



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 16TH DAY OF FEBRUARY, 2023

BEFORE

THE HON'BLE MR JUSTICE S.R. KRISHNA KUMAR

WRIT PETITION NO. 100082 OF 2023 (GM-POLICE)

BETWEEN:

SHREE BASAVANAND SWAMIGALU
AGE. 50 YEARS,
R/O SHREE GURU BASAVA MAHAMANE
CHENNAYYANAGIRI, MAAGUNDI, TQ. DHARWAD
...PETITIONER
(BY SRI SACHIN C.ANGADI, ADVOCATE)

AND:

1. STATE OF KARNATAKA
THROUGH C.E.N. POLICE DHARWAD
DISTRICT DHARWAD
REP. BY ITS STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA, DHARWAD
2. STATE OF KARNATAKA
THROUGH SP, DHARWAD DISTRICT, DHARWAD
REP. BY ITS STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA, DHARWAD
...RESPONDENTS
(BY SRI PRASHANT V.MOGALI, HCGP)



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT, ORDER OR DIRECTION IN THE NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION AND BE PLEASED TO QUASH THE ENDORSEMENT DATED 19.10.2022 ISSUED BY THE 2ND RESPONDENT WHICH IS PRODUCED AT ANNEXURE-B TO THE WRIT PETITION AND ISSUE A WRIT, ORDER OR DIRECTION IN THE NATURE OF MANDAMUS TO THE 1ST AND 2ND RESPONDENT TO FIR AS PER THE COMPLAINT GIVEN BY THE PETITIONER DATED



15.09.2022 AND CONDUCT THE PROPER INVESTIGATION ACCORDANCE WITH LAW.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

In this petition, the petitioner seeks quashing of the impugned endorsement at Annexure-B dated 19.10.2022 issued by the Police Inspector, CEN Police Station, Dharwad District, whereby the complaint dated 15.09.2022 submitted by the petitioner was rejected.

2. Heard learned counsel for the petitioner and learned HCGP appearing for the respondents. Perused the material on record.

3. A perusal of the material on record, in particular Annexure-A dated 15.09.2022 will clearly indicate that apart from other offences said to have been committed against the petitioner-complainant, it is a specific allegation of the petitioner that he is a visually disabled and the offence committed against him are attracted by Section 92 of the Right of Persons with Disabilities Act, 2016 and consequently necessary action is to be taken by



the respondent-Police against the accused person. However, a perusal of the impugned endorsement at Annexure-B dated 19.10.2022 will indicate that the complaint of the petitioner has been rejected on the erroneous premise that only recourse available for the petitioner was to sue for defamation which is contrary to the averments made in the complaint, which go to show that the same constitute a cognizable offence. Under these circumstances, I am of the view that Annexure-B deserves to be set aside and necessary directions are to be issued to the Police. In the result, I pass the following:

ORDER

- i. The petition is hereby allowed.
- ii. The impugned endorsement dated 19.10.2022 at Annexure-B issued by the 1st respondent is hereby quashed.
- iii. Respondent No.2 is directed to register the FIR pursuant to the petitioner's complaint at Annexure-A dated 15.09.2022 and proceed further in the matter bearing in mind the principles laid down by Hon'ble Apex Court in the case of **XYZ Vs. State of**



Madhya Pradesh & Ors. reported in **2022**
SAR Online (SC) 699 as expeditiously as
possible.

Sd/-
JUDGE

CKK

Not An Official Copy