HC-KAR

NC: 2026:KHC:62907
CRL.P No. 2322 of 2024

CNR: KAHC010142662024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 2322 OF 2024

BETWEEN:

AMASA BHUPATHI RAO @ BHUPATHI RAO
(AS PER ADHAR CARD)
AGED ABOUT 64 YEARS
S/O A P GOPAL
R/AT #6, YASHODHA
6TH CROSS, VIJAYA BANK
NARMADA COLONY
NEAR BANASWADI BIBLE CHURCH
BANGALORE NORTH
KALYANNAGAR
BANGALORE-560 043

...PETITIONER

(BY SRI. NISHIT KUMAR SHETTY, ADVOCATE)

Digitally signed by PANKAJA S
Location: HIGH COURT OF KARNATAKA

AND:

1. STATE OF KARNATAKA
KENGERI POLICE STATION
BANGALORE
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BANGALORE-560 001

2. DR RAVIPRAKASH L.S.B.L
S/O SHVIALINGAIAH L
AGED ABOUT 55 YEARS
R/AT KALA FARM

RAJARAJESHWARI NAGARA POST
BANGALORE-560 098

…RESPONDENTS

(BY SRI. MAHESHA P, HCGP FOR R1,
R2 NOTICE SERVED BUT UNREPRESENTED)

THIS CRL.P FILED U/S.482 OF CR.P.C PRAYING TO ALLOW THE PETITION AND TO QUASH THE ENTIRE PROCEEDINGS AGAINST THE PETITIONER IN C.C.NO.12471/2015 (CR.NO.33/2015) OF KENGERI POLICE STATION REGISTERED FOR THE OFFENCE P/US.143, 447, 427 R/W SEC.149 OF IPC PENDING ON THE FILE OF THE XLVI ACMM BENGALURU.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

This petition is filed under Section 482 of Cr.P.C. to quash the proceedings against the petitioner/accused No.2 in C.C.No.12471/2015, arising out of Crime No.33/2015, registered by Kengeri Police, for the offences punishable under Sections 143, 447 and 427 read with Section 149 of IPC, presently pending on the file of XLVI Addl. Chief Metropolitan Magistrate, Bengaluru.

2. The brief facts of the case are, respondent No.2 lodged a complaint before respondent No.1-Police stating that one Mr. Zarir Minoo Bharucha being the owner of the land

bearing Sy.No.19 measuring 16 acres and 29 guntas situated at Mailsandra Village, Kengeri Hobli, Bengaluru South Taluk, purchased the same vide registered Sale Deed dated 08.11.1982 and respondent No.2 is the GPA holder of the said Mr. Zarir Minoo Bharucha. While forming a layout, BEML Employees Co-operative Housing Society Ltd. (for short, 'Society') approached respondent No.2 with a proposal to leave out 39 guntas of land in said survey number for formation of road on the western side of the property. Accordingly, an agreement was entered between Mr. Zarir Minoo Bharucha and the Society represented by its Secretary - Doddaswame Gowda. It is further stated in the complaint that, subsequent thereto, the Society though was to purchase the land and form the road, a road came to be formed without the consent of respondent No.2 and the same has been used by the local residents. The said road has now been taken over and being maintained by BBMP. Subsequently, Mr. Zarir Minoo Bharucha i.e., CW.7 entered the sale agreement with respondent No.2 and respondent No.2 is in possession of the said land. Things stood thus, on 28.10.2014 at about 12:30 p.m., the petitioner

and his associates tried to illegally and unlawfully enter the property belonged to respondent No.2 claiming that they are the officers and members of the Society. Later, they damaged the barbed fencing wire and threatened respondent No.2 and others with dire consequence and also formed a road in the said land for easy access to main road. As such, respondent No.2 lodged the present complaint.

3. On the strength of the said complaint, FIR came to be registered against the petitioner and others by respondent No.1-Police for the aforementioned offences. Later, respondent No.2 once again lodged a complaint against the petitioner alleging that on 28.01.2015, the petitioner and others cut open the fence and formed the road by using JCB and machinery and stolen six numbers of fence poles and barbed wire used to protect the property along with board. Hence, he lodged the complaint. On the strength of said complaint, respondent No.1-Police investigated the case and laid charge sheet against the petitioner and others, by arraying the petitioner as accused No.2 for the offences punishable under Sections 143, 447 and 427 read with Section 149 of IPC. Accordingly, learned

Magistrate took cognizance of the offences. Aggrieved by the same, the petitioner/accused No.2 preferred this petition.

4. Heard the learned counsel for the respective parties.

5. The primary contention of learned counsel for the petitioner is that the entire dispute between respondent No.2 and the petitioner is purely civil in nature in connection with the formation of road in the land of respondent No.2. He further contended that in the earlier complaint it is stated that there was an agreement entered into between the Society and owner of land and the Society left the land for formation of road in Sy.No.19 and the same is taken over and being maintained by BBMP. The other allegation that the petitioner made an attempt to from the road in the land of respondent No.2 is without any reliable documents. Moreover, a complaint was filed by respondent No.2 in the 2014 against the petitioner. However, once again this complaint lodged in the year 2015 on the similar allegation. Hence, no offences attract against the

petitioner, for which he has been charge sheeted. Accordingly, he prays to allow the petition.

6. The prayer of the petitioner is opposed by learned HCGP on the ground that now the charge sheet has been submitted and statement of material witnesses reveals that the petitioner and others trespassed the property of respondent No.2 and stolen the barbed wires and removed the poles. Accordingly, he prays to dismiss the petition.

7. I have given my anxious consideration to the submissions and perused the FIR, charge sheet and other documents made available before this Court.

8. On careful reading of the complaint averments, admittedly the dispute between the petitioner and respondent No.2 is purely civil in nature in connection with formation of road in the land of respondent No.2. As rightly contended by learned counsel for the petitioner, in the complaint, it is specifically admitted by respondent No.2 that initially an agreement was executed by the owner of the land with the Society for formation of road in his land i.e., Sy.No.19.

Accordingly, a road was formed and is now taken over and being maintained by BBMP. However, a complaint was lodged against the petitioner and others on 28.10.2014 alleging interference in respondent No.2's land by forming road, which was registered in Crime No.311/2014. Thereafter, once again in the year 2015, on similar allegation, this complaint has been lodged. On careful scrutiny of the charge sheet averments, it is clear that the road was used by the petitioner and the public and the allegation in the earlier complaint and this complaint are similar in nature.

9. On reading of the provisions of Section 427 of IPC, the ingredients of the same does not attract against the petitioner in this case. As the entire dispute is purely civil in nature, in order to give a criminal colour for the same, the present complaint has been lodged by respondent No.2 against the petitioner. The Hon'ble Apex Court in the case of ***BIKKU BHAI GOVINDA BHAI VS. STATE OF GUJARAT*** in ***SLP (Crl) No.15537/2023*** dated 22.05.2026, held in paragraph Nos.52 to 54 as under:

*"**52**. The present case, viewed in its peculiar facts and circumstances, constitutes all the characteristics of a civil property dispute, which is sought to be converted into criminal proceedings, after several years of civil litigation. We are of the opinion that the criminal process cannot be permitted to become a weapon of harassment and coercion in disputes concerning title over immovable property.*

***53**. We are conscious of the principles laid down by this Court in the recent decision of Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra (supra) that courts should ordinarily refrain from interfering at the threshold stage of investigation. However, the said judgment itself recognises that where the allegations do not disclose the commission of cognizable offences or where criminal proceedings manifestly amount to abuse of process, the High Court is duty-bound to exercise its inherent jurisdiction under Section 482 of the Cr.P.C.*

***54**. The present case falls squarely within the well-settled categories warranting interference under Section 482 of the Cr.P.C as Page 28 delineated in State of Haryana v. Bhajan Lal,12 namely, where the dispute is predominantly civil in nature, where the allegations fail to disclose the essential ingredients of the alleged offences, where the criminal proceedings are manifestly attended with mala fide intention, where there is extraordinary and unexplained delay, and where continuation of the prosecution would amount to abuse of process of court."*

10. Further, the Hon'ble Apex Court in the case of ***MOHAMMED ALI AND OTHERS VS. STATE OF UP - 2023 (15) SCC 488*** in paragraph No.11 to 14 held as under:

> *"**11**. The entire case put up by the first informant on the face of it appears to be concocted and fabricated. At this stage, we may refer to the parameters laid down by this Court for quashing of an FIR in the case of State of Haryana v. Bhajan Lal, AIR 1992 SC 604. The parameters are:-*
>
> > *"(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
> >
> > *(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
> >
> > *(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
> >
> > *(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police*

officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge." We are of the view that the case of the present appellants falls within the parameters Nos. 1, 5 and 7 resply of Bhajan Lal (supra).

***12**. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal*

proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines.

The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.

13. *In State of Andhra Pradesh v. Golconda Linga Swamy, (2004) 6 SCC 522, a two-Judge Bench of this Court elaborated on the types of materials the High Court can assess to quash an FIR. The Court drew a fine distinction between consideration of materials that were tendered as evidence and appreciation of such evidence. Only such material that manifestly fails to prove the accusation in the FIR can be considered for quashing an FIR. The Court held:-*

> *"5. …Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent such abuse. It would be an abuse of the process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.*
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> *6. In R.P. Kapur v. State of Punjab, AIR 1960 SC 866 : 1960 Cri LJ 1239, this Court summarised some categories of cases where inherent power can and*

should be exercised to quash the proceedings : (AIR p. 869, para 6)

> *(i) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;*
>
> *(ii) where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged;*
>
> *(iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.*

7. In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge. Judicial process, no doubt should not be an instrument of oppression, or, needless

> *harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death…..” (Emphasis supplied)*
>
> ***14**. In the result, this appeal succeeds and is hereby allowed. The impugned order passed by the High Court of Judicature at Allahabad is hereby set aside. The criminal proceedings arising from FIR No. 127 of 2022 dated 04.06.2022 registered at Police Station Mirzapur, Saharanpur, State of U.P. are hereby quashed."*

11. Collocating the above findings in the judgments of the Hon'ble Apex Court to the facts and circumstances of this case, I am of the considered view that even if the entire allegations in the complaint and charge sheet are taken at its face value, no *prima facie* case is made out against the petitioner/accused No.2 and the complaint has been filed by respondent No.2 out of wreaking vengeance in order to give a criminal colour to the civil dispute. In such circumstance, continuation of proceedings against the petitioner/accused No.2

is sheer abuse of process of Court. Accordingly, I proceed to pass the following;

ORDER

i. The petition is ***allowed***.

ii. The proceedings against the petitioner/accused No.2 in C.C.No.12471/2015, arising out of Crime No.33/2015, registered by Kengeri Police, for the offences punishable under Sections 143, 447 and 427 read with Section 149 of IPC, presently pending on the file of XLVI Addl. Chief Metropolitan Magistrate, Bengaluru, is hereby quashed.

SD/-
(RAJESH RAI K)
JUDGE

HKV
List No.: 1 Sl No.: 21