HC-KAR

NC: 2026:KHC:64768
CRL.P No. 2704 of 2024

CNR: KAHC010167332024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO.2704 OF 2024

BETWEEN:

1. SRI. DILIP KUMAR JAIN,
   S/O SRI. ARJUNLAL JAIN,
   AGED ABOUT 49 YEARS,

2. SRI. ANIL KUMAR
   S/O SRI. ARJUNLAL JAIN,
   AGED ABOUT 51 YEARS,

   PETITIONERS NO.1 AND 2 ARE
   R/AT NO.11/3, VAROT VILLA
   2ND MAIN ROAD, NEAR GANDHI SCHOOL
   LOTTEGOLLAHALLI,
   BENGALURU - 560 094

Digitally signed by PANKAJA S
Location: HIGH COURT OF KARNATAKA

3. SRI. MANOHARLAL BORA
   S/O SRI. RAMALAL,
   AGED ABOUT 70 YEARS,
   R/AT HANUMAN BANKERS,
   PRISHRAM BUILDING,
   K.G.HALLI,
   BENGALURU - 560 015

...PETITIONERS

(BY SRI. GIREESHA R J, ADVOCATE)

AND:

1. STATE BY YESHWANTHPURA POLICE STATION,
   BENGALURU - 560 022
   REPRESENTED BY

HCGP, HIGH COURT OF KARNATAKA
BENGALURU - 560 001

2. SMT. PARVATHI,
W/O KANAKARAJ,
AGED ABOUT 24 YEARS,
R/AT SY.NO.41/5, 12TH F CROSS,
MUTTYALAMMA NAGAR,
MATHIKERE,
BENGALURU - 560 064.

…RESPONDENTS

(BY SRI. JAVEED S, HCGP FOR R1;
SRI. RAJANNA, ADVOCATE FOR R2)

THIS CRL.P IS FILED UNDER SECTION 482 OF CR.PC PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.29355/2023 ON THE FILE OF 24TH ADDL. CHIEF METROPOLITAN MAGISTRATE, BENGALURU REGISTERED BY THE 1ST RESPONDENT POLICE AGAINST PETITIONERS FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 354, 448, 149, 504 AND 506 OF IPC 1860, IN THE ENDS OF JUSTICE AND EQUITY.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

1. This petition is filed under Section 482 of Cr.P.C. to quash the proceedings against the petitioners/accused Nos.3 to 5 in C.C.No.29355/2023, arising out Crime No.17/2023, registered by Yeshwanthapura Police, for the offences punishable under Sections 354, 448, 504 and 506 read with

Section 149 of IPC, pending on the file of XXIV Addl. Chief Metropolitan Magistrate, Bengaluru.

2. The brief facts of the case are, respondent No.2 lodged a complaint before respondent No.1-Police on 10.01.2023 alleging that the petitioners are the absolute owners of property bearing Sy.No.41/5 measuring 15 guntas situated at Jalahalli Village, Bengaluru. They came into contact with one Manjunath-CW.4 and one Jawaharlal B. Kothari in the year 2014 and they agreed with the petitioners that they would construct a residential apartment in the said property. Accordingly, a Joint Development Agreement was executed between petitioner No.3, CW.4-Manjunath and Jawaharlal B. Kothari in the year 2014. Accordingly, the possession was handed over by the petitioners to the developers. However, CW.4 and Jawaharlal B. Kothari failed to commence the construction in the said property as agreed in the joint development agreement. Despite, on repeated request and enquiry by the petitioners, they failed to construct the apartment. It is further alleged that CW.4 and Jawaharlal, erected small sheds in the said building for the purpose of

construction and in those sheds, the labours were residing i.e., respondent No.2 was residing along with the family members. It is further alleged that on 08.12.2023 at about 10:00 a.m., the petitioners trespassed into the said property and made an attempt to demolish the sheds and threatened respondent No.2 and other employees and also outraged the modesty of respondent No.2. On the strength of said complaint, FIR came to be registered in Crime No.17/2023 dated 10.10.2023 for the offences punishable under Sections 506, 504, 354, 314 of IPC. Subsequently, respondent No.1-Police investigated the case and laid charge sheet against the petitioners for the aforementioned offences. Accordingly, the learned Magistrate took cognizance of the offences. Aggrieved by the same, the petitioners are before this Court.

3. Heard the learned counsel for the respective parties.

4. The primary contention of learned counsel for the petitioners is that this complaint has been lodged by respondent No.2 at the behest of CW.4 and Jawaharlal i.e, the builders between whom the petitioners entered into the joint

development agreement. However, CWs.4 and 5 failed to commence construction. On that aspect, a suit was instituted by CW.4 and Jawaharlal against the petitioners for recovery of money in O.S.No.7165/2022, which is pending for consideration. In order to give criminal colour to the said civil dispute, this complaint has been filed by CW.4 and Jawaharlal through respondent No.2. It is contended that the allegation in the complaint is totally bald and omnibus and ingredients of offences for which the petitioners have been charge sheeted do not attract against them. As such, continuation of 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 counsel for respondent No.2 and learned HCGP appearing for respondent No.1. They both jointly submit that now the charge sheet has been filed against the petitioners and the statements of material witnesses clearly reveal the involvement of these petitioners in the alleged crime i.e., serious allegation of outraging modesty by trespassing into the shed constructed by CW.4 and Jawaharalal, in which respondent No.2 and others

were residing. In such circumstances, *prima facie* case is made out against the petitioners and as such, proceedings cannot be quashed against them. Accordingly, they pray to dismiss the petition.

6. I have given my anxious consideration to the submissions of learned counsel for the respective parties and perused the complaint, charge sheet and other documents made available before this Court.

7. Admittedly, on scrutiny of the complaint averments, it is stated that respondent No.2 is an employee of CW.4 and Jawaharlal, who have entered into an joint development agreement with the petitioners in the year 2014 in respect of construction of an apartment in the property bearing No.41/5 measuring 15 guntas belongs to the petitioners. It is also not in dispute that subsequently the developers failed to commence construction of apartment on time. As such, there is a dispute between the petitioners and CW.4 and Jawaharlal. Subsequently, CW.4 and Jawaharlal filed a civil suit against the petitioners, which is pending in O.S.No.7165/2022. Later, this complaint has been filed in the year 2023 through respondent

No.2 - employee of CW.4 and Jawaharlal with a bald and omnibus allegation that the petitioners trespassed into the property and made an attempt to demolish the constructed shed. As a matter of fact, admittedly, the petitioners being the owners of the property, executed a joint development agreement and they had never relinquished their complete right over the said property. As such, entering to their property by the petitioners would not amount to trespassing and the other allegations of outraging modesty and foisting life threat and insulting respondent No.2 is concerned, the allegations are bald and omnibus without specifically stating the manner in which the petitioners committed the alleged offences. There is an inordinate delay of two days in lodging the complaint. According to the complainant, the incident said to have caused on 08.01.2023 in the morning hour. However, the complaint was lodged on 10.01.2023. The reason for the said inordinate delay has not been explained by respondent No.2. There is a delay in recording the statement of the witnesses also. In such circumstances, it could be gathered that this complaint has been filed by respondent No.2 at the behest of CW.4 and

Jawaharlal i.e., developers to give criminal colour to the civil dispute, which is pending for consideration. 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.*
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> ***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.*
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> ***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."

8. 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.*

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."*

9. Collocating the findings in the above judgments of the Hon'ble Apex Court to the facts and circumstances of this case, I am of the considered view that, even if all the allegations in the complaint and charge sheet are taken at their face value, no *prima facie* case is made out against the petitioners/accused Nos.3 to 5 and the complaint has been filed by respondent No.2 out of wreaking vengeance in order to give

criminal color to the civil dispute. In such circumstance, continuation of proceedings against the petitioners/accused Nos.3 to 5 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.3 to 5 in C.C.No.29355/2023, arising out Crime No.17/2023, registered by Yeshwanthapura Police, for the offences punishable under Sections 354, 448, 504 and 506 read with Section 149 of IPC, pending on the file of XXIV Addl. Chief Metropolitan Magistrate, Bengaluru, are hereby quashed.

SD/-
(RAJESH RAI K)
JUDGE

HKV
List No.: 1 Sl No.: 23