

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16<sup>th</sup> DAY OF SEPTEMBER, 2016

BEFORE

THE HON'BLE MR. JUSTICE ANAND BYRAREDDY

CRIMINAL PETITION NO.7352 OF 2015

Between:

Smt. Tapassi Das,  
W/o Mrinmoy Biswas,  
Aged 31 years,  
R/at No.68, LIG 1,  
Group 3, KHB Colony,  
Hootagalli,  
Mysore – 570 001.

...Petitioner

(By Shri. Vinod Kumar M, Advocate)

And:

1. State of Karnataka,  
By Vijayanagara Police Station,  
Mysore.  
Represented by the  
State Public Prosecutor,  
High Court Building,  
Ambedkar Veedi,  
Bangalore – 560 001.
2. The Sub – Inspector of Police,  
Vijayanagar Police Station,  
Mysore City,

Mysore District – 570 001.

...Respondents

(By Shri. Chetan Desai, HCGP)

This Criminal Petition is filed under Section 482 of Cr.P.C. praying to quash the entire proceedings in C.C. No.3541/2014, pending on the file of the III Addl. Civil Judge (Junior Division) and J.M.F.C. at Mysuru City for the offences P/U/S 14(1)(a) and (b) of Foreigners Act 1946.

This Petition coming on for admission this day, the Court made the following:-

**ORDER**

Heard the learned counsel for the petitioner and the learned Government Pleader. The petitioner is a Bangladeshi Hindu. It transpires that she was born in Rajbari District of Bangladesh. It is her case that her family members were victims of Islamic fundamentalism and atrocities against Hindus in Bangladesh. The grandfather of the petitioner, late Mr. Bijoy Kumar Das, because of his strong religious belief, sentiments for their ancestral temple and attachment to the motherland, decided to stay in his ancestral village in Rajbari district of East Bengal. He was said to have been shot dead by the

Pakistan Army in the year 1971. The house of the petitioner was said to have been looted by gangs of Islamic fundamentalists. The petitioner and her family members were leading a precarious life. It is stated that they were called upon to pay Zaziya, which is a religious tax imposed on non-muslims by jihadist outfits known as Razakars as and when there was a demand. It was in this background that the petitioner was sent out of Bangladesh, immediately after completion of her B.Sc (Honours) examinations from the University of Khulna, Bangladesh in the year 2009. The parents of the petitioner along with her visited India on a VISA and arranged her marriage with one Mrunmay Biswas of West Bengal, on 10.05.2009. The marriage was registered under the Special Marriage Act in the year 2010. The marriage certificate is produced. After marriage the petitioner had returned for a short while as per the VISA requirements and re-entered India in September, 2011 on a legitimate student VISA, to undertake the Master of Science

(Mathematics) programme at Mysore University. Her husband is said to be a Software Engineer. She had a valid residential permit till September, 2013. The situation in Bangladesh was deteriorating and was not conducive for Hindus to live there as violence had escalated due to the Shahbag Square Agitation in February, 2013. There were continued attacks on minority Hindus, demolition of temples and religious structures, series of gang rapes of Hindu women, abduction and sale of Hindu girls to harems of Muslim landlords and brothels. Forced conversion, mass murders etc., The father of the petitioner one Ananda Mohan Das was assassinated by jihadists on 03.05.2014. They could not perform the last rites of late Ananda Mohan Das. Since the widow of Das and the remaining family of the petitioner were living under miserable condition and serious threat of violence against them. The petitioner therefore could not return to Bangladesh in such a violent situation and was not able to renew her VISA. She was

looking out for ways and means to obtain Indian Nationality, without leaving India on the ground of her marriage. However, there was no change in the circumstances. It is in this background that the petitioner was arrested in 2014 by the Mysore Police on the ground that she had over stayed and a case was registered under Section 14(1)(a) and (b) of the Foreigners Act, 1946. In the meantime her husband had approached this Court in the writ jurisdiction in W.P. No 52901/2014. This court had directed the trial court to release her on bail. After release she was admitted to hospital where she gave birth to a girl child in the year 2015. Now after the investigation a charge sheet has been filed. However, to the fortune of the petitioner, the Government of India has issued a gazette notification dated 07.09.2015 bearing No.GSR 685 F and 686E whereby the Passport (Entry Into India) Act, 1920 and the Foreigners Act, 1946 have been amended. As per the said amendment if a Bangladeshi who was Hindu

facing religious persecution could be localized as an Indian Citizen. By virtue of the said notification the petitioner can now claim the status of Indian Citizenship and hence seeks quashing of the proceedings.

It is to be noticed that the notification issued by the Government of India was much after the stage for seeking discharge before the Court below. Therefore, the petitioner had no other way than to approach this Court in seeking quashing of the proceedings.

In the light of the above circumstances, the petition is summarily allowed. The proceedings pending against the petitioner in the court of III Additional First Class Civil Judge (Jr. Dn.) and JMFC, Mysore in (Crime No.279/2014) CC No.504/2015 are hereby quashed.

**Sd/-  
JUDGE**

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