HC-KAR
NC: 2026:KHC:59791
CRL.P No. 870 of 2021
CNR: KAHC010036932021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

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

CRIMINAL PETITION NO.870 OF 2021

BETWEEN:

1. G. SHIVA SHANKAR
   S/O LATE K. GOPAL
   AGED ABOUT 60 YEARS

2. S. MANJULA
   W/O G. SHIVASHANKAR
   AGED ABOUT 52 YEARS

3. S. ANUSHREE
   D/O G. SHIVASHANKAR
   AGED ABOUT 52 YEARS

4. S. POOJA
   D/O G. SHIVASHANKAR
   AGED ABOUT 19 YEARS

5. M. KAVITHA
   W/O G. GANESH
   AGED ABOUT 42 YEARS

6. G. NEELA
   W/O MASILAMANI
   AGED ABOUT 62 YEARS

7. G. LAITHA
   W/O RAMESH
   AGED ABOUT 50 YEARS

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

8. R. NITHESH
S/O RAMESH
AGED ABOUT 20 YEARS

PETITIONERS NO.1 TO 8 ARE
RESIDING AT NO.4, I CROSS
SAIBABANAGAR, SRIRAMPURAM
BANGALORE-560 021.

…PETITIONERS

(BY SRI. V.R. HAVALDAR &
SRI. M.V.PARAMESWARAPPA, ADVOCATES)

AND:

1. M. GAYATHRI
W/O G. GANGADHAR
AGED ABOUT 40 YEARS
RESIDING AT NO.4, I CROSS
SAIBABANAGAR, SRIRAMPURAM
BANGALORE-560021.

2. STATE BY
SRIRAMPURA POLICE STATION
SRIRAMPURAM,
BANGALORE-560 021

…RESPONDENTS

(BY SRI. RASHTRITH CHENGAPPA T.P., 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 IMPUGNED ORDER DATED 24.02.2020 AS PER ANNEXURE-D PASSED BY THE VII ADDL.C.M.M., BENGALURU IN C.C.NO.3759/2020 BY ALLOWING THIS PETITION AND DISMISS THE COMPLAINT FILED BY THE RESPONDENT NO.1.

THIS PETITION COMING ON FOR ADMISSION THIS DAY, ORDER WAS MADE THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

ORAL ORDER

Heard learned counsel for the petitioners and learned High Court Government Pleader for respondent No.2. The respondent No.1-complainant is represented through counsel and this matter is called twice in the morning and also in the afternoon, no representation.

2. The prayer is sought in this petition to quash the impugned order dated 24.02.2020 passed by VII ACMM at Bangalore in C.C.No.3759/2020.

3. The factual matrix of case of the complainant is that an allegation is made in the complaint that on 10.12.2018 at 11.30 a.m., these petitioners in connection with common passage, wrongfully restrained and abused in filthy language and caused life threat and so also, accused No.3 made an attempt to assault with chappal on C.W.1 and accused No.6 made an attempt to assault with iron pipe and caused threat and also closed the gate by locking the same. It is stated in the charge sheet that on 04.07.2019 at 9.00 a.m., abused in filthy language and made an attempt to assault with their hands with an intent to take away the life of C.W.1. Based on these

allegations made in the charge sheet, the petitioners are subjected to criminal prosecution which is arising out of private complaint in P.C.R.No.9635/2019. When the matter was referred under Section 156(3), the police have investigated the matter and filed the charge sheet.

4. Learned counsel appearing for the petitioners would submit that earlier similar complaint was filed against these petitioners and these petitioners have approached this Court by filing Crl.P.No.4723/2018 and when this Court granted stay in the said petition, the private complaint is filed making an allegation. The counsel also counsel brought to notice of this Court that O.S.No.7200/2012 is also filed and civil suit is pending between the parties. The counsel would vehemently contend that in the earlier petition, this Court made an observation that specific allegation was not made, but only an attempt was made that complainant was assaulted. But there is no material produced by the respondent No.1-complainant to indicate that she had been assaulted. In the similar line of allegation, the second complaint is filed and it is nothing but an abuse of process. The counsel also brought to notice of this

Court that in the charge sheet itself, it is mentioned that O.S.No.7200/2012 is still pending for trial.

5. It has to be noted that an allegation is made that on 10.12.2018, the incident has taken place at 11.30 a.m. and second incident was on 04.07.2019 at 9.00 a.m. But, private complaint was filed on 02.08.2019. The counsel also brought to notice of this Court that earlier complaint was stayed in Crl.P.No.4723/2018 on 22nd day of April 2019. When the stay was granted in the earlier criminal petition, the present complaint was filed on 02.08.2019 within a span of 3 months. Hence, it is a clear case of abuse of process and earlier complaint was also quashed by this Court.

6. Learned High Court Government Pleader for the respondent No.2-State would submit that earlier complaint is in respect of the incident of the year 2010 and this incident is in respect of 2018 i.e., in the month of December as well as in the month of July, 2019 and though earlier criminal petition was allowed and quashed, the Court has to look into the specific allegations made in the subsequent charge sheet.

7. Having heard learned counsel appearing for the petitioners and learned High Court Government Pleader for respondent No.2-State, learned counsel for respondent No.1-complainant did not choose to appear and assist the Court though on record. Having perused the material on record, it is very clear that there was civil dispute between the parties in O.S.No.7200/2012 and earlier criminal petition was filed in 2018 and this Court also made an observation that though other offences are invoked, but the Trial Court did not take cognizance in respect of other offences and only in respect of offences under Sections 323, 354, 506, 504, 447, 341 read with Section 149 of IPC case was registered. This Court also made an observation that though an allegation was made that she was assaulted, but no material is produced. But, in the case on hand, the only allegation is that petitioners abused in filthy language and attempted to take away the life. Though offence under Section 354 of IPC was invoked, there is no such ingredients and even no accusation is found in the charge sheet. Hence, it is clear that it is nothing but an abuse of process.

8. As rightly pointed out by learned counsel appearing for the petitioners when this Court passed an order in the month of April 2019 granting stay, in the month of August, the present private complaint is filed and no reference in the order sheet that this complaint is accompanied by an affidavit. The Apex Court in the judgment in ***Priyanka Srivastava's*** case categorically held that, in order to prevent frivolous litigation filed with an oblique to harass the person and the same is not supported by an affidavit, there cannot be any criminal prosecution and there must be compliance under Sections 154(1) and 154(3) and having perused the FIR also, there is no averment in the said complaint that there is compliance under Sections 154(1) and 154(3).

9. When such being the case, the Trial Judge failed to take note while referring the matter under Section 156(3) that no such affidavit is filed in support of the complaint and no compliance under Sections 154(1) and 154(3) and there is a foundational defect in entertaining the private complaint. Hence, there cannot be any criminal prosecution against the petitioners and repeatedly, similar complaints are filed against

the petitioners since there is a civil dispute between the parties and the allegation is also very clear that civil suit is pending for trial. Under the circumstances, it is a fit case to exercise the power under Section 482 of Cr.P.C. to quash the proceedings or otherwise it amounts to miscarriage of justice.

10. In view of the discussion made above, I pass the following:

ORDER

(i) The criminal petition is ***allowed***.

(ii) The impugned order dated 24.02.2020 passed against the petitioners by VII ACMM at Bangalore in C.C.No.3759/2020 is hereby quashed.

Sd/-
(H.P.SANDESH)
JUDGE

ST
List No.: 1 Sl No.: 21