



CNR: KAHC010101292025

NC: 2026:KHC:49330
CRL.P No. 2281 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO. 2281 OF 2025 (482(Cr.PC)

/ 528(BNSS)-)

BETWEEN:

K V KUMARI
D/O K.R VENKATASWAMY
AGED ABOUT 55 YEARS
ADMINISTRATOR OF SREE KOTILINGESHWARA
SWAMY TEMPLE
KAMMASANDRA VILLAGE
BETHAMANGLA HOBLI
KGF TALUK, KOLAR DISTRICT-563121

...PETITIONER

(BY SRI. RAJESH MAHALE., SENIOR ADVOCATE A/W
SRI. DHANWANTRI ANANTH., ADVOCATE FOR
SRI. THILAK ITTANGUR B N., ADVOCATE)

AND:

1. STATE BY BEML NAGAR PS
BEML NAGAR, K.G.F TALUK
KOLAR DISTRICT 563 121
REP BY SPP
HIGH COURT BUILDING
BENGALURU-01
2. DR. K SHIVAPRASAD
S/O KAMALA SAMBHAVA SHIVA MURTHY
AGE 48 YEARS
KAMMASANDRA VILLAGE
BETHAMANGALAL HOBLI
KGF TALUK, KOLAR DISTRICT-563 121

...RESPONDENTS

(BY SMT. RASHMI PATEL., HCGP FOR R1;
SRI. ABHISHEK N.V., ADVOCATE FOR R2)

Digitally signed
by SHWETHA
RAGHAVENDRA
Location: HIGH
COURT OF
KARNATAKA



NC: 2026:KHC:49330
CRL.P No. 2281 of 2025

CNR: KAHC010101292025

THIS CRIMINAL PETITION IS FILED U/S 482 CR.PC (FILED U/S 528 BNNS) PRAYING TO CALL FOR THE ENTIRE RECORDS PERTAINING TO THE PROCEEDINGS IN CRIME NO. 43/2022 ON THE FILE OF THE RESPONDENT AND ETC.

THIS CRIMINAL PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. The petitioner is before this Court seeking for the following reliefs;

I. To call for the entire records pertaining to the proceedings in crime No- 43/2022 on the file of the respondent.

II. That this Hon'ble Court be pleased to quash the entire proceedings registered by BEML Nagar Police Station against the Petitioner under Crime No.43/2022 dated 21.01.2023 Criminal case 2342/2023 for the offences punishable under Sections 378, 379, 381, 403, and 404 of the Indian Penal Code, 1860, pending on the file of the Hon'ble Court of the Prl. Civil Judge and Addl. JMFC at KGF, as per Annexure-A.

III. And also grant such other and further reliefs as this Hon'ble court deems fit considering the facts and circumstances of the case, to meet the ends of justice

2. Respondent No.2 filed a private complaint under Section 200 of the Cr.P.C. in PCR No.21 of 2022 before the Additional JMFC and Principal Senior Civil Judge, KGF, alleging that the Toyota Innova bearing



CNR: KAHC010101292025

Registration No. KA-08-M-5684 belonged to his father. After his death, the vehicle remained in the custody of his mother, late Kamala Sambhava @ Shambashiva Murthy. It is alleged that, after her death and upon transfer of the Registration Certificate to the name of respondent No.2, the petitioner, in the absence of respondent No.2, stealthily took away the vehicle and thereby committed theft. It is further alleged that the petitioner retained the vehicle and kept it in a garage at her residence. On these allegations, offences punishable under Sections 378, 379, 381, 403 and 404 of the IPC were alleged. The learned Magistrate took cognisance on 23.09.2023.

3. Learned Senior Counsel appearing for the petitioner submits that the dispute concerning the very same vehicle is not of recent origin. O.S. No.270 of 2019 was instituted by respondent No.2 seeking, inter alia, a mandatory injunction for delivery of possession of the vehicle. The prayer for temporary injunction was declined and the said order was affirmed by the First Appellate Court in M.A. No.43 of 2023. The orders passed therein have been challenged before this Court in W.P. No.3700 of 2021 and W.P. No.7001 of 2024.



CNR: KAHC010101292025

4. It is therefore contended that the parties have been asserting competing claims in respect of the vehicle since 2019 and that the issue of possession was already the subject matter of the civil proceedings much before the present complaint alleging theft was lodged. According to the petitioner, the criminal complaint proceeds on an assertion of possession which is inconsistent with the stand taken by respondent No.2 and his family in the earlier proceedings.
5. Learned Senior Counsel has also drawn the attention of the Court to the legal notice dated 13.05.2019 issued by the mother of respondent No.2 during her lifetime. In the said notice, it was specifically stated that the Toyota Innova was in the personal use of the petitioner and that the vehicle belonged to her deceased husband, who was the father of respondent No.2 and the other persons referred to in the notice. A demand was made upon the petitioner to hand over the vehicle, together with the vehicle records and keys, in good condition.
6. Thus, the document of 13.05.2019 is not a subsequent document created in response to the criminal proceedings. It is a contemporaneous



CNR: KAHC010101292025

NC: 2026:KHC:49330
CRL.P No. 2281 of 2025

document issued several years before the present complaint and specifically proceeds on the basis that the petitioner was in possession and use of the vehicle. The institution of O.S. No.270 of 2019 thereafter also proceeds on the same basis, since a relief for delivery of possession was sought from the petitioner.

7. This aspect assumes significance because the allegation in the present complaint is not merely that the petitioner claims ownership of the vehicle or refuses to hand it over. The allegation is that, after the Registration Certificate came to be transferred in the name of respondent No.2, the petitioner stealthily took the vehicle from his possession. The allegation therefore necessarily involves an assertion that, at the relevant point of time, the vehicle was in the possession of respondent No.2 and was thereafter moved from that possession by the petitioner.
8. The material relied upon by the petitioner presents a materially different factual position. The legal notice dated 13.05.2019 states that the vehicle was in the petitioner's use and calls upon her to hand it over. The pleadings in O.S. No.270 of 2019 also seek



CNR: KAHC010101292025

NC: 2026:KHC:49330
CRL.P No. 2281 of 2025

delivery of possession from the petitioner. The civil proceedings have continued from 2019 onwards. These documents therefore raise a fundamental question as to the factual basis of the subsequent allegation that the petitioner took the vehicle from the possession of respondent No.2.

9. It is necessary in this context to keep the concept of registration distinct from possession. Transfer of the Registration Certificate in favour of respondent No.2, by itself, does not establish that the physical possession of the vehicle was with him immediately before the alleged act of taking. The criminal allegation requires consideration of the actual possession of the vehicle at the relevant point of time and not merely the name appearing in the Registration Certificate.
10. The subsequent transfer of the Registration Certificate therefore cannot, by itself, establish the allegation that the petitioner took the vehicle from respondent No.2's possession. If the petitioner was already in possession of the vehicle, as the earlier documents appear to indicate, the mere change in the registration records would not, without more,



CNR: KAHC010101292025

constitute a taking of the vehicle from respondent No.2.

11. The B-report also assumes significance in this regard. It records that the original Registration Certificate in respect of the vehicle had been produced in O.S. No.270 of 2019 and that a duplicate Registration Certificate was thereafter obtained and transferred in favour of respondent No.2. These circumstances were directly relevant to the question of possession and to the subsequent allegation concerning theft.
12. The learned Magistrate, while taking cognisance, was therefore required to consider the material circumstances emerging from the earlier civil proceedings and the documents relating to the vehicle. The existence of a pending civil dispute, by itself, does not bar criminal proceedings. However, where the very factual foundation of the alleged criminal offence is contradicted by contemporaneous documents and earlier pleadings of the complainant's side, those circumstances cannot be ignored.
13. The allegation of theft under Section 378 of the IPC requires dishonest moving of movable property out of the possession of another person without that person's consent. Section 379 provides the



CNR: KAHC010101292025

NC: 2026:KHC:49330
CRL.P No. 2281 of 2025

punishment for theft. Thus, the question of possession from which the property is alleged to have been taken is central to the allegation.

14. In the present case, the earlier documents relied upon by the petitioner indicate that the vehicle was already in the petitioner's possession at least from 2019. The legal notice specifically demanded that the petitioner hand over the vehicle. The civil suit thereafter sought a mandatory injunction for delivery of possession. These circumstances are difficult to reconcile with the subsequent assertion that, in 2022, the petitioner stealthily took the vehicle from the possession of respondent No.2.
15. The contention of respondent No.2 that the vehicle continued to remain in his custody even after the transfer of the Registration Certificate and was thereafter removed by the petitioner cannot, in the face of the aforesaid material, be accepted without addressing the earlier documents. The question is not whether respondent No.2 was entitled to the vehicle, or whether the petitioner was ultimately entitled to retain it. Those questions may arise in the pending civil proceedings. The immediate question is whether the allegation of theft is consistent with the



CNR: KAHC010101292025

NC: 2026:KHC:49330
CRL.P No. 2281 of 2025

established documentary history concerning possession of the vehicle.

16. The fact that respondent No.2 had obtained transfer of the Registration Certificate in his name also does not resolve that question. Registration may be relevant to the rights claimed by the parties, but the allegation of theft turns upon the possession of the vehicle and the alleged act of moving it from such possession. The criminal process cannot proceed on the assumption that transfer of the Registration Certificate automatically establishes a corresponding transfer of physical possession.
17. The pending civil proceedings are also relevant for another reason. Respondent No.2 had already approached the Civil Court in 2019 seeking delivery of possession of the vehicle. Thus, the grievance that the petitioner was retaining the vehicle was already known and was already the subject matter of adjudicatory proceedings. The subsequent complaint, alleging that the petitioner had stolen the vehicle after the Registration Certificate was transferred, therefore required the Magistrate to examine whether there was any intervening event by which



CNR: KAHC010101292025

NC: 2026:KHC:49330
CRL.P No. 2281 of 2025

possession had actually changed hands and, if so, when and how such change occurred.

18. No such intervening event is apparent from the material referred to before this Court. On the contrary, the documents placed before the Court indicate a continuous dispute concerning the petitioner's possession of the vehicle from 2019 onwards. The allegation of a fresh act of taking in 2022 is therefore not merely a different legal characterisation of the same dispute; it introduces a factual assertion which requires to be reconciled with the earlier record.
19. The subsequent criminal complaint cannot be viewed in isolation from the earlier civil proceedings. The Court is not required to determine the ultimate civil rights of the parties in these proceedings. However, where the documents relied upon by the petitioner directly bear upon an essential ingredient of the alleged criminal offence, the Court is entitled to examine whether continuation of the criminal proceedings would amount to permitting the criminal process to proceed on a factual foundation which is contradicted by the complainant's own earlier stand.



CNR: KAHC010101292025

NC: 2026:KHC:49330
CRL.P No. 2281 of 2025

20. The same consideration applies to the offences alleged under Sections 381, 403 and 404 of the IPC. The ingredients of those offences are distinct and must be independently satisfied. Merely alleging that the petitioner retained the vehicle, in the face of the earlier assertion that the vehicle was already in her possession and that its delivery had been demanded from her, does not by itself establish the necessary ingredients of those offences.
21. The documents relied upon are contemporaneous records arising from proceedings between the very same parties concerning the very same vehicle. The legal notice of 13.05.2019, the pleadings in O.S. No.270 of 2019, the orders passed therein and the circumstances relating to the original and duplicate Registration Certificates are matters directly relevant to the complaint.
22. It is not the mere existence of a civil dispute which persuades this Court to interfere. It is the nature of that dispute, the length of time for which it has existed, the specific stand taken in the earlier proceedings regarding possession, and the absence of any satisfactory explanation for the subsequent allegation of theft which assumes significance.



23. Where the complainant's own earlier pleadings and contemporaneous documents proceed on the basis that the accused was already in possession of the property, a subsequent allegation that the same accused stole that property from the complainant's possession cannot be accepted without examining the intervening circumstances. Otherwise, the distinction between a dispute over possession and the criminal act of theft would be lost.
24. In the circumstances, the material on record does not disclose the essential factual foundation necessary to sustain the allegation that the petitioner dishonestly moved the vehicle out of the possession of respondent No.2.
25. The criminal proceedings, insofar as they arise out of the allegation that the petitioner committed theft of the vehicle, therefore cannot be permitted to continue on the present material. This Court is not adjudicating the title to the vehicle or the ultimate entitlement of either party to its possession. Those questions remain subject to the pending civil proceedings.
26. For the aforesaid reasons, the impugned proceedings are liable to be quashed insofar as the offences



CNR: KAHC010101292025

alleged against the petitioner arise from the alleged theft and retention of the aforesaid vehicle.

27. In that view of the matter, this Court passes the following;

ORDER

- i. Criminal petition is ***allowed***.
- ii. The proceedings in Crime No.43 of 2022 dated 21.01.2023 registered by the BEML Nagar Police Station, now pending in CC No.2342 of 2023 for the offences punishable under Section 378, 379, 381, 403 and 404 of IPC pending on the file of the Principal Civil Judge and Additional JMFC at KGF, is quashed.
- iii. In view of disposal of the main petition, pending IA's does not survive for consideration. Hence, IA stands disposed of.

**Sd/-
(SURAJ GOVINDARAJ)
JUDGE**

SR
List No.: 1 Sl No.: 37