತಕರಾರು



HC-KAR

ಇದ್ದು ನ್ಯಾಯಾಲಯದಲ್ಲಿ ವಾಚ್ಯ ನಡೆಯುತ್ತಿದ್ದು, ಸದರಿ ಜಮೀನಿನಲ್ಲಿ 1ನೇ ಆರೋಪಿಯು ಜೆ.ಸಿ.ಬಿ. ಮೂಲಕ ಮಣ್ಣನ್ನು ತೆಗೆಸುತ್ತಿದ್ದದರಿಂದ ದಿನಾಂಕ:17.03.2023 ರಂದು ಬೆಳಿಗ್ಗೆ 10.00 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ಸಾಕ್ಷಿ-3 ರವರು ಜಮೀನಿನ ಬಳಿಗೆ ಹೋಗಿ ಮಣ್ಣನ್ನು ತೆಗೆಯದಂತೆ ತಡೆದಿರುತ್ತಾರೆ. ನಂತರ ಅದೇ ದಿವಸ ದಿನಾಂಕ:17.03.2023 ರಂದು ರಾತ್ರಿ 8.00 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ಈರನದಾಸಿಕೊಪ್ಪಲು ಗ್ರಾಮದ ಸರ್ಕಾರಿ ಕಿರಿಯ ಪ್ರಾಥಮಿಕ ಶಾಲೆಯ ಮುಂಭಾಗದಲ್ಲಿರುವ ಸರ್ಕಲ್ ಬಳಿ ನಿಂತಿದ್ದಾಗ ಮೇಲ್ಕಂಡ 1 ರಿಂದ 5 ರವರೆಗಿನ ಆರೋಪಿಗಳು ಜಮೀನಿನ ವಿಚಾರದಲ್ಲಿ ಸಾಕ್ಷಿ-4 ರವರ ಮೇಲೆ ತೀಟೆ ಜಗಳ ತೆಗೆದು ಅವರಿಗೆ ಬಾಯಿಗೆ ಬಂದಂತೆ ಅವಾಚ್ಯ ಶಬ್ದಗಳಿಂದ ಬೈಯುತ್ತಿದ್ದು, ನಂತರ 5ನೇ ಆರೋಪಿಯು ಸಾಕ್ಷಿ-1 ರವರ ಬಳಿಗೆ ಹೋಗಿ ಅವರ ಕತ್ತಿನ ಪಟ್ಟಿಯನ್ನು ಹಿಡಿದುಕೊಂಡಾಗ ಸಾಕ್ಷಿ-1 ರವರು 5ನೇ ಆರೋಪಿಯಿಂದ ಬಿಡಿಸಿಕೊಂಡು ತನ್ನ ಮನೆಗೆ ಓಡಿ ಹೋದಾಗ ಅದನ್ನು ಕೇಳಲು ಬಂದ ಸಾಕ್ಷಿ-3 ರವರಿಗೆ ಮೇಲ್ಕಂಡ 1 ರಿಂದ 5 ರವರೆಗಿನ ಆರೋಪಿಗಳು ಸಾಕ್ಷಿ-3 ರವರನ್ನು ಕೆಳಕ್ಕೆ ಕೆಡವಿಕೊಂಡು ಕಾಲಿನಿಂದ ತುಳಿದು ಮೈಕೈಗೆ ನೋವುಂಟು ಮಾಡಿರುವುದು ಮತ್ತು ಆ ಸಮಯದಲ್ಲಿ ಸಾಕ್ಷಿ-2 ರವರು ಜಗಳ ಬಿಡಿಸಿಕೊಳ್ಳಲು ಬಂದಾಗ 1ನೇ ಆರೋಪಿಯು ಸಾಕ್ಷಿ-1 ರವರ ತಲೆಯ ಎಡಭಾಗಕ್ಕೆ ಹೊಡೆದು ನೋವುಂಟು ಮಾಡಿರುವುದು, ನಂತರ 1 ಮತ್ತು 4ನೇ ಆರೋಪಿಗಳು ಸಾಕ್ಷಿ-1 ರವರಿಗೆ ಹೇಗಿದ್ದರೂ ಕೇಸು ಹಾಕಿದ್ದೀಯಾ ನಿನ್ನನ್ನು ಕೊಲೆ ಮಾಡದೇ ಬಿಡುವುದಿಲ್ಲವೆಂದು ಕೊಲೆ ಬೆದರಿಕೆಯನ್ನು ಹಾಕಿರುವುದು ಮತ್ತು ಇದರಿಂದಾಗಿ ಸಾಕ್ಷಿ-1 ರವರಿಗೆ ಹೇಗಿದ್ದರೂ ಕೇಸು ಹಾಕಿದ್ದೀಯಾ ನಿನ್ನನ್ನು ಕೊಲೆ ಮಾಡದೇ ಬಿಡುವುದಿಲ್ಲವೆಂದು ಕೊಲೆ ಬೆದರಿಕೆಯನ್ನು ಹಾಕಿರುವುದು ಮತ್ತು ಇದರಿಂದಾಗಿ ಸಾಕ್ಷಿ-1 ಮತ್ತು ಸಾಕ್ಷಿ-3 ರವರಿಗೆ ಸಾಮಾನ್ಯ ಸ್ವರೂಪದ ಗಾಯವುಂಟಾಗಿರುವುದು ಇದುವರೆಗಿನ ತನಿಖೆಯಿಂದ ದೃಢಪಟ್ಟ ಮೇರೆಗೆ ಮೇಲ್ಕಂಡ 1 ರಿಂದ 5 ರವರೆಗಿನ ಆರೋಪಿಗಳ ವಿರುದ್ಧ ಕಲಂ: 341, 323, 324, 354(ಬಿ), 504, 506 ರೆ/ವಿ 34 ಐಪಿಸಿ ರೀತ್ಯಾ ದೋಷಾರೋಪಣ ಪತ್ರವನ್ನು ತಯಾರಿಸಿ ಘನ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಸಲ್ಲಿಸಿಕೊಳ್ಳಲಾಗಿರುತ್ತದೆ."

(Emphasis added)

If the complaint and summary of the charge sheet are read in tandem the offence that can be laid against the petitioner is the one punishable under Section 324 of the IPC. The issue now would be which Court should try the petitioner.

9. Therefore, the issue that falls for consideration in the case at hand is whether the petitioner, a juvenile at the time of the incident, as he was 17 years and 10 months old, could be



tried as an adult before the concerned Court or he should be tried as a child under the Act before the Children’s Court. To consider this issue, it is necessary to notice the statutory landscape.

STATUTORY LANDSCAPE:

10. Section 2 of the Act deals with definitions. Sub-sections (33), (45) and (54) are necessary to be noticed. They read as follows:

“2. Definitions.—In this Act, unless the context otherwise requires,—

.....
(33) “heinous offences” includes the offences for which the minimum punishment under the Indian Penal Code (45 of 1860) or any other law for the time being in force is imprisonment for seven years or more;

.....
(45) “petty offences” includes the offences for which the maximum punishment under the Indian Penal Code (45 of 1860) or any other law for the time being in force is imprisonment up to three years;

.....
 (54) “serious offences” includes the offences for which the punishment under the Indian Penal Code (45 of 1860) or any other law for the time being in force, is,—

(a) minimum imprisonment for a term more than three years and not exceeding seven years; or



HC-KAR

(b) maximum imprisonment for a term more than seven years but no minimum imprisonment or minimum imprisonment of less than seven years is provided”

(Emphasis supplied)

Sub-section (33) of Section 2 deals with heinous offences. Heinous offence would include an offence for which the minimum punishment would be 7 years or more. Sub-section (45) of Section 2 deals with petty offences. Petty offences are defined as those offences for which the maximum punishment would be up to 3 years. Sub-section (54) of Section 2 deals with serious offences which attract a minimum imprisonment for a term of more than 3 years and not exceeding 7 years. Sub-sections (33) and (45) of Section 2 are the ones that are necessary to be noticed in the case at hand. What is alleged against the petitioner is offence under Section 324 of the IPC. Section 324 of the IPC reads as follows:

“324. Voluntarily causing hurt by dangerous weapons or means.—

Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is



deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.”

(Emphasis supplied)

Offence under Section 324 is punishable with imprisonment up to 3 years or with fine or with both. It punishes any person voluntarily causing hurt by dangerous weapons or means. Therefore, if the definitions under the Act for heinous offence and petty offence are juxtaposed with Section 324 of the IPC, the unmistakable inference is that the petitioner can be tried only for petty offence as defined under the Act and not for heinous offence.

THE RULES:

11. Certain Rules are notified in exercise of powers under the Act. The Juvenile Justice (Care and Protection of Children) Model Rules, 2016 (hereinafter referred to as 'the Rules' for short), are necessary to be noticed. Rule 8 therein assumes significance for the resolution of the issue in the *lis*. Rule 8 is found under Chapter-III, which deals with procedure in relation to children in conflict with law. It reads as follows:



HC-KAR

"CHAPTER III
PROCEDURE IN RELATION TO CHILDREN IN CONFLICT
WITH LAW

8. Pre-Production action of Police and other Agencies.—(1) No First Information Report shall be registered except where a heinous offence is alleged to have been committed by the child, or when such offence is alleged to have been committed jointly with adults. In all other matters, the Special Juvenile Police Unit or the Child Welfare Police Officer shall record the information regarding the offence alleged to have been committed by the child in the general daily diary followed by a social background report of the child in Form 1 and circumstances under which the child was apprehended, wherever applicable, and forward it to the Board before the first hearing:

Provided that the power to apprehend shall only be exercised with regard to heinous offences, unless it is in the best interest of the child. For all other cases involving petty and serious offences and cases where apprehending the child is not necessary in the interest of the child, the police or Special Juvenile Police Unit or Child Welfare Police Officer shall forward the information regarding the nature of offence alleged to be committed by the child along with his social background report in Form 1 to the Board and intimate the parents or guardian of the child as to when the child is to be produced for hearing before the Board.

(2) When a child alleged to be in conflict with law is apprehended by the police, the police officer concerned shall place the child under the charge of the Special Juvenile Police Unit or the Child Welfare Police Officer, who shall immediately inform:

- (i) the parents or guardian of the child that the child has been apprehended along with the address of the Board where the child will be produced and the



HC-KAR

date and time when the parents or guardian need to be present before the Board;

- (ii) the Probation Officer concerned, that the child has been apprehended so as to enable him to obtain information regarding social background of the child and other material circumstances likely to be of assistance to the Board for conducting the inquiry; and
- (iii) a Child Welfare Officer or a Case Worker, to accompany the Special Juvenile Police Unit or Child Welfare Police Officer while producing the child before the Board within twenty-four hours of his apprehension.

(3) The police officer apprehending a child alleged to be in conflict with law shall:

- (i) not send the child to a police lock-up and not delay the child being transferred to the Child Welfare Police Officer from the nearest police station. The police officer may under sub-section (2) of Section 12 of the Act send the person apprehended to an observation home only for such period till he is produced before the Board i.e. within twenty-four hours of his being apprehended and appropriate orders are obtained as per Rule 9 of these rules;
- (ii) not hand-cuff, chain or otherwise fetter a child and shall not use any coercion or force on the child;
- (iii) inform the child promptly and directly of the charges levelled against him through his parent or guardian and if a First Information Report is registered, copy of the same shall be made available to the child or copy of the police report shall be given to the parent or guardian;
- (iiia) also inform the child and the parent or guardian immediately regarding the rights and privileges of the child under the Act and rules;
- (iiib) rights of the child shall also be displayed in every police station and at prominent places in the Observation Homes, Special Homes, Place of Safety;



- (iv) provide appropriate medical assistance, assistance of interpreter or a special educator, or any other assistance which the child may require, as the case may be;
 - (v) not compel the child to confess his guilt and he shall be interviewed only at the Special Juvenile Police Unit or at a child-friendly premises or at a child friendly corner in the police station, which does not give the feel of a police station or of being under custodial interrogation. The parent or guardian, may be present during the interview of the child by the police;
 - (vi) not ask the child to sign any statement; and
 - (vii) inform the District Legal Services Authority for providing free legal aid to the child.
- (4) The Child Welfare Police Officer shall be in plain clothes and not in uniform.
- (5) The Child Welfare Police Officer shall record the social background of the child and circumstances of apprehending in every case of alleged involvement of the child in an offence in Form 1 which shall be forwarded to the Board forthwith. For gathering the best available information, it shall be necessary upon the Special Juvenile Police Unit or the Child Welfare Police Officer to contact the parent or guardian of the child.
- (6) A list of all designated Child Welfare Police Officers, Child Welfare Officers, Probation Officers, Para Legal Volunteers, District Legal Services Authorities and registered voluntary and non-governmental organisations in a district, Principal Magistrate and members of the Board, members of Special Juvenile Police Unit with contact details shall be prominently displayed in every police station.
- (7) When the child is released in a case where apprehending of the child is not warranted, the parents or guardians or a fit person in whose custody the child alleged to be in conflict with law is placed in the best



HC-KAR

interest of the child, shall furnish an undertaking on a non-judicial paper in Form 2 to ensure their presence on the dates during inquiry or proceedings before the Board.

(8) The State Government shall maintain a panel of voluntary or non-governmental organisations or persons who are in a position to provide the services of probation, counselling, case work and also associate with the Police or Special Juvenile Police Unit or the Child Welfare Police Officer, and have the requisite expertise to assist in physical production of the child before the Board within twenty-four hours and during pendency of the proceedings and the panel of such voluntary or non-governmental organisations or persons shall be forwarded to the Board.

(9) The State Government shall provide funds to the police or Special Juvenile Police Unit or the Child Welfare Police Officer or Case Worker or person for the safety and protection of children and provision of food and basic amenities including travel cost and emergency medical care to the child apprehended or kept under their charge during the period such children are with them."

(Emphasis supplied)

Rule 8 mandates that no First Information Report shall be registered against a juvenile except where the offence alleged is heinous, whether it is committed by a child solitarily or jointly with adults. The word that separates two insists where the heinous offence is alleged to have been committed by the child would undoubtedly mean committed by a child solitarily. The second instance is where such offences are alleged to have been committed together with adults. The contention of the



learned Additional State Public Prosecutor is that such offence is relatable to both the instances and therefore, a child where it is a petty offence or heinous offence if it is committed with adults, they are inseparable and, therefore, the Rules itself permit a child to be tried by a regular Court.

12. The said submission is unacceptable as the Rules are clear that a juvenile can be tried by a regular Court only if he is alleged of commission of a heinous offence. The usage of the word "such offence" in the section cannot be read in isolation. It has to be read in tandem with the first instance, as it is trite law that interpretation of the word should be with the company that it keeps i.e., the words that are found along with a particular word which has fallen for interpretation. This is on the principle of *noscitur a sociis*, which means the word should be interpreted with the company of words that it keeps. The Apex Court in the case of **PARLE AGRO PRIVATE LIMITED. v. COMMISSIONER OF COMMERCIAL TAXES**,¹ deals with the said principle, while interpreting the provisions of the Kerala Value Added Tax Act, 2003 and has held as follows:

¹(2017) 7 SCC 540



HC-KAR

"....

Issue (iv): Principle of "noscitur a sociis"

42. The appellants before the Committee of Commissioners as well as the High Court have pleaded that Entry 71 Item 5 mentioned "similar other products not specifically mentioned under any other entry in this list or any other schedule", was required to be considered in the light of commodities as included in other items mentioned in Entry 71. It was submitted that "Appy Fizz" which is a fruit juice based drink is more akin to other commodities included in Entry 71 other than that which was included in Section 6(1)(a). In interpreting Item 5 of Entry 71 the doctrine of "*noscitur a sociis*" is fully attracted. Justice G.P. Singh in *Principles of Statutory Interpretation*, 14th Edn., has explained the "*noscitur a sociis*" in the following words:

"(b) Noscitur a sociis

The rule of construction *noscitur a sociis* as explained by Lord Macmillan means: "The meaning of a word is to be judged by the company it keeps" [Lord MacMillan, "Law and Language" (Birmingham 1931).] . As stated by the Privy Council: 'It is a legitimate rule of construction to construe words in an Act of Parliament with reference to words found in immediate connection with them.' [*Angus Robertson v. George Day*, (1879) LR 5 AC 63, p. 69 (PC)] It is a rule wider than the rule of *ejusdem generis*; rather the latter rule is only an application of the former. The rule has been lucidly explained [*State of Bombay v. Hospital Mazdoor Sabha*, AIR 1960 SC 610, para 9] by Gajendragadkar, J. in the following words: "This rule, according to Maxwell, means that when two or more words which are susceptible of analogous meaning are coupled together, they are understood to be used in their cognate sense. They take as it were their colour from each other, that is, the more general is restricted to a sense analogous to a less general. The same rule is thus interpreted in Words and Phrases." "Associated words take their meaning from one another under the doctrine of *noscitur a sociis*, the philosophy of which is that the meaning of the



HC-KAR

doubtful word may be ascertained by reference to the meaning of words associated with it; such doctrine is broader than the maxim *ejusdem generis*." In fact the latter maxim "is only an illustration or specific application of the broader maxim *noscitur a sociis*". **It must be borne in mind that *noscitur a sociis*, is merely a rule of construction and it cannot prevail in cases where it is clear that the wider words have been deliberately used in order to make the scope of the defined word correspondingly wider. It is only where the intention of the legislature in associating wider words with words of narrower significance is doubtful, or otherwise not clear that the present rule of construction can be usefully applied."**

(Emphasis supplied)

The Apex Court considers the principle of *noscitur a sociis* and holds that words must be interpreted with the company it keeps or to be a catch all expression. Therefore, the words under the Act in both the instances cannot be said that if a child has committed an act singly the child would be tried by the Children's Court, but if it is committed along with adults, would be tried by regular Courts. This would be doing violence to the Rules. The words 'such offence' would mean on both instances. What is important is the nature of the offence as is defined under the Act. The nature of offence would depend upon the minimum imprisonment or maximum imprisonment as the case would be. As observed hereinabove, Section 324 of



HC-KAR

the IPC which is alleged against the petitioner is punishable up to 3 years or with fine or both. If it is punishable upto 3 years, it relates a petty offence as defined under the Act and if it is a petty offence, the Police would not get jurisdiction to register the crime and investigate into the matter of a juvenile. Juvenile would be an accused below the age of 18 years committing petty offence. The crime ought to have been registered before the juvenile police or the Child Welfare Police Officer in the Special Juvenile Police Unit.

13. The juvenility of the petitioner is not in dispute. It is settled principle of law that the plea of juvenility can be urged even before the Apex Court if the matter were to reach the Apex Court. Therefore, to avoid the projection of juvenility at a later point in time, it is necessary to nip the trial in the bud and transmit the papers to the Children's Court or juvenile police unit to conduct investigation altogether from the beginning and place it before the Children's Court under the Act for the concerned Court to regulate its procedure once it is considered by the Juvenile Justice Board. If trial is permitted against the petitioner/accused No.3/juvenile of 17 years and 10 months at



HC-KAR

the time of commission of the offence, it would be permitting the jurisdictional police or the Court to try an accused without jurisdiction, **as answer to jurisdiction can be either a 'yes' or 'no' but can never be a 'may be'.**

14. For the aforesaid reasons, the following:

ORDER

- a. The criminal petition is allowed in-part.
- b. The investigation conducted by the respondent Nos.1 and 2 – jurisdictional police in Crime No.57/2023, stands obliterated in terms of the observations made in the course of the order.
- c. Consequently, the charge sheet filed in C.C.No.165/2023 and the proceedings pending before the Additional Civil Judge (Jr. Dn.) and JMFC, Hunsur, stands quashed.
- d. It is made clear that only the investigation conducted by respondent Nos.1 and 2 is obliterated and not the offence under Section 324 of the IPC, alleged against the petitioner.
- e. Respondent Nos.1 and 2 are directed to transfer the entire matter to the Juvenile Police Unit for the investigation afresh.



HC-KAR

- f. The Juvenile Police Unit shall adhere to the procedure under the Act and the Rules and the observations made in the course of the order.

Ordered accordingly.

Sd/-
(M.NAGAPRASANNA)
JUDGE

SJK
List No.: 1 Sl No.: 32
CT:BHK