HC-KAR
CNR: KAHC010009422025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO. 235 OF 2025 (482(Cr.PC) / 528(BNSS)-)

C/W

CRIMINAL PETITION NO. 3499 OF 2026 (482(Cr.PC) / 528(BNSS)-)

IN CRL.P No. 235/2025
BETWEEN:

SRI. C S SURYAKANTH RAO
SO LATE SRINIVAS RAO
AGED ABOUT 61 YEARS
NO. 102, 7TH CROSS POTTERY TOWN
WILLIAMS TOWN, J C NAGAR,
BENGALURU 5640046

...PETITIONER

(BY SRI. JANARDHANA REDDY B J., ADVOCATE)

AND:

1. STATE OF KARNATAKA BY
   J C NAGAR P S , BENGLAURU 560046
   REP BY ITS SPP
   HIGH CORUT OF KARNANTAKA
   BENGLAURU 560025

2. SMT. PAVITHRA.R
   DO LATE M B RAMACHANDRA
   AGED ABOUT 50 YEARS
   R/AT NO.55, NANDHIDURGA MAIN ROAD

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J C NAGRA,
BENGALURU 560046

…RESPONDENTS

(BY SMT. RASHMI PATEL., HCGP FOR R1;
SRI. H. RAMACHANDRA., ADVOCATE FOR
SRI. H.R. ANANTHAKRISHNAMURTHY., ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED U/S.482 (FILED U/S.528 BNSS) CR.P.C PRAYING TO CALL FOR RECORDS AND PASS AN ORDER TO QUASH THE PROCEEDINGS PENDING BEFORE THE HONBLE COURT OF THE VIII ADDL. CJM, (8TH ACJM) BENGALURU, IN C.C.NO.20706/2024 (CRIME NO.23/2024 AGAINST THE PETITIONER (ACCUSED NO.3) J.C.NAGAR POLICE STATION P/U/S 143, 148, 149, 441, 447, 504, 506 OF IPC.

IN CRL.P NO. 3499/2026
BETWEEN:

1. SRI SENDIL KUMAR A
S/O SRI ASHOKAN
AGED ABOUT 42 YEARS
RESIDING AT NO.163,
3RD CROSS, 41H MAIN, A.K. COLONY,
D.J. HALLI,
BENGALURU-560046

2. SRI SAMPATH C.S
S/O CHINNAIAH
AGED ABOUT 59 YEARS
RESIDING AT NO.14,
2ND MAIN ROAD, S.K. GARDEN
J.C.NAGAR, BENGLAURU-560046

3. SRI YANGAIAH C.S.
S/O LATE SRI C.P. NARASAIAH
AGED ABOUT 65 YEARS,
RESIDING AT NO.40,
4TH CROSS, 4TH MAIN,
S.K. GARDEN J.C.NAGAR,
BENGLAURU-560046

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4. SRI SRINIVASAN C
S/O SRI CHANDRAN.C.
AGED ABOUT 52 YEARS,
RESIDING AT NO.37/1,
4TH CROSS, S.K. GARDEN J.C.NAGAR,
BENGLAURU-560046

5. SRI MUDDURAJ
S/O LATE MARAPPA,
AGED ABOUT 69 YEARS
RESIDING AT NO.78,
1ST MAIN, 1ST CROSS, SK GARDEN,
BENSON TOWN POST
BENGALURU-560046

6. SRI SRINIVASA K
S/O SRI KANNAN
AGED ABOUT 52 YEARS
RESIDING AT NO.78,
2ND MAIN ROAD, NEAR SHABARI LAID,
S.K. GARDEN, J.C.NAGAR,
BENGALURU-560046

7. SRI. KUMAR.S.
S/O SRI. SUNDARACHARI,
AGED ABOUT 48 YEARS
2ND CROSS, S.K.GARDEN
J.C. NAGAR,
BENGALURU-560046.

8. SRI. KALIDAS
S/O SRI. LILAKRISHNA
AGED ABOUT 40 YEARS
RESIDING AT NO.17, 5TH MAIN,
S.K. GARDEN, BENSON TOWN,
BENGALURU-560046.

9. SRI. VENKATESH
S/O SRI.M. MANI,
AGED ABOUT 34 YEARS
RESIDING AT NO.3/1,
8TH CROSS, CHINNAPPA GARDEN,
J.C. NAGAR, BENGALURU-560046.

...PETITIONERS

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(BY SRI. JANARDHANA REDDY B J., ADVOCATE)

AND:

1. THE SHO, J.C.NAGAR P S
J.C.NAGAR,
BENGALURU-560046,
REPRESENTED BY ITS SPP,
HIGH COURT OF KARNATAKA,
BENGALURU-560 025.

2. SMT. PAVITHRA
D/O LATE SRI M.B. RAMACHANDRAN
AGED ABOUT 50 YEARS,
RESIDING AT NO.55,
NANDHIDURGA MAIN ROAD,
J.C.NAGAR, BENGALURU-560046.

...RESPONDENTS

(BY SMT. RASHMI PATEL., HCGP FOR R1;
SRI. H. RAMACHANDRA., ADVOCATE FOR
SRI. H.R. ANANTHAKRISHNAMURTHY., ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED U/S 482 CR.PC (FILED U/S 528 BNSS) PRAYING TO CALL FOR RECORDS AND PASS AN ORDER TO QUASH THE PROCEEDINGS PENDING BEFORE THE HON'BLE COURT OF THE VIII ADDITIONAL CHIEF JUDICIAL MAGISTRATE, (8TH ACJM) BENGALURU, IN C.C.NO.20706/2024 (CRIME NO.23/2024 AGAINST THE PETITIONERS / ACCUSED NOS. 4 TO 12 PUNISHABLE UNDER SECTIONS 143, 148, 149, 441, 447, 504, 506 OF IPC.

THESE CRIMINAL PETITIONS, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

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ORAL ORDER

1. The Petitioner in Crl.P.No.235/2025 is before this Court seeking for the following reliefs:

> *a. Call for records and pass an order to quash the proceedings pending before the Honble Court of the VIII Addl. CJM, (8th ACJM) Bengaluru, in C.C.No.20706/2024 (Crime No.23/2024 against the petitioner (accused no.3) J.C.Nagar Police Station p/u/s 143, 148, 149, 441, 447, 504, 506 of IPC.*

2. The Petitioners in Crl.P.No.3499/2025 are before this Court seeking for the following reliefs:

> *a. Call for records and pass an order to quash the proceedings pending before the Hon'ble Court of the VIII Additional Chief Judicial Magistrate, (8th ACJM) Bengaluru, in C.C.No.20706/2024 (Crime No.23/2024 against the petitioners / accused nos. 4 to 12 punishable under sections 143, 148, 149, 441, 447, 504, 506 of IPC.*

3. Respondent No.2 had filed a complaint on 02.02.2024 alleging that her father was the owner of the land in Sy.No.43, having purchased the same from one Mr Xavier under a registered sale deed. Some of the portion of the property was sold to Sri.Muthumariamman Temple Trust during the lifetime of the father, who expired on 24.01.2023.

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4. It is categorically alleged that the land bearing Sy.No.43/2, 43/3 and 43/4 were not sold to anyone and respondent No.2 and her family members were in possession of the said property. The allegation made against the petitioners was that the petitioners, who are Trustees of the Muthumariamman Temple Trust had sought to put up a fencing on the property retained by respondent No.2 and her family. As regards the complaints, they had been filed on 19.12.2023 and on 02.02.2024. When the family members and the men of respondent No.2 had sought to clean the said property, the petitioners, along with several others, barged into the property used filthy language and threatened them with dire consequences by using hazardous weapons and lathis is in pursuance thereof that FIR in Crime No.23/2024 came to be registered by J.C.Nagar Police Station for offences under Sections 143, 148, 149, 441, 447, 506 and 504 of IPC. Investigation having been completed, a charge sheet was also laid on 10.04.2024 for all the aforesaid offences. It is challenging the said charge sheet that the petitioners are before this Court seeking for the aforesaid reliefs in both the matters.

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5. The submission of learned counsel for the petitioners in both the matters is that the disputes between the parties are civil in nature. Inasmuch as there is also a suit, which has been filed by respondent No.2 and her sister in OS.No.3078/2024, the suit having been filed on 24.04.2024. The complaint having been filed on 02.02.2024 to give a criminal colour to a civil dispute between the parties. As such, the charge sheet is required to be quashed.

6. He relies upon the decision of the Co-ordinate Bench of this Court in ***Sri Shivaswamy and others Vs. State of Karnataka and another (Crl.P.No.2776/2022 dated 08.07.2022),*** more particularly paras No.8, 10, 12, 13 and 17 thereof, which are reproduced hereunder for easy reference:

> *"8. The allegation of the complainant in the complaint registered on 02-08-2018 is that the petitioners **seven months ago** trespassed into the property and created ruckus, took away the belongings and have intimidated the tenants residing in the property allegedly belonging to the complainant. It is the case of the petitioners that the land in Sy.No.11 of Kodigehalli Village Yelahanka Hobli, Bangalore North Taluk was acquired by the Bangalore Development Authority ('BDA' for short) by issuance of preliminary notification on 3-01-1985 and later a final notification on 25-09-1986 for the benefit of NTI Housing Co-operative Society. The 1st petitioner by way of a registered sale deed dated 14-03-2013 purchased the said property from the Society and later got all the revenue records mutated into his name. Likewise, all the petitioners have purchased their portions of property on different*

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dates by way of registered sale deeds and are in possession of the property and residing in the said addresses.

10. In the teeth of the claim of the complainant, and the order passed by this Court, it is germane to notice the complaint that is registered by the complainant. The complaint is registered on 02.08.2018 for an incident that has happened seven months ago i.e., on 13-01-2018 at 9.00 a.m. The narration in the complaint clearly indicates that there are civil proceedings pending between the parties in O.S.No.403 of 2018 to 407 of 2018. The complaint reads as follows:

ದಿನಾಂಕ:೦೧/೦೮/೨೦೧೮

ಇಂದ,

ಲೀಲಾವತಿ ಪಿ.ಸಿ.
ಕೋಂ ಚಂದ್ರಶೇಖರ್ ೩೫ ವರ್ಷ
ನಂ.೧೨೩, ೫ನೇ ಕ್ರಾಸ್, ೩ನೇ ಮೇನ್
ಮಹಾಗಣಪತಿ ನಗರ
ಡಬ್ಬ್ಯು.ಸಿ.ರೋಡ್. ಬೆಂಗಳೂರು -೪೦.
ಮೊಬೈಲ್ ನಂ.೭೯೭೫೫೪೫೫೦೪.

ರವರಿಗೆ,

ಪೊಲೀಸ್ ಇನ್ಸ್‌ಪೆಕ್ಟರ್
ಕೊಡಿಗೇಹಳ್ಳಿ ಪೊಲೀಸ್ ಠಾಣೆ
ಬೆಂಗಳೂರು ನಗರ.
ಮಾನ್ಯರೇ,

ವಿಷಯ: ಎಸ್.ಶಿವಸ್ವಾಮಿ ಮೊಬೈಲ್ ನಂ.೯೪೪೦೭೨೭೭೯೫, ಎ.ಎಂ.ಮನೋಹರ್, ಆನಂದ್ – ಕರ್ಮಾಕರ್ ಮೊಬೈಲ್ ನಂ.೯೯೦೨೦೯೧೨೯೦, ಶ್ರೀಮತಿ ಬಸಂತಿರಾಣಿ ಪೌಲ್ ಮೊಬೈಲ್ ನಂ.೯೭೩೯೧೫೪೪೨, ಪಾಲೀಶ್ ಕರ್ಮಾಕರ್ ಮೊಬೈಲ್ ನಂ.೯೪೪೪೫೭೯೭೬ ಹಾಗೂ ಇತರರ ವಿರುದ್ಧ ದೂರು.

ಮೇಲ್ಕಂಡ ವಿಷಯ ಮತ್ತು ಉಲ್ಲೇಖದ ಸಂಬಂಧವಾಗಿ ತಮ್ಮಲ್ಲಿ ಮನವಿ ಮಾಡಿಕೊಳ್ಳುವುದೇನೆಂದರೆ, ಕೊಡಿಗೆಹಳ್ಳಿ ಸರ್ವೆ ನಂ.೧೧ ರಲ್ಲಿನ ಜಮೀನಿನಲ್ಲಿ ಸಿ.ಎ.ಪಾಟೀಲ್ @ ನಿಂಗನ ಗೌಡಹೊಸಮನಿ ಎಂಬುವವರು ಪಾಟೀಲವಿಹಾರ್ ಹೆಸರಿನ ಬಡಾವಣೆಯನ್ನು ನಿರ್ಮಾಣ ಮಾಡಿದ್ದು ೪ನೇ ನಂಬರಿನ ನಿವೇಶನವನ್ನು ನಾನು ಖರೀದಿ ಮಾಡಿ ನನ್ನ ಸ್ವಾಧೀನದಲ್ಲಿ ಇಟ್ಟುಕೊಂಡು ಅದರಲ್ಲಿ ಆರ್.ಸಿ.ಸಿ. ಮನೆಯನ್ನು ಕಟ್ಟಿ ಬಾಡಿಗೆಗೆ ಕೊಟ್ಟಿದ್ದೆನು. ಈ ಬಡಾವಣೆಯ ಉಳಿದ ೨ನೇ ಸಂಖ್ಯೆ ನಿವೇಶನವನ್ನು (ಹೂಗಾರ್ ರವರ ಸೊಸೆ) ವಿನುತಾ ಹೆಚ್.ಕೋಂ ಜಗದೀಶ್‌ಚಂದ್ರ ಸಿ.ಹೆಚ್. ಎಂಬುವರು ಖರೀದಿ ಮಾಡಿದ್ದು ಅವರೂ ಸಹ ಸದರಿ ನಿವೇಶನದಲ್ಲಿ ಆರ್‌ಸಿಸಿ ಮನೆಯನ್ನು ಕಟ್ಟು ಬಾಡಿಗೆಗೆ ಕೊಟ್ಟಿರುತ್ತಾರೆ. ೬ನೇ ನಂಬರಿನ ನಿವೇಶನವನ್ನು ಸೋಮಶೇಖರ್ ಮತ್ತು ಅರುಣ್ ಕುಮಾರ್ ಎಂಬುವವರು ಖರೀದಿ ಮಾಡಿದ್ದು ಅವರು ಅದರಲ್ಲಿ ಶೀಟ್‌ಮನೆಯನ್ನು ಕಟ್ಟಿ ಬಾಡಿಗೆಗೆ ಕೊಟ್ಟಿದ್ದರು. ೯ನೇ ನಂಬರಿನ ನಿವೇಶನವನ್ನು ಶ್ರೀಧರ್ ಎಂಬುವವರು ತೆಗೆದುಕೊಂಡಿದ್ದು ಸದರಿ ನಿವೇಶನದಲ್ಲಿ ಚಿಕ್ಕ ಶೀಟ್‌ಶೆಡ್ ಅನ್ನು ಕಟ್ಟಿರುತ್ತಾರೆ. ಉಳಿದ ನಿವೇಶನ ಸಂಖ್ಯೆ -೧ ಸಿ.ಎ.ಪಾಟೀಲ್ @ ನಿಂಗನಗೌಡಹೊಸಮನಿ ರವರು ಇಟ್ಟುಕೊಂಡಿದ್ದು ಅವರು ಅದರಲ್ಲಿ ಶೀಟ್‌ಮನೆ ಕಟ್ಟಿರುತ್ತಾರೆ.

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ಹೀಗಿರುವಾಗ್ಗೆ ದಿನಾಂಕ:೧೩/೦೧/೨೦೧೮ ರಂದು ಬೆಳಿಗ್ಗೆ ಸುಮಾರು ೯-೦೦ ಗಂಟೆ ವೇಳೆಯಲ್ಲಿ ಎನ್.ಟಿ. ಕೋ ಆಪರೇಟಿವ್ ಸೊಸೈಟಿಯ ಕಡೆಯವರಾದ ಶಿವಸ್ವಾಮಿ, ಎ.ಎಂ.ಮನೋಹರ್, ಆನಂದ್ ಕರ್ಮಾಕರ್, ಬಸಂತಿ ರಾಣಿ ಪೌಲ್, ಪಾಲೇಶ್ ಕರ್ಮಾಕರ್ ಎಂಬುವವರು ನನ್ನ ಮನೆಗೆ ಹಾಗೂ ಮೇಲ್ಕಂಡ ಶ್ರೀಮತಿ.ವಿನುತಾ. ಹೆಚ್. ಕೋಂ ಜಗದೀಶ್‌ಚಂದ್ರ. ಸಿ.ಹೆಚ್. ರವರಿಗೆ ಸೇರಿದ ನಿವೇಶನ ಸಂಖ್ಯೆ ೨ ರಲ್ಲಿನ ಮನೆಗೆ, ಶ್ರೀ.ಸೋಮಶೇಖರ್ ಮತ್ತು ಅರುಣಕುಮಾರ್ ರವರಿಗೆ ಸೇರಿದ ನಿವೇಶನ ಸಂಖ್ಯೆ ೮ ರಲ್ಲಿನ ಮನೆಗೆ, ಶ್ರೀಮತಿ.ಶ್ರೀಧರ್ ರವರ ನಿವೇಶನ ಸಂಖ್ಯೆ-೯ ರಲ್ಲಿನ ಮನೆಗೆ ಶ್ರೀ.ಸಿ.ಎ.ಪಾಟೀಲ್ ನಿವೇಶನ ಸಂಖ್ಯೆ-೧೧ ರಲ್ಲಿನ ಮನೆಗೆ ಅತಿಕ್ರಮ ಪ್ರವೇಶ ಮಾಡಿ ಸದರಿ ಮನೆಗಳಲ್ಲಿದ್ದ ಬಾಡಿಗೆದಾರರನ್ನು ಹೆದರಿಸಿ ಬೆದರಿಸಿ ಮನೆಯಿಂದ ಹೊರಗಡೆ ಓಡಿಸಿರುತ್ತಾರೆ ಮತ್ತು ಸದರಿ ನಮ್ಮ ಮನೆಗಳಲ್ಲಿ ನಾವುಗಳು ವಿದ್ಯುತ್ ಸಲುವಾಗಿ ನಮ್ಮ ಖರ್ಚಿನಲ್ಲಿ ಹಾಕಿಸಿದ್ದ ವಿದ್ಯುತ್ ಮೀಟರ್ ಅನ್ನು ಕಿತ್ತೆಸೆದು ಅವರು ಬೇರೆಯ ವಿದ್ಯುತ್ ಮೀಟರ್ ಅನ್ನು ಹಾಕಿಕೊಂಡಿರುತ್ತಾರೆ. ತದನಂತರ ನಮಗೆ ಸದರಿ ವಿಷಯ ಗೊತ್ತಾಗಿ ನಾವು ನಮ್ಮ ಮನೆಗಳ ಬಳಿಗೆ ಸುಮಾರು ೧೦-೦೦ ಗಂಟೆ ವೇಳೆಗೆ ಅಲ್ಲಿಗೆ ಹೋಗಿ ಸದರಿ ವ್ಯಕ್ತಿಗಳನ್ನು ಪ್ರಶ್ನಿಸಲು ಹೋದಾಗ ಅವರುಗಳು ನಮಗೆ ಒಳಗಡೆಗೆ ಹೋಗಲು ಬಿಡದೆ ನಮಗೆ ಜೀವ ಬೆದರಿಕೆಯನ್ನು ಹಾಕಿರುತ್ತಾರೆ. ನಮ್ಮ ಮನೆಗಳ ಕಾಂಪೌಂಡ್‌ಗೋಡೆಗಳ ಮೇಲೆ ಒ.ಎಸ್.ನಂಬರ್ ಹಾಗೂ ಅವರುಗಳ ಫೋನ್‌ನಂಬರ್ ಬರೆದು ಡ್ಯಾಮೇಜ್ ಮಾಡಿರುತ್ತಾರೆ. ಈ ಬಗ್ಗೆ ನಾನು ಹಾಗೂ ಮೇಲ್ಕಂಡ ನಿವೇಶನಗಳ ಮಾಲೀಕರು ಹಲವಾರು ದೂರುಗಳನ್ನು ಸಹ ಪೋಲೀಸ್ ಠಾಣೆಗೆ ನೀಡಿರುತ್ತೇವೆ.

ಸದರಿ ವ್ಯಕ್ತಿಗಳು ನಮ್ಮ ವಿರುದ್ಧ ಮಾನ್ಯ ಅಡಿಷನಲ್ ಸಿಟಿ ಸಿವಿಲ್ ಮತ್ತು ಸೆಶನ್ಸ್ ಕೋರ್ಟ್ ಬೆಂಗಳೂರು ರಲ್ಲಿ ಒ.ಎಸ್. ನಂ.೪೦೩/೨೦೦೮ ರಿಂದ ೪೦೭/೨೦೧೮ ಆನ್ನು ದಾಖಲಿಸಿ ದಿನಾಂಕ: ೧೭/೦೧/೨೦೧೮ ರಂದು ತಾತ್ಕಾಲಿಕ ತಡೆಯಾಜ್ಞೆಯನ್ನು ಪಡೆದುಕೊಂಡಿದ್ದು, ತದನಂತರ ನಾವು ಮಾನ್ಯ ೭ನೇ ಸಿಟಿಸಿವಿಲ್ ನ್ಯಾಯಾಲಕ್ಕೆ ದಾಖಲೆಗಳನ್ನು ಸಲ್ಲಿಸಿ ಮೇಲ್ಕಂಡ ದಾವೆಗಳಲ್ಲಿ ಹೊರಡಿಸಿರುವ ತಾತ್ಕಾಲಿಕ ತಡೆಯಾಜ್ಞೆಯನ್ನು ತೆರವುಗೊಳಿಸುವಂತೆ ಕೋರಿದ್ದು, ದಾಖಲೆಗಳನ್ನು ಪರಿಶೀಲಿಸಿ ವಿಚಾರಣೆ ನಡೆಸಿದ ಮಾನ್ಯ ನ್ಯಾಯಾಲಯವು ಒ.ಎಸ್.ನಂ.೪೦೩/೨೦೦೮ ರಿಂದ ೪೦೭/೨೦೧೮ ರಲ್ಲಿ ದಿನಾಂಕ:೧೭/೦೧/೨೦೧೮ ರಂದು ನೀಡಿದ್ದ ತಾತ್ಕಾಲಿಕ ತಡೆಯಾಜ್ಞೆಯನ್ನು ದಿನಾಂಕ:೩೧/೦೫/೨೦೧೮ ರಂದು ತೆರವುಗೊಳಿಸಿ ಆದೇಶ ಮಾಡಿರುತ್ತದೆ.

ಈ ಬಗ್ಗೆ ಮಾನ್ಯ ಪ್ರಧಾನ ನಗರ ಸಿವಿಲ್ ಮತ್ತು ಸೆಷನ್ಸ್ ನ್ಯಾಯಾಲಯ ಬೆಂಗಳೂರು ರಲ್ಲಿ ಓ.ಎಸ್. ನಂ.೧೩೫೪೪/೨೦೧೮, ೧೩೫೫೫/೨೦೧೮, ೧೧೮೨೨/೨೦೧೮ ದಾವೆಗಳನ್ನು ದಾಖಲಿಸಿದ್ದು, ವಿಚಾರಣೆ ನಡೆಸಿದ ಮಾನ್ಯ ನ್ಯಾಯಾಲಯವು ದಿನಾಂಕ:೨೦/೦೨/೨೦೧೮ ರಂದು ಮೇಲ್ಕಂಡವರ ವಿರುದ್ಧ ತಾತ್ಕಾಲಿಕ ತಡೆಯಾಜ್ಞೆಯನ್ನು ನೀಡಿರುತ್ತದೆ.

ಆದ್ದರಿಂದ ಸದರಿ ಎಸ್.ಶಿವಸ್ವಾಮಿ, ಎ.ಎಂ.ಮನೋಹರ್, ಆನಂದ್, ಕರ್ಮಾಕರ್, ಶ್ರೀಮತಿ ಬಸಂತಿ ರಾಣಿ ಪೌಲ್, ಪಾಲೇಶ್ ಕರ್ಮಾಕರ್ ಹಾಗೂ ಇತರರ ವಿರುದ್ಧ ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮ ಜರುಗಿಸಿ ನಮಗೆ ಸೂಕ್ತ ರಕ್ಷಣೆಯನ್ನು ನೀಡಿ ನ್ಯಾಯ ದೊರಕಿಸಿಕೊಡಬೇಕೆಂದು ತಮ್ಮಲ್ಲಿ ಕೋರುತ್ತೇವೆ.

ವಂದನೆಗಳೊಂದಿಗೆ,

ತಮ್ಮ ವಿಶ್ವಾಸಿ
ಸಹಿ/-
(ಲೀಲಾವತಿ ಪಿ.ಸಿ.)''

The Police after investigation filed a charge sheet in the case against the petitioners. The summary of the charge sheet as found in column No.7 reads as follows:

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"ದೋಷಾರೋಪಣ ಪಟ್ಟಿ ಕಾಲಂ ನಂ.೨ & ೪ ರಲ್ಲಿ ನಮೂದಿಸಿರುವ ಎ೧ ರಿಂದ ಎ೫ ರವರೆಗಿನ ಆರೋಪಿತರು ದಿನಾಂಕ ೧೩/೦೧/೨೦೧೮ ರಂದು ಬೆಳಿಗ್ಗೆ ಸುಮಾರು ೯-೦೦ ಗಂಟೆ ಸಮಯದಲ್ಲಿ ಬೆಂಗಳೂರು ನಗರ ಕೊಡಿಗೆಹಳ್ಳಿ ಪೊಲೀಸ್ ಠಾಣಾ ಸರಹದ್ದಿನ, ಅಮ್ಕೋ ಲೇಔಟ್, ೧ನೇ ಕ್ರಾಸ್‌ನಲ್ಲಿರುವ ಪಾಟೀಲ್ ವಿಹಾರ್ ಲೇಔಟ್ ನಲ್ಲಿರುವ ಸೈಟ್ ನಂ.೧, ೨ , ೪, ೮ & ೯ ರ ಸ್ವತ್ತಿಗೆ ಅತಿಕ್ರಮ ಪ್ರವೇಶ ಮಾಡಿ ಮನೆಗಳಿಗೆ ಅಳವಡಿಸಿದ್ದ ವಿದ್ಯುತ್ ಮೀಟರ್ ಬೋರ್ಡ್‌ಗಳನ್ನು ಕಿತ್ತೆಸೆದು, ಮನೆಗಳಲ್ಲಿ ವಸವಾಗಿದ್ದವರಿಗೆ ಈ ಸೈಟುಗಳು ನಮಗೆ ಸೇರಿದ್ದು, ಈ ಬಗ್ಗೆ ನಾವು ನ್ಯಾಯಾಲಯದಲ್ಲಿ ದಾವೆ ಹೂಡಿರುತ್ತೇವೆ, ಈ ಕೂಡಲೇ ನೀವು ಮನೆಗಳನ್ನು ಖಾಲಿ ಮಾಡಿಕೊಂಡು ಹೋಗಿ ಎಂದು ಹೆದರಿಸಿ ಮನೆಯ ಸಾಮಾನುಗಳನ್ನು ಹೊರಗೆ ಎಸೆದು ಮನೆಯಲ್ಲಿ ವಾಸವಾಗಿದ್ದವರನ್ನು ಖಾಲಿ ಮಾಡಿಸಿರುತ್ತಾರೆ.

ಆರೋಪಿತರು ಸ್ವತ್ತಿನ ವಿಷಯವಾಗಿ ಸಿಸಿಹೆಚ್-೧೫ನೇ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ದಾವೆ ಹೂಡಿದ್ದು, ದಾವೆ ವಿಚಾರಣೆಯಲ್ಲಿರುವಾಗಲೇ ಸ್ವತ್ತುಗಳಿಗೆ ಅತಿಕ್ರಮ ಪ್ರವೇಶ ಮಾಡಿ, ಗಲಾಟೆ ಮಾಡಿ, ಮನೆಗಳಲ್ಲಿದ್ದವರಿಗೆ ಬೆದರಿಸಿ ಅವರ ಗೃಹೋಪಯೋಗಿ ವಸ್ತುಗಳನ್ನು ಹೊರೆಗೆ ಹಾಕಿ ಮನೆಯನ್ನು ಖಾಲಿ ಮಾಡಿಸಿ, ಮೀಟರ್ ಬೋರ್ಡ್‌ಗಳನ್ನು ಕಿತ್ತೆಸೆದು, ಸ್ವತ್ತಿನ ಮಾಲೀಕರಿಗೆ ಆಕ್ರಮ ನಷ್ಟವುಂಟು ಮಾಡಿರುವುದು ಪ್ರಕರಣದ ತನಿಖೆಯಿಂದ ಸಾಬೀತಾಗಿರುತ್ತದೆ.

ಆದ್ದರಿಂದ ಆರೋಪಿತರ ಮೇಲ್ಕಂಡ ಕಲಂ ರೀತ್ಯಾ ಶಿಕ್ಷಾರ್ಹ ಅಪರಾಧವೆಸಗಿದ್ದು, ಈ ದೋಷಾರೋಪಣ ಪಟ್ಟಿ."

What is stated in the complaint is verbatim repeated in the summary of the charge sheet. The complaint itself was registered after seven months of the alleged incident that too for offences punishable under Sections 427 and 447 of the IPC as preliminary offences.

12. If possession is not with the complainant, she can hardly contend that the accused have trespassed into the property of the complainant. Her possession in the case at hand is determined by this Court in the aforesaid writ petition while observing that the BDA had already acquired the property for a particular purpose in the year 1986 and the complainant being in possession was not accepted. Civil cases are also pending against each other. Therefore, if the complainant is not in possession of the property, there can be no allegation of criminal trespass into such property, in which accused themselves are in possession.

13. Criminal trespass as obtaining under Section 447 of the IPC and defined under Section 441 of the IPC can be committed only when a person enters into or upon any property, which is in possession of another with intent to commit an offence or intimidate, insult or annoy any person in possession of such property. If possession itself is not with the complainant as is held by this Court (supra), there can be no offence of criminal trespass into the property not belonging to the complainant. If there is no

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criminal trespass into the property, causing damage under Section 427 of the IPC, by way of mischief of destruction of property also cannot be alleged, as they are inseparable, in the peculiar facts of this case.

17. If the possession of the property itself is in doubt, driving home the offences beyond all reasonable doubt, would without doubt become doubtful. On such a premise, if further proceedings are permitted to continue against the petitioners, notwithstanding the fact that charge sheet has been filed by the Police, would become an abuse of the process of law and result in miscarriage of justice."

7. By relying on the decision in **Sri Shivaswamy's case**, his submission is that none of the ingredients of the offences have been made out. The petitioners are in possession of the property and therefore, the allegations made are completely unfounded.

8. Learned counsel for respondent No.2 would submit that it is respondent No.2, who is in possession of the property bearing Sy.Nos.43/2, 43/3, 43/4 and 43/5, which have never been sold to the petitioners. The petitioners, who are Trustees of Sri Muthumariamman Temple Trust are seeking to usurp the property of respondent No.2. It is in that background that the aforesaid complaint had been filed. A charge sheet having been laid, the matters need to go for trial, is his submission.

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9. His further submission is that a discharge application which had been filed by the petitioner has also been dismissed, which has not been challenged and has attained finality. And as such, on that ground also the above petition is required to be dismissed.

10. Heard Sri B.J. Janardhana Reddy, learned counsel for the petitioners, Sri Ramachandra, learned counsel for respondent No.2 and learned HCGP for respondent No.1 in both the matters. Perused papers.

11. The short question that would arise for consideration is:

> ***"Whether on the face of records it can be said that no offences have been made out against the petitioners."***

12. The nature of the complaint, registration of the FIR and the filing of the charge sheet have been detailed hereinabove.

13. The contention of learned counsel for the petitioners is that the petitioners are in possession of the property and therefore a criminal complaint could not have been filed. On repeated enquiry, if any document has been executed by respondent No. 2 or her family members or her late father as regards Sy.No.43/2, 43/3 and 43/4, his submission is that

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there is no such document which has been executed but the petitioners are in possession of the property. Sri Muthumariamman Temple Trust of which the petitioners are Trustees are in possession of the said property.

14. The allegations made are as regards the threats which have been held out by the petitioners to respondent No.2 and her family members. A perusal of the charge sheet indicates that there are several eyewitnesses who have given their statement as regards the incident that has occurred. Admittedly, the petitioners are not the owners of the subject property. Though a suit in OS.No.3078/2024 is pending. The said suit was filed on 24.04.2024, whereas the present complaint was filed on 02.02.2024 prior to filing of the suit.

15. The complaint has been filed as regards the criminal offences alleged against the petitioners. Respondent No.2 would also be entitled to agitate the civil rights in a civil suit which has also been filed subsequently on 24.04.2024. Merely because a subsequent civil suit has been filed would not negate the complaint filed as regards criminal offences prior to the said suit. The matter would have been different. If after

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filing the suit, the complaint had been filed, then the veracity thereof would have to be ascertained by this Court.

16. In the present case, a criminal complaint was filed on 02.02.2024 and the suit was filed much subsequently on 24.04.2024 and a perusal of the said suit would indicate that the respondent No.2 claims to be the owner of the property and it is the very unauthorized occupation of the petitioners which is in issue in the said suit.

17. The allegation made therein is that the President of the Trust had addressed a letter on 16.01.2024 intimating that they are in occupation of the property and that a complaint had also been filed by the petitioners against one of the Trustees, i.e., one Jayanna, on 05.02.2024. These facts would indicate that there are disputes between the parties as regards offences which are criminal in nature as also civil disputes.

18. Merely because there are civil disputes does not mean that, as regards the criminal offences, no steps can be taken by respondent No.2. As indicated supra, the criminal complaint having been filed prior to the civil suit, the same is not with an intention to give

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criminal colour to a civil dispute, more so when the civil suit has arisen out of the alleged criminal action on the part of the Petitioners.

19. No grounds being made out, the petitions stand ***dismissed***.

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(SURAJ GOVINDARAJ)
JUDGE

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