HC-KAR

NC: 2026:KHC:59548
CRL.P No. 2581 of 2022

CNR: KAHC010127412022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL PETITION NO.2581 OF 2022

BETWEEN:

1. K. JAYARAMA ACHARYA
S/O NARAYANA ACHARYA
AGED ABOUT 63 YEARS
R/AT BEEDU MARGA
AMBALAPADY POST
UDUPI-576103
HONORARY SECRETARY
INDIAN RED CROSS ORGANIZATION
UDUPI DISTRICT UNIT.

2. K. SANMATH HEGDE
S/O MANOHARA HEGDE
AGED ABOUT 38 YEARS
R/AT JAMYADI HOUSE
HARDALLI-MANDALLI VILLAGE AND POST
BIDKAL KATTE KUNDAPURA
UDUPI-576201
MEMBER
INDIAN RED CROSS ORGANIZATION
UDUPI DISTRICT UNIT.

3. DR. TALLURU SHIVARAM SHETTY
S/O LATE ANNAYAYA SHETTY
AGED ABOUT 71 YEARS
R/AT DOORNO 6-1-5-A
KANAKA NIVAS, OLAKADU
UDUPI - 576101
PRESIDENT

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

INDIAN RED CROSS ORGANIZATION
UDUPI DISTRICT UNIT.

…PETITIONERS

(BY SRI. G.C.SRIHARSHA, ADVOCATE FOR
SRI. NISHIT KUMAR SHETTY, ADVOCATE)

AND:

1. SHOBHA
D/O GURUVAPPA
AGED ABOUT 44 YEARS
R/AT KALA NIVAS, ARASIKATTE
BANTAKALLU POST AND VILLAGE
SHIRVA, UDUPI-574116
OFFICE SERVANT/SCAVANGER
INDIAN RED CROSS ORGANIZATION
UDUPI DISTRICT UNIT.

…RESPONDENT

(BY SMT. S. PADMINI, ADVOCATE)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.PC PRAYING TO QUASH THE ENTIRE PROCEEDINGS AGAINST THE PETITIONERS IN SPL.C.C.NO.17/2022 (P.C.NO.3/2021) PENDING ON THE FILE OF THE PRL. DISTRICT AND SESSIONS JUDGE AT UDUPI, UDUPI DISTRICT, FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 1(p)(r)(s)(u), 3(1)(za), (E),3(1)(zc) AND 4(2) OF SC/ST (POA) ACT AND SECTIONS 166A, 254, 506, 509 R/W SECTION 34 OF IPC.

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

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

CNR: KAHC010127412022

ORAL ORDER

Heard learned counsel for the petitioners and learned counsel for the respondent.

2. The prayer is sought in this petition to quash the proceedings in P.C.No.03/2021 pending on the file of the Principal District and Sessions/Special Judge at Udupi, Udupi District for the offences punishable under Sections 3(1)(p), (r), (s), (u), 3(1)(za)(E), 3(1)(zc), 4(2) of SC/ST (POA) Act and Sections 166-A(b), 321, 354, 506, 509 read with Section 34 of IPC.

3. Learned counsel for the petitioners would vehemently contend that a private complaint is filed which is numbered as PCR No.03/2021 and this complaint is also not supported by an affidavit as observed by the Apex Court in ***Priyanka Srivastava's*** case and having perused the contents of the complaint also, nowhere it is stated that they have complied with Sections 154(1) and 154(3) and except referring the earlier complaints filed with the police, they have not taken any action. If such action is not taken by the police, ought to

have approached the Superior Police Officers and the same is also not complied with.

4. The counsel also brought to notice of this Court contents of the complaint and in the private complaint, only reference is made to the earlier incident dated 18.02.2021 and so also, subsequent incidents dated 16.03.2021 and 23.03.2021, wherein she was removed from service. Hence, counsel would submit that if this proceedings is continued, it amounts to abuse of process which leads to miscarriage of justice.

5. The counsel appearing for the respondent would submit that when the complaint was given to the police, police did not receive the complaint and instead, gave an endorsement to the complainant and for subsequent complaint also, only NCR was issued dated 24.06.2021 and without any other option, the petitioners have approached the Court. The counsel fairly submits that the complaint is not supported by an affidavit in view of the observations made by the Apex Court in ***Priyanka Srivastava's*** case and also with regard to non-compliance of Sections 154(1) and 154(3).

6. Having heard learned counsel for the petitioners and also learned counsel for the respondent, the Court has to take note of factual aspects of the case while considering criminal prosecution. When the private complaint was filed, the same is numbered as PCR No.03/2021 and the learned Magistrate has to take note of whether any compliance in view of judgment of the Apex Court in ***Priyanka Srivastava's*** case, since this complaint is filed in 2021 after the judgment of the Apex Court in ***Priyanka Srivastava's*** case, wherein also the Apex Court taken note of compliance under Sections 154(1) and 154(3) and discussed the same in the said Judgment.

7. The counsel for the respondent-complainant would submit that an opportunity may be given to the complainant-respondent to cure the defect, but the judgment of the Apex Court throughout from day one has not given such opportunity to the complainant in coming to the conclusion that the same is a curable defect and the same has to be complied and matter has to be remitted back to the Trial Court. When such order has not been passed and the Apex Court quashed the proceedings when the complaint was not supported by affidavit and also

when there was no compliance and even compliance under Sections 154(1) and 154(3) also does not arise, if it is remanded back, when the complainant has not taken any action under Sections 154(1) and 154(3) and such submission of the counsel cannot be accepted.

8. Having considered the submission of respective counsel and also the factual aspects of the case, in view of non-compliance of principles laid down in the judgment of ***Priyanka Srivastava's*** case, as well as non-compliance of Sections 154(1) and 154(3), the foundational defect is found in the private complaint. Hence, the petitioners have made out the ground to quash the proceedings exercising the power under Section 482 of Cr.P.C. or otherwise it amounts to miscarriage of justice and abuse of process.

9. In view of the discussion made above, I pass the following:

ORDER

(i) The criminal petition is ***allowed***.

(ii) The proceedings initiated against the petitioners i.e., accused Nos.1, 2 and 4 in P.C.No.03/2021 pending on the file of the Principal District and Sessions/Special Judge at Udupi, Udupi District for the offences punishable under Sections 3(1)(p), (r), (s), (u), 3(1)(za)(E), 3(1)(zc), 4(2) of SC/ST (POA) Act and Sections 166-A(b), 321, 354, 506, 509 read with Section 34 of IPC, is hereby quashed.

Sd/-
(H.P.SANDESH)
JUDGE

ST
List No.: 1 Sl No.: 42