



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 15TH DAY OF JUNE, 2026
BEFORE
THE HON'BLE MR. JUSTICE RAVI V HOSMANI
CRIMINAL PETITION NO. 4366 OF 2019

BETWEEN:

GIRISHA
S/O. YOGAPPA,
AGED ABOUT 30 YEARS,
AGRICULTURIST (STUDENT),
R/AT GANGANAKATTE VILLAGE,
DAVANAGERE TALUK,
DAVANAGERE DISTRICT-577 556.

...PETITIONER

(BY SRI GOPALAKRISHNAMURTHY C., ADVOCATE)

AND:

1. STATE BY MAYAKONDA P. S.
REP BY ITS STATE PUBLIC PROSECUTOR,
HIGH COURT COMPLEX,
BENGALURU-560 001.
2. SMT. NETRAVATHI
W/O. LATE JAGADISHA,
AGED ABOUT 37 YEARS,
R/AT YAKKEGUNDI VILLAGE,
CHANNAGIRI TALUK,
DAVANAGERE DISTRICT-577 513.

...RESPONDENTS

(BY SMT. SOWMYA R., HCGP FOR R1;
NOTICE TO R2 - SERVED & UNREPRESENTED)

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.761/2018 AGAINST THE PETITIONER IN CR.NO.138/2017 FOR THE ALLEGED OFFENCE P/U/S 354B,427,504,147,143,506,148,447, 149, 323, 506(2) OF IPC, PENDING ON THE FILE OF THE 2ND J.M.F.C., COURT, DAVANAGERE TALUK, DAVANAGERE VIDE ANNEXURE-H.

THIS PETITION, COMING ON FOR DICTATING ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

Challenging proceedings in CC no.761/2018 pending before JMFC-II Court, Davanagere, for offences punishable under Sections 143, 147, 148, 323, 354B, 427, 447, 504, 506, and 506(2) read with Section 149 of Indian Penal Code, 1860 (**IPC**), this petition is by accused no.7.

2. Sri Gopalakrishnamurthy C., learned counsel for accused no.7 (***petitioner***) submitted impugned proceedings were in pursuance of a complaint by respondent no.2 (***complainant***) stating that she was married to Jagadish of Yekkegundi village, who died in accident after birth of two



daughters. That her father had left her mother after giving 2 Acres 1 guntas of land in Sy.no.107/2 of Ganganakatte village for maintenance and remarried. Though names were entered in revenue records, sometime earlier her father, his second wife and children (**accused**) had prevented complainant, mother etc. from entering/cultivating land, damaged crop and threatened them against entering land. After filing complaint and arrival of Mayakonda Police on 22.06.2017 land was tilled in their presence. But on 05.08.2017, when complainant, her mother, brother-in-law and few others (**victims**) were working in land, accused namely - father - Revanasiddappa and his sons Prashanth and Sathish, wife - Rathnamma, daughter - Soubhagyamma; Uncle - Yogappa and his children - Ganesh and Girish arrived armed with sticks forming unlawful assembly and after hurling abuses and claiming ownership over land and began assaulting victims with hands and sticks. Revanasiddappa and his sons Prashanth and Sathish; Yogappa and his sons Ganesh and Girish pulled sarees and outraged their modesty. Victims somehow managed to run away and escape screaming. Accused damaged crop and uttered threat showing sticks and kill victims if they ever entered land again.



After incident, victims did not go to hospital but took treatment at home. Thereafter, complaint was filed. Due to threat, victims did not go to lands, but assessed damage caused to crops at Rs.1,50,000/- and sought action. Same was registered as Crime no.138/2017 by Mayakonda Police Station, Davanagere for offences punishable under Sections 143, 147, 148, 323, 354B, 427, 447, 504, 506, and 506 (2) read with Section 149 of IPC against above named eight accused. And after taking cognizance it was registered as CC no.4/2018 on file of JMFC-II, Davanagere.

3. It was submitted even though dispute was relating to ownership of land and was purely a civil dispute given colour of criminal offences by complainant, without proper application of mind or investigation, charge sheet was filed. Accused no.7 was charged with offences punishable under Sections 143, 147, 148, 323, 324, 354B, 427, 447, 504, 506 and 506 (2) read with Section 149 of IPC. It was submitted, charges were based mainly on statement of interested witnesses namely complainant (CW.1) and her mother (CW.4) who were interested witnesses and without any independent witnesses.



4. Besides no specific overt act was attributed to petitioner, it was submitted, petitioner was studying B.Sc. course at Government Grade-I College, Davanagere and not present at place of incident. It was submitted, petitioner was in college established by unimpeachable document namely attendance register of college as well as hostel, produced as Annexures-E and G. Fact that Police failed to find out about, demonstrates faulty investigation based on malafide allegations. It was submitted, above facts indicated that petitioner was falsely implicated, which would be abuse of process of law.

5. It was submitted, there was also grave inconsistency between contents of complaint and statement of complainant recorded under Section 164 of CrPC in which she narrates about incident allegedly occurring on 28.11.2017, which was totally absent in complaint. Apart from above, it was submitted, complaint was filed on 03.11.2017 in respect of incident that allegedly occurred on 05.08.2017 apparently after delay of nearly 3 months without any explanation for delay. It was submitted in **State of AP v. Madhusudhan Rao** reported



in **(2008) 15 SCC 582**, absence of satisfactory explanation for delay in filing complaint would cast doubt on genuineness of complaint. For said proposition, reliance was also placed on decision of this Court in Crl.P.no.2072/2017 [**2022:KHC:15464**]. On above grounds, sought for allowing petition.

6. Smt.Sowmya R., learned HCGP for respondent-State, on other hand opposed petition. It was submitted, complaint and charge sheet indicated serious allegations about commission of various cognizable and non-cognizable offences against women. Police had after investigation, filed charge sheet finding *prima facie* material for prosecution. It was submitted, apart from recording statements of injured eye witnesses, charges were based on statements of eye witnesses, mahazar witnesses and official witnesses. It was submitted, merely on account of delay, proceedings cannot be quashed. And decision in **M. Madhusudhan Rao's** case (supra) was not an authority for proposition that on delay in filing complaint, proceedings can be quashed. It was submitted, truthfulness of statements can be ascertained only after trial.



7. Even insofar as contradictions in statements, it was submitted, there would be no justification for mini-trial and evaluation of material while exercising power under Section 482 of CrPC and contradictions/credibility of witnesses must be tested in cross-examination at stage of trial. On above grounds, sought for dismissal.

8. Heard learned counsel and perused impugned order and material on record.

9. Insofar as first contention about alleged incident arising out of civil dispute would appear untenable as there is no mention of earlier civil cases having been filed.

10. Even contention about absence of specific overt act against petitioner would be untenable as it is mentioned in complaint that Ganesh and Girish children of Yogappa pulled sarees of victims outraging their modesty.

11. Petitioner also claims not to be present at place of incident on 05.08.2017 is based on attendance register extracts. Annexure-F is allegedly a photocopy of attendance register of Zoology – III year without attestation by Head of



Department/Principal of College does not mention year of attendance and would not be unimpeachable and of sterling quality. But Annexure-E is attested by Head of Chemistry Department and shows Girish HY attended class on 05.08.2017. Likewise, Annexure-G is attendance register extract of August, 2017 attested by Warden of Post – Matric Backward Classes General Hostel, Davanagere Town marking Girish HY as present at hostel on 05.08.2017. Both Annexures-E and G are issued by Government or Government controlled institutions. But, merely on allegation of faulty investigation it would not be appropriate to quash proceedings. And as rightly contended by learned HCGP, at stage of consideration of petition under Section 482, mini trial to analyze reliability of material has to be avoided. Besides, Hon'ble Supreme Court in case of **Rajendra Singh v. State of U.P.**, reported in **(2007) 7 SCC 378**, referring to Section 103 of Evidence Act has held burden of proof as to any particular fact lies on that person who wishes Court to believe in its existence. Consequently, contention based on plea of alibi requires to be rejected at this stage.



12. Though there appears some justification in contending that complaint was filed three months after incident, perusal of charge sheet indicates charges are not based on statement of victims only, but also on eye witness, pancha witness and official witnesses which corroborate complaint allegations. There is no contention of any prejudice having been caused due to delay.

13. However allegation of delay leading to embellishment and inconsistency between complaint averments and statement recorded under Section 164 CrPC on ground of non-mention of incident dated 28.11.2017, would require outright rejection as complaint was filed 03.11.2017, much prior to incident dated 28.11.2017 and could not have been included in complaint.

14. Though decision in **M. Madhusudhan Rao's** case (supra) is authority for proposition that delay in filing complaint is likely to lead to embellishment exaggeration or after thought, same was held to be ground for acquittal after trial and not for quashing of proceedings under Section 482 of CrPC. It is held in **Y. Yadagiri Goud v. Inspector of Police, ACB**, reported in



1991 SCC OnLine AP 53; S. Natarajan v. Shelly, reported in **1990 SCC OnLine Mad 17; T.S. Rajamoni v. Randip Barua**, reported in **2001 SCC OnLine Gau 72** etc. that in absence of establishing prejudice caused due to delay in filing complaint, normally delay in filing complaint would be a factor to be considered in light of explanation offered during trial and there was no general principal that mere delay would lead to quashing of proceedings.

15. For aforesaid reasons, none of grounds urged would justify interference at this stage. Consequently, petition is ***dismissed***.

**Sd/-
(RAVI V HOSMANI)
JUDGE**

AV
List No.: 1 Sl No.: 69