

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF AUGUST, 2019

BEFORE

THE HON'BLE MR. JUSTICE JOHN MICHAEL CUNHA

CRIMINAL PETITION No.6919 OF 2016

BETWEEN:

1. M/s. SVGH Educational Trust
Ambervalley Residential School
P.B.No.116, K.M.Road, Mugthihalli
Chikmagalur – 577 101
By its Secretary
Also at Museum Terrace
Opp. Raheja Chambers, 29
Museum Road
Bengaluru – 560 001.
2. Smt. Poornima Jairaj
W/o. K. Jairaj
Aged about 64 years
Executive Trustee
No.23, MCHS Colony
5th 'B' Cross, 16th Main
BTM Layout 2nd Stage
Bengaluru – 560 076. ...Petitioners
(By Sri S.S.Koti, Advocate a/w.
Sri R.Shashidhar, Advocate)

AND:

Enforcement Officer
Employees Provident Fund Organisation
Sub Regional Office

Rathnagiri Road
Chikmagalur – 577 101.

...Respondent

(By Smt. M.R.Shalamala, Advocate)

This Criminal petition is filed under Section 482 of Cr.P.C. praying to quash the order dated 27.06.2016 passed in Crl.RP.No.44/2013 by the learned Principal District and Sessions Judge, Chikkamagalur and to quash the order dated 04.02.2013 in C.C.No.75/2013 on the file of the learned Principal Civil Judge and JMFC, Chikkamagalur registered by the respondent.

This Criminal petition coming on for admission, this day, the Court made the following:

O R D E R

Heard learned counsel for petitioner and learned counsel for respondent and perused the records.

2. Material allegations against the petitioners are that the petitioners failed to send the claim application duly attested as required under Paragraph 72 (5)(d) of the Employees Provident Funds and Miscellaneous Provisions Act, 1952.

3. Learned counsel for the petitioners submits that the attestation form was already filled by some

other person and as such, there was no space for the attestation in the form and as such, he could not submit the attested form as required under the above provision and the said fact was informed to the complainant, as such no violation has been committed by the petitioner entailing his prosecution.

4. The contention urged by the learned counsel for the petitioners is a question of fact which requires to be substantiated only during the enquiry or trial. The fact remains that the requisite form and attestation was not submitted as required under Paragraph 72(5)(d) of the Act. Therefore, there is no error or infirmity in taking cognizance of the offences by the Magistrate.

5. Hence, reserving liberty to the petitioners to substantiate the above plea before the trial Court, this petition is dismissed.

6. Taking into consideration, the nature of the offences, if any application for exemption is moved by the petitioners seeking exemption from personal appearance, trial Court may consider the same favourably and afford an opportunity to the petitioners to compound the offences, if permissible under law.

**Sd/-
JUDGE**

GH