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**(1994) 07 KAR CK 0039**  
**In the Karnataka High Court**  
**Case No : Criminal Petition No. 833 of 1990**

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APPELLANT

Vs

State of Karnataka and Another

RESPONDENT

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**Date of Decision :** 08-07-1994

**Acts Referred:**

Penal Code, 1860 (IPC) — Section 177

**Citation :** (1994) 3 KarLJ 128

**Hon'ble Judges :** S. Venkataraman, J

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## Judgement

This petition is filed by the petitioner who is an accused in C.C. 4 of 1989 on the file of the Judicial Magistrate First Class, at Nargund for quashing those proceedings.

The police have filed the charge-sheet against the petitioner for offences under Sections 177, 181, 196, 198 and 420, IPC alleging that though she belongs to Bedar caste, she, with intent to secure the benefit of reservation for Scheduled Tribes, declared before the Tahsildar, Nargund that she belongs to Nayaka community and obtained false caste certificate to that effect, that on the basis of that false certificate she secured employment as a clerk in Central Bank of India on 17-1-1975 and that subsequently she has also secured promotion as Sub-Accountant on 28-2-1983. The main ground on which the proceedings are sought to be quashed is that Bedar community is synonymous with Nayaka community, that this fact is recognised in many government publications as well as by the commissions appointed by the State Government, that the State Government itself had recognised this fact and had recommended for including Bedar community as also a synonym of Nayaka community in the list of Scheduled Tribes, that subsequently the President has issued an Ordinance including Beda community also in the list of Scheduled Tribes with Nayaka and other synonymous tribes and that subsequently replacing that Ordinance, an Act has also been passed and that in these circumstances it would be an abuse of process of the court to continue the prosecution of the petitioner. It is not disputed that the petitioner belongs to Beda tribe. It is also not disputed that

Beda tribe is now included in the list of Scheduled Tribes along with Nayaka community. The petitioner is being prosecuted on the basis that Beda and Nayaka are different communities and that the petitioner has falsely represented that she belongs to Nayaka community and on that basis she has secured facilities reserved for Scheduled Tribes.

The petitioner has produced several Government publications which show that Beda community is synonymous with Nayaka community and that in various districts the same community is called by different names. In the Minute given by the Ministry for Information and Tourism, Kannada and Culture, dated 4-11-1988 synonymous names of Valmiki, Beda, Parivara for Nyakada or Nayaka and the list of authorities, reference books, Government orders, court orders, have all been given. The Mysore Gazetteer compiled in the year 1987 shows Beda and Nayaka as synonymous. The Mysore State Gazetteer shows that Beda or Nayaka consists of two divisions, Telugu and Kannada, in the chapter pertaining to Beda. It is mentioned that the Bedas call themselves as Kanayamkulam, Dhori Kulam, or Valmiki Kshatriyas and that sometimes the name Nayaka, Nayakamakkalu is also applied to this community. The District Gazetteer of Chitradurga shows that Bedas are also called Nayakas or Nayakamakkalu. Even in the District Gazetteers of Kolar, Tumkur, Hassan, Bellary, Bedas are called even as Nayakas. The District Gazetteer of Belgaum shows that Badaru are also called Berads, Nayakamakkalu, Nayakwadis and Valmikis. The Karnataka State Gazetteer published in 1984 in Kannada shows that Bedas call themselves by different names in different parts of the State and that Nayakamakkalu, Valmiki, Talawara, Berada, are some of the examples of those different names. In the Karnataka State Gazetteer of 1982 of English version, we find the same information and it is mentioned that among them the priestly duties are usually undertaken by the Jangamas. The Karnataka Government has published proposal for inclusion of Nayak, Naik, Beda and Valmiki in the list of Scheduled Tribes. That shows that even before 1988 a proposal had been sent to the Government to treat Beda also as a synonym of Nayaka and include it in the list of Scheduled Tribes.

The Government Order No. SWL. 63 SAD 85, dated 23-1-1986 shows that the Government extended certain benefits available to the Scheduled Tribes to the persons belonging to Nayak, Naik, Bedas, Valmiki, Pariwara and Talawara communities pending decision of the Government of India to treat these communities as synonyms of "Nayaka" community, which was already a Scheduled Tribe. The Government of India issued the Ordinance in 1991 including the Naik, Nayak, Beda, Bedar and Valmiki in the list of Scheduled Tribes.

This Ordinance has subsequently been replaced by Act 39 of 1991.

Thus it is seen that from the beginning Beda community was known even as Nayaka, Naik or Nayakamakkalu in different parts of the State. It is in recognition of the existing situation the list has been subsequently amended including Beda as a synonym of Nayaka.

Even before the amendment of the list by inclusion of Beda as a synonym of Nayaka in the list of Scheduled Tribes, a Division Bench of this Court in Karnataka State Road Transport Corporation v E.M. Munivenkatappa, W.A. No. 470 of 1991, has held that Nayaka is synonymous with Beda. In E.M. Munivenkatappa v Karnataka State Road Transport Corporation, W.P. No. 22662 of 1991, this Court, while dealing with the effect of the Ordinance amending the list of Scheduled Tribes has held that it would have retrospective effect. Thus the documents to which the Government itself is a party clearly indicate that Beda and Nayaka are not different communities and that the same community goes by the two names and that those names, are synonymous. The decision of this Court shows that the Ordinance which is followed by the Act must be given retrospective effect as the amendment is only of a declaratory nature. It therefore follows that when the petitioner, who admittedly belongs to Beda community, declared that she is Nayaka by tribe, it cannot be said that she gave any false declaration or that she has obtained any benefit by a false representation. In view of the abundant material on record which cannot be controverted as well as the judicial pronouncements of this Court, it would be sheer waste of time if the prosecution is allowed to continue. In these circumstances, I feel that this is a fit case where the proceedings pending before the lower court should be quashed.

For the reasons stated above this petition is allowed and the proceedings in C.C. 4 of 1989 on the file of the Judicial Magistrate First Class, Nargund, are quashed.