HC-KAR

NC: 2026:KHC:65442
CRL.P No. 2645 of 2024

CNR: KAHC010153452024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 2645 OF 2024

BETWEEN:

1. MR. SHIVAPRASAD
   AGED ABOUT 42 YEARS,
   S/O. K. YADAVA,
   R/AT TAVAREKOLA,
   HOSABETTU, SURATHKAL,
   MANGALURU TALUK,
   DAKSHINA KANNADA-575 011.

2. SMT. HEMALATHA
   AGED ABOUT 40 YEARS,
   D/O. K. YADAVA,
   R/AT TAVAREKOLA,
   HOSABETTU, SURATHKAL,
   MANGALURU TALUK,
   DAKSHINA KANNADA-575 011.

...PETITIONERS

Digitally signed by PANKAJA S
Location: HIGH COURT OF KARNATAKA

(BY SRI. MANOJ M FOR
SMT. VEENA T.N, ADVOCATE)

AND:

1. STATE OF KARNATAKA
   BY SURATHKAL POLICE STATION,
   REP BY STATE PUBLIC PROSECUTOR,
   HIGH COURT OF KARNATAKA,
   BANGALORE-560 001.

2. SMT. JAYANTHI N PRABHU
   W/O. NARENDRA PRABHU,
   AGED ABOUT 47 YEARS,

MAHALASA TAVAREKOLA,
HOSABETTU SURATHKAL,
MANGALURU-575 011.

…RESPONDENTS

(BY SMT. V. KALPANA, ADVOCATE FOR R2)

THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO ALLOW THE CRIMINAL PETITION BY QUASHING THE FIR REGISTERED IN CR.NO.5/2024 AS PER ANNEXURE B DATED 12.01.2024 FOR THE ALLEGED OFFENCE P/US// 354,504 R/W SEC.34 OF IPC FILED BY THE Ist RESPONDENT POLICE AND ALL FURTHER PROCEEDINGS PURSUANT THERETO, ON THE FILE OF THE LEARNED JMFC 2nD COURT MANGALURU CITY MANGALURU AS PER ANNEXURE C.

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 FIR registered against the petitioners/accused Nos.1 and 2 in Crime No.5/2024, registered by Surathkal Police, for the offences punishable under Sections 354 and 504 read with Section 34 of IPC, presently pending on the file of learned JMFC, II Court, Mangalore City, Mangalore.

2. The brief facts of the case are, respondent No.2 lodged a complaint before respondent No.1-Police on 12.01.2024 alleging that on that day at about 05:45 a.m., the petitioners spoiled the Rangoli in front of her house and poured

water on the Rangoli and abused her by using filthy language. Prior to 12.01.2024 i.e., on 06.01.2024 at about 08:30 a.m., the petitioners abused the son of respondent No.2 in filthy language and threatened him with dire consequence. On the strength of the said complaint, FIR came to be registered in Crime No.5/2024 dated 12.01.2024 against the petitioners for the offences punishable under Sections 354 and 504 read with Section 34 of IPC. Aggrieved by the same, the petitioners/accused Nos.1 and 2 are before this Court.

3. Heard the learned counsel for the respective parties.

4. The primary contention of the learned counsel for the petitioners is, on perusal of the complaint averments it is clear that petitioner No.1 and respondent No.2 are the neighbors and there is a dispute between them. On the date of incident i.e., 12.01.2024, petitioner No.2 being the sister of petitioner No.1, came to the house of petitioner No.1 and out of previous animosity, a false complaint has been filed by respondent No.2 against the petitioners. According to him, respondent No.2 herself blocked the drainage in front of her

house and to that effect, a complaint was lodged by the residents before respondent No.1-Police and Mahanagara Palike, Mangalore. In such circumstances, by wreaking vengeance against the petitioners, a false complaint came to be lodged by respondent No.2. As such, registration of FIR and further proceedings against the petitioners would amount to abuse of process of Court. Accordingly, he prays to allow the petition.

5. The prayer of the petitioners is opposed by learned HCGP on the ground that the investigation is at nascent stage and the complaint averments clearly disclose the offences under Sections 354 and 504 of IPC, which has to be investigated in detail. Accordingly, he prayed to dismiss the petition.

6. It is contended by learned counsel for respondent No.2 that series of complaints are lodged by respondent No.2 against the petitioners in connection with the drainage dispute. Despite, the petitioners continued their illegal act and committed the incident. By placing reliance on the NCR registered against the petitioners, she submitted that there is

prima facie case made out against the petitioners. With these submissions, she prays to dismiss the petition.

7. I have given my anxious consideration to the submissions and perused the complaint, FIR and other documents made available on record.

8. As could be gathered from records, undisputedly, petitioner No.1 and respondent No.2 are the neighbors and there is a dispute between them in respect of the drainage water flowing in front of their house. Admittedly, petitioner No.2 is the sister of petitioner No.1 and she used to visit the house of petitioner No.1 frequently. Initially on 10.03.2023, a preventive action was taken by the Surathkal Police in PAR No.58/2023 against respondent No.2 and her family members. Accordingly, respondent No.2 executed a bond before the said Police. Later, a complaint also came to be lodged against respondent No.2 by the neighbours before respondent No.1-Police and Mahanagara Palike, Mangalore, for blocking the drainage by throwing waste into it. Subsequently, the present complaint came to be registered. The complaint averments also reveals that the complaint is filed only in respect of throwing

wastage to the drainage by respondent No.2. The complaint averments also does not disclose the specific allegations against the petitioners except some bald and omnibus allegations. Though it is stated in the complaint that on 06.01.2024 at about 08:30 a.m., the petitioners threatened the son of respondent No.2 with dire consequences, respondent No.2 did not lodged any complaint to that effect till 12.01.2024. As such, there is an inordinate delay in lodging the complaint and there is no explanation whatsoever forthcoming for the delay in lodging the complaint. In such circumstances, it could be gathered that the complaint came to be filed out of wreaking vengeance against the petitioners by respondent No.2 in connection with the drainage water.

9. 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.

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."*

10. Collocating the above findings in the judgment 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 are taken at its face value, no *prima facie* case is made out against the petitioners/accused Nos.1 and 2 and the complaint has been filed by respondent No.2 out of wreaking vengeance in connection with the drainage water dispute. In such circumstances, continuation of the proceedings against the petitioners/accused Nos.1 and 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 petitioners/accused Nos.1 and 2 in Crime No.5/2024, registered by Surathkal Police, for the offences punishable under Sections 354 and 504 read with Section 34 of IPC, presently pending on the file of learned JMFC, II Court, Mangalore City, Mangalore, is hereby quashed.

SD/-
(RAJESH RAI K)
JUDGE

HKV/List No.: 1 Sl No.: 18