



CNR: KAHC010005042024

NC: 2026:KHC:51008
CRL.P No. 302 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 302 OF 2024

BETWEEN:

1. YOUNUS
S/O MUGADI ALI,
AGED 36 YEARS,
BUKHARI COLONY,
SHIROOR VILLAG,
UDUPI TALUK,
UDUPI DISTRICT, PIN - 576 228.
2. SAMEER
AGED 30 YEARS,
S/O JAINULLA ABIDIN,
BUKHARI COLONY,
SHIROOR VILLAG,
UDUPI TALUK,
UDUPI DISTRICT, PIN - 576 228.
3. FAIYEEQ,
AGED 30 YEARS,
S/O AKBAR KHAN,
3RD CROSS ROAD,
BUKHARI COLONY,
SHIROOR VILLAG,
UDUPI TALUK,
UDUPI DISTRICT, PIN - 576 228.

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



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4. ELIYAS USMAN SAHEB
AGED 43 YEARS,
S/O SHEIKH USMAN SAHEB,
BUKHARI COLONY,
SHIROOR VILLAG,
UDUPI TALUK,
UDUPI DISTRICT, PIN - 576 228.
5. YASIN
AGED 31 YEARS,
S/O ABDUL BASHEER,
BUKHARI COLONY,
SHIROOR VILLAG,
UDUPI TALUK,
UDUPI DISTRICT, PIN - 576 228.
6. NABILAL SHEK YANE SAMIL
AGED 30 YEARS,
S/O BABULI SHEK,
NEAR SHIROOR MARKET,
BUKHARI COLONY,
SHIROOR VILLAG,
UDUPI TALUK,
UDUPI DISTRICT, PIN - 576 228.

...PETITIONERS

(BY SMT. HALEEMA AMEEN, ADVOCATE)

AND:

1. THE STATE
BY SHO OF BYNDOOR POLIC STATION,
RP BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
AMBEDKAR VEEDHI,
BANGALORE 560006.



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2. VINAYAKA JOGUR
AGED 34 YEARS,
PRESIDENT,
SREE SARVAJANIKA GANESHOTSAVA SAMITI,
PREMISES OF SHANKARANARAYANA TEMPLE,
BYNDOOR YEDUVARI VILLAGE,
KUNDAPURA TALUK,
UDUPI DISTRICT, 576 214.

...RESPONDENTS

(BY SRI.MAHESH P., HCGP FOR R-1;
SRI.RAVISHANKAR S., ADVOCATE FOR R-2)

THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO SET ASIDE THE ORDER DATED 11.09.2018 HAVING TAKEN COGNIZANCE AGAINST THE PETITIONERS IN C.C.NO.614/2018 ARISING OUT OF CRIME NO.361/2017 OF BYNDOOR POLICE STATION, PENDING ON THE FILE OF CIVIL JUDGE AND J.M.F.C., BAINBUR (C/c) REGISTERED FOR THE OFFENCE P/U/S 341, 143, 147, 295A, 504, 506 R/W 149 OF IPC.

THIS PETITION, COMING ON FOR FURTHER HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

This petition is filed under Section 482 of Cr.P.C. to quash the proceedings in CC No.614/2018 arising out of Crime No.361/2017 dated 25.08.2017 filed by Byndoor Police Station, Udupi District, against the petitioners for the offence punishable



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under Section 341, 143, 147, 295A, 504, 506 r/w 149 of IPC, pending on the file of II Addl. Civil Judge & JMFC, Kundapura, Udupi.

2. The factual matrix of the case is that respondent No.2 lodged a complaint before respondent No.1-Police on 25.08.2017, alleging that, on the said day, at Joguru Shankaranarayana Temple, he was making preparations for Ganesha Chathurthi and, in connection with the Ganesha Prathisthapana, was carrying the Ganesha idol from Dasanady Sri Venkataramana Temple and travelling towards Joguru in a car through the public road near Bukhari Colony Masjid, Shiroor village.

3. It is further alleged that the petitioners, who were carrying stones and slippers with them, restrained the complainant, abused him in filthy language, threatened to set the vehicle ablaze, and warned him that no Hindu should carry a Ganesha idol in front of the Masjid. Accordingly, the complainant lodged the complaint before respondent No.1-Police. On the basis of the said complaint, an FIR came to be



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registered against the petitioners. Subsequently, respondent No.1-Police investigated the matter and filed the charge sheet against the petitioners for the aforementioned offences.

4. Accordingly, the learned Magistrate took cognizance of the alleged offences against the petitioners. Aggrieved by the same, the petitioners have preferred the present petition seeking to quash the proceedings.

5. Heard the learned counsel for the petitioners and learned HCGP and learned counsel for respondent No.2.

6. Apart from urging several contentions, learned counsel for the petitioners primarily contended that, since respondent No.1-Police has invoked Section 295A of the IPC in the charge sheet, previous sanction of the Government under Section 196 of the Cr.P.C. is mandatory for taking cognizance of the said offence. It is contended that no such sanction was obtained by respondent No.1-Police before filing the charge sheet. Even assuming that such sanction had been obtained, the same was not referred to by the learned Magistrate while passing the order taking cognizance of the offences.



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7. Learned counsel further contended that, in order to invoke Section 149 of the IPC, there must be a common object among the members of the unlawful assembly to commit the offence. Mere assembly of five or more persons is not sufficient to attract the provisions of Section 149 of the IPC unless the requisite common object is established. She further contended that, on perusal of the averments in the charge sheet, there is no *prima facie* material forthcoming against the petitioners to prosecute them for the offences alleged against them. To buttress her arguments, learned counsel relied upon the judgment of the Co-ordinate Bench of this Court in CrI.P. No.6763/2020, dated 11.03.2022. Hence, she prays that the petition be allowed.

8. *Per contra*, learned counsel for respondent No.2 opposed to the prayer.

9. Learned HCGP also opposed the prayer by contending that the petition is not maintainable at this stage, for the reason that respondent No.1-Police, after investigation, filed the charge sheet against the petitioners after obtaining the



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necessary sanction from the competent authority under Section 196 of Cr.P.C. The said sanction order forms part of the charge sheet. He contended that, while taking cognizance of the offences, there is no requirement that the learned Magistrate should specifically refer to the sanction order in the order taking cognizance.

10. Learned HCGP further contended that the statements of the material witnesses clearly reveal the specific overt acts attributed to all the accused. As such, Section 149 of the IPC is attracted, since the ingredients necessary to invoke the said provision are made out against the petitioners. Accordingly, he prays that the petition be dismissed.

11. I have given my anxious consideration both on the submission made by the respective parties and perused the entire charge sheet materials available on record.

12. As could be gathered from the records, respondent No.2 lodged the complaint alleging that the petitioners, i.e., all the accused persons, illegally restrained him while he was carrying



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the Ganesha idol from Dasanady Sri Venkataramana Temple towards Joguru in a car. It is further alleged that they threatened and abused him in filthy language and also committed an offence punishable under Section 295A of the IPC, apart from the other offences alleged against them. Accordingly, the Police investigated the case and filed the charge sheet.

13. There are as many as 23 witnesses cited in the charge sheet, whose statements clearly speak about the participation of the petitioners in the alleged incident and substantially reiterate the contents of the complaint. As regards the contention advanced by learned counsel for the petitioners that the offence under Section 295A of the IPC has been invoked without obtaining prior sanction, on careful perusal of the charge sheet materials placed before this Court by learned HCGP, it is evident that, before filing the charge sheet, the Police had obtained the necessary sanction from the competent authority and that the said sanction order forms part of the charge sheet. Accordingly, the learned Magistrate, upon perusal of the charge sheet materials, took cognizance of the offences.



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In such circumstances, the contention of learned counsel that the learned Magistrate ought to have specifically referred to the sanction order while taking cognizance does not hold much water, for the reason that the sanction order forms part of the charge sheet and the learned Magistrate took cognizance upon perusal of the charge sheet materials. Specific mention of the fact that sanction had been obtained by the Police before filing the charge sheet in the order taking cognizance is not mandatory.

14. The other contention advanced by learned counsel for the petitioners is that the mere assembly of five or more persons at the scene, *ipso facto*, does not attract the provisions of Section 149 of the IPC. In this regard, as discussed *supra*, on perusal of the charge sheet materials, all the witnesses, including the complainant, have specifically stated that the accused persons, acting together, restrained the complainant, abused him in filthy language, and prevented him from carrying the Ganesha idol. In such circumstances, the *prima facie* involvement of the petitioners is forthcoming from the complaint and other charge sheet materials. Quashing of criminal proceedings is called for



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only in cases where the complaint does not disclose the commission of any offence or where the proceedings are frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to this Court to exercise its jurisdiction under Section 482 of Cr.P.C. However, it is not necessary for this Court to undertake a meticulous analysis of the case at the stage of considering a petition under Section 482 of Cr.P.C. to ascertain whether the case would ultimately end in conviction or acquittal.

15. If, upon reading the complaint and considering the allegations therein, in the light of the statements of the witnesses, the ingredients of the alleged offences are *prima facie* disclosed, there would be no justification for this Court to interfere and quash the proceedings under Section 482 of Cr.P.C. Accordingly, the allegations contained in the complaint and the charge sheet materials have to be tested during a detailed trial.



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Hence without expressing any opinion on the merits of the case, suffice to hold that the petition lacks merits and same is ***dismissed***.

**SD/-
(RAJESH RAI K)
JUDGE**

GPG
List No.: 1 SI No.: 1