IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF DECEMBER, 2020

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO.1308 OF 2020

BETWEEN:

1. RAMESH SOPAN PITTEKAR
   S/O SOPAN PITTEKAR
   AGED ABOUT 33 YEARS
   R/O MALANGI VILLAGE & POST
   KARJATH TALUK
   AHAMAD NAGAR DISTRICT
   MAHARASHTRA STATE – 414 001

2. MARUTHI RAJARAM PITTEKAR
   S/O RAJARAM PITTEKAR
   AGED ABOUT 47 YEARS
   R/O MALANGI VILLAGE & POST
   KARJATH TALUK
   AHAMAD NAGAR DISTRICT
   MAHARASHTRA STATE – 414 001

3. ANATH DAANDE
   S/O LAKSHMAN DANNDE
   AGED ABOUT 37 YEARS
   R/O VALVAD VILLAGE
   REHAKOORI POST
   KARJATH TALUK
   AHAMAD NAGAR DISTRICT
   MAHARASHTRA STATE – 414 001

... PETITIONERS

(BY SRI RUPRESH KUMAR.S., ADVOCATE)

AND:

1. STATE OF KARNATAKA
   BY STATION HOUSE OFFICER
   MYSORE RLY PS.
   MYSURU CITY
   REPRESENTED BY THE
   LEARNED STATE PUBLIC PROSECUTOR

2. SRI NAVEEN KUMAR
   SON OF RATHAN CHAND
   AGED ABOUT 37 YEARS
   RESIDING AT NO.10, 3RD CROSS
   NEHRU NAGAR
   SHESHADRIPURAM
   BANGALORE – 560 020

... RESPONDENTS

(BY SRI K.NAGESHWARAPPA, HCGP., FOR R1)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C. PRAYING TO QUASH THE PROCEEDINGS BEFORE 3RD A.C.J (SR.DN) AND CJM, IN CR.NO.57/2018 (C.C.NO.213/2019) FOR THE OFFENCE PUNISHABLE UNDER SECTION 395 OF IPC AS PER ANNEXURE-A.

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

O R D E R

1. Petitioners are before this Court seeking for quashing of the proceedings in crime No.57/2018 registered by the Mysuru Railway Police Station against the petitioners and others for offence under Section 379 of the IPC now renumbered as C.C.No.213/2019 pending on the file of 3rd A.C.J

(Sr.Dn) and CJM for offence under Section 395 of IPC.

2. A complaint came to be filed on 2.10.2018 by the second respondent alleging that when he was returning back to Mysuru by train, certain gold ornaments that he was carrying with him has been stolen from the railway carriage that he was sitting in.

3. On the basis of the above complaint, the FIR came to be registered and investigated. On investigation, the charge sheet has been laid against the petitioners and certain others on 19.07.2019 implicating the petitioners and others. During the course of the investigation the offence alleged has been changed from Section 379 to Section 395 of IPC. In the said charge sheet various allegations have been made against the petitioners herein and it is further stated that the jewellery which has been stolen has been recovered either from the

petitioners and/or others persons. In as much as they have been recovered from several jewelers to whom the said gold ornaments were sold by the petitioners.

4. Sri Rupesh Kumar.S, learned counsel for the petitioners would submit that initially the petitioners were implicated for an offence under Section 379 of IPC in his complaint. Thereafter, in a further statement the complainant has improved upon the story and made allegations as if it is a decoity. There is a contradiction in the statements made by the complainant in the original complaint and the further statement. Therefore, prima facie there is no offence which has been made out against the petitioners and on this ground he seeks for quashing of the proceedings.

5. Per contra, Sri K.Nageshwarappa, learned High Court Government Pleader would submit that on the basis of the complaint, investigation has been

carried out, the petitioners have been identified through an identification parade. The complaint when filed being under Section 379 of IPC it is on account of the number of the offenders involved and as also the nature of the offence that charge sheet has been laid under Section 395 of IPC. The gold having been recovered from or through the petitioners-accused, this Court need not exercise its powers under Section 482 of Cr.P.C. The petitioners are required to stand trial and the petition is therefore required to be dismissed.

6. Heard Sri Rupesh Kumar, learned counsel for the petitioners. Sri K.Nageshwarappa, learned High Court Government Pleader.

7. Having perused the complaint and also the statement and the charge sheet laid and the witness statement in support thereof it is seen that there are several serious allegations made against the petitioners which are factual in nature. The witnesses have attributed to the crime of the

petitioners. The crime having occurred this Court cannot in exercise of jurisdiction under Section 482 of Cr.P.C. give a finding as regards whether an offence has been committed or not as sought to be contended by Sri Rupesh Kumar.S. The same would be within the sole purview of the trial Court.

8. The offence having been committed, a criminal complaint having been lodged and the gold having been recovered from various persons, whether the petitioners were the perpetrators of the crime or not, would have to be established, these are all defences available to the petitioners to be placed during the course of trial.

9. The above petition is dismissed.

   I.A No.1/2020 does not survive for consideration, hence stands disposed.

Sd/-
JUDGE

HB/-