



CNR: KAHC010366172026

NC: 2026:KHC:47242
CRL.P No. 7673 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

CRIMINAL PETITION NO. 7673 OF 2026
(482(CR.PC) / 528(BNSS))

BETWEEN:

1. SMT. PADMASHREE @ PADMA
W/O GANESH KISHAN,
AGED ABOUT 50 YEARS,
R/A: NO.29, A NO.2ND STREET,
TASKAT TOWN, SHIVAJI NAGAR,
BENGALURU-560051.
2. CHANDRASHEKHAR
S/O LATE B.K. GOPALAKRISHNAPPA,
AGED ABOUT 47 YEARS,
3. RAGHAVENDRA PRASAD
S/O LATE B.K. GOPALAKRISHNAPPA,
AGED ABOUT 44 YEARS,

BOTH RESIDING AT: NO.17,
K.S. COLONY, RAMAKRISHNA 2ND BLOCK,
T.R. NAGAR, BANGALORE-560028.

... PETITIONERS

(BY SMT. RADHIKA M., ADVOCATE)

AND:

1. MRS. BHUDEVI S.
W/O LATE B.M. KRISHNA,
AGED ABOUT 80 YEARS,
R/A: NO.29, A NO.2ND STREET,





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TASKAR TOWN, SHIVAJI NAGAR,
BENGALURU-560051.

2. STATE OF KARNATAKA
BY SHIVAJINAGAR POLICE,
KARNATAKA-560051,
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BANGALORE-560001.

... RESPONDENTS

(BY SRI. H.R. NAGARAJA, ADVOCATE FOR R1;
SRI. JAVEED S., HCGP FOR R2)

THIS CRL.P. IS FILED UNDER SECTION 482 CR.PC (FILED UNDER SECTION 528 BNSS), PRAYING TO QUASH THE PROCEEDINGS IN CC NO.54740/2020 IN CRIME NO.66/2018 FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 323, 504, 506 R/W 34 OF IPC, WHICH IS PENDING BEFORE THE LEARNED X ADDL. CHIEF METROPOLITAN JUDICIAL, MAYOHALL, BANGALORE CITY, OF SHIVAJINAGAR POLICE STATION, IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.,

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

ORAL ORDER

(PER: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM)

The petitioners are before this Court invoking the jurisdiction under Section 482 of the Code of Criminal

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Procedure, 1973, seeking quashing of the proceedings pending in C.C.No.54740/2020 arising out of Crime No.66/2018 registered for the offences punishable under Sections 323, 504, 506 and 448 read with Section 34 of the Indian Penal Code, 1860.

2. The case of respondent No.1/complainant, in substance, is that on 06.05.2018 at about 8.40 p.m., the accused persons broke open the lock of the house and forcibly entered the premises and, upon being questioned, assaulted the complainant, abused her in filthy language and threatened her with dire consequences. The first petitioner is the daughter-in-law of the complainant. It is not in dispute that there is serious matrimonial discord between the first petitioner and the complainant's son. The first petitioner has instituted proceedings against the complainant in C.C.No.25166/2008 for the offences punishable under Section 498A of the Indian Penal Code, 1860 (for short 'IPC'). Several matrimonial and civil proceedings are also pending between the parties.

3. During the pendency of the criminal proceedings, the petitioners preferred an application seeking discharge. The

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learned Magistrate, by order dated 24.3.2026, partly allowed the application insofar as the offence punishable under Section 448 of IPC was concerned.

4. Learned counsel appearing for the petitioners would submit that once the learned Magistrate has categorically recorded a finding that the allegation of criminal trespass is not made out, the very foundation of the complaint disappears. It is contended that the principal allegation is that the petitioners forcibly entered the house after breaking open the lock and, upon the said allegation being found to be untenable, the remaining allegations of assault, abuse and intimidation are only consequential and have been introduced to give a criminal colour to what is essentially a matrimonial and civil dispute.

5. Learned counsel would further submit that respondent No.1 had instituted a civil suit seeking mandatory injunction against petitioner No.1 in respect of the very property which is the subject matter of the present criminal proceedings, and the said suit came to be dismissed by judgment and order dated 30.09.2024.

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6. He would further contend that the divorce proceedings instituted by the complainant's son against petitioner No.1 were also dismissed and that, only thereafter, respondent No.1, in collusion with her son, instituted the aforesaid suit seeking mandatory injunction against petitioner No.1. It is his submission that the sequence of events would clearly demonstrate that the criminal proceedings are being continued as a means of exerting pressure upon petitioner No.1 in the backdrop of the matrimonial discord.

7. Learned counsel would conclude his submissions by contending that the civil Court, while dismissing the suit instituted by respondent No.1 and allowing the counter-claim preferred by petitioner No.1, has recognized and protected the petitioner's possessory and residential rights in respect of the subject property. In view of such adjudication by the competent Civil Court, coupled with the fact that the allegation of criminal trespass under Section 448 of IPC has already been dropped by the learned Magistrate, learned counsel would submit that continuation of the remaining criminal proceedings would amount to abuse of the process of law. He would, therefore,

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seek quashing of the proceedings pending against the petitioners. Therefore, according to the learned counsel, the criminal prosecution is being employed as a means of exerting pressure upon the first petitioner in the backdrop of the matrimonial dispute.

8. It is also submitted that petitioner No.2 is a handicapped person and that continuation of the criminal prosecution against him, in the facts and circumstances of the case, would result in unnecessary harassment.

9. *Per contra*, learned counsel appearing for respondent No.1/complainant and learned High Court Government Pleader would submit that the petitioners have already availed the remedy of discharge and have suffered an order insofar as Sections 323, 504 and 506 of IPC are concerned. It is contended that the appropriate remedy against such an order is by way of revision under Section 397 of Cr.P.C. and that the petition under Section 482 of Cr.P.C. cannot be maintained as an alternative to such revisional remedy.

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10. Having heard the learned counsel for the parties and having perused the material on record, the following question arises for consideration:

Whether, in the facts and circumstances of the case, continuation of the criminal proceedings against the petitioners for the offences punishable under Sections 323, 504 and 506 read with Section 34 of IPC, notwithstanding the finding of the learned Magistrate that the principal allegation of criminal trespass under Section 448 of IPC is not made out, would amount to abuse of the process of law?

FINDING ON POINT FOR CONSIDERATION:

11. Before considering the merits, the preliminary objection regarding maintainability requires consideration. The mere fact that the petitioners have earlier approached the learned Magistrate seeking discharge cannot, by itself, denude this Court of its inherent jurisdiction. The scope of an application for discharge and the scope of a petition seeking quashing of criminal proceedings are distinct.

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12. The Hon'ble Supreme Court in ***Mukesh and Others v. State of Uttar Pradesh and Others***, reported in ***2024 LiveLaw (SC) 960***, has reiterated that a petition seeking quashing of criminal proceedings cannot be equated with a discharge application. The Hon'ble Supreme Court has recognized that the accused, while seeking discharge, is ordinarily confined to the material forming part of the charge-sheet, whereas in proceedings invoking the inherent jurisdiction of the High Court, a wider challenge is available, including a challenge on the ground that continuation of the proceedings would amount to abuse of the process of law.

13. Therefore, the contention that the petitioners must necessarily be relegated to the remedy of revision merely because the discharge application has been partly allowed cannot be accepted as an absolute proposition. The jurisdiction under Section 482 of Cr.P.C. is intended to prevent abuse of the process of any Court and to secure the ends of justice. The existence of an alternative remedy is undoubtedly a circumstance to be borne in mind, but it does not constitute an inflexible bar where the facts placed before the Court

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demonstrate that continuation of the prosecution itself would result in abuse of process.

14. In the present case, the order on the discharge application assumes considerable significance. The relevant observation of the learned Magistrate reads as follows:

"Therefore, the Hon'ble Court observed that, CW1 is not entitled for the mandatory injunction as prayed for as the accused No.1 has a right to reside in the shared house hold under Sec.17(1) of the Domestic Violence Act. Therefore, this shows that there is no trespass by the accused persons, since the property is a shared house hold between accused No.1 and CW1 & 2. Therefore, there are no grounds to frame charge-sheet against the accused persons for the offence punishable U/s.448 of IPC.

10. The complaint and witness statement also alleged that, when CW1 confronted the accused persons, they assaulted CW1 by hands, abused her in foul language and criminally intimidated her. The names of accused No. 1 to 4 are mentioned in the complaint, mahazar and statement of CW2. It is a settled position of law that, in order to consider the discharge application, only the prosecution materials have to be looked into to determine if there is any prima-facie case and if the charge against accused

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persons is proved and if the same remains un-rebutted, the case would end in conviction.

11. Therefore, from the prosecution materials, prima-facie case is made out as against for the offence punishable under section 323, 504, 506 R/w. 34 of IPC. It is the duty of the Court to ascertain if there are materials to proceed against the accused persons and frame the charge. It is well-settled that at the stage of framing of charge the defence of the accused persons cannot be put forth. The standard of test which is to be finally applied before recording a finding regarding the guilt or otherwise of the accused persons are not exactly to be applied at the stage of deciding the matter under Section 239 of Cr.P.C. Therefore, without looking into the defence of the accused, merely on the basis of the prosecution materials, this Court is of the opinion that there are sufficient materials to frame charge against the accused for the offence under section 323, 504, 506 R/w. 34 of IPC.

15. On reading the aforesaid extract, it is evident that, insofar as the offences punishable under Sections 323, 504 and 506 read with Section 34 of IPC are concerned, the learned Magistrate proceeded to hold that the complaint, the witness statements and the other prosecution materials disclose a prima facie case. The learned Magistrate has observed that the

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complaint and the statement of CW1 allege that, when CW1 confronted the accused persons, she was assaulted, abused in foul language and criminally intimidated and that the names of the accused persons find place in the complaint, mahazar and the statement of CW2. Consequently, the learned Magistrate held that there were sufficient materials to frame charge for the aforesaid offences.

16. The very substratum of the complaint is the allegation that the accused persons broke open the lock and forcibly entered the house. It is on this foundation that the subsequent allegations of assault, abuse and criminal intimidation are projected. The learned Magistrate, upon consideration of the material available, has expressly recorded that no case for criminal trespass under Section 448 of IPC is made out.

17. More importantly, the said finding is not based upon a mere technical deficiency in the prosecution material. The learned Magistrate has taken note of the right of the first petitioner to reside in the shared household under Section 17(1) of the Protection of Women from Domestic Violence Act,

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2005 and has, on that basis, concluded that the allegation of trespass cannot be sustained.

18. Thus, the very premise on which the complainant alleges that the petitioners had unlawfully entered the premises stands displaced. Once the allegation of criminal trespass is found to be untenable, this Court is required to examine whether the remaining allegations, even if accepted at their face value and in their entirety, disclose the commission of the offences punishable under Sections 323, 504 and 506 of IPC or whether those allegations are merely ancillary allegations introduced in furtherance of the underlying matrimonial and civil dispute.

19. The material on record discloses that the first petitioner is the daughter-in-law of respondent No.1 and that there is serious matrimonial discord between the first petitioner and the son of respondent No.1. The first petitioner has initiated criminal proceedings against the complainant. At the same time, the complainant has instituted a civil suit seeking an injunction against the first petitioner in relation to the very property.

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20. It would be apposite to place reliance upon the judgment and decree dated 30.09.2024 passed by the competent Civil Court in the suit instituted by respondent No.1, and in particular, upon the following operative portion:

"ORDER

The suit of the plaintiff is dismissed with costs.

The counter claim filed by the defendant daughter-in-law of plaintiff under No. 1 Sec.17 of the Protection of Women From Domestic Violence Act, 2005 is decreed. She has right to reside in the shared household i.e., plaint 'B' schedule/ written statement schedule property during subsistence of her marriage."

(emphasis supplied)

21. The aforesaid adjudication assumes considerable significance while examining the continuation of the criminal proceedings. Respondent No.1, who had approached the Civil Court seeking a mandatory injunction against petitioner No.1 in respect of the very property, has not only suffered dismissal of the suit with costs, but her attempt to secure the dispossession of petitioner No.1 has been negated. On the contrary, the counter-claim of petitioner No.1 has been decreed, recognizing

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her right to reside in the shared household during the subsistence of her marriage. Thus, the very basis on which respondent No.1 sought to assert exclusive entitlement to the property and secure the removal of petitioner No.1 has not found favour with the competent Civil Court.

22. In the teeth of such categorical adjudication, the attempt of respondent No.1 to sustain the criminal prosecution on the allegation that petitioner No.1 had unlawfully entered or trespassed into the very property assumes significance, particularly when the learned Magistrate has already discharged the petitioners of the offence punishable under Section 448 of IPC. The finding recorded by the Civil Court regarding the right of petitioner No.1 to reside in the shared household materially alters the complexion of the allegation of unlawful entry.

23. The sequence of events, therefore, prima facie indicates that the criminal process is being invoked not for vindication of any independent criminal wrong, but as a means of exerting pressure upon petitioner No.1 in the backdrop of the subsisting matrimonial discord and the unsuccessful attempt of respondent No.1 to secure her dispossession through civil

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proceedings. Permitting the criminal proceedings to continue, in the peculiar facts and circumstances of the case, would amount to permitting respondent No.1 to use the criminal process as an instrument of arm-twisting, notwithstanding the civil Court having recognized the right of petitioner No.1 to reside in the very property. Such continuation would consequently amount to an abuse of the process of law.

24. In this background, the allegation that the first petitioner, who claims a right of residence in the shared household, broke open the lock and committed criminal trespass assumes significance. The learned Magistrate has already found that such allegation cannot constitute an offence under Section 448 of IPC. Once that principal allegation is removed, the remaining allegations of assault, abuse and intimidation have to be examined not in isolation but in the factual setting in which the complaint came to be lodged.

25. The inherent jurisdiction of this Court is not exercised to conduct a meticulous appreciation of evidence or to determine the truth or otherwise of disputed facts. However, where the allegations, even if accepted in their entirety, do not

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disclose the commission of an offence, or where the continuation of criminal proceedings would serve no legitimate criminal law purpose and would amount to an abuse of the process of the Court, interference under Section 482 of Cr.P.C. is warranted.

26. The Delhi High Court in ***Yogesh Jagia v. Jindl Biochem Pvt. Ltd., [2022 Supreme (Del) 485]***, has also recognized that the fact that an accused could seek discharge does not prevent the High Court from exercising its inherent jurisdiction where the complaint, on a meaningful examination, does not make out a case and continuation of the criminal proceedings would subject the accused to the unnecessary agony of a criminal trial.

27. In the case on hand, the prosecution is not arising out of an independent criminal transaction between strangers. The allegations emerge directly from a highly contentious matrimonial relationship between the first petitioner and the complainant's son and the consequent dispute regarding the property in which the first petitioner asserts a right of



residence. The complainant has already invoked the civil jurisdiction in respect of possession of the very property.

28. The Court cannot lose sight of the fact that the learned Magistrate, while considering the discharge application, has already held that the allegation of criminal trespass is not made out because the first petitioner has a right to reside in the shared household. The prosecution, nevertheless, seeks to proceed on the basis of allegations of assault, abuse and intimidation said to have occurred when the complainant confronted the accused persons regarding their entry into the premises.

29. Once the principal allegation of unlawful entry is found to be unsustainable, and when the entire dispute is demonstrably embedded in pending matrimonial and civil litigation, continuation of the prosecution on the remaining allegations, without any independent factual foundation of sufficient substance, would amount to permitting criminal law to be used as a means of exerting pressure in a private matrimonial and property dispute.

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30. This Court is conscious that the power under Section 482 of Cr.P.C. has to be exercised sparingly and with circumspection. It is equally well settled that where the allegations taken at their face value do not make out an offence or where continuation of the criminal proceedings would result in abuse of the process of law, the High Court is duty-bound to intervene to secure the ends of justice.

31. On an overall consideration of the material on record, this Court is of the considered view that the criminal prosecution against the petitioners has its genesis in the matrimonial discord between the first petitioner and the complainant's son and the consequent dispute concerning the property. The complainant's case of criminal trespass, which constituted the principal foundation of the prosecution, has already been found to be untenable by the learned Magistrate. The remaining allegations, when considered in the backdrop of the aforesaid circumstances, do not furnish an independent and sustainable basis for subjecting the petitioners to a criminal trial.

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32. In the peculiar facts of the present case, continuation of the proceedings would serve no useful purpose and would result in the petitioners being subjected to the ordeal of a criminal trial in what is essentially a matrimonial and civil dispute. The possibility of the prosecution ultimately resulting in conviction is, in the circumstances noticed above, extremely bleak. Permitting the proceedings to continue would therefore amount to abuse of the process of law. Accordingly, point for consideration is answered in the '**Affirmative**'.

33. For the foregoing reasons, this Court is of the considered view that this is a fit case to exercise the inherent jurisdiction under Section 482 of Cr.P.C. [corresponding Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023,] to secure the ends of justice.

34. Accordingly, this Court proceeds to pass the following:

ORDER

(i) The Criminal Petition is **allowed**.

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(ii) The proceedings pending in C.C.No.54740/2020, arising out of Crime No.66/2018, pending before the learned X Additional Chief Metropolitan Magistrate, Bengaluru for the offences punishable under Sections 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860 insofar as the petitioners are concerned, are hereby quashed.

(iii) In view of disposal of the main petition, pending interlocutory applications, if any, stand disposed of.

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(SACHIN SHANKAR MAGADUM)
JUDGE

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