



CNR: KAHC010020512024

NC: 2026:KHC:51707
CRL.P No. 528 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 528 OF 2024

BETWEEN:

K. KEVIN
S/O K.P JOSEPH
AGED ABOUT 56 YEARS,
R/O #201, 2ND FLOOR, 97/2,
CAMELOT, LEWIS ROAD, COOKE TOWN,
BENGALURU-560 005

...PETITIONER

(BY SRI. ONKARA K.B, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
FRAZER TOWN
BENGALURU-560 005
STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU-01

2. RITA PHILOMINA
W/O ELANGO VAN SHAMPRAKASH,
AGED ABOUT 44 YEARS
NO 101, CAMLOT APARTMENT
LEWIS ROAD, COOK TOWN
BENGALURU CITY- 560 005

...RESPONDENTS

(BY SRI. MAHESHA P, HCGP FOR R1,
R2-SERVED, UNREPRESENTED)

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



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THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO QUASH THE (FIR) IN CR.NO.401/2023 (PCR.NO.57645/2023) OF PULAKESHINAGAR P.S., RESPONDENT POLICE FOR THE OFFENCE P/U/S 3, 4 AND 5 OF IMMORAL TRAFFIC PREVENTION ACT AND SEC. 506, 504 AND 323 OF IPC ON THE FILE OF XI ADDL.C.M.M., MAYO HALL, BENGALURU SO FAR AS THE PETITIONER (ACCUSED NO.1) IS CONCERNED AS PER ANNEXURE-A.

THIS PETITION, COMING ON FOR ADMISSION, 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 seeking to quash the FIR in Crime No.401/2023 (arising out of PCR No.57645/2023) registered by Pulikeshinagar Police Station for the offences punishable under Sections 506, 504, 323 of IPC and Sections 3, 4, 5 of Immoral Traffic Prevention Act, 1956 (for short, 'the ITP Act'), presently, pending on the file of XI Additional CMM, Mayo Hall, Bengaluru (for short, 'the learned Magistrate').

2. The brief facts of the case are that respondent No.2 lodged a private complaint under Section 200 of the Cr.P.C. against the petitioner and another in PCR No.57645/2023 before the learned Magistrate. It is alleged in the complaint



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that the petitioner/accused No.1, accused No.2 and respondent No.2 are residents of Camelot Apartment situated at Lewis Road, Bengaluru.

3. It is further alleged that on 04.04.2023, accused No.2, namely, Smt. Sheela Kelin, who is also a resident of the said apartment, lodged a complaint before the Frazer Town Police Station against respondent No.2 alleging that she had cut a Bargan village flower plant. In that regard, respondent No.2 tendered an apology before the police on 06.04.2023. Thereafter, WhatsApp communications took place between the petitioner, accused No.2 and respondent No.2.

4. Subsequently, on 14.07.2023, respondent No.2 lodged a complaint before the Pulikeshinagar Police Station alleging that the petitioner and accused No.2 were running paying guest accommodations in their respective flats without obtaining the requisite licence from the competent authority. However, as the said complaint was not registered by the police, respondent No.2 proceeded to lodge a private complaint before the learned Magistrate, alleging that the petitioner and accused No.2 were not only running paying guest



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accommodations, but were also involved in flesh trade in their flats.

5. The learned Magistrate, upon receipt of the said complaint, referred the same to the jurisdictional police for investigation under Section 156(3) of the Cr.P.C. Pursuant thereto, the respondent No.1-police registered FIR in Crime No.401/2023 dated 05.10.2023 for the aforesaid offences. Aggrieved by the registration of the said FIR, the petitioner is before this Court.

6. Heard the learned counsel for the petitioner and learned HCGP for respondent No.1-State. Despite service of notice to respondent No.2, is unrepresented.

7. The primary contention of the learned counsel for the petitioner is that, except arraying the petitioner as accused No.1, no specific allegation is made against him either in the private complaint or in the complaint lodged before the police. He submits that the complaint initially lodged before the police was only against accused No.2-Smt. Sheela Kelin.



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8. It is further contended that the petitioner is a citizen of the Netherlands and holds an Overseas Citizen of India Card and, being a resident abroad, had purchased the flat in India and entrusted the same to an Airbnb company for guest accommodation. According to the learned counsel, the present complaint has been lodged by respondent No.2 only by way of retaliation and vengeance, pursuant to the complaint earlier lodged against her by accused No.2. Hence, he contends that there are no *prima facie* allegations against the petitioner warranting continuation of the proceedings. Accordingly, he prays to allow the petition.

9. *Per contra*, learned HCGP opposed the prayer of the petitioner contending that the investigation is still at a nascent stage and the complaint discloses serious allegations that the petitioner and accused No.2 are running a brothel in the said apartment. Hence, he prays for dismissal of the petition.

10. I have given my anxious consideration to the submissions made by the learned counsel for the respective parties so also perused the entire materials on record.



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11. As could be gathered from the averments made in the private complaint and the other materials placed on record by the petitioner, accused No.2 had earlier lodged a complaint against respondent No.2 on 04.04.2023 in connection with the cutting of certain flower plants. Pursuant thereto, accused No.2 tendered an apology at the police station. Thereafter, allegations and counter-allegations were exchanged between accused No.2 and respondent No.2 through WhatsApp messages, which ultimately culminated in the present proceedings.

12. It is further evident that, in the complaint lodged by respondent No.2 before filing the private complaint, the police had advised both the parties not to indulge in filing complaints against each other, as they were residing in the same apartment. Despite the same, respondent No.2 proceeded to lodge the private complaint against the petitioner and accused No.2.

13. As rightly contended by the learned counsel for the petitioner, the complaint lodged by respondent No.2 prior to filing the private complaint does not disclose any *prima facie*



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allegation against the petitioner, who is arrayed as accused No.1. The said complaint was lodged only against accused No.2 and does not contain any allegation that either the petitioner or accused No.2 was involved in flesh trade or was running a brothel in the apartment. It is only in the subsequent private complaint that respondent No.2 has introduced the allegation that the petitioner and accused No.2 were involved in flesh trade.

14. In such circumstances, the complaint averments on face of it reveals that the same is filed out of vengeance. The Hon'ble Apex Court in the case of **MOHAMMED ALI AND OTHERS VS. STATE OF UP - 2023 (15) SCC 488** in paragraph No.11 to 14 held as under:

"11. The entire case put up by the first informant on the face of it appears to be concocted and fabricated. At this stage, we may refer to the parameters laid down by this Court for quashing of an FIR in the case of State of Haryana v. Bhajan Lal, AIR 1992 SC 604. The parameters are:-

"(1) Where the allegations made in the first information report or the complaint,



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even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.



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(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused. (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.” We are of the view that the case of the present appellants falls within the parameters Nos. 1, 5 and 7 resply of Bhajan Lal (supra).



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12. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from



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the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines.

The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.

13. In State of Andhra Pradesh v. Golconda Linga Swamy, (2004) 6 SCC 522, a two-Judge Bench of this Court elaborated on the types of materials the High Court can assess to quash an FIR. The Court drew a fine distinction between consideration of materials that were tendered as evidence and appreciation of such evidence. Only such material that manifestly fails to prove the accusation in the



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FIR can be considered for quashing an FIR. The Court held:-

"5. ...Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent such abuse. It would be an abuse of the process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.



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6. In R.P. Kapur v. State of Punjab, AIR 1960 SC 866 : 1960 Cri LJ 1239, this Court summarised some categories of cases where inherent power can and should be exercised to quash the proceedings : (AIR p. 869, para 6)

(i) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;

(ii) where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged;

(iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.

7. In dealing with the last category, it is important to bear in mind the distinction



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between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge. Judicial process, no doubt should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring



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about its sudden death....." (Emphasis supplied)

14. In the result, this appeal succeeds and is hereby allowed. The impugned order passed by the High Court of Judicature at Allahabad is hereby set aside. The criminal proceedings arising from FIR No. 127 of 2022 dated 04.06.2022 registered at Police Station Mirzapur, Saharanpur, State of U.P. are hereby quashed."

15. Further, on careful analysis of the complaint and the other materials on record, I am of the considered view that respondent No.2, being a resident of the same apartment, has lodged the present complaint by way of retaliation to the earlier complaint lodged by accused No.2 against her. Admittedly, none of the office bearers of the apartment has lodged any complaint or made any allegation that the petitioner and accused No.2 were indulging in flesh trade or any other such illegal activity.

16. Moreover, no specific allegation is forthcoming against the petitioner, who is an Overseas Citizen of India Card holder and a resident of the Netherlands. In the absence of any



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specific and *prima facie* material connecting the petitioner with the alleged offences, continuation of the proceedings against petitioner-accused No.1 would amount to abuse of the process of law. Accordingly, I proceed to pass the following:

ORDER

- i. The petition is ***allowed***.
- ii. The proceedings against the petitioner-accused No.1 in Crime No.401/2023 (arising out of PCR No.57645/2023) registered by Pulikeshinagar Police Station for the offences punishable under Sections 506, 504, 323 of IPC and Sections 3, 4, 5 of Immoral Traffic Prevention Act, 1956, presently pending on the file of XI Additional CMM, Mayo Hall, Bengaluru, is hereby quashed.

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

CR/List No.: 1 SI No.: 7