HC-KAR

NC: 2026:KHC:60750
CRL.P No. 3957 of 2025

CNR: KAHC010185952025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO. 3957 OF 2025 (482(Cr.PC) / 528(BNSS)-)

BETWEEN:

SRI FAROOQ MUGULI
AGED ABOUT 30 YEARS
S/O AHAMMED BARY
R/AT MUGULI HOUSE
KAROPADY VILLAGE
BANTWALA TALUK
DAKSHINA KANNADA DIST 574279

...PETITIONER

(BY Ms HALEEMA AMEEN., ADVOCATE FOR
SRI. ASHOK KUMAR SHETTY K., ADVOCATE)

AND:

STATE OFKARNATAKA
BY VITLA POLICE STATION
MANGALURU
REPRESENTED BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BANGALORE 560001

...RESPONDENT

(BY (BY SMT. RASHMI PATEL., HCGP FOR R1)

THIS CRIMINAL PETITION IS FILED U/S 482 CR.PC (FILED U/S 528 BNSS) PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.1320/2020 (REGISTERED BY THE RESPONDENT NO.1 VITAL POLICE STATION, BANTWALA IN CRNO.190/2018, FOR THE OFFENCE P/U/S 143, 147, 148, 323, 353, 504 R/W SEC. 149 OF IPC) ON THE FILE OF ADDL. CIVIL JUDGE AND JMFC, BANTWALA, DAKSHINA KANNADA AGAINST THE PETITIONER.

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

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. The petitioner is before this Court seeking for the following reliefs:

   (a) *Quash the entire proceedings in C.C.No.1320/2020 (registered by the respondent no.1 Vital Police Station, Bantwala in Cr No.190/2018, for the offence p/u/s 143, 147, 148, 323, 353, 504 r/w sec. 149 of IPC) on the file of Addl. Civil Judge and JMFC, Bantwala, Dakshina Kannada against the petitioner.*

2. On 20.05.2018, a complaint came to be lodged by a Police Constable, pursuant to which an FIR in Crime No.190/2018 was registered by Vitla Police Station for the offences punishable under Sections 143, 147, 148, 353, 504 and 149 of the IPC. Upon completion of investigation, a charge-sheet came to be filed on 01.01.2019, additionally invoking Section 323 of the IPC.

3. The allegations in the complaint are that, on 19.05.2018, the then Chief Minister had established his majority in the Legislative Assembly and, in the aftermath thereof, prohibitory orders under Section

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144 of the Cr.P.C. had been imposed in Vitla. At that point in time, the petitioner, along with several others, came to the spot on motorcycles, raising slogans in support of one political party. Simultaneously, another group also assembled at the spot, raising slogans in support of an opposing political party. The police informed both groups about the prohibitory orders in force and requested them to disperse. However, they allegedly refused to do so and, thereafter, members of the two groups assaulted each other using lathis and other articles. It is further alleged that, upon noticing the arrival of senior police officers, the persons assembled at the spot dispersed and ran away. Upon completion of investigation, the charge-sheet came to be filed for the aforesaid offences. It is challenging the said proceedings that the petitioner is before this Court

4. The submission of learned counsel for the petitioner is that mere unlawful assembly will not result in conviction for other offences and in this regard she relies upon the decision of the Co-ordinate Bench of this Court in ***Mohammed Noufal and others Vs. The State of Karnataka [Crl.P.No.6763 of 2020 dated 11.03.2022],*** in which in turn relied on a decision in ***Crl.P.No.3916/2018 disposed on***

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17.02.2020 which in turn relied on the decision of the Hon'ble Apex Court in ***Charan Singh and Others Vs. State of Uttar Pradesh [(2004) 4 SCC 205].*** She relies on paras 5 to 10 of the said judgment in Crl.P.No.3916/2018 extracted in Crl.P.No.6763/2020, which are reproduced hereunder for easy reference.

> *"5. It is the submission of the learned counsel for petitioners that though there is no substantial material as against petitioners/accused Nos.1 to 48, the respondent have investigated the case and have filed the charge sheet against petitioners/accused Nos.1 to 48. It is his further submission that in order to file a charge sheet under Section 143 of IPC, the unlawful assembly must satisfy the ingredients as contemplated under Section 141 of IPC but none of the ingredients are satisfied in this case. It is his further submission that mere presence in an unlawful assembly, cannot render a person liable unless there was a common object, they were actuated by the common object and that object is one of those set out under Section 141 of IPC. It is his further submission that if the common object of an unlawful assembly is not proved, the accused persons cannot be convicted either under Section 143 of IPC or under Section 149 of IPC. It is his further submission that the prosecution has to prove the overt-acts as against the persons who have been alleged as a member of unlawful assembly. In order to substantiate his said contention, he has relied upon the decision of the Hon'ble Apex Court in the case of **CHARAN SINGH AND OTHERS Vs. STATE OF UTTAR PRADESH** reported in **(2004) 4 SCC 205**. It is his further submission*

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that as per the Licensing and Controlling of Assemblies and Public Processions (Bangalore City) Order 2009, the permission is required in Bangalore City if the congregation of more than 250 persons assembling at one place with an intention to conduct the meeting, protest, to hear a public speech including political, social, religious and cultural meetings to which the public have got free access. The said condition specially says that no permission or license is required in Bangalore City if the congregation of more than 250 persons assembling at one place with an intention of conducting meeting to protest. It is the specific submission that petitioners/accused Nos.1 to 48 have given the letter dated 20.05.2017 seeking permission but no such permission is granted by the Commissioner of Police., under such circumstance, the said assembly cannot be held as an unlawful assembly and the provisions of Sections 141, 143, 147, 149, 188 of IPC are not attracted. On these grounds, he prayed to allow the petition and to quash the proceedings.

6. Per contra, learned High Court Government Pleader vehemently argued and submitted that as per the Licensing and Controlling of Assemblies and Public Processions (Bangalore City) order, 2009 the congregation of more than 250 persons is required but as per Section 141 of IPC, an assembly of five or more persons is considered to be an unlawful assembly and if they have assembled with a common object, then under such circumstance, accused persons can be prosecuted for the alleged offences. It is his further submission that the contents of the complaint and other materials clearly indicate that they were intending to proceed to Raj Bhavan in that light, they have obstructed the public traffic, public movement and thereby, they have violated the provisions of

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Section 141 of IPC and other provisions of law. It is his further submission that there are independent eye-witnesses and they have also categorically stated with regard to the overt-acts of each of the accused persons and there is ample materials to connect the accused persons to the alleged crime. On these ground, he prayed to dismiss the petition.

7. I have carefully and cautiously gone through the submissions made by the learned counsel appearing for both the parties and perused the records.

8. On perusal of records, it is the case of the prosecution that the petitioners/accused Nos.1 to 48 have assembled and were protesting against interference and dress code imposed by AIIMS exam and also have not obtained any permission from the concerned Authorities. But as could be seen from the Licensing and Controlling of Assemblies and Public Processions (Bangalore City) Order, 2009 assembly means a congregation of more than 250 persons assembling at one place with an intention of conducting meeting or protest, to hear a public speech including political, social, religious and cultural meetings to which the public have got free access, license is required only when more than 250 persons are there. Admittedly in the instant case, the contents of the complaint and other materials indicates that only 50 persons have assembled. In that light, a license said to have been is not necessary as per the Order of 2009. The only question which remains for consideration of this Court is that whether the assembly of petitioners/accused Nos.1 to 48 had constituted an unlawful assembly as per Section 141 of IPC? In order to attract the said provision, the assembly must satisfy five ingredients which have been stated therein but on close reading of

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the contents of the complaint, charge sheet material and other materials, it indicates that none of the ingredients are present as contemplated under Section 141 of IPC.

9. Be that as it may. If 50 persons have assembled at a particular place, then under such circumstance, it cannot be held as an unlawful assembly. Mere presence of a person in an unlawful assembly cannot render a person liable unless there was a common object and he was actuated by that common object and that object is one of those set out in Section 141 of IPC. This proposition of law has been laid down by the Hon'ble Apex Court in the case of ***CHARAN SINGH (Quoted supra)*** *at paragraph No.13, it has been observed as under:*

"13. Coming to the others who were armed with double-barrelled guns and country-made pistols, the question is regarding applicability of Section 149 IPC. Section 149 IPC has its foundation on constructive liability which is the sine qua non for its operation. The emphasis is on the common object and not on common intention. Mere presence in an unlawful assembly cannot render a person liable unless there was a common object and he was actuated by that common object and that object is one of those set out in Section 141. Where common object of an unlawful assembly is not proved, the accused persons cannot be convicted with the help of Section 149. The crucial question to determine is whether the assembly consisted of five or more persons and whether the said persons entertained one or more of the common objects, as specified in Section 141. It cannot be laid down as a general proposition of law that unless an overt act is proved against a person, who is alleged to be a member of an unlawful assembly, it cannot be said that he is a member of an

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assembly. The only thing required is that he should have understood that the assembly was unlawful and was likely to commit any of the acts which fall within the purview of Section 141. The word "object" means the purpose or design and, in order to make it "common", it must be shared by all. In other words, the object should be common to the persons, who compose the assembly, that is to say, they should all be aware of it and concur in it. A common object may be formed by express agreement after mutual consultation, but that is by no means necessary. It may be formed at any stage by all or a few members of the assembly and the other members may just join and adopt it. Once formed, it need not continue to be the same. It may be modified or altered or abandoned at any stage. The expression "in prosecution of common object" as appearing in Section 149 has to be strictly construed as equivalent to "in order to attain the common object". It must be immediately connected with the common object by virtue of the nature of the object. There must be community of object and the object may exist only up to a particular stage, and not thereafter. Members of an unlawful assembly may have community of object up to a certain point beyond which they may differ in their objects and the knowledge, possessed by each member of what is likely to be committed in prosecution of their common object may vary not only according to the information at his command, but also according to the extent to which he shares the community of object, and as a consequence of this the effect of Section 149 IPC may be different on different members of the same assembly."

10. On close perusal of the charge sheet material, it indicates that none of the ingredients specify in Section 141 of IPC are present so as to

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attract the provisions of Sections 141, 143, 149, 188 of IPC. When that being the case, then under such circumstances, the proceedings initiated as against petitioners/accused Nos.1 to 48 appears to be not in accordance with law and the same is liable to be quashed

11. Accordingly, petition is allowed and the proceedings initiated in C.C. No.23259/2017 pending on the file of VIII Additional CMM, Bengalulru for the offence punishable under Section 143 read with Section 149 of IPC is hereby quashed."

5. Learned counsel further relies upon paragraph 13 of the judgment in **Charan Singh's case**, wherein the Hon'ble Apex Court has held that the foundation for the application of Section 149 of the IPC is the common object of the assembly and not merely the presence of an individual therein. It is submitted that, in the absence of material establishing such common object, the petitioner's prosecution with the aid of Section 149 of the IPC cannot be sustained.

6. It is further submitted that, even assuming that the petitioner was present as a member of the assembly, there is no material to indicate that he shared any common object with the other persons assembled at the spot to commit the alleged offences. Mere participation in or presence at the gathering cannot

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be treated as sufficient to attract the provisions of Sections 143, 147, 148 and 149 of the IPC. On these grounds, learned counsel seeks quashing of the proceedings.

7. Per contra, learned HCGP submits that the question of common object and the individual role played by the petitioner would have to be examined during trial and cannot be conclusively determined in proceedings under Section 482 of the Cr.P.C. It is submitted that prohibitory orders under Section 144 of the Cr.P.C. were admittedly in force at the relevant point in time. Despite the said orders, more than 100 persons had gathered at the spot, raised slogans and refused to disperse despite being informed by the police about the prohibitory orders.

8. Learned HCGP further submits that the persons assembled at the spot had not merely violated the prohibitory orders but had also resisted the intervention of the police authorities and thereafter indulged in acts of violence. The assembly, its conduct and the subsequent acts attributed to its members would, prima facie, disclose the existence of a common object. It is therefore submitted that the question as to whether the petitioner shared the

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common object of the assembly and whether the other offences were committed in prosecution of such common object is a matter for trial.

9. Heard Smt. Haleema Ameen, learned counsel for Sri Ashok Kumar Shetty K., learned counsel for the petitioner and learned HCGP for respondent No.1. Perused papers.

10. Section 144 of the Cr.P.C. reads as under:

> ***"144. Power to issue order in urgent cases of nuisance or apprehended danger.***
>
> (1)*In cases where, in the opinion of a District Magistrate, a Sub-Divisional Magistrate or any other Executive Magistrate specially empowered by the State Government in this behalf, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order stating the material facts of the case and served in the manner provided by section 134, direct any person to abstain from a certain act or to take certain order with respect to certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot, or an affray.*
>
> (2)*An order under this Section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed ex parte.*
>
> (3)*An order under this Section may be directed to a particular individual or to persons residing in a particular*

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place or area, or to the public generally when frequenting or visiting a particular place or area.

(4)*No order under this Section shall remain in force for more than two months from the making thereof :Provided that, if the State Government considers it necessary so to do for preventing danger to human life, health or safety or for preventing a riot or any affray, it may, by notification, direct that an order made by a Magistrate under this section shall remain in force for such further period not exceeding six months from the date on which the order made by the Magistrate would have, but for such order, expired, as it may specify in the said notification.*

(5)*Any Magistrate may, either on his own motion or on the application of any person aggrieved, rescind or alter any order made under this section by himself or any Magistrate subordinate to him or by his predecessor-in-office.*

(6)*The State Government may, either on its own motion or on the application of any person aggrieved, rescind or alter any order made by it under the proviso to sub-section (4).*

(7)*Where an application under sub-section (5) or sub-section (6) is received, the Magistrate, or the State Government, as the case may be, shall afford to the applicant an early opportunity of appearing before him or it, either in person or by pleader and showing cause against the order; and if the Magistrate or the State Government, as the case may be, rejects the application wholly or in part, he or it shall record in writing the reasons for so doing."*

11. Section 144 of the Cr.P.C. confers power upon the competent Executive Magistrate to issue orders in urgent cases of nuisance or apprehended danger, directing persons to abstain from specified acts or to

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take certain measures in respect of property under their possession or management, where such directions are considered necessary to prevent obstruction, annoyance, injury, danger to human life, health or safety, disturbance of public tranquillity, riot or affray. Such orders may be directed to particular individuals, persons residing within a specified area or the public generally when frequenting or visiting a particular place or area.

12. In the present case, the existence of an order under Section 144 of the Cr.P.C. at the relevant place and point in time is not in dispute. The prosecution case, as placed before this Court, is that more than 100 persons had assembled at the spot notwithstanding the prohibitory orders in force. The police personnel informed the persons assembled of the existence of the prohibitory orders and called upon them to disperse. However, they allegedly refused to comply and, thereafter, incidents of violence took place between the two groups. Thus, the allegations are not confined to the mere presence of the petitioner at the spot in violation of the prohibitory orders. The prosecution attributes further acts of resistance and violence to the persons who had assembled there.

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13. Section 149 of the IPC reads as under:

> ***"149. Every member of unlawful assembly guilty of offence committed in prosecution of common object.—***
>
> *If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence. Under Section 149 if an offence is committed by any member of an unlawful assembly in prosecution of a common object of that assembly or such as the members of that assembly knew to be likely to be committed in prosecution of that object. Every person who at the time of* committing *that offence is a member of that same assembly guilty of that offence."*

14. Insofar as the offences contemplated under Section 141 of IPC are concerned. The said Section 141 of IPC is reproduced hereunder for easy reference:

> "**141. Unlawful assembly.—**
>
> An assembly of five or more persons is designated an "unlawful assembly", if the common object of the persons composing that assembly is—
>
> (First)— To overawe by criminal force, or show of criminal force, 1the Central or any State Government or Parliament or the Legislature of any State, or any public servant in the exercise of the lawful power of such public servant; or
>
> (Second)— To resist the execution of any law, or of any legal process; or
>
> (Third)— To commit any mischief or criminal trespass, or other offence; or

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(Fourth)— By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

(Fifth)— By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation.— An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly."

15. The chargesheet is not for offences which are under Section 141 alone but those under 323, 353 and 504 of IPC which are reproduced hereunder for easy reference:

"323. Punishment for* voluntarily *causing hurt.—

Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with *imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.*

353. Assault or* criminal *force to deter public servant from discharge of his duty.—

Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a

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term which may extend to two years, or with fine, or with both.

504. Intentional* insult *with intent to provoke breach of the peace.—

Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the *public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."*

16. A conjoint reading of Sections 141 and 149 of the IPC would indicate that the liability contemplated under Section 149 is founded upon the existence of a common object falling within the scope of Section 141. It is not necessary that every member of the assembly should individually commit an overt act. However, mere presence at the place of occurrence or participation in a gathering would not, by itself, be sufficient to attract the provision. The prosecution must establish that the person concerned was a member of an assembly having a common object of the nature contemplated under Section 141 of the IPC.

17. The aforesaid principle has been explained by the Hon'ble Apex Court in **Charan Singh's case** (supra),

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particularly in paragraph 13 thereof, wherein it has been held that the foundation of constructive liability under Section 149 is the common object and not common intention. The Hon'ble Apex Court has further observed that mere presence in an unlawful assembly would not render a person liable unless such person was actuated by the common object of the assembly, and that such object must fall within one of the categories enumerated under Section 141 of the IPC.

18. The Hon'ble Apex Court has also clarified that it is not necessary that the common object should have been formed pursuant to an express agreement or mutual consultation amongst all the members. It may be formed at any stage by all or a few members of the assembly, with the remaining members subsequently joining and adopting such object. Once formed, the common object may also undergo modification or alteration during the course of events. What is required is that the object should be common to the persons composing the assembly and that the members should be aware of and concur in such object.

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19. The petitioner seeks to rely upon the aforesaid proposition of law and contends that there is no material to establish any common object shared by the petitioner and the other persons assembled at the spot. However, the facts of the present case, as reflected in the complaint and the charge-sheet material, require consideration.

20. In the decision relied upon by the learned counsel for the petitioner in **Mohammed Noufal's case**, the Co-ordinate Bench had examined the allegations and the charge-sheet material and found that the assembly in question consisted of only about 50 persons and that the circumstances did not disclose the existence of any of the common objects contemplated under Section 141 of the IPC. In that factual background, it was held that the mere assembly of persons and their presence at the spot would not be sufficient to attract Sections 141, 143 and 149 of the IPC.

21. The factual circumstances in the present case are materially different. Here, the prosecution alleges that a large number of persons had assembled at the spot despite the prohibitory orders then in force. More importantly, when the police personnel

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informed them of the prohibitory orders and requested them to disperse, they allegedly refused to comply. The situation thereafter escalated, with the two groups engaging in acts of violence. The charge-sheet material is also stated to indicate that the persons assembled at the spot attempted to resist or ward off the police authorities in the course of their attempt to enforce the prohibitory orders.

22. It is necessary to distinguish between the mere violation of a prohibitory order under Section 144 of the Cr.P.C. and the constitution of an unlawful assembly under Section 141 of the IPC. The former, by itself, would not automatically establish the latter. However, where the allegations and material collected during investigation indicate that five or more persons, having assembled despite the prohibitory order, thereafter resisted the enforcement of the order by the police authorities and indulged in acts of violence, the question whether their conduct discloses a common object falling within the scope of Section 141 of the IPC would necessarily arise for consideration.

23. In the present case, the allegations, taken together, prima facie indicate that the assembly did not merely

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congregate in breach of the prohibitory order but that its members, or members of the group to which the petitioner is alleged to belong, refused to comply with the directions of the police and thereafter indulged in acts of violence. Such conduct, if established, may attract the second category of Section 141 of the IPC, namely, resistance to the execution of law or legal process, and may also require examination in the context of the other categories enumerated therein. The nature of the assembly, the object with which the persons had gathered and the conduct of its members are matters which have to be examined together and not in isolation.

24. The submission that no common object existed merely because the petitioner did not individually commit any overt act cannot be accepted as a ground for quashing the proceedings. As held by the Hon'ble Apex Court in **Charan Singh's case**, proof of a distinct overt act on the part of every member of the unlawful assembly is not an indispensable requirement for attracting Section 149 of the IPC. What is relevant is whether the petitioner was a member of the assembly, whether he was aware of the common object and whether the offence alleged

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was committed in prosecution of such object or was one which the members of the assembly knew to be likely to be committed in prosecution thereof.

25. The charge-sheet in the present case also invokes Sections 323, 353 and 504 of the IPC. The allegations relating to the assault between the two groups, the alleged resistance to the police personnel in the discharge of their duties and the conduct attributed to the persons assembled at the spot are matters which require appreciation of the statements of the witnesses and other evidence collected during investigation. Whether the petitioner was a participant in such conduct, whether he shared the common object of the assembly and whether the ingredients of the respective offences are established are questions which cannot be conclusively determined in proceedings under Section 482 of the Cr.P.C.

26. This Court is, at this stage, not required to determine whether the petitioner is ultimately guilty of the offences alleged. The consideration is confined to examining whether the allegations in the complaint and the material collected during investigation disclose a prima facie basis for permitting the

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prosecution to proceed. The Court cannot undertake a meticulous appreciation of the evidence or conduct a mini-trial while exercising jurisdiction under Section 482 of the Cr.P.C.

27. In the facts and circumstances of the present case, this Court is of the considered opinion that the allegations and the charge-sheet material cannot be said to be devoid of any material warranting prosecution of the petitioner. The applicability of Section 149 of the IPC, the existence of a common object and the petitioner's alleged membership of the assembly are matters which require examination during trial. The decision relied upon by the learned counsel for the petitioner, having been rendered in the factual circumstances obtaining therein, would not automatically govern the present case.

28. In that view of the matter, this Court is unable to accept the contention of the learned counsel for the petitioner that the proceedings are liable to be quashed. The petitioner has not made out a case for exercise of jurisdiction under Section 482 of the Cr.P.C. to interdict the criminal proceedings.

29. In that view of the matter, this Court passes the following:

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ORDER

i) Reserving liberty to the petitioner to agitate all defences during the course of trial, the Criminal petition is ***dismissed.***

ii) It is made clear that the observations made in this order are only for the purpose of deciding the present petition and shall not influence the Trial Court while considering the matter on its merits.

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