



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF DECEMBER, 2023

PRESENT

THE HON'BLE MR PRASANNA B. VARALE, CHIEF JUSTICE

AND

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

WRIT PETITION NO. 26762 OF 2023 (GM-RES)

BETWEEN:

HIGH COURT OF KARNATAKA,
BANGALORE-560 001.
REP BY REGISTRAR GENERAL.

...PETITIONER

(SUO MOTO)

AND:

1. THE STATE OF KARNATAKA
HOME DEPARTMENT,
VIDHANA SOUDHA,
BANGALORE-560 001
2. DG OF POLICE
NRUPATHUNGA ROAD,
BANGALORE-560 001.
3. THE SUPERINTENDENT OF POLICE
CHICKMAGALURU TOWN,
CHICKMAGALURU DISTRICT.





4. THE STATION HOUSE OFFICER,
CHICKMAGALURU TOWN POLICE STATION,
CHICKMAGALURU DISTRICT.

...RESPONDENTS

THE CHIKKAMANGALURU BAR ASSOCIATION(R)
CHIKKAMAGALURU,
REPRESENTED BY ITS
GENERAL SECRETARY,
SRI.C B RUDRESH,
S/O LATE C B BASAVARAJAPPA,
AGED ABOUT 45 YEARS,
RESIDING AT KOTE SUBBARAYADANA BEEDI,
CHIKKAMAGALURU – 577 101.

...PROPOSED RESPONDENT

(BY SRI.SHASHIKIRAN SHETTY.,ADVOCATE GENERAL A/W
SRI. B N JAGADISH., ADDL SPP &
SMT NIOUFER AKBAR., AGA FOR R1 TO R4
SRI.K N PHANINDRA., SENIOR ADVOCATE FOR
SRI. ANIL KUMAR R, ADVOCATE FOR
PROPOSED RESPONDENT IN IA.1/2023)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO
AS PER THE DIRECTIONS OF HON'BLE THE CHIEF JUSTICE
THE REQUEST OF GENERAL SECRETARY, THE ADVOCATES
ASSOCIATION, BENGALURU (REGD.) FOR SUOMOTO CASE
AGAINST CHIKKAMAGALURU TOWN POLICE STATION
OFFICIALS FOR THE BRUTAL ASSAULT ON A PRACTICING
ADVOCATE BY NAME PREETHAM N.T.

THIS WRIT PETITION COMING ON FOR ORDERS THIS
DAY, **CHIEF JUSTICE** MADE THE FOLLOWING:



ORDER

This Petition was *suo moto* registered by the Court in PIL jurisdiction on the basis of an untoward incident namely the alleged assault by the Chikkamagaluru Police on a member of Chikkamagaluru Bar Association. The relevant paragraphs of our order dated 01.12.2023 read as under:

*"1. A representation dated 01.12.2023 was submitted on behalf of the Advocates' Association, Bengaluru today at 12.30 p.m. to the office of the Hon'ble Chief Justice. Taking cognizance of the said representation, a *suo motu* writ petition is initiated by this Court on the backdrop of the incident which took place on 30.11.2023 at Chikkamagaluru. The learned Advocate General was requested to seek necessary instructions and to provide his feedback to this Court at 2.30 p.m.*

2. The learned Advocate General, having promptly secured requisite information from the Police Department within a short period, filed a memo before this Court giving brief details about the action taken by the jurisdictional police so far. It is stated in the status report annexed to the said memo that the statement of the victim lawyer was recorded and on that basis, Crime No.215/2023 has been registered for the offences punishable under Sections 506, 341, 307, 324, 326 and 504 read with 149 of IPC on 01.12.2023 at 00.20 hours by Chikkamagaluru Town Police Station. It is further stated that



considering the seriousness of the matter, six Police Officers of the said Police Station of whom, one is Assistant Sub-Inspector, four are Police Constables and one other is Sub-Inspector of Police, have been kept under suspension vide Office Order dated 01.12.2023. It is also stated that considering the severity of the case, the investigation has been handed over to Sri Shylendra H.M., Deputy Superintendent of Police, Chikkamagaluru Sub-Division, Chikkamagaluru on 01.12.2023. It is further stated that the opinion of Medical Officer of Mallegowda District Hospital, Chikkamagaluru, has been obtained about injuries allegedly caused by the assailants.

3. The learned Advocate General, on instructions from Sri R. Hithendra, Additional Director General of Police (Law and Order), who is personally present in this Court, submits that post registration of Crime No.215/2023, investigation is set in motion and the Deputy Superintendent of Police will take all necessary steps within the shortest possible time."

2. Subsequently, the matter was posted before us on 05.12.2023 and several prominent members of the Bar had made their submissions. In Paragraph Nos.5 & 6 of our order that was made on the said day, run as under:

"5. The unfortunate incident has happened; something needs to be done in addition to what the CID is going to do in the matter. In our considered opinion which the tall members of the Bar too agreed, all stakeholders should gather at one place to discuss the matter and generate a congenial atmosphere and restore amiability



between the Bar, the police and the District administration. In that direction, we constitute a High Level Committee comprising of the following Members:

- (i) The Advocate General for the State of Karnataka, namely, Mr. Shashikiran Shetty, Bengaluru,*
- (ii) The Principal Secretary, Department of Home Government of Karnataka, Bengaluru,*
- (iii) The Director General & Inspector General of Police, Police Headquarters, Bengaluru or any of his nominee, not below the rank of Inspector General of Police or the like.*
- (iv) Mr. Udaya Holla, Senior Advocate & former Advocate General for the State of Karnataka,*
- (v) Mr. Jayakumar S Patil, Senior Advocate,*
- (vi) Mr. V Lakshminarayana, Senior Advocate,*
- (vii) Mr. K N Phaneendra, Senior Advocate,*
- (viii) Mr. Vivek Subba Reddy, President of Advocates' Association-Bengaluru,*
- (ix) Mr. D R Ravishankar, Senior Advocate &*
- (x) The President of Chikkamagaluru Bar Association.*

6. *The Committee shall hold meeting in the Office of the Advocate General for the State of Karnataka, Bengaluru, on Saturday, the 09.12.2023 at 11.00 a.m. and suggest means & ways to achieve enhancement of amiability between the stakeholders of Administration of Justice and the Law & Order Agency of the State. The Committee shall also submit Recommendation for preventing the recurrence of dispute/difference between these*



stakeholders, in the best interest of the public at large.

The proceedings of the Committee be shared with the Court, in a sealed cover on the next date of hearing so that, the same may prove to be profitable inputs for the adjudication of the issues that are being debated in this PIL Petition.

List this matter on 12.12.2023."

Pursuant to this order, the High Level Committee meeting took place on 09.12.2023 in the Office of Advocate General, Bengaluru, during the period between 11.00 am & 1.30 pm.

3. As scheduled, the matter has been listed today and the learned Advocate General filed a Memo dated 13.12.2023 in this court and the same is accompanied by a copy of the Meeting Proceedings of the High Level Committee. It shows that apart from the members of the Committee as specified by us in our order dated 05.12.2023, others too were invited to the meeting and they were Sri Vishal Raghu i.e., the Chairman of Karnataka State Bar Council, Sri Gautam Chand, Sri S Basavaraj & Sri S Harish i.e., the members of KSBC, Sri T



G Ravi i.e., the General Secretary of Advocates' Association - Bengaluru, Sri Pruthviraj Rai, i.e, the president of Mangaluru Bar Association, amongst others. Sri A S Ponnanna, a Sr. Advocate and former Addl. Advocate General was the Special Invitee in the meeting. A perusal of the proceedings of the High Level Committee shows the deliberation that took place on the specified date. Some of the participants in the meeting insisted on the arrest & detention of the accused Police officials and for the early disciplinary action as well. Suffice it to reproduce the Committee Recommendations made by the majority of the participants, which are as follows:

"(i) In view of the fact that investigation has been given to CID, independent and impartial investigation would be completed expeditiously by the CID.

(ii) In so far as the disciplinary actions against the police officers who have committed the offence in the station on 30.11.2023 is concerned, action will be taken in accordance with law and the Rules, apart from the FIRs filed against them.

(iii) Furthermore, disciplinary action will also be taken as per the Conduct Rules in so far as the police force who have protested and



committed various impermissible acts at the time of protest."

4. Today, the matter was again heard. Learned sr. Advocate Mr. Vivek Subbareddy passionately argued that the above Recommendations of the Committee are not the unanimous views of the participants in the meeting and that the members of the Bar are very particular that the accused Police officials should be immediately arrested and a time limit be specified for completing the disciplinary proceedings against them. We are not in agreement with this. It hardly needs to be stated that the investigation belongs to the domain of Police and that arresting the accused is one of the measures in the investigation process. Power to arrest is one thing, exercising that power is another. A PIL Court cannot direct the investigating agency to arrest or not to arrest the accused. Court also cannot monitor the Police investigation, as rightly contended by the learned Advocate General. We are also not inclined to specify the time limit within which the disciplinary proceedings should be accomplished



against the accused Police officials that have been kept under suspension, either. It is a matter governed by the provisions of the Conduct & Disciplinary Rules applicable to the Department concerned.

5. Mr. Vivek Subbareddy next contended that the Chikkamagaluru Police are learnt to have tutored & influenced some witnesses to the incident and therefore, the CID to which investigation is entrusted, as a special case, should be restrained from involving the said local Police in any way. We do not agree with this, either and reasons are not far to seek: as already observed above, the Court cannot interfere with the investigation process as repeatedly observed by the Apex Court vide **NEEHARIKA INFRASTRUCTURE PVT. LTD vs STATE OF MAHARASHTRA, 2021 SCC ONLINE SC 315**. Who should be involved in the investigation, again is a matter left to the exclusive discretion of the CID, which has to take a call keeping in view a host of factors. Absolutely no material is placed on record even to loosely



substantiate the above allegation. We are told that the CID investigation has just begun. It need not be mentioned that should allegation of the kind be true, the Trial Court concerned will look into the same, at the appropriate stage. Our interference in terms of what Mr. Vivek Subbareddy submits, would be preposterous; it may prejudice the ongoing investigation, too. Acceding to such a submission would run counter to a plethora of decisions of the Apex Court and of this Court.

6. All the above being said, there is one important aspect which Mr. S Basavaraj, a Sr. Advocate who happens to be a member of the Karnataka State Bar Council had argued before us other day and suggested in the High Level Committee meeting held on 09.12.2023. The Committee Proceedings mention about the same at Paragraph C as under:

"When an Advocate is arrested, the Police shall intimate the Office bearers of the nearest Advocates Association..."



The Karnataka State Bar Council and the Local Bar Associations function to an extent as the guardians of their scrupulous members. The former has the disciplinary power, is obvious. Some safeguards in respect of arrest & detention of persons, have been enacted in Article 22 of the Constitution of India and certain provisions of the Code of Criminal Procedure, 1973. Guidelines have also been issued by the Apex Court in **D.K.BASU vs. STATE OF WEST BENGAL**, It hardly needs to be reiterated that Bar and the Bench are two integral parts of the judicial institution. Without one, other's function is crippled. It was Julius Cicero, Roman lawyer of bygone centuries who proclaimed that lawyers' profession is a noble profession. The Apex Court echoed the same in **L C GOYAL vs. SURESH JOSHI (1999) 3 SCC 376**. This is the only profession which finds a place in the text of our Constitution. Of course, this is not to say that other professions are of lesser importance. We are also conscious that the Police investigation does not differentiate the offences on the basis of the occupation of



the offenders. Lawyers play a pivotal role in the society, also cannot be disputed. Lawyer-Police conflict is not that sporadic. Keeping all this in consideration, we are of the view that any authority, be it Police or other on effecting the arrest & detention of lawyers, should inform the same to the Karnataka State Bar Council and also to the nearest Bar Association, preferably to which he belongs. This should be done immediately and without brooking any delay. The record of such intimation should be strictly generated and preserved so that, the failure to discharge this important duty would entail the erring official with penal consequences. We order accordingly.

With the above observations, this Writ Petition is disposed off placing on record our deep appreciation of the valuable contribution made by all the participates in the High Level Committee meeting held on 09.12.2023 and Sri S R Umashankar, Addl. Chief Secretary to Government, Home Department, Dr. Alok Mohan, Director General & Inspector General of Police, Bengaluru and Sri R



Hithendra, Addl. Director General of Police, (Law & Order)
Bengaluru.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

Snb/Bsv
List No.: 1 Sl No.: 3