NC: 2023:KHC-D:8664
CRL.P No. 101708 of 2023

**IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH**

DATED THIS THE 10TH DAY OF AUGUST, 2023

BEFORE

THE HON'BLE MR JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 101708 OF 2023 (482)

BETWEEN:

1. SHEKAR P S/O. PUTTAIAH,
AGE. 43 YEARS, OCC. SOCIAL WORKER,
R/O. 3RD CROSS, KUVEMPU NAGAR CANTONMENT,
BALLARI-583201.

2. YERRISWAMY @ BATTI YERRISWAMI
S/O. NAGAPPA, AGE. 39 YEARS,
OCC. BUSINESSMAN,
R/O. WARD NO. 26,
NLLCHARAVU, BHATTI,
AREA COWL BAZAR,
BALLARI 583201.

3. SMT. KAMALAMMA W/O. BASAVARAJA,
AGE. 48 YEARS, OCC. SOCIAL WORKER,
R/O. BEHIND MOHAMMADIYA SCHOOL,
BALLARI-583201.

4. TANVEER AHMED,
AGE. 26 YEAR, OCC. BUSINESSMAN,
R/O. OPP. DIVAN MASTHAN DURGAH,
NALA STREET, COWL BAZAR,
BALLARI-583201.

5. NAGARAJ @ NAGU,
AGE. 35 YEARS, OCC. LABOURER,
R/O. W.NO. 26, NALLACHERAVU BHATTI AREA,
COWL BAZAR, BALLARI -583201.

VISHAL NINGAPPA PATTIHAL
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6. HANUMANTHA S/O. SIDDAPPA,
AGE. 29 YEARS, OCC. DRIVER,
R/O. ITTANGI BHATTI AREA,
NALLACHERAVU COWL BAZAR,
BALLARI-583201.

7. YUSUF @ MOHAMMED YUSUF
S/O. SYED AHMED, AGE. 42 YEARS,
OCC. BUSINESSMAN,
R/O. BESIDED TEACHERS COLONY,
SAMATHA COLONY BHATTI AREA,
COWL BAZAR, BALLARI-583201.

8. MOHMMED ALI S/O. MOHMMED GHOUSE,
AGE. 24 YEARS, OCC. DRIVER OF AUTO RICKSHAW,
R/O. NEAR JANDAKATTE,
OPP. PATHE MASJID, AZAD NAGAR,
COWL BAZAR, BALLARI.

9. LINGARAJ S/O. HULUGAPPA,
AGE. 42 YEARS, OCC. LABOURER,
R/O. RAMANAGARA, BANDIHATTI,
COWL BAZAR, BALLARI.

10. HAVALAPPA S/O. BHEEMALINGAPPA,
AGE. 24 YEARS OCC. EMPLOYEE IN PRIVATE FIRMS,
R/O. W.NO. 26 NALLA CHERAVU
BHATTI AREA, COWL BAZAR,
BALLARI-583201.

11. SMT. MEENAKSHI S/O. SREENIVASA,
AGE. 37 YEARS, OCC. LABOURER,
R/O. W.NO. 26 SAMATHA COLONY,
NALLA CHERAVU, BHATTI AREA,
COWL BAZAR, BALLARI-583201.

12. SMT. OBALAMMA D/O. LATE RAMUDU,
AGE. 50 YEARS, OCC. LABOURER,
R/O. W.NO. 26 NALLA CHERAVU,
COWL BAZAR, BALLARI-583201.

13. SMT. HANUMAKKA D/O. LATE HANUMANTHAPPA,
AGE. 60 YEARS, OCC. LABOURER,
R/O. W.NO. 26 NELLA CHERAVU,
COWL BAZAR, BALLARI-583201.

14. SMT. LAKSHMI W/O. BHEEMALINGAPPA,
AGE. 50 YEARS, OCC. HOUSEWIFE,
R/O. W.NO. 26 NALLA CHERAVU,
COWL BAZAR, BALLARI-583201.

… PETITIONERS

(BY SRI. B ANWAR BASHA, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
THROUGH COWL BAZAR POLICE STATION,
R/BY ITS STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
DHARWAD-580001.

2. SHAFIULLA,
AGE. 45 YEARS
OCC. POLICE INSPECTOR,
R/O. CPI COWLBAZAR POLICE STATION, BALLARI-583201.

… RESPONDENTS

(BY SRI. V.S. KALASURMATH, HCGP)

THIS CRIMINAL PETITION IS FILED U/SEC. 482 OF CR.P.C. SEEKING TO QUASH THE CRIMINAL CASE IN 1625/2017 AND FIR, COMPLAINT AND CHARGE SHEET IN CRIME NO.247/2016 BY COWL BAZAR POLICE PENDING BEFORE II ADDL. CIVIL JUDGE AND JMFC BALLARI AND ALL FURTHER PROCEEDINGS FOR THE OFFENCE PUNISHABEL U/S 341, 143, 147, 149, 353 OF IPC.

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

ORDER

1. The petitioners are before this Court calling in question the proceedings in C.C. No.1625/2017 registered for the offences punishable under Sections 341, 143, 147, 149, 353 of the IPC.

2. Learned counsel appearing for the petitioners submits that the Co-ordinate Bench of this Court in Crl.P. No.100381/2022 has quashed the proceedings qua other accused. In the light of the allegations being the same and the offences being the same against the petitioner, the petitioners are also entitled to the same relief that is granted by the Co-ordinate Bench of this Court. The Co-ordinate of this Court has held as follows:

> *"Charge sheet has been filed alleging that on 23.09.2016 the petitioners-accused without prior permission protested against the eviction of people who are residing within the park area, by formed an unlawful assembly and obstructed the traffic movement and when police tried to disburse the petitioners-accused, they deterred the police from discharging their*

official duties.

2. Learned Magistrate has taken cognizance of the offence punishable under sections 143, 147, 341, 353 read with section 149 of IPC. Taking exception to the same, this petitionis filed.

3. Learned counsel appearing for petitioners submitsthat when the alleged offence has taken place in front of the police station, nothing is forthcoming as to why appropriate action was not taken by the police, who were said to be present in large number at the place of incident.

4. Learned High Court Government Pleader appearing for the respondent-State submits that the offence has takenplace in front of police station and the accused had taken law in their hands. He further submitted that the investigating officer, after recording the statements of eyewitnesses, has rightly filed the charge sheet against the petitioners.

5. The criminal law was set into motion by the police inspector of Cowlbazar Police Station alleging that the

petitioners by forming an unlawful assembly protested against the eviction of people residing in park area, in front of police station, and obstructed free flow of traffic and also deterred the police personnel from discharging their official duties. According to the prosecution, large number of police personnel were present but none of them have taken any action in controlling the alleged incident or arresting the culprits at the spot itself.

6. The charge sheet has been filed against the 19 accused. Hence it cannot be believed that the large number of police could not have controlled the accused and it also cannot be believed that the police personnel were man-handed, thus, deterring the police from discharging their official duties. Further, the charge sheet also does not contain any material including the duty chart of at CWs 4 to 19 police personnel showing that they were in duty or in the police station at the time of alleged incident.

7. Therefore, suffice it to say that,

compelling the present petitioners to face a trial would be an abuse of process of law which warrants interference by this Court by excising the power under Section 482 of Cr.P.C."

3. For the aforesaid reasons, the following:

ORDER

(i) The petition is allowed;

(ii) The proceedings in C.C. No.1625/2017 registered for the offences punishable under Sections 341, 143, 147, 149, 353 of the IPC stands quashed.

Sd/-
JUDGE

Vnp*/Ct:Bck
List No.: 1 Sl No.: 28