



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF JULY, 2024

BEFORE

THE HON'BLE MR JUSTICE N S SANJAY GOWDA

CRIMINAL PETITION NO. 5242 OF 2017

BETWEEN:

1. P.B. D'SA
S/O LATE JOHN F.M.D'SA
AGED ABOUT 70 YEARS
R/AT PAULINE
OPP. ROSHNI NILAYA
BISHOP COMPOUND, VALENCIA
MANGALORE-5750002.
2. MICHAEL F. SALDAHNA
RETIRED JUDGE
HIGH COURT OF KARNATAKA
AGED ABOUT 75 YEARS
R/AT 401, SILVER CREST
13 REST HOUSE ROAD
BANGALORE-560 001.
3. WALTER J. MABEN
S/O A.G.R.MABEN
AGED ABOUT 69 YEARS
R/AT ELIM, NEAR CSI CHURCH
MERCERA HILL
MANGALORE-575 002.
4. SURESH BHAT BHAKRABAIL
S/O B. NARAYAN BHAT
AGED ABOUT 70 YEARS
R/AT EESHA VASYAM
2-10-776





BEJAI
MANGALORE-575 004.

...PETITIONERS

(BY SRI. DILRAJ ROHIT SEQUERIA, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY
NORTH POLICE STATION
MANGALORE-683 101.
2. MELWYN PRAKASH NOROHNA
S/O J.M. NORONHA
AGED ABOUT 46 YEARS
R/AT II-FLOOR, ROYAL CHAMBERS
KODIALBAIL
MANGALORE-575 003.

...RESPONDENTS

(BY SMT. RASHMI PATEL, HCGP FOR R1;
SRI. CYRIL PRASAD PAIS, ADVOCATE FOR R2)

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO QUASH THE CHARGE SHEET AND ALL FURTHER PROCEEDINGS AS AGAINST THE PETITIONERS IN C.C.NO.3902/2016 IN P.C.NO.52/2014 ON THE FILE OF II-J.M.F.C., MANGALORE FOR THE OFFENCES P/U/S 384, 385, 389, 500, 501, 506 R/W 34 OF IPC.

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



ORDER

1. The petitioners have approached this Court challenging the proceedings initiated in P.C.No.52/2014, which has thereafter been registered as a criminal case in C.C.No.3902/2016.

2. The complainant alleged commission of the offences punishable under Sections 384, 385, 389, 500, 501 and 506 read with Section 34 of the IPC. During the pendency of this petition, petitioners 1 and 2 i.e. accused Nos.4 and 3 have come forward and filed an affidavit apologizing for the statements they had made against the complainant. In the affidavit of accused No.3-a former Judge of this Court, it has been stated as follows:

“7. I further state that as I have understood the seriousness of the allegations, I do not intend to traverse further and precipitate this matter any longer.

8. I say that under these facts and circumstances of the case, I hereby give my sworn statement in the form of apology and further undertake not to



venture into this kind of unwarranted issues, which does not fetch anything to me personally.

9. I say that being a Retired Judge of this High Court I feel it is a commendable step towards taking responsibility for my actions and showing remorse and submit an unconditional apology.

10. I say that I deem it necessary, and it is important to be genuine, honest, and respectful.

11. I say that whatever I have done knowingly or unknowingly I take full responsibility for my actions and show genuine remorse for any harm caused and the impact of my actions on others especially Advocate M. P. Noronha.

12. I say that I offer a sincere apology to any individuals or parties affected by my actions and forgive all those who have caused inconvenience to me because I believe to err is human and to forgive is divine.

13. I say that I hereby make my commitment to making amends, learning from the experience, and taking steps to ensure that the same mistakes are not repeated.

14. I say that, considering my age and other health related issues, this declaration of facts may kindly be



accepted and the prosecution in Criminal Case No. 3902/2016 pending on the file of The Honorable Court of the 2nd Additional Senior Civil Judge and C.J.M. At Mangalore arising out of PCR No. 52/2014, may kindly be quashed, in the interest of justice and equity.”

3. In my view, in light of this apology tendered by accused No.3, this would be an appropriate case to quash the proceedings, since accused No.3 has expressed remorse and has given an unconditional apology.

4. Similarly, accused No.4 has also given an unconditional apology and has undertaken that he would not venture into unwarranted issues. In that view of the matter, the proceedings against accused No.4 shall also stand quashed.

5. The other two petitioners have not filed any apology. In my view, having regard to the averments made in the complaint and the material that has been secured, there is no justification to invoke Section 482 of the CrPC and quash the proceedings as against accused Nos.5 and 6.



6. This petition is therefore, allowed in part. The proceedings as against accused Nos.4 and 3 in C.C.No.3902/2016 in P.C.No.52/2024 on the file of the II Judicial Magistrate I Class, Mangalore, for the offences punishable under Sections 384, 385, 389, 500, 501 and 506 read with Section 34 of the IPC shall stand quashed.

7. The proceedings against accused Nos.5 and 6 shall however continue.

**Sd/-
JUDGE**

ALB
List No.: 1 Sl No.: 11