

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JANUARY 2018

BEFORE:

THE HON'BLE MR.JUSTICE K.N.PHANEENDRA

CRIMINAL PETITION NO.1233/2013

BETWEEN

1. CHANNAIAH,
S/O ERAIAH,
AGED ABOUT 55 YEARS,
OCCUPATION: AGRICULTURE,

2. BASAPPA,
S/O IYANNA,
AGED ABOUT 70 YEARS,
OCCUPATION: AGRICULTURE,

BOTH ARE RESIDENTS OF
BHADRAPURA VILLAGE,
SHIKARIPURA-TALUK,
SHIMOGGA DISTRICT-577427.

... PETITIONERS

(BY SRI. M R HIREMATHAD, ADV.)

AND

1. STATE OF KARNATAKA
BY SHO TOWN POLICE STATION,
SHIKARIPURA-577427,

REPTD. BY
THE STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDINGS,
BANGALORE-560001.

2. THE THAHASILDAR,
SHIKARIPURA-TALUK,
SHIMOGGA DIST.-577427.

... RESPONDENTS

(BY SRI. S.RACHAIAH, HCGP)

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THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO QUASH THE FIR AND COMPLAINT IN FIR NO.115/2011 DATED 05.12.2011 REGISTERED ON THE FILE OF RESPONDENT'S POLICE STATION AT ANNEXURE-A AND QUASH THE ENTIRE CHARGE SHEET IN CHARGE SHEET NO.76/2011 DATED 20.12.2011 AT ANNEXURE-B, CONSEQUENTLY QUASH THE CRIMINAL PROCEEDINGS IN C.C. NO.583/2011 ON THE FILE OF THE J.M.F.C., SHIKARIPURA AT ANNEXURE-C.

THIS CRL.P COMING ON FOR 'ADMISSION', THIS DAY THE COURT MADE THE FOLLOWING:

ORDER

On the previous date of hearing, this Court had directed the learned High Court Government Pleader to examine whether the applications said to have been filed by the petitioners for regularization of their unlawful occupation of the Government land are still pending or what is the stages of the said applications.

2. Learned High Court Government Pleader submits before the Court that the petitioners' applications were

considered by the Government and rejected as on 06.09.2011 and thereafter only FIR was lodged on 05.12.2011 after issuing notices to the parties to vacate the Government land, which was in their unlawful occupation.

3. In view of the aforesaid circumstances, learned counsel for the petitioner submits that he has no knowledge of the aforesaid Order passed by the Government and the same was not communicated to him etc.

4. As could be seen from the FIR and the charge-sheet filed by the police, it clearly discloses that the Government found on 04.08.2011 that the petitioners/accused persons were in unlawful possession of the Government land. Thereafter, the Government has issued notices to the concerned parties and after service of the same, explanation was called for. In spite of that they have not vacated the premises and there was a notice addressed to the parties to vacate the said Government land, on which the petitioners have been in unlawful possession. In spite of that they did

not vacate the said Government land. Hence, complaint was filed under Section 192(A) of the Karnataka Land Revenue Act. When such allegations are made, it is specifically stated by the learned High Court Government Advocate before this Court that the petitioners' applications were rejected on 06.09.2011 for regularization and thereafter on 05.12.2011 FIR was filed. As on the date of filing of the FIR and filing of the charge-sheet, the Investigating Agency found that the petitioners were in unlawful possession of the Government land. Therefore, Section 192(A) of the Karnataka Land Revenue Act was invoked. Therefore, from the aforesaid facts and circumstances, the offence alleged has been constituted as per the allegations made. Whether the petitioners/accused have been in unlawful possession of the Government land or not is to be established during the course of full fledged trial. If the petitioners are able to prove that they were in lawful possession of the said Government land as on the date of initiation of the proceedings, that matter has to be taken into consideration during the course of trial.

Therefore, it is not sufficient at this stage to quash the charge-sheet itself. Hence, the petition is devoid of merits and the same is liable to be dismissed.

Accordingly, the petition is dismissed.

Sd/-
JUDGE

CT-HR
Ksm*