HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.G.S. KAMAL

CRIMINAL APPEAL NO. 533 OF 2026 (U/S 14(A) (2))

C/W

CRIMINAL APPEAL NO. 536 OF 2026

IN CRL.A No. 533/2026

BETWEEN:

1. PRAMODA @ PRAMOD H.N
S/O NAGRAJ H.,
AGED ABOUT 48 YEARS,
NO. D BLOCK 170. 5TH CROSS
GOPALA GOWDA EXTENSION,
SHIMOGA, GOPALA EXTENSION,
SHIMOGA, KARNATAKA
PIN-577 205.

2. LOKESH @ LOKESH N. NAIK
S/O NARAYANA N. NAIK,
AGED ABOUT 41 YEARS,
R/O SRI RANGANATHA NILAYA,
BEHIND CANARA BANK,
VINOBANAGAR, VTC
SHIMOGA, PO VINOBANAGAR
SHIMOGA. SUB DISTRICT
SHIMOGA, DIST- SHIVAMOGGA,
KARNATAKA PIN-577 204.

...APPELLANTS

(BY SRI. PRAKHAR PRAKASH.,ADVOCATE)

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Location: HIGH COURT OF KARNATAKA

AND:

1. STATE OF KARNATAKA
   BY KOTE POLICE STATION,
   REPRESENTED BY THE
   STATE PUBLIC PROSECUTOR,
   HIGH COURT OF KARNATAKA,
   BENGALURU-560 001.

2. SRINIVAS R.
   S/O RAMANNA,
   AGED ABOUT 51 YEARS,
   AGRICULTURIST,
   R/O KANASINAKATTE VILLAGE,
   HOLEHONNUR HOBLI,
   BHADRAVATHI TALUK,
   SHIVAMOGGA-577 227.

…RESPONDENTS

(BY SRI. B. LAKSHMAN, HCGP FOR R1;
SRI. CHANDRANNA N.,ADVOCATE FOR R2 (ABSENT))

THIS CRL.A IS FILED U/S 14(A)2) OF SC/ST (POA) ACT PRAYING TO 1.ALLOW THE PRESENT CRL.A FILED UNDER SEC.14A(2) OF SC/ST (POA) ACT 1989; 2. ALLOW THE PRESENT APPEAL BY SETTING ASIDE THE ORDER IN CRL.MISC.NO.187/2026 DATED 09.03.2026 PASSED BY THE LEARNED II ADDL.DISTRICT AND SESSIONS COURT, SHIVAMOGGA AND GRANT ANTICIPATORY BAIL TO THE APPELLANTS CONNECTION WITH FIR NO.34/2026 REGISTERED AT KOTE P.S. SHIVAMOGGA HOLDING THAT THE BAR UNDER SEC.352,351(2),115(1),190 OF BNS 2023 AND SEC.3(1)(r)(s),3(2)(5a) OF SC/ST (POA) ACT AMENDMENT ORDINANCE 2014 IS NOT ATTRACTED IN THEIR CASE AND ETC.

IN CRL.A NO. 536/2026

BETWEEN:

1. JHON @ JOHN PAUL
   S/O A. JOHN JOSEPH,

AGED ABOUT 42 YEARS,
BEHIND R/O 123,
CONVENT ROAD TALKIS,
BEHIND VEERABHADRESHWARA
TALKIS, LOURD NAGAR,
SHIMOGA, KARNATAKA - 577 201.

2. SUMANA @ S SUMANTH
S/O G S SHADAKSHARI,
AGED ABOUT 42 YEARS,
R/O SHIVA NILAYA 50/1,
4TH CROSS, HOLEHONNUR ROAD,
GOVT KANNADA HIGHER PRIMARY SCHOOL,
OPP SIDDESHWARA
NAGARA, SHIMOGA,
VIDYANAGAR
SHIMOGA - 577 203.

...APPELLANTS

(BY SRI. PRAKHAR PRAKASH.,ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY KOTE POLICE STATION,
REPRESENTED BY THE STATE PUBLIC PROSECUTOR, HIGH COURT OF KARNATAKA,
BENGALURU- 560 001.

2. SRINIVAS R.
S/O RAMANNA,
AGED ABOUT 51 YEARS,
AGRICULTURIST,
R/O KANASINAKATTE VILLAGE,
HOLEHONNUR HOBLI,
BHADRAVATHI TALUK,
SHIVAMOGGA- 577 227.

...RESPONDENTS

(BY SRI. B. LAKSHMAN, HCGP FOR R1;
SRI. CHANDRANNA N.,ADVOCATE FOR R2 (ABSENT))

THIS CRL.A. IS FILED U/S.14(A) (2) OF SC/ST (POA) ACT, 2015 PRAYING TO A. ALLOW THE PRESENT CRIMINAL APPEAL FILED U/S.14A OF SC/ST (POA) ACT 1989.B. ALLOW THE PRESENT APPEAL AND SET ASIDE THE ORDER IN CRL.MISC.NO.187/2026 DATED 09.03.2026 PASSED BY THE LEARNED II ADDL DISTRICT AND SESSIONS JUDGE, SHIVAMOGGA AND GRANT ANTICIPATORY BAIL TO THE APPELLANTS, IN CONNECTION WITH FIR NO.34/2026 REGISTERED AT KOTE POLICE STATION, SHIVAMOGGA FOR OFFENCE P/US/ 352,351(2) R/W 115(1) R/W SEC.190 OF BNS 2023 AND SEC.3(1)(r),3(1)(s),3(2)(va) THE SC/ST (POA) ACT 2014.

THESE APPEALS, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE M.G.S. KAMAL

ORAL JUDGMENT

These appeals are filed by the accused Nos.1 to 4 in Crime No.34/2026 registered in Kote Police Station, Shivamogga for the offences punishable under Section 352, 351(2), 115(1) r/w Section 190 of BNSS and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 ('SC & ST (POA) Act' for short) being aggrieved by the order dated 09.03.2026 passed in Crl.Misc.No.187/2026 on the file of the II Additional District and Sessions Judge, Shivamogga, by which

the petition filed by the appellants herein under Section 482 of BNSS has been rejected.

2. Case of the prosecution is that one Srinivas. R-respondent No.2- defacto complainant, had borrowed a loan of Rs.6,00,000/- for the purpose of purchase of a tractor bearing registration No.KA-14-TB-7725 from Cholamandalam Finance Company. That he was required to pay two installments in a year and had paid installment amount for the year 2023-24 and 2024-25. That in the meanwhile, he had suffered Kidney ailment, as such he could not repay four EMIs of Rs.87,500/- each, this had resulted in the said finance company frequenting his house, demanding repayment of said loan. That during July-2025, the respondent No.2-defacto complainant and his family members had surrendered the said tractor in favour of the said finance company and had assured them he would pay the entire amount and take back the said tractor. Despite which the said finance company had sold the tractor.

3. Further, on receipt of the notice, for repayment of the balance amount, he learnt that the said finance company had sold his tractor just for Rs.1,42,000/- which is worth of

Rs.4,00,000/-. That when the respondent No.2- defacto complainant along with his family members went to the office of the said finance company on 19.02.2026 about 11.30 a.m., the accused persons abused him in a filthy language in the name of his caste. Accordingly, the complaint was registered for the offences as noted above.

4. That the accused-appellants herein had filed a petition under Section 482 of BNSS, 2023 seeking anticipatory bail before the Trial Court. The Trial Court taking note of bar contained under Section 18(A) of the SC/ST (PoA) Act, rejected the application. Being aggrieved, the accused persons are before this court.

5. Sri. Prakhar Prakash, learned counsel appearing for the appellants, taking this Court through the records submits;

> (a) that the transaction is purely of a loan transaction, admitted default on the part of respondent No.2-defacto complainant has led to the normal process of recovery. Notices were issued to respondent No.2- defacto complainant prior to taking actions, as per the terms of the agreement, as far back as on 09.05.2025 setting forth the details of the

dues and the amount payable, followed by pre-seizure intimation to the police station on 23.07.2025 with a copy duly marked to the respondent No.2-defacto complainant. Further, pre-sale letter dated 24.07.2025 was also issued to the respondent No.2- defacto complainant and his wife-guarantor. Ultimately the total outstanding amount to be paid was Rs.5,27,406/-. Vehicle was kept for inspection by the prospective purchasers. Auction was conducted on 30.11.2025 and the same was sold, recovering a sum of Rs.1,42,000/-, balance being Rs.4,30,730/- as on 30.11.2025. A notice dated 30.12.2025 came to be issued through the counsel of the said finance company seeking payment of the balance amount.

(b) That the Arbitration proceedings were initiated. In terms of the arbitration clause contained in the loan documents as per notice dated 20.01.2026. Arbitrators were appointed by the Southern India Chambers of Commerce and Industry, a Center for ADR at Chennai by communication dated 12.02.2026 with due intimation to the respondent No.2-defacto complainant.

(c) Amidst these proceedings, respondent No.2-defacto complainant along with group of persons barged into the office of the finance company on 17.02.2026 started to hurl abuse at the staff of the

said Finance Company, constraining summoning of the jurisdictional police. The respondent No.2-defacto complainant along with certain persons had closed the shutter of the office, illegally restraining the staff of the Finance Company. Further, police intervened in the matter. All these events have been captured in the CCTV footage.

(d) In addition, group of persons came in support of the respondent No.2-defacto complaint claiming to be the Members of ''Karnataka Dalita Sangharsha Samithi'' held dharana in front of the Office of finance company. Though the finance company had lodged the complaint, same was received subsequent to the complaint of the respondent No.2-defacto complainant under the charged atmosphere which was completely out of control of the accused Nos.1 to 4-appellants herein.

(d) He further submits that the transaction admittedly is a financial transaction there is no question of accused persons causing any humiliation to the respondent No.2-defacto complainant warranting initiation of proceedings under provisions of the SC/ST (PoA) Act. No prima-facie case is made out against the accused Nos.1 to 4/appellants as they have no personal interest of any nature whatsoever and since they were discharging their duty as the officers of aforesaid finance company,

they have no other transaction with the respondent No.2-defacto complainant to attribute any ill-will or ill-intention of humiliating and abusing respondent No.2-defacto complainant in the name of his caste.

(e) Thus, he submits that the trial Court has not adverted to this aspect of the matter and has rejected the application, mechanically reading provisions of Section 18(A) of the SC/ST (PoA) Act. Hence, he seeks for allowing of the appeal.

6. Learned HCGP, opposing the submissions of the appellants submits that though the transaction appears to be a financial transaction, the same cannot be used to abuse the borrower as that of the respondent No.2-defacto complainant's nature. Since the accused Nos.1 to 4-appellants herein were aware of the respondent No.2-defacto complainant being member of downtrodden community, they have misused their position. As such they are not entitled for anticipatory bail and seeks for rejection of the appeal.

7. On 17.04.2026, this matter was adjourned at the request of learned counsel for the respondent No.2-defacto complainant. Even when the matter is called on second occasion today there is no representation.

8. Heard and perused the records.

9. Perusal of the complaint indicate that admittedly respondent No.2-defacto complainant had availed financial assistance from Cholamandalam Finance Company, Shivamogga for the purpose of purchase of a tractor. It also indicate admission on the part of respondent No.2-defacto complainant of he being defaulted in making the payment of installments. There is also no dispute of the fact that the said finance company had initiated the proceedings against the respondent No.2-defacto complainant for recovery of the amount. In response to which the respondent No.2-defacto complainant had himself claimed to have handed over the tractor.

10. Documents produced in the nature of notices and the intimation issued to the police indicate that pre-seizure intimation has been given to the police. Arbitral proceedings having been initiated. The recovery proceedings have apparently commenced on and from the month of April 2025, the respondent No.2-defacto complainant, has neither participated nor resisted the proceedings in the manner known

to law. However, as the records reveal, he has gone to the office of the said finance company along with group of members who according to him are his relatives. Apparent altercation has resulted in filing of the complaint.

11. It is in this background the contents of the complaint and the allegations of alleged humiliation in the name of their caste has to be viewed.

12. Hon'ble Apex Court in the case of ***Shajan Skaria v. State of Kerala and Another*** reported in ***2024 SCC Online SC 224*** at paragraph No.58 to 61 has elaborately set out as to what postulates humiliation. Factual aspect of the present case squarely fits into the enunciation of the Hon'ble Apex Court in the said case.

13. Further, as rightly pointed out by the learned counsel for the accused Nos.1 to 4-appellants herein, the transaction being the financial transaction simplicitor, an allegation of accused Nos.1 to 4, who were the employees of finance company, insulting and humiliating respondent No.2-defacto complainant in the name of his caste, particularly, when they have lent the loan without any discrimination, requires

investigation and trial. The so called 'public gathering', according to learned counsel for the appellants is nothing but his own people who allegedly barged into the office of said finance Company, also requires to be considered in due process.

14. Thus there is a considerable force in the submissions made by the learned counsel for the accused Nos.1 to 4-appellants herein that the accused persons had no intention of insulting and humiliating the respondent No.2-defacto complainant.

15. Whether facts and circumstances matter would fall within the ambit of offence under Section 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST (PoA) Act, is required to be examined.

16. The Hon'ble Apex Court in the case of ***Kiran Vs. Rajkumar Jivraj Jain and another*** reported in ***2025 SCC OnLine SC 1886***, wherein at paragraph Nos.6, 6.1 and 6.2 has held as under:

> ***6*** *.In light of the parameters in relation to the applicability of Section 18 of the Act emanating from afore-discussed various decisions of this Court, the proposition could be summarised that as the provision of Section 18 of*

the Scheduled Caste and Scheduled Tribes Act, 1989 with express language excludes the applicability of Section 438, Cr. P.C., it creates a bar against grant of anticipatory bail in absolute terms in relations to the arrest of a person who faces specific accusations of having committed the offence under the Scheduled Caste and Scheduled Tribe Act. The benefit of anticipatory bail for such an accused is taken off.

6.1. *The absolute nature of bar, however, could be read and has to be applied with a rider. In a given case where on the face of it the offence under Section 3 of the Act is found to have not been made out and that the accusations relating to the commission of such offence are devoid of prima facie merits, the Court has a room to exercise the discretion to grant anticipatory bail to the accused under Section 438 of the Code.*

6.2. *Non-making of prima facie case about the commission of offence is perceived to be such a situation where the Court can arrive at such a conclusion in the first blush itself or by way of the first impression upon very reading of the averments in the FIR. The contents and the allegations in the FIR would be decisive in this regard. Furthermore, in reaching a conclusion as to whether a prima facie offence is made out or not, it would not be permissible for the Court to travel into the evidentiary realm or to consider other materials, nor the Court could advert to conduct a mini trial.*

17. In the light of the facts involved in the matter and the law governing grant of anticipatory bail, this Court at this juncture is of the considered view that the bar contained under Section 18A of SC/ST (POA) Act cannot be strictly applied. Averments and allegations made in the complaint cannot strictly be construed to indicate, commission of offence falling within the rigor of Sections 3(1)(r) and 3(1)(s) of SC/ST (POA) Act. Therefore, the following:

ORDER

(1) The criminal appeals are ***allowed***.

(2) The order dated 09.03.2026 passed in Crl.Misc.No.187/2026 on the file of the II Additional District and Sessions Judge, Shivamogga, is set aside.

(3) The accused Nos.1 to 4-appellants herein shall be released on bail, in the event of their arrest in Crime No.34/2026 registered in Kote Police Station, Shivamogga for the offences punishable under Section 352, 351(2), 115(1) r/w Section 190 of BNSS and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of of SC/ST (POA) Act, subject to following conditions:

(i) The appellants shall execute a bond for a sum of Rs.1,00,000/- each with two local sureties each for the likesum.

(ii) The appellants shall appear before the jurisdictional Court within 15 days from the date of receipt of certified copy of this order and obtain regular bail.

(iii) The appellants shall appear before the jurisdictional Police Station and mark their

attendance on every Sunday between 10.00 a.m. and 6.00 p.m. and co-operate with the investigation process till filing of charge-sheet.

(iv) The appellants shall not leave the jurisdiction of the trial Court without prior permission.

(v) The appellants shall not influence or in any manner tamper with the prosecution witnesses.

Sd/-
(M.G.S. KAMAL)
JUDGE

RL
List No.: 1 Sl No.: 16