

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF OCTOBER, 2026

BEFORE

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

CRIMINAL PETITION NO.9473 OF 2018

BETWEEN:

1. J. GIRI,
S/O G.S. JANARDHAN,
AGED ABOUT 46 YEARS,
WORKING AS
DEPUTY COMMISSIONER OF EXCISE,
TUMAKURU DISTRICT-572101.
2. M. PARAMESH,
S/O MARIDASAPPA,
AGED ABOUT 39 YEARS,
WORKING AS INSPECTOR OF EXCISE,
SUBRAMANYANAGAR RANGE,
INDUSTRIAL SUBURB,
WEST OF CHORD ROAD,
BENGALURU-560055,
AND RESIDING AT NO.3432,
6TH CORSS, 'C' BLOCK,
GAYATHRINAGAR,
RAJAJINAGAR II STAGE,
BENGALURU-560010.
3. VIJAY KUMAR DHAMA,
S/O RAJARAM DHAMA,
AGED ABOUT 46 YEARS,
DEPUTY SUPERINTENDENT OF EXCISE,
O/O COMMISSIOENR OF EXCISE,
2ND FLOOR, T.T.M.C. BUILDING,
'A' BLOCK, B.M.T.C., SHANTHI NAGAR,
BENGALURU-27.
4. RAVI KUMAR S.,
S/O SIDDARAMAPPA H,

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA

AGED ABOUT 48 YEARS,
INSPECTOR OF EXCISE,
STATE EXCISE INTELLIGENCE BUREAU,
K.R. CIRCLE, BENGALURU,
RESIDING AT NO.41,
1ST CROSS, 1ST MAIN,
GKV NAGAR, ALLALASANDRA,
BENGALURU-65.

...PETITIONERS

(BY SRI. M.S.SHYAM SUNDAR, SENIOR COUNSEL FOR
SRI. B.S.SHREYAS, ADVOCATE)

AND:

1. BHAVANI RAM PRASAD,
S/O LATE KRISHNA PRASAD,
AGED ABOUT 41 YEARS,
RESIDING AT NO.6/1,
NAGAPPA STREET,
PALACE GUTTAHALLI,
BENGALURU-560003.
2. THE STATE OF KARNATAKA,
BY MALLESWARAM POLICE STATION,
REPRESENTED BY S.P.P.,
HIGH COURT BUILDING,
BENGALURU-560001.

...RESPONDENTS

(BY SRI. DHARMAPAL, ADVOCATE FOR R1;
SRI. SUHAS GOWDA M., HCGP FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482
OF CR.P.C PRAYING TO QUASH THE ORDER DATED
30.06.2018, PASSED BY THE LVI ADDITIONAL CHIEF
METROPOLITAN MAGISTRATE, BENGALURU, IN
C.C.NO.22675/2018, AS ALSO PROCEEDINGS TAKEN UP IN
CRIME NO.296/2014, LVI ADDITIONAL CHIEF METROPOLITAN
MAGISTRATE, AT BENGALURU.

THIS PETITION HAVING BEEN HEARD AND RESERVED
FOR ORDERS ON 07.10.2026, THIS DAY, THE COURT
PRONOUNCED THE FOLLOWING:

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

CAV ORDER

Heard the learned Senior Counsel appearing for the petitioners, the learned counsel for respondent No.1/complainant and the learned High Court Government Pleader appearing for respondent No.2/State.

2. This petition is filed praying this Court to quash the order dated 30.06.2018 passed by the LVI, Additional Chief Metropolitan Magistrate, Bengaluru in C.C.No.22675/2018 as also proceedings taken up in Crime No.296/2014 against the petitioners/accused Nos.1 to 4 invoking Section 204 of Cr.P.C. for the offences punishable under Sections 341, 504, 323 and 506 read with Section 34 of IPC.

3. The factual matrix of the case of the complainant is that he is a social worker and claims to be a right to information activist. In the complaint it is alleged that on 01.12.2014 at 3:30 p.m., he went to the office of the Deputy Commissioner of Excise and these petitioners abused him in a filthy language stating that he had lodged the complaint against them and also caused life threat. It is stated in the complaint that he was confined in the room and threatened that he would

be handed over to the police and forced him to sign on the blank paper and one of the guard slapped on his cheek and tried to snatch his mobile. Hence, a written complaint was lodged to the police and based on the complaint, the police registered the case and investigated the matter and filed the 'B' report. Hence, the complainant filed a protest memo before the Trial Court and the Trial Judge proceeded to record his sworn statement and also his wife's sworn statement as CW1 and CW2. The complainant also examined two witnesses as CW3 and CW4. The learned Magistrate having considered the sworn statements and the statement of witnesses CW2 to CW4 and the documents at Exs.P1 to P4, formulated the point whether the complainant has made out the ground to register criminal case against accused Nos.1 to 4. The Trial Judge having considered the contents of the protest memo and also the sworn statement, comes to the conclusion that there are reasons to believe that the complainant initiated some legal proceedings against the accused and initiated action against illegal activities practiced by the liquor shop owners. Further prima facie there are reasons to believe that at the relevant point of time, the complainant visited the office of accused No.1 and accused Nos.1 to 4 were there at that time. Under the

circumstances, prima facie there are reasons to believe that exchange of words took place between the complainant and the accused and at this stage, there are reasons to believe the case of the complainant as to assault, wrongful restraint and criminal intimidation. The learned Magistrate also comes to the conclusion that getting the sanction under Section 197 of Cr.P.C. is not necessary and the allegations levelled against the accused are wrongful restraint, abusing in filthy language, assault and criminal intimidation to the life. The learned Magistrate also observed that if the accused wants to take shelter under Section 197 of Cr.P.C., they are at liberty to urge such defence by establishing necessary facts during the trial and issued the summons against the accused. Hence, the petitioners are before this Court.

4. The learned Senior Counsel appearing for the petitioners would vehemently contend that the learned Magistrate has not passed any order either rejecting the 'B' report or in coming to the conclusion that the Investigating Officer has committed an error during the course of investigation, but issued the summons. The learned counsel would vehemently contend that the reasoning given by the Trial Court is only reasons to believe and the Court has not

formulated any point for consideration while passing such an order and not given any reasons except stating that reasons to believe and there is a prima facie case. Nothing is discussed in the order about the sworn statements of CW1 to CW4. The learned counsel also contend that CW1 and CW2 are the husband and wife. With regard to the evidence of CW3 and CW4 also the Trial Court has not discussed anything and even with regard to the documents which have been relied upon when the complainant and his witnesses were examined also has not been discussed. The learned counsel contend that the Trial Judge committed an error in coming to the conclusion that protection under Section 197 of Cr.P.C. cannot be extended. The learned counsel also brought to the notice of this Court Section 68A of the Karnataka Excise Act, wherein the protection is given and contend that the Trial Judge failed to take note of such provision and proceeded to issue the summons.

5. The learned counsel would vehemently contend that the proceedings initiated by the complainant is proceeded with a malafide intention of wrecking vengeance against the petitioners. It is a clear case of abuse of process of law. It was actually the complainant who became restless and started hurling abuses on the ground that he was a right to information

activist. The complainant had visited the office of the Deputy Commissioner of Excise on his own and there was no any summons or call. The motive and the reason behind the complaint are brought about by the Investigating Officer in the investigation. The Investigating Officer also comes to the conclusion that there are no materials and the entire allegations are figment of imagination of the complainant and hence, filed the 'B' report. The learned counsel would contend that the ingredients of the offences under Sections 341, 504, 343 and 506 of IPC will not attract against the petitioners and the complaint is absolutely vague. The Investigating Officer during the investigation has recorded the statement and rightly comes to the conclusion that with an oblique motive, the private complaint is filed. The learned Magistrate did not apply his judicial mind while summoning the petitioners and fails to give any reasons for rejection of 'B' report and no such reference also and instead of issued the summons against the petitioners.

6. The learned counsel in support of his arguments relies upon the judgment of the Apex Court in the case of **BHAGWANT SINGH v. COMMISSIONER OF POLICE AND ANOTHER** reported in **AIR 1985 SC 1285** and brought to the

notice of this Court the discussion made by the Apex Court in the said judgment, particularly in paragraph No.4 what would be the course open to the learned Magistrate having received the 'B' report.

7. The learned counsel also relies upon the judgment of the Apex Court in the case of **DABLU KUJUR v. STATE OF JHARKHAND** reported in **AIR ONLINE 2024 SC 233**, wherein the Apex Court discussed with regard to Sections 169, 170 and 173 of Cr.P.C. The learned counsel brought to the notice of this Court the discussion made in paragraph Nos.13 and 14 when the report was filed under Section 173 of Cr.P.C. that the Magistrate has got three options: (i) he may accept the report and take cognizance of the offence and issue process, (ii) he may direct further investigation under sub-Section (3) of Section 156 and require the police to make a further report, or (iii) he may disagree with the report and discharge the accused or drop the proceedings. If such police report concludes that no offence appears to have been committed, the Magistrate again has three options: (i) he may accept the report and drop the proceedings, or (ii) he may disagree with the report and taking the view that there is sufficient ground for proceeding further, take cognizance of the offence and issue process, or (iii) he

may direct further investigation to be made to the police under sub-section (3) of Section 156.

8. The learned counsel also relies upon the judgment of the Apex Court in the case of **G.C. MANJUNATH AND OTHERS v. SEETARAM** passed in Criminal Appeal No.1759/2025 dated 03.04.2025 and brought to the notice of this Court the discussion made in the judgment from paragraph No.30 onwards and particularly discussed in paragraph No.34 when dealing with the provisions of Section 197 of Cr.P.C. read with section 170 of the Police Act and even referred to the judgment in the case of **D.Devaraja v. Owaos Sabeer Hussain** reported in **(2020) 7 SCC 695**. The learned counsel also brought to the notice of this Court paragraph No.36 and in paragraph No.37, discussion was made with regard to the accusations against the accused persons encompass the following: (1) abuse of official authority by the accused persons in allegedly implicating the complainant in fabricated criminal cases, purportedly driven by malice or vendetta; (2) physical assault and ill-treatment of the complainant by the accused persons, constituting acts of alleged police excess; (3) wrongful confinement of the complainant; and (4) criminal intimidation of the complainant. In paragraph No.38 discussed that the

allegations levelled against the accused persons, though grave, squarely fall within the ambit of "acts done under colour of, or in excess of, such duty or authority," and "acting or purporting to act in the discharge of his official duty," as envisaged under Section 170 of the Police Act and Section 197 of Cr.P.C. The learned counsel also vehemently contend that the Apex Court consistently held in **Virupaxappa Veerappa Kadampur v. State of Mysore** reported in **AIR 1963 SC 849** and **D.Devaraja** case, that where a Police Officer, in the course of performing official duties, exceeds the bounds of such duty, the protective shield under the relevant statutory provisions continues to apply, provided there exists a reasonable nexus between the impugned act and the discharge of official functions. The learned counsel also brought to the notice of this Court that the Apex Court in paragraph No.39 held that, any action undertaken by a public officer, even if in excess of the authority vested in them or overstepping the confines of their official duty, would nonetheless attract statutory protection, provided there exists a reasonable nexus between the act complained of and the officer's official functions. The very purpose of Section 170 of the Police Act and Section 197 of Cr.P.C. is to protect the officers who have done the work as per

the statute and hence, comes to the conclusion that the absence of necessary sanction vitiates the very initiation of criminal proceedings against the accused persons.

9. The learned counsel also relies upon the judgment of this Court passed in Crl.P.No.2397/2020 dated 01.10.2026 in the case of **AMIT BANSAL v. STATE OF KARNATAKA AND ANOTHER**, wherein this Court in detail dealt with the procedure in case 'B' report is filed. The learned counsel brought to the notice of this Court paragraph No.32, wherein an observation is made that when 'B' report is filed, sworn statement and the documents produced by the complainant have to be considered simultaneously and then take a decision whether 'B' report could be accepted or rejected or to issue the summons. The learned counsel would contend that the same has not been done and hence, it requires interference.

10. Per contra, the learned counsel for respondent No.1/complainant in his arguments would vehemently contend that the Trial Court has not committed any error. When the complaint was given against the petitioners to the higher authorities, the complainant was summoned and subjected to assault with intentional insult and abused him. The learned

counsel also vehemently contend that the report of the Joint Commissioner of Excise as per Ex.P.3 is very clear that these petitioners have indulged in such illegal acts. The learned counsel would contend that the judgment cited by the petitioners' counsel in the case of **G.C. Manjunath** (supra) is not applicable to the case on hand and the factual aspects of the said case and the present case are different.

11. The learned counsel for respondent No.1 in support of his arguments relied upon the judgment of the Apex Court in the case of **DR. S.M. MANSOORI (DEAD) THROUGH L.R. v. SUREKHA PARMAR AND OTHERS** reported in **AIR 2023 SC 2002**, wherein while exercising the power under Sections 482, 200 and 197 of Cr.P.C., the Apex Court held that considering the nature of allegations in complaint, acts allegedly done by ASI could not be said to have been committed while acting or purporting to act in discharge of her official duty. Hence, held that it could not be concluded at the initial stage that sanction under Section 197 of Cr.P.C. was required. Further observation is made that the then Assistant Sub-Inspector along with other police personnel allegedly without any authority entered the house of complainant to arrest him and his family members and abused and beat the complainant with fists and blows. The

learned counsel contend that the said case is aptly applicable to the case on hand, wherein also abuse was made in a filthy language and assaulted him.

12. In reply to this argument, the learned Senior Counsel for the petitioners submits that Ex.P.3 is only referring the matter to the Human Rights, but the same was closed.

13. Having heard the learned Senior Counsel for the petitioners and the learned counsel for respondent No.1/complainant, the points that would arise for the consideration of this Court are:

- (i) Whether the Trial Court has committed an error in issuing the summons against the petitioners?
- (ii) What order?

Point No.(i):

14. Having considered the factual aspects of the case, specific allegations are made against the petitioners invoking the offences under Sections 341, 504, 506, 323 read with 34 of IPC. Based on the complaint dated 02.12.2014, a case was registered and FIR was issued and police have also investigated the matter and filed the charge-sheet of 'B' report. The Trial

Court while considering the case of the complainant, having perused the sworn statement, while passing an order, made a reference that the complainant had lodged the complaint against the accused before the Excise Commissioner on 04.08.2014 and so also taken note of the allegation made against the petitioners in paragraph Nos.6(a) and 6(c). The Trial Court in paragraph No.7 taken note of the complaint dated 02.12.2014 and also the complaint dated 24.12.2014, the report of the Excise Joint Commissioner dated 30.10.2015 and endorsement dated 21.01.2017 and so also a reference was made about examining of other three witnesses in paragraph No.8. The Trial Court in paragraph No.9 comes to the conclusion that there are reasons to believe that the complainant initiated some legal proceedings against the accused and initiated action against illegal activities practiced by the liquor shop owners. Further prima facie there are reasons to believe that at the relevant point of time, the complainant visited the office of accused No.1 and accused Nos.1 to 4 were there at that time. Under these circumstances, prima facie there are reasons to believe that exchange of words took place between the complainant and the accused and at this stage, there are reasons to believe the case of the

complainant as to assault, wrongful restraint and criminal intimidation. The Trial Court in paragraph No.11 taken note of Section 197 of Cr.P.C. and in paragraph No.12 comes to the conclusion that having considered the background of the facts and circumstances, in order to meet the ends of justice and in order to avoid conveyance of wrong message to the society at large, it is just and necessary to register criminal case against the accused and issued the summons.

15. Having perused the factual aspects as well as the contents of the complaint dated 02.12.2014, specific allegations are made by the complainant that he gave a complaint regarding violation by owners of the liquor shop and when he had visited the office of the petitioners, all of them have abused and confined him in a room, abused in a filthy language and caused life threat and one of the petitioners slapped on his cheek and even made an attempt to snatch his mobile. In the complaint specific allegations are made in page No.3 to that effect. The police registered the FIR and filed the 'B' report, wherein it is stated that the complainant was scolding and there are no material to proceed against the petitioners. But Ex.P.3 document is very clear that the Joint Commissioner of Excise had submitted a detailed report with regard to the

conduct of accused No.1. When such Ex.P.3 report is available as well as considering Ex.P.1 contents of the complaint, it is a case of confining the complainant in the office, abusing him and causing life threat and also assault. Hence, the Trial Court rightly comes to the conclusion that protection under Section 197 of Cr.P.C. will not attract. Hence, the judgment relied upon by the learned counsel for respondent No.1 in the case of **Dr.S.M. Mansoori** (supra), is aptly applicable to the case on hand, wherein it is held that considering nature of allegations in complaint, acts allegedly done by ASI could not be said to have been committed while acting or purporting to act in discharge of her official duty. Therefore it could not be concluded at the initial stage that sanction under Section 197 of Cr.P.C. was required.

16. No doubt, the learned counsel for the petitioners relied upon the judgment of the Apex Court in the case of **G.C.Manjunath** (supra), wherein the Apex Court discussed in detail with regard to the protection available to the police officials under Section 170 of the Police Act and also Section 197 of the Cr.P.C. is also discussed in detail, wherein the complainant was a rowdy sheeter and the facts of the said case are not applicable to the facts of the case on hand. In the case

on hand, when the complainant had lodged the complaint with regard to the Excise Department officials are not taking action against the persons who have violated the rules and conditions of the Sannadh and requested to take action, he was abused and assaulted stating that he had given the complaint against them only. The judgment of the Apex Court in the case of **G.C.Manjunath** (supra) is with regard to excess of powers of the police in connection with their duty. But here is a case of accused No.1 being the officer of the Excise Department, ought not to have confined him and assaulted along with other petitioners.

17. The learned Magistrate while issuing the summons made only passing reference of the sworn statement of the witnesses and not considered the evidence of CW1 to CW4. No doubt, CW1 and CW2 are the husband and wife, but the other two witnesses CW3 and CW4 are not from the same family. A reference is made with regard to marking of documents in paragraph Nos.7 and 8 and the documents of Exs.P1 to P4 also not discussed while passing the order. The Trial Court in paragraph No.9 comes to the conclusion that there are reasons to believe that the complainant initiated some legal proceedings against the accused, but did not express any opinion

considering oral and documentary evidence though in paragraph Nos.7 and 8, a passing reference is made and did not come to the conclusion that there are material to proceed against the petitioners. The Trial Court ought to have taken note of the sworn statement of CW1 to CW4 as well as documents Exs.P1 to 4, particularly Ex.P.3. The Trial Court only made an observation that there are reasons to believe the case of the complainant as to assault, wrongful restraint and criminal intimidation. The Trial Court could have discussed about the 'B' report, but did not touch upon the 'B' report while issuing the summons and also no remarks with regard to whether the Investigating Officer has committed any error in filing the 'B' report. Hence, it requires interference of this Court. This Court can remand the matter for limited purpose in view of the observations made by this Court only to consider the 'B' report as well as the sworn statement of CW1 to CW4 and the documents.

Point No.(ii):

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

ORDER

- (i) The criminal petition is allowed in part.

- (ii) The order of issuance of summons dated 30.06.2018 is set aside and the matter is remanded back to the Trial Court for the limited purpose in view of the observations made by this Court above.
- (iii) The Trial Court shall consider the 'B' report as well as the statement of CW1 to CW4 and documentary evidence simultaneously and apply its judicious mind while passing the judgment in the light of the judgment passed by this Court in Crl.P.No.2397/2020 dated 01.10.2026, wherein guidelines are given while considering the 'B' report and issuing summons and consider the same within two months from today.

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

MD