



ORDER

The petitioners are before this Court calling in question proceedings in Crime No.11/2021 registered for offences punishable under Sections 3(1)(p) and 3(1)(q) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('the Act' for short).

2. Heard Sri Sandesh J.Chouta, learned senior counsel appearing for the petitioners, Sri K.S.Abhijith, learned High Court Government Pleader appearing for respondent No.1 and Sri M.S.Mohan, learned counsel appearing for respondent No.2.

3. *Shorn* of unnecessary details, facts in brief germane are as follows:

The 2nd respondent is the complainant. The 2nd respondent was an employee of Canara Bank. When he was functioning as a Manager at the Town Hall Branch of the Bank, he had indulged in certain irregularities, omissions and commissions which led to the complainant being placed under suspension with effect from 28-12-2013. Later, the



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complainant was proceeded against departmentally by issuing a charge sheet dated 28-05-2014 for alleged receipt of illegal gratification from customers. A departmental inquiry was conducted and the Inquiry Officer held the charges against the petitioner as proved in terms of his report dated 16-09-2014. The Disciplinary Authority accepted the findings of the Inquiry Officer and imposed upon the 2nd respondent penalty of dismissal from service by his order dated 27-10-2014.

4. The complainant files appeal before the Appellate Authority on 5-12-2014 and the Appellate Authority by examining the matter modified the penalty by his order dated 20-05-2015 from dismissal to compulsory retirement. A review petition was filed by the complainant, which came to be dismissed in terms of the order dated 14-12-2015. Thereafter, the complainant approaches the Karnataka State Commission for Scheduled Castes and Scheduled Tribes at Bangalore ('the Commission' for short) alleging that the Bank has committed an atrocity against him by initiating departmental inquiry and imposing on him compulsory retirement from service. He also sought a direction before the Commission to initiate action



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under the Act against the petitioners herein. The Commission in terms of its order dated 02-01-2017 recommended that the punishment imposed against the petitioner should be declared as null and void and he should be reinstated into service forthwith. This was challenged by the Bank before this Court in Writ Petition No.2638 of 2017 and the aforesaid order of the Commission was stayed being of the view that the Commission had no power to set aside the orders passed by the competent authorities. Thereafter, on 20-04-2017 the 2nd respondent filed Writ Petition No.16950 of 2017 challenging the punishment order passed by the Bank. Simultaneously, the complainant again approached the Commission and the Commission again issued notice to the Bank with regard to action taken and also directed the Assistant Commissioner of Police to inquire into the matter. This was again called in question by the Bank before this Court in Writ Petition No.14952 of 2019 and this Court by order dated 09-04-2019 directed that no coercive action should be taken against officers of the Bank.



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5. This Court disposed of Writ Petition No.2368 of 2017 by its order dated 11-07-2019 directing the Bank to look into the suggestion or recommendation of the Commission before passing any order or taking any decision with regard to the service of the petitioner. By another order passed on the very day i.e., 11.07.2019 in Writ Petition No.16950 of 2017 this Court quashed the penalty orders passed by the Bank with a direction to the Bank to take a fresh decision. In terms of the directions issued by this Court on 11-07-2019, the Disciplinary Authority in the Bank re-examined the matter and imposed on the 2nd respondent punishment of reduction to a lower grade i.e., from MMG-II to JMG-I. The complainant files an appeal before the Appellate Authority against the said order and the Appellate Authority further modifies the penalty of reduction in time scale by 13 stages while retaining him in Middle Management Grade Scale-II. With this penalty, the complainant retires from service on attaining the age of superannuation.

6. After his retirement, the complainant registers a complaint against the Bank and its officials, the petitioners herein on 08-01-2021 alleging that the Bank by the aforesaid



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acts has tortured the complainant which would become an offence punishable under Section 3(1)(p) and 3(1)(q) of the Act. The complaint becomes a crime in Crime No.11 of 2021 for the said offences. On registration of the crime, the petitioners are before this Court calling in question the very FIR registered against them.

7. The learned senior counsel Sri Sandesh J.Chouta appearing for the petitioners would vehemently contend that the Bank taking a lenient view on the complainant in terms of the order of this Court modified the penalty from compulsory retirement to reversion from MMGS-II to JMGS-I. The Appellate Authority further modified it to reduction in time scale by 13 stages in the cadre of MMGS-II. The complainant, on reinstatement, retires from service, takes pension that becomes available to him in terms of the penalty and then registers the complaint against the officers of the Bank notwithstanding the fact that they are in service or have retired from service including Deputy General Manager and Chief General Manager. It is his submission that FIR could not have been registered in the teeth of the aforesaid facts. Above all,



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the learned senior counsel would submit that pursuant to the order modifying penalty by the Appellate Authority the complainant is drawing pension and the same has not been challenged before any judicial *fora*.

8. On the other hand, the learned counsel representing the 2nd respondent would vehemently refute the submissions to contend that by repeatedly filing cases against the complainant, petitioners have tortured the complainant and therefore, have incurred the offence punishable as afore-mentioned under the Act and would submit that this Court should not interfere at this juncture and should permit further proceedings to go on against the petitioners.

9. The learned High Court Government Pleader would toe the lines of the 2nd respondent to contend that the offences under the afore-quoted provisions of law have been *prima facie* met and, therefore further proceedings be permitted to continue.



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10. I have given my anxious consideration to the submissions made by the respective learned counsel and perused the material on record.

11. The afore-quoted facts, link in the chain of events, its dates are not in dispute and therefore, do not need any reiteration. Crime registered against the petitioners who are/were officers of the Bank, as most of them have retired from service, is for offences punishable under Sections 3(1)(p) and 3(1)(q) of the Act. Section 3(1)(p) and 3(1)(q) read as follows:

"3. Punishments for offences of atrocities, - (1)
Whoever, not being a member of a Scheduled Caste or Scheduled Tribe, -

... ..

(p) institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or Scheduled Tribe;

(q) gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or Scheduled Tribe;"



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Section 3(1)(p) of the Act directs that a false, malicious or vexatious suit or criminal or legal proceedings if instituted against a member of the Scheduled Caste or Scheduled Tribe would incur the offences under the Act. Section 3(1)(q) of the Act directs that any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of the Schedule Caste or Scheduled Tribe, would become vulnerable for the aforesaid offences. In the teeth of ingredients of Section 3(1)(p) and 3(1)(q) if the facts obtaining as narrated hereinabove are noticed, it would become unmistakably clear that the complainant has resorted to arm twisting the petitioners by invoking the provisions of the Act after having accepted the order of penalty and receiving pension from the Bank.

12. The fact that the complainant was dismissed from service on account of acceptance of illegal gratification cannot be brushed aside. The penalty of dismissal from service was imposed against him by the Disciplinary Authority. This was modified by the Appellate Authority to that of compulsory



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retirement. The complainant while challenging the order passed by the Appellate Authority approaches the Commission and the Commission which had absolutely no jurisdiction to direct the Bank to reinstate the complainant into service and give other consequential directions does so. The said order was challenged by the Bank before this Court in Writ Petition No.2638 of 2017 and this Court on 11-07-2019 passed the following order:

"2. This Court in Writ Petition No.47753 of 2017 decided on 2-07-2019 modified the direction issued by the Karnataka State Scheduled Caste and Schedule Tribes Commission by which treating the direction as only suggestion/recommendation.

3. Petitioner is hereby directed to look into the suggestion/recommendation of the Commission before passing fresh order/taking decision. If decision is not already taken, said exercise shall be completed within 2 months from the date of receipt of this order.

4. In view of disposal of Writ Petition No.47753 of 2017 decided on 2-07-21019 and above observation, the present petition stands disposed of.

The contesting respondent No.2 is at liberty to approach the petitioner by filing additional reply or representation within a period of four weeks from to-day."



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On the same day, in the petition filed by the complainant in W.P.No.16950 of 2017, noticing the earlier order quashing the orders imposing penalty against the complainant directed fresh decision to be taken within two months. The complainant later gives a representation on 27-08-2019 to the Bank which reads as follows:

"Sub: Declaration regarding no pendency of cases instituted by me against the Bank.

Dear Sir,

I hereby submit this letter in furtherance to my letter dated 22-08-2019 vide which I desired to convey on being reinstated into the services of the Bank with some punishment. I state that on being reinstated into the services of the Bank I will withdraw all cases/judicial action/complaint instituted by me against the Bank and its officers. As on date there is no case/complaint pending in any court/police authorities which I have filed against the Bank or its officers. However, in future if any cases/judicial action/complaints are found to be not withdrawn by me the same shall be withdrawn at the very same instance."

Accepting the representation and the order of this Court, penalty of reversion from MMG-II to JMG-I was ordered on 09.09.2019. The complainant files an appeal thereto and the Appellate Authority modifies the said order to that of reduction in time scale by 13 stages for a period of one year and also to



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have the effect of postponing future increments. Both these orders as on date become final.

13. The complainant, after accepting the said orders, retires from service on attaining the age of superannuation. After retirement, the complainant registers the impugned complaint for the aforesaid offences. The aforesaid facts and the proceedings instituted against the petitioners by the complainant would not come within the ingredients of Section 3(1)(p) and 3(1)(q) of the Act. It is the acts of the complainant himself that led to his dismissal from service and accepting the orders passed by this Court and subsequent orders passed by the authorities the complainant was reinstated into service. Those orders which permitted him to work in the Bank and retire on attaining the age of superannuation have not been questioned by the complainant as on date. In accepting all the orders and monthly pension, there cannot be any ingredients of Sections 3(1)(p) and 3(1)(q) of the Act to allege offence. The Employer Bank has only exercised its right under the Constitution by filing a writ petition under Article 226 of the Constitution of India, calling into



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question the orders passed by the Commission which were in favour of the complainant. This cannot, by any means of interpretation, become a false, malicious or vexatious suit against the members (the Petitioner) belonging to the scheduled caste and scheduled tribe or would not mean false or frivolous information given to any public servant causing injury or annoyance of a member of the scheduled caste and scheduled tribe. The petitioner is the beneficiary of the order passed by this Court. accepts the same, takes the benefits, and then turns around and alleges offences punishable under the Act. Therefore, no offence, under the act, is on the face of it, made out.

14. Insofar as the judgments relied on by the learned counsel appearing for the 2nd respondent in the case of **SATISH KUMAR JATAV V. STATE OF U.P – CRIMINAL APPEAL NO.770 OF 2022**, there can be no qualm about the principles laid down therein. The facts obtaining in those cases are distinguishable with the facts obtaining in the case at hand, as the offences under the Act, in the teeth of the facts narrated hereinabove, cannot be even *prima facie* made out.



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15. The complainant could not have registered a complaint post-retirement, that too against several retired officers of the Bank. In the teeth of the aforesaid facts, if further proceedings are permitted to continue, it would undoubtedly degenerate into harassment and would become an abuse of the process of law and result in grave miscarriage of justice.

16. For the aforesaid reasons, I pass the following:

ORDER

- (i) Criminal Petition is allowed.
- (ii) FIR in Crime No.11 of 2021 registered at the Siddapura Police Station and pending before the Additional City Civil and Sessions Judge, Bengaluru is quashed.

In view of disposal of the petition, pending I.A.No.1/2021 also stands disposed.

**Sd/-
JUDGE**

BKP