

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31<sup>ST</sup> DAY OF AUGUST, 2021

BEFORE:

THE HON'BLE MR.JUSTICE K.SOMASHEKAR

**CRIMINAL PETITION No.7095/2019**

**BETWEEN:**

1. SRI. BASAVARAJU  
SON OF SIDDALINGAPPA,  
AGED ABOUT 44 YEARS,  
RESIDING AT BYALADAKERE VILLAGE,  
JAVAGAL HOBLI,  
ARASIKERE TALUK,  
HASSAN DISTRICT,  
PIN CODE-573125.
2. SRI. DHARMAPPA  
SON OF SRI. GURUSIDDAPPA,  
AGED ABOUT 54 YEARS,  
RESIDING AT BYALADAKERE VILLAGE,  
JAVAGAL HOBLI,  
ARASIKERE TALUK,  
HASSAN DISTRICT,  
PIN CODE-573125.
3. SRI. JENUKALLAPPA  
SON OF SRI. GURUSIDDAPPA,  
AGED ABOUT 60 YEARS,  
RESIDING AT BYALADAKERE VILLAGE,  
JAVAGAL HOBLI,  
ARASIKERE TALUK,  
HASSAN DISTRICT,  
PIN CODE-573125.

4. SRI. NAGARAJU  
SON OF SRI. SIDDALINGAPPA,  
AGED ABOUT 40 YEARS,  
RESIDING AT BYALADAKERE VILLAGE,  
JAVAGAL HOBLI,  
ARASIKERE TALUK,  
HASSAN DISTRICT,  
PIN CODE-573125.

...PETITIONERS

(BY SRI. SIDDAMALLAPPA P.M., ADV., (ABSENT))

**AND:**

THE STATE OF KARNATAKA  
BY JAVAGAL POLICE STATION,  
HASSAN DISTRICT,  
REPRESENTED BY  
GOVERNMENT PUBLIC PROSECUTOR  
HIGH COURT BUILDING,  
BANGALORE-560001.

...RESPONDENT

(BY SRI RAHUL RAI K., HCGP APPEARING THROUGH  
PHYSICAL HEARING)

THIS CRIMINAL PETITION IS FILED UNDER SECTION  
482 OF CR.P.C., PRAYING TO QUASH THE ORDER DATED  
05.08.2019 PASSED IN S.C.NO.90/2017 PASSED BY THE II  
ADDITIONAL DISTRICT AND SESSIONS JUDGE, HASSAN,  
ANNEXURE-A AND ORDER TO ALLOW THE APPLICATION  
FILED UNDER SECTION 227 OF CR.P.C. AND THEREBY  
ORDER TO DISCHARGE THE ACCUSED PERSONS FOR  
THE OFFENCE PUNISHABLE UNDER SECTION 506, 34,

307, 324 OF IPC BY ALLOWING THE ABOVE PETITION WITH EXEMPLARY COST.

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

**ORDER**

None appears for the petitioners either through video conference or physically present before the Court. But, learned HCGP for the respondent-State is physically present before the Court.

2. In this petition, petitioners are seeking for setting aside the order passed by the trial Court in SC.No.90/2017 whereby an application was filed by the accused under Section 227 of Cr.P.C., for seeking discharge for the offences punishable under Sections 506, 307 and 324 r/w Section 34 of IPC before the Court of II Addl. District and Sessions Judge, Hassan.

3. The criminal law was set into motion by registering a case in Crime No.7/2017 by the Javagal Police Station alleging that on 05.03.2017 at about 9.30 pm., the petitioners being arraigned as accused Nos.1 to 4 made an attempt to construct a poultry farm in the property pertaining to Dharmappa of Byaladakere Village as per the material, which is said to have been collected by the Investigation Officer during investigation. Subsequent to the criminal law was set into motion and whereby the Investigating Agency has taken up the case for investigation and filed the charge sheet against the accused persons alleging that they have committed the offences.

4. Whereas, the learned HCGP for the respondent-State submit that the case in SC.No.90/2017 is set down for issuance of summons in respect of witnesses stated in the charge sheet.

5. This submission made by learned HCGP is placed on record.

6. Keeping in view the submission made by learned HCGP and the material on record in SC.No.90/2017 relating to case in Crime No.7/2017, it is deem it appropriate to state that inherent power under Section 482 of Cr.P.C., for seeking quashment of order dated 05.08.2019 in SC.No.90/2017 having filed under Section 227 of Cr.P.C., for seeking discharge, the reasons assigned by the trial Court in SC.No.90/2017 having rejecting the application filed under Section 227 of Cr.P.C., does not suffer from any infirmities and the trial Court has rightly come to the conclusion by considering the materials available on record as well as the role played by each one of the accused for commission of offence which are indicated in the charge sheet and found that there are prima face material against the accused and consequently, the charges have

been framed for the aforesaid offences and set down the case for trial by issuing summons against the accused.

7. Consequently, it is said that there are no substances in this petition for seeking intervention as under Section 482 of Cr.P.C. But C.W.2 to C.W.6 are the eye witnesses and C.W.7 and C.W.8 are the circumstantial witnesses and even going through the statement of these witnesses, which indicates that there are sufficient prima face materials against the accused for commission of offence. Therefore, it is said that the petition does not survive for consideration for seeking intervention under Section 482 of Cr.P.C. Accordingly, I proceed to pass the following

### **ORDER**

Criminal petition filed by the petitioners/accused Nos.1 to 4 under Section 482 of Cr.P.C., is hereby rejected. Consequently, the order passed by the trial

Court in SC.No.90/2017 dated 05.08.2019 for having rejecting the application filed under Section 227 of Cr.P.C., by the petitioners/accused Nos.1 to 4 is hereby confirmed.

Upon dismissal of the main petition, IA.No.1/2019 for stay does not survive for consideration and the same is dismissed.

**Sd/-  
JUDGE**

PB