

IN THE HIGH COURT OF KARNATAKA, BENGALURU

DATED THIS THE 5TH DAY OF AUGUST, 2020

BEFORE

THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT

CRIMINAL PETITION NO. 2376/2020

C/W

CRIMINAL PETITION NOS. 2361/2020, 2380/2020,
2384/2020, 2385/2020, 2471/2020, 2472/2020, 2474/2020,
2475/2020, 2476/2020, 2477/2020, 2478/2020, 2483/2020,
2484/2020, 2486/2020, 2488/2020, 2492/2020

IN CRL.P.NO.2376/2020:

BETWEEN:

FARHAN HUSSAIN,
S/O DILWAR HUSSINA,
AGED ABOUT 16 YEARS,
SOUTH AFRICAN NATIONAL
R/AT NO 1 CROWN, MEWS NO-2,
LAGARMAM STREET, MAY FAIR,
JOHANNESBURG, SOUTH AFRICA
PRESENTLY AT AL-RAYAN MASJID,
TUMKUR 572105,
REPRESENTED BY HIS
FATHER DILWAR HUSSAIN.

... PETITIONER

(BY SRI.MOHAMMED TAHIR, ADVOCATE)

AND:

1. STATE BY THILAK PARK P S
TUMKUR CITY,
2. RAGHU,
POLICE OFFICER

R1 & R2 ARE REPRESENTED BY
STATE PUBLIC PROSECUTOR
ADVOCATE GENERAL OFFICE,
HIGH COURT COMPLEX,
OPP VIDHAN SOUDHA,
BANGALORE 560001.

3. FOREIGNERS REGIONAL REGISTRATION OFFICER(FRRO),
5TH FLOOR, 'A'BLOCK, TTMC,
BMTC BUS STAND BUILDING, K H ROAD,
SHANTINAGAR, BENGALURU – 560 027.
V.C.O DATED 07.07.2020, R3 AMENDED.

...RESPONDENTS

(BY SRI. V M SHEELVANTH, SPP-I A/W
SRI. V S HEGDE, SPP-II AND
SMT. NAMITHA MAHESH B G, HCGP FOR R1 & R2;
SRI. C SHASHIKANTHA, ASG FOR R3)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482
CR.PC PRAYING TO QUASH THE FIR NO.27/2020 U/S 14a AND
14c OF FOREIGNER ACT REGISTERED BY THE RESPONDENT
POLICE AT THE INSTANCE OF RESPONDENT NO.2 FIRST
INFORMATION AND PENDING IN THE FILES OF III ADDITIONAL
CIVIL JUDGE (JN) AND JMFC COURT, TUMKUR DISTRICT
WHEREIN PETITIONER IS ARRAYED AS ACCUSED NO.1 ALONG
WITH OTHER ACCUSED PERSONS.

IN CRL.P.NO. 2361/2020:

BETWEEN:

MR.REJO,
S/O KARYODIKROMO,
AGED ABOUT 85 YEARS,
R/A WONONOREJO KUO,
MAMUJU TENAH,
SULAWEST BHARAT,
AN INDONESIAN NATIONAL
PRESENTLY IN JUDICIAL
CUSTODY IN BANGALORE
AT HAJ BHAVAN, NO.57/17,
THIRUMANAHALLI VILLAGE,
HEGDENAGAR MAIN ROAD,
BANGALORE-560064.
A SENIOR CITIZEN.

... PETITIONER

(BY SRI. SYED AKMAL HASAN RAZVI, ADVOCATE)

AND:

1. STATE OF KARNATAKA,
REPRESENTED BY THE SECRETARY HOME,
VIDHANA SOUDHA,
DR B R AMBEDKAR VEEDHI,
BENGALURU-560001.

2. JAGJEEVANRAM NAGAR POLICE STATION,
BANGALORE,
REPRESENTED BY SPP,
HIGH COURT COMPLEX,
BANGALORE-560 001.

3. FOREIGNERS REGIONAL REGISTRATION OFFICER(FRRO),
5TH FLOOR, 'A' BLOCK, TTMC,
BMTc BUS STAND BUILDING, K H ROAD,
SHANTINAGAR, BENGALURU – 560 027.
V.C.O DATED 07.07.2020, R3 AMENDED.

...RESPONDENTS

(BY SRI. V M SHEELVANTH, SPP-I A/W
SRI. V S HEGDE, SPP-II AND
SMT. B G NAMITHA MAHESH, HCGP FOR R1 & R2;
SRI. C SHASHIKANTHA, ASG FOR R3)

THIS CRIMINAL PETITION IS FILED UNDER 482 OF CR.PC
PRAYING TO QUASH THE ABOVE FIR REGISTERED BY THE
SECOND RESPONDENT AND QUASH THE ENTIRE
PROCEEDINGS SUBSEQUENT TO THE REGISTERING OF THE
FIR IN CR.NO.59/2020 BEFORE THE III A.C.M.M.,
BANGALORE SINCE NO OFFENCE IS MADE OUT AND THE
ALLEGATIONS ARE SBURD AND FALSE AND ONT EH FROUND
THAT THERE IS NO VALID LAW PRESCRIBED DECLARING THAT
THE ACTIVITY OF PREACHING IN UNLAWFUL.

IN CRL.P.NO. 2380/2020:

BETWEEN:

HUSSAIN DELWAR,
S/O ABDUL NAZEED,
AGED ABOUT 47 YEARS,
JOHANSBRUG SOUTHAFRICA,
PRESENTLY AT AL-RAYAN MAJIDS,
TUMKUR - 572 105.

... PETITIONER

(BY SRI. MOHAMMED TAHIR, ADVOCATE)

AND:

1. STATE BY THILAK PARK P S
TUMKUR CITY

2. RAGHU
S/O NOT KNOWN AGED
ABOUT 35 YEARS
POLICE OFFICER

R1 AND R2 REPRESENTED BY
STATE PUBLIC PROSECUTOR
ADVOCATE GENERAL OFFICE
HIGH COURT COMPLEX
OPP. VIDHAN SOUDHA
BANGALORE - 560 001.

3. FOREIGNERS REGIONAL REGISTRATION OFFICER(FRRO),
5TH FLOOR, 'A' BLOCK, TTMC,
BMTc BUS STAND BUILDING, K H ROAD,
SHANTINAGAR, BENGALURU – 560 027.
V.C.O DATED 07.07.2020, R3 AMENDED.

...RESPONDENTS

(BY SRI. V M SHEELVANTH, SPP-I A/W
SRI. V S HEGDE, SPP-II AND
SMT. NAMITHA MAHESH B G, HCGP FOR R1 & R2;
SRI. C SHASHIKANTHA, ASG FOR R3)

THIS CRIMINAL PETITION IS FILED UNDER 482 OF CR.PC
PRAYING TO QUASH THE ABOVE FIR REGISTERED BY THE
SECOND RESPONDENT AND QUASH THE FIR NO.26/2020
U/S.14A AND 14c OF FOREIGNER ACT REGISTERED BY THE
RESPONDENT POLICE AT THE INSTANCE OF RESPONDENT
NO.2 FIRST INFORMATION AND PENDING ON THE FILES OF 3RD
ADDITIONAL CIVIL JUDGE (JN) AND JMFC COURT, TUMAKUR
DISTRICT WHEREIN PETITIONER IS ARRAYED AS ACCUSED
NO.1 ALONG WITH OTHER ACCUSED PERSONS.

IN CRL.P.NO. 2384/2020:

BETWEEN:

WASEEM KHAN,
S/O. ASHRAFF KHAN,
AGED ABOUT 42 YEARS,
R/AT EULALIA STREET,
LENTECURMIR HEHSPLAW,
CAPTOWN SOUTHAFRICA,
PRESENTLY AT AL-RAYAN MASJID,
TUMKUR 572105.

... PETITIONER

(BY SRI.MOHAMMED TAHIR, ADVOCATE)

AND:

1. STATE BY THILAK PARK P S,
TUMKUR CITY,

2. RAGHU
POLICE OFFICER,

R1 & R2 ARE REPRESENTED BY
STATE PUBLIC PROSECUTOR,
ADVOCATE GENERAL OFFICE,
HIGH COURT COMPLEX,
OPP. VIDHANA SOUDHA,
BANGALORE 560001.

3. FOREIGNERS REGIONAL REGISTRATION OFFICER(FRRO),
5TH FLOOR, 'A' BLOCK, TTMC,
BMTc BUS STAND BUILDING, K H ROAD,
SHANTINAGAR, BENGALURU – 560 027.
V.C.O DATED 07.07.2020, R3 AMENDED.

...RESPONDENTS

(BY SRI. V M SHEELVANTH, SPP-I A/W
SRI. V S HEGDE, SPP-II AND
SMT. NAMITHA MAHESH B G, HCGP FOR R1 & R2;
SRI. C SHASHIKANTHA, ASG FOR R3)

THIS CRIMINAL PETITION IS FILED UNDER 482 OF CR.PC
PRAYING TO QUASH THE FIR NO.28/2020 U/S 14a AND 14c OF
FOREIGNER ACT REGISTERED BY THE RESPONDENT POLICE
AT THE INSTANCE OF RESPONDENT NO.2 FIRST INFORMANT
AND PENDING IN THE FILES OF 3RD ADDITIONAL CIVIL JUDGE
(JN) AND JMFC COURT, TUMKUR DISTRICT WHEREIN
PETITIONER IS ARRAYED AS ACCUSED NO.1 A/W OTHER
ACCUSED PERSONS.

IN CRL.P.NO. 2385/2020:

BETWEEN:

MOEGAMAT SHARIEF BUZIEK,
S/O IGSHAAN BUZIEK,
AGED ABOUT 46 YEARS,
46 HYACINTH STREET,
LENTEGEUR, MITCHELLS PLAIN 778,
CAPE TOWN SOUTH AFRICA,
PRESENTLY AT A-RAYANA MASJID,
TUMKUR-572105.

... PETITIONER

(BY SRI. MOHAMMED TAHIR, ADVOCATE)

AND:

1. STATE BY THILAK PARK P S
TUMKUR CITY

2. RAGHU
S/O NOT KNOWN AGED
ABOUT 35 YEARS
POLICE OFFICER

R1 & R2 ARE REPRESENTED BY
STATE PUBLIC PROSECUTOR
ADVOCATE GENERAL OFFICE
HIGH COURT COMPLEX
OPP. VIDHAN SOUDHA
BANGALORE-560001.

3. FOREIGNERS REGIONAL REGISTRATION OFFICER(FRRO),
5TH FLOOR, 'A' BLOCK, TTMC,
BMTB BUS STAND BUILDING, K H ROAD,
SHANTINAGAR, BENGALURU – 560 027.
V.C.O DATED 07.07.2020, R3 AMENDED.

...RESPONDENTS

- (BY SRI. V M SHEELVANTH, SPP-I A/W
SRI. V S HEGDE, SPP-II AND
SMT. NAMITHA MAHESH B G, HCGP FOR R1 & R2;
SRI. C SHASHIKANTHA, ASG FOR R3)

THIS CRIMINAL PETITION IS FILED UNDER 482 OF CR.PC
PRAYING TO QUASH THE FIR NO.29/2020 U/S.14a AND 14c OF
FOREIGNER ACT REGISTERED BY THE RESPONDENT POLICE
AT THE INSTANCE OF RESPONDENT NO.2 FIRST INFORMATION
AND PENDING IN THE FILES OF THE 3RD ADDITIONAL CIVIL
JUDGE (JN) AND JMFC COURT, TUMAKURU DISTRICT WHEREIN
PETITIONER IS ARRAYED AS ACCUSED NO.1 ALONG WITH
OTHER ACCUSED PERSON.

IN CRL.P.NO. 2471/2020:

BETWEEN:

1. SYED ZUBIR,
S/O LATE SYED KAREEM SAB,
AGE ABOUT 46 YEARS,
R/AT 3RD CROSS,
MARALURU DINNE JANATHA COLONY,
TUMKUR-572105.
2. PATHAN ALMAS KHAN,
S/O YUSUF KHAN, AGE
ABOUT 25 YEARS, R/AT
1598-1,
KANKODIVALA POLE,
BHANDERI POLE, KALUPUR,
AHMENDABAD-380001.

3. SHAHJ AALAM @ SHAHJAD AALAM,
S/O RAIS AHAMAD,
AGED ABOUT 37 YEARS,
R/AT H.N. 167, MANDHEYA KAMRUDDIN,
POLICE STN-AMROHA CITY, TAHSHIL-
AMROHA, DISTRICT-AMROHA,

PIN CODE-244221.

... PETITIONERS

(BY SRI. MOHAMMED TAHIR, ADVOCATE)

AND:

1. STATE BY THILAK PARK P S
TUMKUR CITY
2. RAGHU,
S/O NOT KNOWN,
AGE 35 YEARS,
POLICE OFFICER,

R1 AND R2 ARE REPRESENTED BY
STATE PUBLIC PROSECUTOR,
ADVOACTE GENERAL OFFICE,
HIGH COURT COMPLEX,
OPP. VIDHANA SOUDHA
BANGALORE-560001.

3. FOREIGNERS REGIONAL REGISTRATION OFFICER(FRRO),
5TH FLOOR, 'A' BLOCK, TTMC,
BMTc BUS STAND BUILDING, K H ROAD,
SHANTINAGAR, BENGALURU – 560 027.
V.C.O DATED 07.07.2020, R3 AMENDED.

...RESPONDENTS

(BY SRI. V M SHEELVANTH, SPP-I A/W
SRI. V S HEGDE, SPP-II AND
SMT. NAMITHA MAHESH B G, HCGP FOR R1 & R2;
SRI. C SHASHIKANTHA, ASG FOR R3)

THIS CRIMINAL PETITION IS FILED UNDER 482 OF CR.PC
PRAYING TO QUASH THE FIR NO.28/2020 U/S 14a AND 14c OF
FOREIGNER ACT REGISTERED BY THE RESPONDENT POLICE
AT THE INSTANCE OF RESPONDENT NO.2 FIRST INFORMANT
AND PENDING IN THE FILES OF III ADDITIONAL CIVIL JUDGE
(JN) AND JMFC COURT, TUMKUR DISTRICT WHEREIN
PETITIONERS ARE ARRAYED AS ACCUSED NO.2,3 AND 4
RESPECTIVELY.

IN CRL.P.NO. 2472/2020:

BETWEEN:

IBRAHIM JASSY,
S/O MOHAMMED L JASSY,
AGED ABOUT 43 YEARS,
INTUTION LAYOUT, PO BOX,
3504, SEREKUNDA GAMBIA,
PRESENTLY AL- RAYAN MASJID,
TUMKUR-572105.

... PETITIONER

(BY SRI. MOHAMMED TAHIR, ADVOCATE)

AND:

1. STATE BY THILAK PARK P S,
TUMKUR CITY,
2. RAGHU,
S/O NOT KNOWN, AGE
ABOUT 35 YEARS,
POLICE OFFICER,

R1 & R2 ARE REPRESENTED
BY STATE PUBLIC PROSECUTOR,
HIGH COURT COMPLEX,
OPP VIDHANA SOUDHA,
BANGALORE-560001.

3. FOREIGNERS REGIONAL REGISTRATION OFFICER(FRRO),
5TH FLOOR, 'A' BLOCK, TTMC,
BMTc BUS STAND BUILDING, K H ROAD,
SHANTINAGAR, BENGALURU – 560 027.
V.C.O DATED 07.07.2020, R3 AMENDED.

...RESPONDENTS

(BY SRI. V M SHEELVANTH, SPP-I A/W
SRI. V S HEGDE, SPP-II AND
SMT. NAMITHA MAHESH B G, HCGP FOR R1 & R2;
SRI. C SHASHIKANTHA, ASG FOR R3)

THIS CRIMINAL PETITION IS FILED UNDER 482 OF CR.PC
PRAYING TO QUASH THE FIR NO.30/2020 U/S 14(a) AND 14(c)
OF FOREIGNER ACT REGISTERED BY THE RESPONDENT
POLICE AT THE INSTANCE OF RESPONDENT NO.2 FIRST
INFORMANT AND PENDING IN THE FILES OF III ADDITIONAL
CIVIL JUDGE (Jr.Dn) AND JMFC, TUMKUR DISTRICT WHEREIN
PETITIONER IS ARRAYED AS ACCUSED NO.1 ALONG WITH
OTHER ACCUSED PERSONS.

IN CRL.P.NO. 2474/2020:

BETWEEN:

1. SYED ZUBIR,
S/O LATE SYED KAREEM SAB,
AGED ABOUT 46 YEARS,
R/AT 3RD CROSS,
MARALURU DINNE JANTHA COLONY,
TUMKUR-572105.
2. PATHAN ALMAS KHAN,
S/O YUSU KHAN, AGED
ABOUT 25 YEARS, R/AT
1598-1,
KANKODIVALA POLE,
BHANDERI POLE, KALUPUR,
AHMEDABAD-380001.
3. SHAHJ AALAM @ SHAHJAD AALAM,
S/O RAIS AHAMAD,
AGED ABOUT 37 YEARS, R/AT H N 167,
MANDHEYA KAMRUDDIN, POLICE
STATION-AMROHA CITY TAHSHIL-
AMROHA, DISTRICT-AMROHA, PIN
CODE-244221.

... PETITIONERS

(BY SRI. MOHAMMED TAHIR, ADVOCATE)

AND:

1. STATE BY THILAK PARK P S,
TUMKUR CITY,
2. RAGHU,
S/O NOT KNOWN,
AGE 35 YEARS,
POLICE OFFICER,

R1 & R2 ARE REPRESENTED BY
STATE PUBLIC PROSECUTOR
ADVOCATE GENERAL OFFICE
HIGH COURT COMPLEX,
OPP VIDHAN SOUDHA,
BANGALORE-560001.

3. FOREIGNERS REGIONAL REGISTRATION OFFICER(FRRO),
5TH FLOOR, 'A' BLOCK, TTMC,
BMTC BUS STAND BUILDING,
K H ROAD, SHANTINAGAR,
BENGALURU – 560 027.
V.C.O DATED 07.07.2020, R3 AMENDED.

...RESPONDENTS

(BY SRI. V M SHEELVANTH, SPP-I A/W
SRI. V S HEGDE, SPP-II AND
SMT. NAMITHA MAHESH B G, HCGP FOR R1 & R2;
SRI. C SHASHIKANTHA, ASG FOR R3)

THIS CRIMINAL PETITION IS FILED UNDER 482 OF
CR.PC PRAYING TO QUASH THE FIR NO.33/2020 U/S 14a
AND 14c OF FOREIGNER ACT REGISTERED BY THE
RESPONDENT POLICE AT THE INSTANCE OF RESPONDENT
NO.2 FIRST INFORMANT AND PENDING IN THE FILES OF III
ADDITIONAL CIVIL JUDGE (JN) AND JMFC COURT, TUMKUR
DISTRICT WHEREIN PETITIONERS ARE ARRAYED AS
ACCUSED NO.2,3 AND 4 RESPECTIVELY.

IN CRL.P.NO. 2475/2020:

BETWEEN:

1. SYED ZUBIR,
S/O LATE SYED KAREEM SAB,
AGED ABOUT 46 YEARS,
R/AT 3RD CROSS,
MARALURU DINNE JANATHA COLONY,
TUMKUR 572105.
2. PATHAN ALMAS KHAN,
S/O YUSUF KHAN, AGED
ABOUT 25 YEARS, R/AT
15981,
KANKODIVALA POLE,
BHADERI POLE,
KALUPUR,
AHMENDABAD 380001.

3. AHAHJ AALAM @
SHAHJAD AALAM, S/O
RAIS AHAMAD, AGE
ABOUT 37 YEARS, R/AT
H.NO. 167,
MANDHEYA KAMRUDDIN,
POLICE STN AMROHA CITY,
TAHSHIL AMROHA,
DISTRICT AMROHA,
PIN CODE 244221.

... PETITIONERS

(BY SRI. MOHAMMED TAHIR, ADVOCATE)

AND:

1. STATE BY THILAK PARK P S
TUMKUR CITY
2. RAGHU
S/O NOT KNOWN
AGE 35 YEARS
POLICE OFFICER

R1 & R2 ARE REPRESENTED BY
STATE PUBLIC PROSECUTOR
ADVOCATE GENERAL OFFICE,
HIGH COURT COMPLEX,
OPP. VIDHAN SOUDHA,
BANGALORE 560001.

3. FOREIGNERS REGIONAL REGISTRATION OFFICER(FRRO),
5TH FLOOR, 'A' BLOCK, TTMC,
BMTB BUS STAND BUILDING,
K H ROAD, SHANTINAGAR,
BENGALURU – 560 027.
V.C.O DATED 07.07.2020, R3 AMENDED.

...RESPONDENTS

(BY SRI. V M SHEELVANTH, SPP-I A/W
SRI. V S HEGDE, SPP-II AND
SMT. NAMITHA MAHESH B G, HCGP FOR R1 & R2;
SRI. C SHASHIKANTHA, ASG FOR R3)

THIS CRIMINAL PETITION IS FILED UNDER 482 OF CR.PC
PRAYING TO QUASH THE FIR NO.26/2020 U/S 14(a) AND 14(c)
OF FOREIGNER ACT REGISTERED BY THE RESPONDENT
POLICE AT THE INSTANCE OF RESPONDENT NO.2 FIRST
INFORMANT AND PENDING IN THE FILES OF III ADDITIONAL
CIVIL JUDGE (Jr.Dn) AND JMFC, TUMKUR DISTRICT WHEREIN
PETITIONERS ARE ARRAYED AS ACCUSED NO.2,3,4
RESPECTIVELY.

IN CRL.P.NO. 2476/2020:

BETWEEN:

1. SYED ZUBIR,
S/O LATE SYED KAREEM SAB,
AGED ABOUT 46 YEARS,
R/AT 3RD CROSS,
MARALURU DINNE JANTHA COLONY,
TUMKUR – 572 105.
2. PATHAN ALMAS KHAN,
S/O YUSUF KHAN, AGED
ABOUT 25 YEARS,
R/AT 1598-1, KANAKODIVALA POLE,
BHANDERI POLE,
KALUPUR, AHMEDABAD
– 380 001.
3. SHAHJ AALAM @ SHAHJAD AALAM,
S/O RAIS AHAMAD,
AGED ABOUT 37 YEARS,
R/AT H N 167, MANDHEYA
KAMRUDDIN, POLICE STN-
AMROHA CITY, TAHSHIL –
AMROHA, DISTRICT –
AMROHA,
PIN CODE – 244 221.

... PETITIONERS

(BY SRI. MOHAMMED TAHIR, ADVOCATE)

AND:

1. STATE BY THILAK PARK P S,
TUMKUR CITY,
2. RAGHU,
S/O NOT KNOWN,
AGED 35 YEARS,
POLICE OFFICER,

R1 & R2 ARE REPRESENTED BY
STATE PUBLIC PROSECUTOR
ADVOCATE GENERAL OFFICE,
HIGH COURT COMPLEX,
OPP. VIDHANA SOUDHA,
BANGALORE – 560 001.

3. FOREIGNERS REGIONAL REGISTRATION OFFICER(FRRO),
5TH FLOOR, 'A' BLOCK, TTMC,

BMTC BUS STAND BUILDING, K H ROAD,
SHANTINAGAR, BENGALURU – 560 027.
V.C.O DATED 07.07.2020, R3 AMENDED.

...RESPONDENTS

(BY SRI. V M SHEELVANTH, SPP-I A/W
SRI. V S HEGDE, SPP-II AND
SMT. NAMITHA MAHESH B G, HCGP FOR R1 & R2;
SRI. C SHASHIKANTHA, ASG FOR R3)

THIS CRIMINAL PETITION IS FILED UNDER 482 OF CR.PC
PRAYING TO QUASH THE FIR NO.32/2020 U/S.14A
AND 14C OF FOREIGNER ACT REGISTERED BY THE
RESPONDENT POLICE AT THE INSTANCE OF RESPONDENT
NO.2 FIRST INFORMANT AND PENDING IN THE FILES OF 3rd
ADDITIONAL CIVIL JUDGE (JN) AND JMFC COURT, TUMAKURU
DISTRICT WHEREIN PETITIONER ARE ARRAYED AS ACCUSED
NO.2,3 AND 4 RESPECTIVELY.

IN CRL.P.NO. 2477/2020:

BETWEEN:

1. SYED ZUBIR,
S/O LATE SYED KAREEM SAB,
AGED ABOUT 46 YEARS,
R/AT 3RD CROSS,
MARALURU DINNE JANATHA COLONY,
TUMKUR 572105.
2. PATHAN ALMAS KHAN,
S/O YUSUF KHAN, AGED
ABOUT 25 YEARS, R/AT
1598-1,
KANKODIVALA POLE,
BHANDERI POLE, KALUPUR,
AHMEDABAD 380001.
3. SHAHJ AALAM @
SHAHJAD AALAM, S/O
RAIS AHAMAD, AGE
ABOUT 37 YEARS, R/AT
H.NO. 167,
MANDHEYA KAMRUDDIN,
POLICE STN AMROHA CITY,
TAHSHIL AMROHA,
DISTRICT AMROHA,
PIN CODE 24421.

... PETITIONERS

(BY SRI. MOHAMMED TAHIR, ADVOCATE)

AND:

1. STATE BY THILAK PARK P S,
TUMKUR CITY,
2. RAGHU,
S/O NOT KNOWN,
AGE 35 YEARS,
POLICE OFFICER,

R1 & R2 ARE REPRESENTED BY
STATE PUBLIC PROSECUTOR,
ADVOCATE GENERAL OFFICE,
HIGH COURT COMPLEX,
OPP. VIDHANA SOUDHA,
BANGALORE – 560 001.

3. FOREIGNERS REGIONAL REGISTRATION OFFICER(FRRO),
5TH FLOOR, 'A' BLOCK, TTMC,
BMTC BUS STAND BUILDING,
K H ROAD, SHANTINAGAR,
BENGALURU – 560 027.
V.C.O DATED 07.07.2020, R3 AMENDED.

...RESPONDENTS

(BY SRI. V M SHEELVANTH, SPP-I A/W
SRI. V S HEGDE, SPP-II AND
SMT. NAMITHA MAHESH B G, HCGP FOR R1 & R2;
SRI. C SHASHIKANTHA, ASG FOR R3)

THIS CRIMINAL PETITION IS FILED UNDER 482 OF CR.PC
PRAYING TO QUASH THE FIR NO.27/2020 U/S.14A
AND 14C OF FOREIGNER ACT REGISTERED BY THE
RESPONDENT POLICE AT THE INSTANCE OF RESPONDENT
NO.2 FIRST INFORMANT AND PENDING IN THE FILES OF 3RD
ADDITIONAL CIVIL JUDGE (JN) AND JMFC COURT, TUMKURU
DISTRICT WHEREIN PETITIONER ARE ARRAYED AS ACCUSED
NO.2,3 AND 4 RESPECTIVELY.

IN CRL.P.NO. 2478/2020:

BETWEEN:

1. SYED ZUBIR,
S/O LATE SYED KAREEM SAB,
AGED ABOUT 46 YEARS,
R/AT 3RD CROSS,
MARALURU DINNE JANTHA COLONY,
TUMKUR 572105.

2. PATHAN ALMAS KHAN,
S/O YUSUF KHAN, AGE
ABOUT 25 YEARS, R/AT
1598-1,
KANKODIVALA POLE,
BHANDERI POLE, KALUPUR,
AHMEDABAD – 380001.
3. SHAHJ AALAM@ SHAHJAD AHAMAD,
S/O RAIS AHAMAD
AGE ABOUT 37 YEARS R/AT NO
167, MANDHEYA KAMRUDDIN,
POLICE STATION AMROHA CITY,
TAHSHIL AMROHA, DISTRICT
AMROHA – 244221.

... PETITIONERS

(BY SRI. MOHAMMED TAHIR, ADVOCATE)

AND:

1. STATE BY THILAK PARK P S,
TUMKUR CITY,
2. RAGHU,
S/O NOT KNOWN,
AGE 35 YEARS,
POLICE OFFICER,

R1 & R2 ARE REP BY
STATE PUBLIC PROSECUTOR
ADVOCATE GENERAL OFFICE
HIGH COURT COMPLEX, OPP
VIDHANA SOUDHA,
BANGALORE – 560001.

3. FOREIGNERS REGIONAL REGISTRATION OFFICER(FRRO),
5TH FLOOR, 'A' BLOCK, TTMC,
BMTc BUS STAND BUILDING,
K H ROAD, SHANTINAGAR,
BENGALURU – 560 027.
V.C.O DATED 07.07.2020, R3 AMENDED.

...RESPONDENTS

(BY SRI. V M SHEELVANTH, SPP-I A/W
SRI. V S HEGDE, SPP-II AND
SMT. NAMITHA MAHESH B G, HCGP FOR R1 & R2;
SRI. C SHASHIKANTHA, ASG FOR R3)

THIS CRIMINAL PETITION IS FILED UNDER 482 OF CR.PC PRAYING TO QUASH THE FIR NO.30/2020 U/S 14a AND 14c OF FOREIGNER ACT REGISTERED BY THE RESPONDENT POLICE AT THE INSTANCE OF RESPONDENT NO.2 FIRST INFORMANT AND PENDING ON THE FILE OF III ADDITIONAL CIVIL JUDGE (JR.DN.) AND J.M.F.C., TUMKUR DISTRICT WHEREIN PETITIONERS ARE ARRAYED AS ACCUSED NO.2,3 AND 4 RESPECTIVELY.

IN CRL.P.NO. 2483/2020:

BETWEEN:

ABDOULIE JATTA,
S/O MALANDIND JATTA,
AGE ABOUT 56 YEARS,
MEDICAL RESEARCH COUNCIL
LABORATORY, P O BOX NO 273,
BENGUL GAMIBIA,
PRESENTLY R/AT A1- RAYAN MASJIDS,
TUMKUR – 572105.

... PETITIONER

(BY SRI. MOHAMMED TAHIR, ADVOCATE)

AND:

1. STATE BY THILAK PARK P S,
TUMKUR CITY,
2. RAGHU,
S/O NOT KNOWN, AGE
ABOUT 35 YEARS,
POLICE OFFICER,

R1 & R2 ARE REP BY
STATE PUBLIC PROSECUTOR
ADVOCATE GENERAL OFFICE,
HIGH COURT COMPLEX, OPP
VIDHANA SOUDHA,
BANGALORE – 560001.
3. FOREIGNERS REGIONAL REGISTRATION OFFICER(FRRO),
5TH FLOOR, 'A' BLOCK, TTMC,
BMTc BUS STAND BUILDING, K H ROAD,
SHANTINAGAR, BENGALURU – 560 027.
V.C.O DATED 07.07.2020, R3 AMENDED.

...RESPONDENTS

(BY SRI. V M SHEELVANTH, SPP-I A/W
SRI. V S HEGDE, SPP-II AND
SMT. NAMITHA MAHESH B G, HCGP FOR R1 & R2;
SRI. C SHASHIKANTHA, ASG FOR R3)

THIS CRIMINAL PETITION IS FILED UNDER 482 OF CR.PC PRAYING TO QUASH THE FIR NO.31/2020 U/S 14a AND 14c OF FOREIGNER ACT REGISTERED BY THE RESPONDENT POLICE, TILAK PARK P.S., AT THE INSTANCE OF RESPONDENT NO.2 FIRST INFORMANT AND PENDING IN THE FILES OF III ADDITIONAL CIVIL JUDGE (JN) AND JMFC COURT, TUMKUR DISTRICT WHEREIN PETITIONER IS ARRAYED AS ACCUSED NO.1 ALONG WITH ORDER ACCUSED PERSONS.

IN CRL.P.NO. 2484/2020:

BETWEEN:

1. SYED ZUBIR,
S/O LATE SYED KAREEM SAB,
AGE ABOUT 46 YEARS,
R/AT 3RD CROSS,
MARALURU DINNE JANTHA COLONY,
TUMKURU 572105.
2. PATHAN ALMAS KHAN,
S/O YUSUF KHAN, AGED
ABOUT 25 YEARS,
R/AT 1598-1, KANKODIVALA POLE,
BHANDERI POLE, KALUPUR,
AHMENDABAD 380001.
3. SHAHJ AALAM @
SHAHJAD AALAM, S/O
RAIS AHAMAD, AGE
ABOUT 37 YEARS,
R/AT H N 167, MANDHEYA KAMRUDDIN,
POLICE STN, AMROHA CITY, TAHSHIL
AMROHA,
DISTRICT AMROHA 244221.

... PETITIONERS

(BY SRI. MOHAMMED TAHIR, ADVOCATE)

AND:

1. STATE BY THILAK PARK P S
TUMKUR CITY,
2. RAGHU
S/O NOT KNOW,
AGE 35 YEARS,
POLICE OFFICER,

R1 & R2 ARE REPRESENTED BY
STATE PUBLIC PROSECUTOR,
ADVOCATE GENERAL OFFICE,
HIGH COURT COMPLEX,
OPP VIDHAN SOUDHA,
BANGALORE 560001.

3. FOREIGNERS REGIONAL REGISTRATION OFFICER(FRRO),
5TH FLOOR, 'A' BLOCK, TTMC,
BMTc BUS STAND BUILDING, K H ROAD,
SHANTINAGAR, BENGALURU – 560 027.
V.C.O DATED 07.07.2020, R3 AMENDED.

...RESPONDENTS

(BY SRI. V M SHEELVANTH, SPP-I A/W
SRI. V S HEGDE, SPP-II AND
SMT. NAMITHA MAHESH B G, HCGP FOR R1 & R2;
SRI. C SHASHIKANTHA, ASG FOR R3)

THIS CRIMINAL PETITION IS FILED UNDER 482 OF CR.PC
PRAYING TO QUASH THE FIR NO.31/2020 U/S.14A
AND 14C OF FOREIGNER ACT REGISTERED BY THE
RESPONDENT POLICE THILAK PARK POLICE STATION AT THE
INSTANCE OF RESPONDENT NO.2 FIRST INFORMANT AND
PENDING IN THE FILES OF 3RD ADDITIONAL CIVIL JUDGE (JN)
AND JMFC COURT, TUMAKURU DISTRICT WHEREIN
PETITIONER ARE ARRAYED AS ACCUSED NO.2,3 AND 4
RESPECTIVELY.

IN CRL.P.NO. 2486/2020:

BETWEEN:

SALEH IMRAAN AHAMED,
S/O TALIB SALEH,
AGED 30 YEARS,
R/AT 1160 BOULDER CREEK DRIVE,
HAYWARD CA 94554 USA,
PRESENTLY AT A1-RAYAN MASJIDA,
TUMKUR-572 105.

... PETITIONER

(BY SRI. MOHAMMED TAHIR, ADVOCATE)

AND:

1. STATE BY THILAK PARK P S
TUMKUR CITY.
2. RAGHU,
S/O NOT KNOWN,
AGED 35 YEARS,
POLICE OFFICER,

R1 & R2 ARE REP BY
STATE PUBLIC PROCESUTOR
ADVOCATE GENERAL OFFICE,
HIGH COURT COMPLEX,
OPP. VIDHAN SOUDHA,
BANGALORE-560 001.

3. FOREIGNERS REGIONAL REGISTRATION OFFICER(FRRO),
5TH FLOOR, 'A' BLOCK, TTMC,
BMTC BUS STAND BUILDING,
K H ROAD, SHANTINAGAR,
BENGALURU – 560 027.
V.C.O DATED 07.07.2020, R3 AMENDED.

...RESPONDENTS

(BY SRI. V M SHEELVANTH, SPP-I A/W
SRI. V S HEGDE, SPP-II AND
SMT. NAMITHA MAHESH B G, HCGP FOR R1 & R2;
SRI. C SHASHIKANTHA, ASG FOR R3)

THIS CRIMINAL PETITION IS FILED UNDER 482 OF CR.PC
PRAYING TO QUASH THE FIR NO.33/2020 U/S 14a AND 14c OF
FOREIGNER ACT REGISTERED BY THE RESPONDENT POLICE
AT THE INSTANCE OF RESPONDENT NO.2 FIRST INFORMANT
AND PENDING ON THE FILE OF III ADDITIONAL CIVIL JUDGE
(JR.DN.) AND J.M.F.C., TUMKUR DISTRICT WHEREIN
PETITIONERS ARE ARRAYED AS ACCUSED NO.1 ALONG WITH
OTHER ACCUSED PERSONS.

IN CRL.P.NO. 2488/2020:

BETWEEN:

1. SYED ZUBIR,
S/O LATE SYED KAREEM SAB,
AGED ABOUT 46 YEARS,
R/AT 3RD CROSS,
MARALURU DINNE JANTHA COLONY,
TUMKUR - 572 105.
2. PATHAN ALMAS KHAN,
S/O YUSUF KHAN, AGED
ABOUT 25 YEARS, R/AT
1598-1,
KANKODIVALA POLE,
BHANDERI POLE,
KALUPUR, AHMENDABAD
- 380 001.

3. SHAHJ AALAM @ SHAHJAD AALAM,
S/O RAIS AHAMAD,
AGED ABOUT 37 YEARS, R/AT
H N 167, MANDHEYA
KAMRUDDIN, POLICE STN -
AMROHA CITY, TAHSHIL
AMROHA, DISTRICT - AMROHA
– 244221.

... PETITIONERS

(BY SRI. MOHAMMED TAHIR, ADVOCATE)

AND:

1. STATE BY THILAK PARK P S,
TUMKUR CITY.
2. RAGHU,
S/O NOT KNOWN,
AGE 35 YEARS,
POLICE OFFICER,

R1 & R2 ARE REPRESENTED BY
STATE PUBLIC PROSECUTOR,
ADVOCATE GENERAL OFFICE,
HIGH COURT COMPLEX,
OPP. VIDHAN SOUDHA,
BANGALORE - 560 001.

3. FOREIGNERS REGIONAL REGISTRATION OFFICER(FRRO),
5TH FLOOR, 'A' BLOCK, TTMC,
BMTC BUS STAND BUILDING,
K H ROAD, SHANTINAGAR,
BENGALURU – 560 027.

V.C.O DATED 07.07.2020, R3 AMENDED.

...RESPONDENTS

(BY SRI. V M SHEELVANTH, SPP-I A/W
SRI. V S HEGDE, SPP-II AND
SMT. NAMITHA MAHESH B G, HCGP FOR R1 & R2;
SRI. C SHASHIKANTHA, ASG FOR R3)

THIS CRIMINAL PETITION IS FILED UNDER 482 OF CR.PC
PRAYING TO QUASH THE FIR NO.29/2020 U/S 14(a) AND 14(c)
OF FOREIGNER ACT REGISTERED BY THE RESPONDENT
POLICE AT THE INSTANCE OF RESPONDENT NO.2 FIRST
INFORMANT AND PENDING IN THE FILES OF III ADDITIONAL
CIVIL JUDGE (Jr.Dn) AND JMFC, TUMKUR DISTRICT WHEREIN
PETITIONERS ARE ARRAYED AS ACCUSED NO.2,3,4
RESPECTIVELY.

IN CRL.P.NO. 2492/2020:

BETWEEN:

SUNKARY BADJIE,
S/O SAMBON LAMIN BADJIE,
BANJH, GAMBIA,
PRESENTLY AT A1-RAYAN MASJIDS,
TUMKUR-572105.

... PETITIONER

(BY SRI. MOHAMMED TAHIR, ADVOCATE)

AND:

1. STATE BY THILAK PARK P S,
TUMKUR CITY.

2. RAGHU,
S/O NOT KNOWN, AGE
ABOUT 35 YEARS,
POLICE OFFICER.

R1 AND 2 ARE REPRESENTED BY
STATE PUBLIC PROSECUTOR,
ADVOCATE GENERAL OFFICER,
HIGH COURT COMPLEX,
OPP. VIDHANA SOUDHA,
BANGALOLRE-560001.

3. FOREIGNERS REGIONAL REGISTRATION OFFICER(FRRO),
5TH FLOOR, 'A' BLOCK, TTMC,
BMTC BUS STAND BUILDING, K H ROAD,
SHANTINAGAR, BENGALURU – 560 027.
V.C.O DATED 07.07.2020, R3 AMENDED.

...RESPONDENTS

(BY SRI. V M SHEELVANTH, SPP-I A/W
SRI. V S HEGDE, SPP-II AND
SMT. NAMITHA MAHESH B G, HCGP FOR R1 & R2;
SRI. C SHASHIKANTHA, ASG FOR R3)

THIS CRIMINAL PETITION IS FILED UNDER 482 OF CR.PC
PRAYING TO QUASH THE FIR NO.32/2020 U/S 14(a) AND 14(c)
OF FOREIGNER ACT REGISTERED BY THE RESPONDENT
POLICE AT THE INSTANCE OF RESPONDENT NO.2 FIRST
INFORMANT AND PENDING IN THE FILES OF III ADDITIONAL
CIVIL JUDGE (Jr.Dn) AND JMFC, TUMKUR DISTRICT WHEREIN
PETITIONER IS ARRAYED AS ACCUSED NO.1 ALONG WITH
OTHER ACCUSED PERSONS.

THESE CRIMINAL PETITIONS HAVING BEEN HEARD AND
RESERVED FOR ORDER, THIS DAY, THE COURT PRONOUNCED
THE FOLLOWING:

ORDER

The challenge in these petitions is to the initiation of criminal proceedings inter alia under the provisions of the Foreigners Act, 1946 for the violation of the conditions of VISAS in question; one set of petitioners comprises of foreigners and the other, of native citizens; after service of notice, the respondent-State having entered appearance through the learned SPP has filed a common Statement of Objections resisting the petitions; learned ASG representing the newly added respondent FRRO also opposes the petitions.

2. Learned counsel for the petitioners argues that: the initiation of criminal proceedings is on a wrong assumption of a jurisdictional fact namely the nature of VISA; the State is proceeding on a demonstrably wrong premise that the VISAS in question are all Tourist VISAS, when they are not; there is no prohibition for professing & propagating the principles of Tablighi Jamaat in a religious gathering; even otherwise, the Central Govt. has power to relieve the foreigners of the criminal action after accepting the fine amounts in terms of the extant norms and therefore, that benefit needs to be extended to the accused.

3. Learned SPP in the Statement of Objections contends that: Tablighi Jamaat is a society of preachers founded by Mohammad Ilyas al-Kandhlawi in Mewat (Haryana), way back in 1926 with the goal to "Revive" Islam through the group of dedicated preachers; Foreign Nationals accused in the case having clandestinely entered India with Tourist Visas and not missionary Visas, have undertaken propagation campaign of Tablighi Principles in religious congregations in breach of Visa conditions and thereby, violated the provisions of Foreigners Act; as many as 960 of such foreigners are blacklisted by the Central Govt. as "Visa violators"; the MHA has directed all the States to prosecute such violators; the petitioners have also violated the provisions of Epidemic Diseases Act, 1897; acting as intentional carriers of highly infected Corona virus, they have spread COVID-19 in India; they have also violated Section 51 of Disaster Management Act and Sections 188, 269, 270 & 271 of IPC...; learned ASG supporting the submission of the learned SPP, contends for the dismissal of petitions so that both the foreigners and the native Indians would face the prosecution for the alleged offences, in accordance with law.

4. Having heard the learned counsel for the parties and having perused the Petition Papers, reprieve needs to be bestowed on the accused foreigners, however, dismissing the case of native accused, for the following reasons:

5. There is no dispute as to nine of the sixteen accused being foreigners who gained entry to India on the basis of VISAS in question; section 14 of the Foreigners Act, 1946 criminalizes violation of the conditions of VISA and prescribes a punishment of imprisonment that may extend to five years and also unlimited fine; the entire case thus revolves around one significant factor namely the nature of VISA; petitioners' counsel asserts that their travel documents cannot be described as Tourist VISA and therefore, the conditions applicable to Tourist VISA holders cannot be made applicable to these foreigners; the respondents contend that petitioners are e-Tourist Visa holders and therefore, they having undertaken missionary activities, are liable to be prosecuted for violating VISA terms; thus, the centrality of the question is the nature of VISAS in question.

6. Types of Visas and the procedure for grant thereof:

(a) The Visa Manual mentions of several types of Visas; the Chapter "DETAILS OF VISAS GRANTED BY INDIA" inter alia mentions of "e-VISA"; under the sub-heading "Eligibility", it is stated that e-VISA is granted to a foreigner whose sole objective of visiting India is recreation, sight seeing, casual visit to meet friends or relatives, attending a short term yoga programme, medical treatment and for business purpose, "and no other purpose/activity"; a foreign national other than a Pakistani, can avail e-VISA facility by filing the application online on the prescribed website, 120 days in advance of the expected date of his intended visit to India; it hardly needs to be stated that the paragraphs of Visa Manual have statutory flavour if not force. Para 3 of the above Chapter in the Visa Manual mentions of three "Sub-categories of e-Visa" namely (i) e-Tourist Visa which is granted for recreation, sightseeing, casual visit to meet friends/relatives and attending a short term yoga programme, (ii) e-Business Visa which is granted for all activities permitted under the normal Business Visa, and (iii) e-Medical Visa which is granted for medical treatment; it also provides that a foreign national may get a composite Visa which covers all the above purposes provided that he has clearly indicated the

same in the application form to be accompanied by requisite documents; e-Visas may be granted for a period upto 60 days with double or triple entries; however, e-Medical Visa may be granted upto six months on a case to case basis; the Manual also provides for the grant of Tourist Visa, Medical Visa, Employment Visa, Transit Visa, etc., as distinguished from the class of e-Visas.

(b) It is pertinent to mention that para 87 of Visa Manual provides for the grant of a Missionary Visa to a foreigner whose sole objective of visiting India is Missionary Work not involving proselytization; such Visas shall not be granted to preachers of religion and evangelists who desire to come to this country on propaganda campaigns whether on their own or at the invitation of any organization in India; it is nobody's case that the Visas in question answer the description of Missionary Visa and therefore, the purpose for which a Tourist Visa or e-Tourist Visa is granted is much much different from the purpose for which a Missionary Visa avails.

7. As to the nature of Visas in question:

(a) A bare look at the travel documents of the accused foreigners, copies whereof are placed on record both by the

learned ASG & SPP prima facie would pointedly show that the VISAS in question granted to them answer the description of and bear the nomenclature "e-Tourist Visa"; as already mentioned above, e-Visas are granted only for the specified purposes, and not granted for any other purpose; the missionary activities such as propagation of religion, participating in religious congregation and proselytization are not enlisted as the permissible activities/purposes; as already mentioned above, such purposes/activities or the like of course sans proselytization are confined to Missionary Visa, and none else; therefore, the submission of the learned counsel for the petitioners to the contrary cannot be countenanced.

(b) The offshoot contention of learned counsel for the petitioners that there is also no specific prohibition in the Visas in question for preaching religious principles in the Tablighi congregation, does not have any force at all inasmuch as by the very nature of these Visas, what is permissible is what is specifically provided for and therefore, the question of one looking for prohibition is irrelevant to say the least; in other words, what is not provided for in the Visa, is deemed to be impermissible; thus, the general principle that what all is not prohibited is

permissible for a natural person and what all is not provided for is impermissible for a juristic person, ordinarily cannot be invoked by foreign nationals, subject to all just exceptions into which Visa matters being by their very nature what they are, do not fit.

8. Learned counsel for the petitioners places reliance on two unreported judgments handed by a Co-ordinate Bench of this Court in support of his contention that the intended prosecution is not desirable since it would eventually result into overstaying of the foreign nationals at the cost of State Exchequer and therefore, these foreign nationals be granted exit at the earliest; in CrI.P.No.1035/2017 between Mr.Junia Erastus Mayemba Vs. The Bureau of Immigration, a learned Co-ordinate Judge at para 6 of the judgment dated 12.04.2017 has observed as under:

"6. Given the above facts and circumstances, the admitted circumstance that the petitioner has overstayed and this being in violation of the law, if the petitioner should be penalized and if he should suffer imprisonment, his overstay would only be extended further. Any such proceedings taken against him would necessarily be at the cost of the State exchequer. If the petitioner is now ready to leave the country, it is appropriate if he is sent out of the country at the earliest. Therefore, it would not be feasible to carry on any further proceedings against the present petitioner as the justice dispensation system of this country is also over-loaded and we need not add one more of the kind in the present case and it is in the interest of all, particularly of the State

exchequer to ensure that the present petitioner leaves the country at the earliest. In this regard, the formalities of procuring an exit permit is necessary. The petitioner shall be provided an exit permit by the F.R.R.O, who shall issue such an exit permit without insisting upon the petitioner facing action for violation of rules and regulations as already alleged and the criminal case pending against the petitioner should also be dropped provided it is ensured that on issuance of such exit permit, the petitioner is escorted (sick) by the Airport Police till he is subjected to security check and onward journey to the country as per the ticket which is now procured for the scheduled Flight No.66F67A leaving at 6.45 hours on 30.04.2017."

In yet another judgment dated 16.09.2016 in

Crl.P.No.5508/2016 between Mr.Freddy Tshimanga

Kanyama Vs. Bureau of Immigration too, nearly a similar

view was taken by a Co-ordinate Bench; there is some

force in the submission of the learned counsel for the

petitioners in drawing parallel between the aforesaid two

judgments and the case of accused foreigners, although

the said judgments cannot be treated as precedents since

no legal principles have been discussed and much less laid

down; however, the counsel may be justified in pressing

into service these judgments seeking parity of treatment

for his clients who are arguably similarly circumstanced

qua the parties thereto.

9. Learned SPP & ASG together submit that if at all the accused foreigners are shown to be mercy which is an attribute of Sovereign Power in view of the aforesaid two judgments of a Coordinate Bench, this Court should prescribe the similar conditions as are stipulated by the Hon'ble Madras High Court in Md. Kameual Islam and Others Vs. State, 2020 SCC OnLine Mad 1171 wherein the delinquent Tablighi foreigners like the petitioners herein have been permitted to leave this country immediately with the rider that they would not come back again for a period of next ten years and further they should pay the fines to be levied by the competent authorities; they add that similar treatment may be meted out to the accused foreigners reserving liberty for their blacklisting or by placing them in the category of Visa violators; there is force in this graceful stand of the respondents which is consistent with the great traditions of this country throughout the history; learned counsel for the petitioners is agreeable to these conditions suggested by the respondent-authorities; it also needs to be noted that these petitioners having been arrested, have been now admitted to regular bail and thus have spent a few days in custody/confinement; as of now, the Police Papers do not

suggest invocation of the provisions of other enactments against the accused foreigners, who stand on a different footing qua the native accused.

10. There is some force in the contention of learned SPP & ASG that, this judgment having been handed in the very special circumstances of the case involving foreign nationals, may not be treated as a precedent; although some discussion is made on the contentions urged by the rival parties, the learned Advocates for the respondents need not have the apprehension of this judgment being treated as having precedential value especially when the respondents have shown a lot of grace & concession of course consistent with their stand before a Co-ordinate Bench of this court earlier; the decision of Madras High Court, supra, too shows the same grace & concession shown by the authorities; it is a settled principle of law of precedent vide "Precedent in English Law" by Rupert Cross which the Apex Court has reiterated quite often that the decisions rendered on concessions ordinarily are not cited as binding precedents or supporting the parity claims.

11. Learned counsel for the respondents are more than justified in submitting that the graceful grant of relief to

the accused foreigners in the light of very special circumstances of the case, should not be construed as prejudicing the case of police/prosecution qua the native accused who stand on a different footing; despite strenuous arguments, learned counsel Mr. Tahir could not make out a case for indulgence of this court for quashment of criminal proceedings instituted against the native accused, who as mentioned above, obviously stand on a different footing as against the foreigners; even otherwise, no circumstances are shown to exist especially at this pre-investigation stage for the invocation of norms laid down by the Apex Court in State of Haryana Vs. Chowdary Bhajan Lal, 1990 SCR Supl. (3) 259 for granting any relief/reprieve to them; merely because the accused foreigners are being gracefully let to go in special circumstances, that too on the condition of bar against their entry to this land for ten long years and also the requirement of paying the prescribed fee/fine, nothing in this judgment shall be construed to weaken the case of the police/prosecution against the accused citizens in any way whatsoever; similarly, it needs to be made clear that no observation herein shall dilute the defences that are legally admissible to the accused, either.

12. There is absolutely no justification for the allegation of the petitioners that the criminal proceedings are initiated by the respondent-police, with the prejudice generated by the Media propaganda, and for the statistical purpose of the State; this court having examined the entire File made available by the learned SPP, does not find even an iota of material for entertaining such a baseless grievance; on the contrary, this gathers from the records a legitimate impression that the police having stood tall, exercised a lot of restraint despite running a huge risk of COVID-19 infection and tolerating the attack/assault by the miscreants; this court will be failing in its duty if it does not place on record a deep appreciation of the State Police for their yeoman service being rendered during COVID crises.

In the above special circumstances, this Court makes the following:

ORDER

(a) CrI.P.Nos.2376, 2380, 2384, 2385, 2472, 2483, 2486, 2492 & 2361 all of 2020 having been favoured, the Criminal proceedings initiated against the said accused foreigners are quashed, to meet the ends of justice; the respondent-FRRO is directed to issue exit permits to these

petitioners and ensure their exit from the country forthwith, if they are not required for any other case, (i) on their paying the fine amounts as may be levied by the competent authority immediately, and (ii) on their filing a due undertaking to the effect that they would not visit this country within the next ten years;

(b) if any of the accused foreigners in the aforesaid cases fail to avail the benefit of direction in the immediately preceding paragraph (a) above at the earliest point of time, the criminal proceedings initiated against such of them shall stand revived on their own, and that the investigation and the eventual trial for the offences punishable under the Foreigners Act, IPC and other enactments shall be resumed & accomplished, in accordance with law;

(c) the quashment of criminal proceedings against the accused foreigners in the immediately preceding paragraph

(a) above, shall not be construed as extending their Visa so as to facilitate their stay any longer than what is reasonably required for the effectuation of the relief/concession graciously bestowed on them, nor as diluting the case against other native petitioners who happen to be accused for the offences punishable under the provisions of Foreigners Act, 1946, Indian Penal Code,

1860, Epidemic Diseases Act, 1897, Disaster Management Act, 2005 and such other enactments, if any; and,

(d) the other cases in CrI.P.Nos.2471, 2474 to 2478, 2484 & 2484 all of 2020 being devoid of merits, are dismissed with a direction to the jurisdictional police to resume & accomplish the investigation within an outer limit of six months and submit the compliance report to the Registrar General of this Court within two weeks next following.

Sd/-
JUDGE

Snb/cbc