



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 3659 OF 2024

C/W

CRIMINAL PETITION NO. 3652 OF 2024

IN CRL.P No. 3659/2024

BETWEEN:

SRI BASANAGOUDA R PATIL (YATNAL)
S/O RAMANAGOUDA B PATIL
AGED ABOUT 59 YEARS
OCC: MLA, VIJAYAPURA CONSTITUTENCY
R/AT OLD IB, STATION ROAD,
VIJAYAPURA - 586 101
KARNATAKA

...PETITIONER

Digitally signed
by
PADMAVATHI B
K
Location: High
Court of
Karnataka

(BY SRI. VENKATESH DALWAI, ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY P.S. GANDHI COWKA POLICE STATION
VIJAYAPURA
REPRESENTED BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BANGALORE - 560 001.
2. SRI S.B. JIDDIMANI
S/O NOT KNOWN TO PETITIONER
AGE 58 YEARS,



OCC. ADMINISTRATOR
DEPARTMENT OF AGRICULTURE,
FST-02 CHIEF
VIJAYAPURA - 586 101.

...RESPONDENTS

(BY SMT. WAHEEDA M.M., HCGP FOR R1

SRI. SURYA MUKUNDRAJ L., ADVCOATE FOR R2)

THIS CRL.P IS FILED U/S 482 OF CR.P.C. BY THE
ADVOCATE FOR THE PETITIONER PRAYING THAT THIS
HONOURABLE COURT MAY BE PLEASED TO QUASH FIR IN
CR.NO.52/2024 REGISTERED BY THE RESPONDENT NO.1
GANDHI CHOWK POLICE STATION, VIAJAYAPURA, PENDING ON
THE FILE OF LEARNED I ADDL. CIVIL JUDGE (JR.DN.) AND
JMFC, BIJAPUR FOR THE OFFENCE P/U/S 171G OF IPC,
PRODUCED AT DOCUMENT NO.1.

IN CRL.P NO. 3652/2024

BETWEEN:

SRI BASANAGOUDA R PATIL (YATNAL)
S/O RAMANAGOUDA B PATIL,
AGED ABOUT 59 YEARS,
OCC: MLA VIJAYAPRUA CONSTITUENCY,
R/AT OLD IB, STATION ROAD,
VIJAYAPURA - 586 101
KARNATAKA.

...PETITIONER

(BY SRI. VENKATESH DALWAI, ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY P S GANDHI COWKA POLICE STATION,



NC: 2026:KHC:30526
CRL.P No. 3659 of 2024
C/W CRL.P No. 3652 of 2024

VIJAYAPURA,
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BANGALORE - 560 001.

2. SMT TABU RAO
W/O DINESH GUNDURAO,
AGED ABOUT 55 YEARS,
R/AT NO.16, 6TH CROSS,
3RD MAIN, HIG COLONY,
RMV 2ND STAGE,
BENGALURU - 560 094.

...RESPONDENTS

(BY SMT. WAHEEDA M.M., HCGP FOR R1

SRI. SURYA MUKUNDARAJ L., ADVOCATE FOR R2)

THIS CRL.P IS FILED U/S 482 CR.PC BY THE
ADVOCATE FOR THE PETITIONER PRAYING THAT THIS
HONOURABLE COURT MAY BE PLEASED TO QUASH FIR IN
CR.NO.70/2024 REGISTERED BY SANJAY NAGAR P.S.,
TRANSFERRED TO THE RESPONDENT NO.1 GANDHI CHOWK
P.S. PENDING ON THE FILE OF THE LEARNED I ADDL.CIVIL
JUDGE (JR.DN) AND J.M.F.C COURT AT BIJAPUR FOR THE
OFFENCE P/U/S 153B OF IPC PRODUCED AT DOCUMENT
NO.1.

THESE PETITIONS, COMING ON FOR ORDERS, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:



NC: 2026:KHC:30526
CRL.P No. 3659 of 2024
C/W CRL.P No. 3652 of 2024

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

ORAL ORDER

The petitioner is before this Court, seeking the following prayer:

"In Crl.P.No.3659/2024:

Wherefore it is humbly prayed that this Hon'ble court may be pleased to quash First Information Report in Crime No.52/2024 registered by the Respondent No.1 Gandhi Chowk Police Station Viajayapura pending on the file of learned I Addl. Civil Judge (Jr Dn) and JMFC Bijapur for the offences punishable U/s 171 G of IPC produced at Document No.1 in the interest of justice and equity.

In Crl.P.No.3652/2024:

Wherefore it is humbly prayed that this Hon'ble court may be pleased to quash First Information Report in Crime No.70/2024 registered by Sanjaynagar police station transferred to the Respondent No.1 Gandhi Chowk Police Station pending on the file of learned I Addl. Civil Judge (Jr Dn) and JMFC at Bijapur for the offences punishable U/s 153B of IPC produced at Document No.1 in the interest of justice and equity."

2. Heard Sri. Venkatesh Dalwai, learned counsel appearing for the petitioner, Smt. Waheeda M.M., learned HCGP appearing for respondent No.1, Sri. Surya Mukundaraj L., learned counsel appearing for respondent No.2 in both the cases and have perused the material on record.



NC: 2026:KHC:30526
CRL.P No. 3659 of 2024
C/W CRL.P No. 3652 of 2024

3. The petitioner gets embroiled in Crime Nos.52/2024 and 70/2024 for the offences punishable under Sections 171G and 153B of the IPC. The entire issue has sprung from the complaint so registered, one by the election officer and one by a private person. Both the contents of the complaint are the same. Therefore, I deem it appropriate to notice the said complaint. The complaint so filed in both the crime numbers read as follows:

In Crl.P.No.3659/2024:

ರವರಿಗೆ,

ಮಾನ್ಯ ಪೊಲೀಸ್ ಇನ್‌ಸ್‌ಪೆಕ್ಟರ್
ಗಾಂಧಿಚೌಕ ಪೊಲೀಸ್ ಠಾಣೆ, ವಿಜಯಪುರ

ನಾನು ಎಸ್.ಬಿ. ಜಡ್ಡಿಮನಿ, ವಯಾ: 59 ವರ್ಷ, ಆಡಳಿತಾಧಿಕಾರಿ, ಕೃಷಿ ಇಲಾಖೆ, ವಿಜಯಪುರ, ಎಫ್.ಎಸ್.ಟಿ-02 ಮುಖ್ಯಸ್ಥರು, ವಿಜಯಪುರ 30 ಮತಕ್ಷೇತ್ರ ಮೊ.ನಂ:9449005365 ಟೈಪ್ ಮಾಡಿಸಿ ಕೊಡುವ ಪರ್ಯಾಯದಿ ಏನೆಂದರೆ,

ನಾನು ಸದ್ಯ 2024 ಸಾರ್ವತ್ರಿಕ ಲೋಕಸಭಾ ಚುನಾವಣಾ ನಿಮಿತ್ತ ವಿಜಯಪುರ-30 ಮತಕ್ಷೇತ್ರದ ಎಫ್.ಎಸ್.ಟಿ.-02 ತಂಡದ ಮುಖ್ಯಸ್ಥರಿದ್ದು, ನನ್ನ ಜೊತೆಯಲ್ಲಿ ನಮ್ಮ ತಂಡದಲ್ಲಿ ಸಹಾಯಕರಾಗಿ ಸಿ.ಆರ್. ಕಟ್ಟಿಮನಿ, ಪ್ರ.ದ.ಸ. ಪಂಚಾಯತ ರಾಜ ಇಂಜಿನಿಯರಿಂಗ್ ವಿಭಾಗ, ವಿಜಯಪುರ ಮತ್ತು ಟಿ.ಎಮ್ ಶೇಲಾರ, ಎ.ಎಸ್.ಐ. ಗಾಂಧಿಚೌಕ ಪೊಲೀಸ್ ಠಾಣೆಯವರು ಇರುತ್ತಾರೆ.

ದಿನಾಂಕ: 07/04/2024 ರಂದು ನಮಗೆ ಬೆಳಿಗ್ಗೆ 07.00 ರಿಂದ ಮಧ್ಯಾಹ್ನ 02.00 ಗಂಟೆಯವರೆಗೆ ಕರ್ತವ್ಯವಿದ್ದು, ಅದರಂತೆ ನಾವು 09.30ಗಂಟೆ ಸುಮಾರಿಗೆ ಕರ್ತವ್ಯದಲ್ಲಿದ್ದಾಗ ವಿಜಯಪುರ 30 ರ ಸಹಾಯಕ ಚುನಾವಣಾಧಿಕಾರಿಗಳು ನನಗೆ ಪೋನ್ ಮಾಡಿ, ದಿನಾಂಕ:06/04/2024 ರಂದು ವಿಜಯಪುರ ನಗರದ ಶಾಸಕರಾದ ಬಸನಗೌಡ ಪಾಟೀಲ್, ಯತ್ಯಾಳ ರವರು ಮಾಧ್ಯಮದ ಮುಂದೆ ಮಾತನಾಡುವಾಗ ದಿನೇಶ ಗುಂಡುರಾವ ರವರ " ಮನ್ಯಾಗ ಅರ್ಧ ಪಾಕಿಸ್ತಾನ ಐಯಿ, ದೇಶ ವಿರುದ್ಧ ಹೇಳಿಕೆ ಕೊಡುವುದು ಗುಂಡುರಾವ ಚಟ ಆಗ್ಲೆಯೆ " ಅಂತಾ ಹೇಳಿಕೆ ನೀಡಿದ್ದು, ಈ ಬಗ್ಗೆ ವಿಡಿಯೋ ಇದ್ದು, ನೀವು ವಿಡಿಯೋ ತೆಗೆದುಕೊಂಡು ಮುಂದಿನ ಕ್ರಮಕ್ಕೆ ಗಾಂಧಿಚೌಕ ಠಾಣೆಗೆ ಹೋಗಿ ಪರ್ಯಾಯದಿಯನ್ನು ಕೊಡಿ ಅಂತಾ ತಿಳಿಸಿದ್ದು, ನಂತರ ನಾನು ವಿಡಿಯೋ ನೋಡಿದ್ದು, ಸದರಿ ವಿಡಿಯೋದಲ್ಲಿ ವಿಜಯಪುರ



NC: 2026:KHC:30526
CRL.P No. 3659 of 2024
C/W CRL.P No. 3652 of 2024

ನಗರದ ಶಾಸಕರಾದ ಬಸನಗೌಡ ಪಾಟೀಲ್, ಯತ್ನಾಳ ರವರು ಮಾಧ್ಯಮದ ಮುಂದೆ ಮಾತನಾಡುವಾಗ ದಿನೇಶ ಗುಂಡೂರಾವ ರವರ " ಮನ್ಯಾಗ ಅರ್ಧ ಪಾಕಿಸ್ತಾನ ಐತಿ, ದೇಶ ವಿರುದ್ಧ ಹೇಳಿಕೆ ಕೊಡುವುದು ಗುಂಡೂರಾವ ಚಟ ಆಗ್ಯತೆ " ಅಂತಾ ಹೇಳಿಕೆ ನೀಡಿರುತ್ತಾರೆ. ಸದ್ಯ ಚುನಾವಣಾ ನೀತಿ ಸಂಹಿತೆ ಜಾರಿಯಲ್ಲಿದ್ದರೂ ಸಹ ವಿಜಯಪುರ ಶಾಸಕರಾದ ಬಸನಗೌಡ ಪಾಟೀಲ್, ಯತ್ನಾಳ ರವರು ದಿನೇಶ ಗುಂಡೂರಾವ ರವರ " ಮನ್ಯಾಗ ಅರ್ಧ ಪಾಕಿಸ್ತಾನ ಐತಿ, ದೇಶ ವಿರುದ್ಧ ಹೇಳಿಕೆ ಕೊಡುವುದು ಗುಂಡೂರಾವ ಚಟ ಆಗ್ಯತೆ " ಅಂತಾ ಸತ್ಯಕ್ಕೆ ದೂರವಾಗಿರುವ ಹೇಳಿಕೆಯನ್ನು ನೀಡಿದ್ದು, ಆದ್ದರಿಂದ ವಿಜಯಪುರ ಶಾಸಕರಾದ ಬಸನಗೌಡ ಪಾಟೀಲ್, (ಯತ್ನಾಳ) ಸಾ|| ವಿಜಯಪುರ ರವರ ಮೇಲೆ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳಲು ನನ್ನ ಪಿಯಾರ್‌ದಿ ಇರುತ್ತದೆ. ಇದರೊಂದಿಗೆ ಬಸನಗೌಡ ಯತ್ನಾಳ ರವರು ಮಾಧ್ಯಮದ ಮುಂದೆ ಮಾಡನಾಡಿದ ವಿಡಿಯೋವಿರುವ ಸಿ.ಡಿ. ಅನ್ನು ಲಗತ್ತಿಸಿದ್ದು, ಪಿಯಾರ್‌ದಿ ಕೊಡುವ ಬಗ್ಗೆ ನಮ್ಮ ಮೇಧಿಕಾರಿಗಳೊಂದಿಗೆ ಚರ್ಚೆ ಮಾಡಿ, ತಡವಾಗಿ ಬಂದು ಪಿಯಾರ್‌ದಿಯನ್ನು ನೀಡಿರುತ್ತೇನೆ."

In Crl.P.No.3652/2024:

ಇವರಿಗೆ,
ಶಾಸಕರಿಗಳು,
ಸಂಜಯನಗರ ಪೊಲೀಸ್ ಠಾಣೆ,
ಬೆಂಗಳೂರು

ಇಂದ,
ಟಬು ರಾವ್ ಕೋಂ ದಿನೇಶ್ ಗುಂಡೂರಾವ್, 55 ವರ್ಷ,
ವಾಸ ನಂ.116, 6ನೇ ಕ್ರಾಸ್, 3ನೇ ಮುಖ್ಯರಸ್ತೆ,
ಹೆಚ್.ಐ.ಜಿ. ಕಾಲೋನಿ, ಆರ್.ಎಂ.ವಿ. ಎರಡನೇ ಹಂತ,
ಬೆಂಗಳೂರು-94 ಫೋನ್ ನಂ.9620838498

ಮಾನ್ಯರೇ,

ವಿಷಯ: ಶಾಸಕ ಬಸನಗೌಡ ಪಾಟೀಲ ಯತ್ನಾಳ್ ಅವರು ನನ್ನ ಪತಿ ಹಾಗೂ ನಮ್ಮ ಕುಟುಂಬವನ್ನು ಪಾಕಿಸ್ತಾನಕ್ಕೆ ಹೋಲಿಕೆ ಮಾಡಿ ದೇಶವಿರೋಧಿಗಳು ಎಂದು ನಿಂದಿಸಿ ಸಾರ್ವಜನಿಕವಾಗಿ ಅವಹೇಳನ ಮಾಡಿ ಭಾವನೆಗಳಿಗೆ ಧಕ್ಕೆ ತಂದಿರುವ ಕುರಿತು ಕಾನೂನು ಕ್ರಮ ಕೋರಿ ದೂರು.

ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ನಾನು ಗಾಂಧಿನಗರ ವಿಧಾನಸಭಾ ಕ್ಷೇತ್ರದ ಶಾಸಕ ಹಾಗೂ ಆರೋಗ್ಯ ಸಚಿವರಾದ ಶ್ರೀ ದಿನೇಶ್ ಗುಂಡೂರಾವ್ ರವರ ಪತ್ನಿಯಾಗಿದ್ದು ಇಬ್ಬರು ಹೆಣ್ಣುಮಕ್ಕಳೊಂದಿಗೆ ಸಂಜಯನಗರದಲ್ಲಿ ಕುಟುಂಬ ಸಮೇತ ವಾಸವಾಗಿರುತ್ತೇನೆ. ನನ್ನ ಮಾವನವರಾದ ಮಾಜಿ ಮುಖ್ಯಮಂತ್ರಿಗಳಾದ ದಿವಂಗತ ಶ್ರೀ ಆರ್.ಗುಂಡೂರಾವ್ ರವರ ಹೆಸರಿನ ಟ್ರಸ್ಟಿನ ಮೂಲಕ ಸಮಾಜ ಸೇವೆ ಮಾಡುತ್ತಿದ್ದೇನೆ. ನಮ್ಮದು ಅಂತರರಾಷ್ಟ್ರೀಯ ವಿವಾಹವಾಗಿದ್ದು ದೇಶದ ಸಂವಿಧಾನದ ಅನ್ವಯ ಸಮಾಜಕ್ಕೆ ಮಾದರಿಯಾಗುವ ರೀತಿಯಲ್ಲಿ ನಮ್ಮ ಕುಟುಂಬವನ್ನು ನಿರ್ವಹಿಸಿಕೊಂಡು ಬಂದಿದ್ದೇವೆ. ದಿನಾಂಕ:06/04/2024 ರಂದು ವಿಜಯಪುರದಲ್ಲಿ ಮದ್ಯಾಹ್ನ ಸುಮಾರು 02-30 ಗಂಟೆಯ ಸಮಯದಲ್ಲಿ ಮಾಧ್ಯಮಗಳಿಗೆ ನೀಡಿರುವ ಪ್ರತಿಕ್ರಿಯೆಯಲ್ಲಿ ಶಾಸಕ ಬಸನಗೌಡ ಪಾಟೀಲ್ ಯತ್ನಾಳ್ ರವರು ರಾಮೇಶ್ವರ ಕೆಫೆ ಸ್ಟೋಟ ಪ್ರಕರಣದಲ್ಲಿ ವಿಚಾರಣೆಗೊಳಪಟ್ಟ ಬಿಜಿಪಿ ಕಾರ್ಯಕರ್ತನ ಪರವಾಗಿ ಸಮರ್ಥನೆ ಮಾಡಿಕೊಳ್ಳುವ ಭರದಲ್ಲಿ ನನ್ನ ಪತಿ ಗಾಂಧಿನಗರ ವಿಧಾನಸಭಾ ಕ್ಷೇತ್ರದ ಶಾಸಕರು ಹಾಗೂ ಸಚಿವರಾದ ದಿನೇಶ್ ಗುಂಡೂರಾವ್ ರವರನ್ನು ಟೀಕಿಸಲು ಈ ರೀತಿ ಅವಹೇಳನಕಾರಿ ಹೇಳಿಕೆ



ನೀಡಿದ್ದಾರೆ "ದಿನೇಶ್ ಗುಂಡೂರಾವ್ ರವರ ಮನೆಯಲ್ಲಿ ಅರ್ಧ ಪಾಕಿಸ್ತಾನವಿದೆ, ದೇಶವಿರೋಧಿ ಹೇಳಿಕೆ ನೀಡುವುದು ಚಟವಾಗಿದೆ" ಎಂದು ಹೇಳಿದ್ದಾರೆ. ಸದರಿ ಹೇಳಿಕೆಯು ಎಲ್ಲಾ ಸುದ್ದಿವಾಹಿನಿಗಳಲ್ಲಿ ಮತ್ತು ಸುದ್ದಿವಾಹಿನಿಗಳ ಅಧಿಕೃತ ಯೂಟ್ಯೂಬ್ ಖಾತೆಗಳಲ್ಲಿ ರಾಜ್ಯಾದ್ಯಂತ ಪ್ರಸಾರವಾಗಿದೆ. ದಿನಾಂಕ: 07/04/2024 ರ ಪ್ರಜಾವಾಣಿ ದಿನ ಪತ್ರಿಕೆಯ 3ಎ ಪುಟದಲ್ಲಿ ವಿಜಯಪುರದ ಬಿಜೆಪಿ ಶಾಸಕ ಬಸವನಗೌಡ ಪಾಟೀಲ್ ಯತ್ನಾಳ್ ಹೇಳಿಕೆ "ದಿನೇಶ್ ಮನೆಯಲ್ಲಿ ಅರ್ಧ ಪಾಕಿಸ್ತಾನ" ಎಂಬ ಶೀರ್ಷಿಕೆಯಲ್ಲಿ ರಾಜ್ಯಮಟ್ಟದ ಸುದ್ದಿಯಾಗಿ ಪ್ರಕಟವಾಗಿದೆ. ಈ ಸುದ್ದಿಯನ್ನು ನಾನು ಬೆಂಗಳೂರಿನ ಸಂಜಯನಗರದ ಮನೆಯಲ್ಲಿ ಓದಿ ನನ್ನ ಮನಸ್ಸಿಗೆ ನೋವುಂಟಾಗಿದೆ ರಾಜಕೀಯ ಕಾರಣಗಳಿಗಾಗಿ ನಮ್ಮ ಕುಟುಂಬವನ್ನು ಅವಹೇಳನ ಮಾಡಿ ನಿಂದಿಸಿ ಧಾರ್ಮಿಕ ಭಾವನೆಗಳಿಗೆ ದಕ್ಕತಂದಿರುತ್ತಾರೆ. ಚುನಾವಣೆಯ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ನಮ್ಮ ಕುಟುಂಬದ ಹೆಸರನ್ನು ಹಾಳುಮಾಡುವ ದುರುದ್ದೇಶದಿಂದ ನಾನು ಮುಸ್ಲಿಂ ಧರ್ಮಕ್ಕೆ ಸೇರಿದವಳು ಎಂಬ ಕಾರಣದಿಂದ ನಮ್ಮ ಮನೆಯನ್ನು ಪಾಕಿಸ್ತಾನಕ್ಕೆ ಹೋಲಿಸಿ ಅವಹೇಳನ ಕಾರಿ ಹೇಳಿಕೆ ನೀಡಿ ನನ್ನ ಧಾರ್ಮಿಕ ಭಾವನೆಗಳಿಗೆ ನೋವುಂಟುಮಾಡಿ ಸಾರ್ವಜನಿಕವಾಗಿ ಅವಹೇಳನ ಮಾಡಿರುತ್ತಾರೆ. ಮುಸಲ್ಮಾನ್ ಧರ್ಮಕ್ಕೆ ಸೇರಿದ ಕಾರಣಕ್ಕೆ ನಮ್ಮ ಮನೆಯು ಅರ್ಧ ಪಾಕಿಸ್ತಾನವಾಗಿದ್ದು ದೇಶವಿರೋಧಿ ಹೇಳಿಕೆ, ಭಯೋತ್ಪಾದಕರ ಪರ ಇದ್ದೇವೆಂದು ಧಾರ್ಮಿಕ ಭಾವನೆಗಳಿಗೆ ದಕ್ಕ ತಂದಿರುವ ಬಸವನಗೌಡ ಪಾಟೀಲ್ ಯತ್ನಾಳ್ ವಿರುದ್ಧ ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳಬೇಕೆಂದು ಕೋರುತ್ತೇನೆ.

ತಮ್ಮ ವಿಶ್ವಾಸಿ
ಸಹಿ/-
(ಟಬು ರಾವ್)

4. Learned counsel appearing for the petitioner submits that the issue in the *lis* gets completely answered by what the Apex Court has held in the case of **HARI NANDAN SINGH V. STATE OF JHARKHAND**¹, wherein it has held as follows:

"11. We have heard learned senior counsel for the appellant and learned standing counsel for the respondent-State of Jharkhand and perused the material on record.

12. During the course of submissions, learned senior counsel for the appellant drew our attention to Sections 353, 298 and 504 of the IPC and contended that if the ingredients of these offences are *juxtaposed* with the relevant portions of the complaint extracted above, it is easily discernible that no offence whatsoever has been made

¹ 2025 SCC OnLine SC 574



out under the aforesaid Sections. Further the charge under Section 353 does not arise at all as against the appellant and the offences under Sections 298, 504 of the IPC are not compoundable offences. He therefore, submitted that the learned Judicial Magistrate, First Class, Bokaro ought to have allowed the application seeking discharge and closed the proceedings against the appellant herein.

13. Learned senior counsel further submitted that the High Court was also not right in sustaining the order dated 06.07.2021 of the Chief Judicial Magistrate, Bokaro and thereby dismissing the Criminal Misc. Petition. Learned senior counsel submitted that the impugned orders may be set aside and the application filed by the appellant herein may be allowed.

14. Learned senior counsel for the appellant further submitted that the appellant is presently aged about 80 years and at this stage of his life, he has been forced to face this criminal proceeding.

15. Per contra, learned standing counsel for the respondent-State with reference to his counter affidavit contended that there is no merit in this appeal; that the counter affidavit has in detail narrated as to how the offences have been rightly alleged against the appellant herein. Learned senior counsel submitted that the impugned order would not call for any interference in this appeal.

16. We have considered the arguments advanced at the bar. For the sake of immediate reference, we extract Sections 353, 298 and 504 of the IPC as under:

"Section 353 : Assault or criminal force to deter public servant from discharge of his duty:

Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person to the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.



HC-KAR

NC: 2026:KHC:30526
CRL.P No. 3659 of 2024
C/W CRL.P No. 3652 of 2024

Section 298 : Uttering words, etc., with deliberate intent to wound religious feelings.

Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Section 504 Intentional insult with intent to provoke breach of the peace.

Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

17. Before considering the claim of the parties, it is useful to refer to Sections 227 and 228 CrPC which are reproduced below:

"227. Discharge.— If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

228. Framing of charge.—(1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which—

- (a) is not exclusively triable by the Court of Session, he may, frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate, or any other Judicial Magistrate of the First Class and direct the accused to appear before the Chief Judicial Magistrate, or, as the case may be, the Judicial Magistrate of the First Class, on such date as he deems fit, and thereupon such Magistrate shall try the offence in accordance with the procedure for the trial of warrant cases instituted on a police report;



(b) is exclusively triable by the court, he shall frame in writing a charge against the accused.

(2) Where the Judge frames any charge under clause (b) of sub-section (1), the charge shall be read and explained to the accused, and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried."

From the above, it is clear that the Judge must examine all case records, review the submitted documents, and hear the arguments from both the accused and the prosecution. If the Judge finds that there is "not sufficient ground" to proceed against the accused, they must discharge the accused while providing reasons for the decision. However, if after such examination and hearing, the Judge believes that there is "ground for presuming" that the accused has committed an offence, they may proceed by framing charges in writing and directing the accused to stand trial as per the prescribed procedure.

This Court in *Sajjan Kumar v. CBI*, (2010) 9 SCC 368 has on consideration of the various decisions about the scope of Sections 227 of the Code, laid down the following principle

"21. On consideration of the authorities about the scope of Sections 227 and 228 of the Code, the following principles emerge:

- (i) The Judge while considering the question of framing the charges under Section 227 CrPC has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.
- (ii) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.
- (iii) The court cannot act merely as a post office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, any basic infirmities, etc.



However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

- (iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.
- (v.) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.
- (vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.
- (vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal."

18. Applying the aforesaid judgment to the present case in light of what has been extracted above as the relevant portion of the First Information Report in light of the offence alleged as against the appellant herein, we do not find that any ingredients of the offences alleged as against the appellant herein find place in FIR registered as against him.

19. A bare perusal of Case No. 140 of 2020 reveals that the essential ingredients of the offences alleged against the appellant under Sections 353, 298, and 504 IPC are not made out. Evidently, there was no assault or use of force by



the appellant to attract Section 353 IPC. Therefore, the High Court ought to have discharged the appellant under Section 353 IPC. Further, the appellant is accused of hurting the religious feelings of the informant by calling him "Miyani-Tiyan" and "Pakistani." Undoubtedly, the statements made are poor taste. However, it does not amount to hurting the religious sentiments of the informant. Hence, we are of the opinion that the appellant shall also be discharged under Section 298 IPC. Additionally, we find that the appellant cannot be charged under Section 504 IPC, as there was no act on his part that could have provoked a breach of peace and accordingly, deserves to be discharged under Section 504 IPC as well."

5. If the complaint so registered against the petitioner and the crimes that have sprung pursuant to the registration of the complaint is considered on the bedrock on the principles laid down by the Apex Court in the afore-quoted judgment, permitting further investigation in the case at hand would become an abuse of the process of the law and run foul of the said judgment. In that light, these petitions deserve to succeed.

6. For the aforesaid reasons, the following:

ORDER

(i) The petitions are allowed.



NC: 2026:KHC:30526
CRL.P No. 3659 of 2024
C/W CRL.P No. 3652 of 2024

- (ii) Proceedings in Crime Nos.52/2024 and 70/2024
stand quashed *qua* the petitioner.

Sd/-
(M.NAGAPRASANNA)
JUDGE

SJK
List No.: 2 Sl No.: 2