



CNR: KAHC010362982019

NC: 2026:KHC:49944
CRL.P No. 2972 of 2019
C/W CRL.P No. 6549 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL PETITION NO.2972 OF 2019

C/W

CRIMINAL PETITION NO.6549 OF 2021

IN CRL.P NO.2972/2019:

BETWEEN:

1. PRASANNA D.P.,
S/O PAPAIAH D.D.,
AGED ABOUT 44 YEARS,
ADVOCATE,
NO.2, 2ND FLOOR, 1ST CROSS,
MOURYA MANSION,
GANDHINAGAR,
BENGALURU-560009.

...PETITIONER

(BY SRI. SARAVANA S., ADVOCATE)

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA

AND:

1. STATE OF KARNATAKA,
BY HIGH GROUND POLICE,
BENGALURU-560001,
REPRESENTED BY SPP,
HIGH COURT COMPLEX,
BENGALURU-560001.
2. SHANKARANARAYANAN,
S/O VENKATA KRISHNA N.,
AGED ABOUT 30 YEARS,



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R/AT S.V. JEWELLORS,
ABOVE RAJATHA MAHAL HOTEL,
OTC ROAD, NAGARATHPET,
BENGALURU-560002.

...RESPONDENTS

(BY SRI. MOHAMMED AYUB ALI, ADDL. SPP FOR R1;
SRI. ZAMEER PASHA, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE PROCEEDINGS IN P.C.R.NO.5129/2019, PENDING ON THE FILE OF VIII ADDL. CHIEF METROPOLITAN MAGISTRATE, BENGALURU FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 120(B), 504, 506, 323, 339, 345 AND 351 OF IPC AS PER ANNEXURE-A.

IN CRL.P NO.6549/2021:

BETWEEN:

1. SMT. SARASWATHI,
W/O SHANKAR,
AGED ABOUT 31 YEARS,
R/AT NO.302,
COMPORT BENAKA APARTMENT,
ERAMMA LAYOUT,
BANNARGHATTA ROAD,
BENGALURU-560030.

...PETITIONER

(BY SRI. HARISH H.V., ADVOCATE)

AND:

1. STATE OF KARNATAKA,
BY HIGH GROUND POLICE,
BENGALURU-560001,
REPRESENTED BY SPP,
HIGH COURT COMPLEX,
BENGALURU-560001.



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2. SHANKARANARAYANAN,
S/O VENKATA KRISHNA N,
AGED ABOUT 32 YEARS,
R/AT S.V. JEWELLORS,
ABOVE RAJATHAMAHAL HOTEL,
OTC ROAD, NAGARAHPET,
BENGALURU-560002.

...RESPONDENTS

(BY SRI. MOHAMMED AYUB ALI, ADDL. SPP FOR R1;
SRI. NAVEED AHMED, ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE PROCEEDINGS IN P.C.R.NO.5129/2019, PENDING ON THE FILE OF THE 8TH ADDL. CHIEF METROPOLITAN MAGISTRATE AT BENGALURU FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 120B, 504, 506, 323, 339, 345 AND 351 OF IPC.

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

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

ORAL ORDER

Heard the learned counsel for the petitioner, the learned Additional SPP appearing for respondent No.1/State as well as the learned counsel for respondent No.2/complainant in both the cases.

2. These two petitions are filed by accused Nos.1 and 2, respectively to quash PCR No.5129/2019. The Trial Court vide order dated 22.04.2019, while invoking Section



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156(3) of Cr.P.C., passed an order that heard the complainant counsel and invoked Section 156(3) of Cr.P.C. Having perused this order, the learned Magistrate did not apply his mind to the contents of the complaint, except stating that heard the complainant counsel and invoked Section 156(3) of Cr.P.C. Nowhere it is mentioned that perused the contents of the complaint and the documents produced and referred the matter under Section 156(3) of Cr.P.C. to SHO, High Grounds Police Station for investigation.

3. The learned counsel for the petitioners in both the petitions brought to the notice of this Court that in paragraph No.2 of the complaint it is stated that when the complainant was walking to board the train near Cantonment Railway Station, accused No.1 along with accused No.2 cornered and abused the complainant by using filthy language and caused the life threat. The learned counsel also brought to the notice of this Court the letter given to the police in the first complaint and particularly in paragraph No.2, it is stated that the complainant was in shop on 02.02.2019 in Avenue Road,



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Bangalore at about 9.00 p.m. and when he started to go to Cantonment Railway Station to board the train to go back to his home town and when he was passing in a side road, Saraswathi along with Prasanna, who is also her advocate along with three unknown persons were standing and waiting for him and abused in a filthy language and manhandled him. The counsel brought to the notice of this Court that in paragraph No.4 of the complaint, it is mentioned that when he stood up and came to his shop, he discussed with his friends and family and after they told him to give a police complaint, he came to the police station and filed the complaint. Hence, it is very clear that a false complaint is registered against these two petitioners. The learned counsel brought to the notice of this Court that there was a matrimonial dispute between accused No.2 and the complainant. An allegation is also made that the documents are created and forcefully they took the signature. The respective counsel would submit that only in order to implicate the advocate, who is on record on behalf of accused No.2, false allegations are made against him. The



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place of incident is also not corollary to the earlier complaint given before the police as well as in the private complaint. The counsel also brought to the notice of this Court the documents of earlier complaint registered and there was a dispute between the husband and wife and the documents clearly discloses that a false case has been foisted against these petitioners. The earlier documents of copy of representation sent to the Inspector of Police, copy of representation sent to the DCP, copy of representation sent to the Superintendent of Police, copy of representation sent to the Commissioner of Police and copy of postal acknowledgement are also produced before the Court along with this petition.

4. Per contra, the learned Additional SPP appearing for respondent No.1/State submits that a specific overt-act allegation is made against the petitioners. The learned counsel would submit that when specific allegations are made against these two petitioners, the matter has to be investigated by the Investigating Officer.



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5. The learned counsel for respondent No.2/complainant in both the cases would contend that no doubt, there was a dispute between the husband and wife. The incident was taken place on particular date and not only transpired each other and abused in a filthy language, but also caused life threat, assaulted and wrongfully restrained him and hence, the matter has to be investigated.

6. Having heard the learned counsel for the petitioners, the learned Additional SPP for respondent No.1 and the learned counsel for respondent No.2 and also on perusal of the material available on record, it is rightly pointed out by the learned counsel for the petitioners that a complaint was given on 08.02.2019 and this complaint is filed after 6 days of the incident. In the complaint, the date of incident is mentioned as 02.02.2019 and also specifically mentioned the timings as 9.00 p.m. In the complaint it is stated that when the complainant started to go to Cantonment railway station to board the train to go back to his hometown, at that time, he found these two petitioners



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along with unknown persons standing and waiting for his arrival. The learned counsel for the petitioner brought to the notice of this Court that in the private complaint which is filed on 16.02.2019, after 14 days of the incident, in paragraph No.3, the timings is stated as 9.00 p.m. to 10.00 p.m. and not specifically mentioned the timings as 09.00 p.m. In the complaint it is specifically mentioned that when the complainant was walking to board a train near Cantonment Railway Station, the accused persons came and made galata. Having taken note of the first complaint as well as the subsequent complaint filed before the Court, very timings is different and place of incident is different and allegations made are also causing life threat and also abusing in a filthy language. The material clearly discloses that there was a dispute between the husband and wife and implicated the advocate who appears on behalf of the wife. The material discloses that prior to filing of this complaint, PCR No.65/2018 was filed by accused No.2 before the Court on 14.12.2019 and await report by 31.01.2019. The present complaint is filed subsequent to the filing of private



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complaint by accused No.2 one and a half month after the earlier complaint.

7. The Court has to take note of the very contents of the first complaint and subsequent complaint and the very time and place of incident is different and there are fundamental differences with regard to the place of incident and an allegation is made against the advocate who was representing the wife. This complaint is filed after one and half month of filing of private complaint by the wife. It is nothing but an afterthought a complaint is filed. When such being the material on record, the Trial Judge failed to take note of the contents of the complaint and did not apply his judicious mind. Even for taking of any cognizance, even for passing an order of pre-cognizance, nothing is referred except stating in the order sheet that heard the complainant counsel and even not looked into the contents of the complaint. The Trial Court ought to have applied its judicious mind while invoking Section 156(3) of Cr.P.C. whether the contents of the complaint discloses referring the



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matter under Section 156(3) of Cr.P.C. and the same is also not found in the order of the Trial Court. When such being the case, it is nothing but an abuse of process and if that act is permitted to initiate the criminal prosecution against the advocate who represents on behalf of accused No.2, it leads to miscarriage of justice and hence, it is a fit case to exercise the powers under Section 482 of Cr.P.C. and there is a fundamental error with regard to the place of incident and nothing is placed on record along with the complaint. When an allegation of assault is made against the petitioners, the complaint is not supported by any medical evidence also. When such being the case, it is a fit case to exercise the powers under Section 482 of Cr.P.C. to quash the proceedings and hence, the petitioners have made out a ground to quash the proceedings against them.

8. The complaint is also not supported by an affidavit narrating the incident. The Apex Court in its judgment in the case of **PRIYANKA SRIVASTAVA AND ANOTHER v. STATE OF UTTAR PRADESH AND OTHERS**



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reported in **(2015) 6 SCC 287**, has categorically held that the complaint must be supported by an affidavit and the same is also missing. In view of the said judgment also, the proceedings initiated against the petitioners in filing the private complaint is nothing but an abuse of process.

9. In view of the discussions made above, I pass the following:

ORDER:

Both the petitions are allowed and initiation of private complaint against the petitioners are hereby quashed.

**Sd/-
(H.P.SANDESH)
JUDGE**

MD
List No.: 1 Sl No.: 12