HC-KAR

NC: 2026:KHC:63367
CRL.P No. 5052 of 2022

CNR: KAHC010246382022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF NOVEMBER, 2026

BEFORE

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

CRIMINAL PETITION NO.5052 OF 2022

BETWEEN:

1. SRI. K. PRAKASH SHENOY,
S/O K. SURENDRA SHENOY,
AGED ABOUT 44 YEARS,
R/AT NO.3-221, HALEPETE,
NEAR VIKRAM LODGE,
LAILA VILLAGE, UJIRE,
DAKSHINA KANNADA,
KARNATAKA-574 240.

2. SRI. PRADEEP POOJARY,
S/O SEETHARAMA POOJARY,
AGED ABOUT 36 YEARS,
R/AT SRI DEVI KURUPA HOUSE,
NO.2-79A, MEGINA ULIRODY,
KUKKIPADY, SANGABETTU,
DAKSHINA KANNADA,
KARNATATKA-574 237.

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Location: HIGH COURT OF KARNATAKA

3. SRI. ROHITH K,
S/O JARAPPA NAIKA,
AGED ABOUT 37 YEARS,
R/AT NO.3-93/2,
SIDDAVANA, UJIRE,
DAKSHINA KANNADA,
KARNATAKA-574 240.

4. SRI. THARANATHA G.S. SHETTY,
S/O GOVINDA S. SHETTY,

AGED ABOUT 33 YEARS,
R/AT: 2/5, MANJUNATHA NILAYA,
CHANTHARU HOUSE ROAD,
SEETHANADI, KARKALA TALUK,
NADPALU, UDUPI,
KARNATAKA-576 112.

…PETITIONERS

(BY SRI. H.S. CHANDRAMOULI, SENIOR COUNSEL FOR
SRI. AARON THOMOS &
SMT. KEERTHANA NAGARAJ, ADVOCATES)

AND:

1. STATE OF KARNATAKA,
BY THE POLICE OF
MANGALORE WOMEN POLICE STATION,
MANGALORE CITY-575 001,
REP. BY THE STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BENGALURU-560 001.

2. SMT. NAGAVENI N,
W/O NOT KNOWN,
AGED ABOUT 58 YEARS,
R/AT NALANDA, KHB COLONY,
MODAMKAPU POST,
AMTADI, BANTWAL TQ,
MANGALURU CITY,
KARNATAKA-574 219.

…RESPONDENTS

(BY SRI. MOHAMMED AYUB ALI, ADDL. SPP FOR R1;
SRI. ADITYA D., ADVOCATE FOR R2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO QUASH THE FIR IN CR.NO.43/2022 OF WOMEN P.S., MANGALURU CITY, REGISTERED FOR THE ALLEGED OFFENCES PUNISHABLE UNDER SECTIONS 507, 509

AND 354 R/W SECTION 149 OF IPC, PENDING ON THE FILE OF THE LEARNED 3RD JMFC COURT, MANGALURU.

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 the learned counsel for the petitioners, the learned Additional SPP appearing for respondent No.1/State and the learned counsel for respondent No.2/complainant.

2. The prayer sought in the petition is to quash the proceedings initiated against the petitioners in Crime No.43/2022 based on the complaint given by respondent No.2/complainant, for the offences under Sections 507, 509, 354 read with Section 149 of IPC.

3. The learned counsel for the petitioners brought to the notice of this Court the contents of the complaint, wherein an allegation is made that unknown persons from 12.11.2021 until December 2021 have defamed her by sending postcards to the Principals of all the colleges of Mangalore University in obscene and vulgar language. In January 2022, they have

written obscene and vulgar letters against her to all the Professors in the seniority list of Kannada and Commerce Department of Mangalore University. After this, anonymous, obscene calls have been coming to her mobile No.9481758525 from 08.02.2022. In February 2017, a false complaint of caste abuse was filed by the College administration along with Mr. Prakash Shenoy, through Rohit, a mason working in the College. The police investigated the matter and filed the 'B' report. One Mayila filed a petition to the High Court stating that her appointment at SVS College was by making a forgery and sought an order to get back the salary given to her and the same was dismissed on 12.11.2021. Thus in one way or the other, SVS College Management has been harassing her. It is stated that in the complaint that the case filed against her by Mayila has been concluded, she has a strong suspicion that Prakash Shenoy and his associates are deliberately giving her trouble so that she should not work in the said College. Based on the complaint given to the Police Inspector, case was registered in Crime No.43/2022, for the offence punishable under Sections 354, 507, 509 read with Section 149 of IPC.

4. The learned counsel for the petitioners would submit that this complaint was given on 19.04.2022 and on the very day the petitioners were arrested and produced before the Court and they were taken to police custody i.e., petitioner Nos.1 for 2 days and other petitioners for a period of 4 days. The learned counsel brought to the notice of this Court that in the complaint it is only stated that the complainant has got suspicion against the petitioners herein and there is no specific accusation made against these petitioners and it is only a strong suspicion that calls are received by her may be at the instance of some persons, but no prima facie material to believe the accusation. The learned counsel would vehemently contend that in order to invoke Section 354 of IPC i.e., outraging the modesty of a woman, criminal force must be used and the same is not found and ingredients of Section 354 of IPC is also not found. The learned counsel would submit that in order to invoke Section 507 and 509 of IPC also there is no any direct material against the petitioners to register the case. The learned counsel would contend that it is a classic case of abuse made by the complainant and at instance of the

complainant, the petitioners were taken to custody without any grounds.

5. The learned counsel relied upon the judgment of the Apex Court in the case of **NARESH ANEJA ALIAS NARESH KUMAR ANEJA v. STATE OF UTTAR PRADESH AND ANOTHER** reported in **(2025) 2 SCC 604,** wherein the ingredients of Section 354 of IPC is summarised. It is held that in the absence of prima facie evidence indicating use of any force against victim and requisite intent on part of the appellant, the question of invoking the offence under Section 354 of IPC does not arise. The learned counsel brought to the notice of this Court paragraph No.20, wherein discussion was made that a bare perusal of Section 354 of IPC reveals that for it to apply, the offence must be committed against a woman; criminal force must be applied against her; and such application of force must be with the intent to outrage her modesty. The learned counsel also brought to the notice of this Court paragraph No.21 wherein discussion is made with regard to criminal force and contend that such ingredient is missing in the case on hand, but the petitioners were taken to custody.

The learned counsel would contend that the learned Magistrate when the custody is sought, fails to apply his mind and even while seeking for custody also, the Investigating Officer must assign the reasons in view of the judgment of **ARNESH KUMAR v. STATE OF BIHAR** reported in **AIR 2014 SC 2756** and the same is also not complied with.

6. The learned counsel also brought to the notice of this Court the earlier complaint given by one Sri Rohith, who is petitioner No.3/accused No.3 against the complainant on 01.08.2017 invoking of SC/ST offences and submitted that 'B' report was filed in that case and only for that reason, he has been implicated as an accused and mere filing of earlier complaint and filing of 'B' report cannot be a ground to invoke Sections 354, 507 and 509 of IPC. The learned counsel would vehemently contend that in order to implicate these petitioners, nothing is placed on record and even phone numbers mentioned in the complaint also does not belong to these petitioners and only anonymous calls are received from the said phone numbers. The learned counsel would contend that the complainant only suspected the petitioners, but they were

arrested. Though the learned counsel would contend that arrest grounds are not mentioned, but the learned Additional SPP appearing for the State brought to the notice of this Court that grounds of arrest is communicated to the petitioners and his relatives.

7. The learned counsel for respondent No.2/complainant as well as the learned Additional SPP appearing for respondent No.1/State would submit that FIR is registered and it requires investigation and hence, the question of quashing the FIR does not arise and the matter has to be probed.

8. Having heard the learned counsel appearing for the respective parties, law is settled with regard to the quashing of FIR is concerned. When the complaint is filed, the complaint must disclose the ingredients of the offence, which have been invoked to probe the investigation. Having considered Section 354 of IPC, there must be assault or criminal force to a woman with intent to outrage her modesty and the same is missing in the complaint. In respect of other offences is concerned i.e.,

Sections 507 and 509 of IPC that these petitioners have done the said act is concerned, there is no any semblance of material except suspecting the role of these petitioners. The material discloses that there was a complaint by petitioner No.3 against the complainant and police have investigated the matter and filed the 'B' report. Merely because they are not having good relationship between them, there cannot be any prosecution and even for registration of the FIR also, the allegations made in the complaint must disclose the ingredients of the offence. As rightly pointed out by the learned counsel for the petitioners, there is no any material to connect these petitioners even for registration of the FIR also and on the very day of the registration of the complaint, these petitioners were arrested and produced before the Court and taken to the custody. The learned counsel for the petitioners brought to the notice of this Court that the learned Magistrate while sending the petitioners to custody also comes to the conclusion that it requires custodial interrogation, but nothing is found in the FIR to connect the petitioners. The complaint also does not disclose ingredients of any of the offences and offences also

punishable for a period of 1 year in respect of Section 354 of IPC and in respect of Sections 507 and 509 of IPC 2 years and 3 years.

9. The Apex Court in the judgment in the case of **Arnesh Kumar** (supra) and also in the subsequent judgments held that while seeking custody, the Investigating Officer must state the reasons and then the learned Magistrate has to give reasons for giving custody also. It is nothing but a classic case of misuse of powers by the Police arresting the accused persons on the same day without collecting any material that these petitioners were indulged in such a act and it is nothing but a high handedness of the police at the instance of the complainant. The complaint was given to the Police Inspector and case was registered invoking such offences and prima facie, no such material is found in the complaint and it does not disclose any committing of such offence by these petitioners and hence, it is nothing but an abuse of process. The Apex Court in the judgment in the case of **Naresh Aneja** (supra) has held that for invoking of Section 354 of IPC, there must be an assault and criminal force and the same is not found in the

case on hand. The Apex Court in its judgment in the case of **DINESHBHAI CHANDUBHAI PATEL v. THE STATE OF GUJARAT** reported in **2018 (3) SCC 104,** has held that the Court can quash the FIR if complaint does not disclose the committing of offence. Hence, the petition requires to be allowed.

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

ORDER:

The petition is allowed and the proceedings initiated against the petitioners in Crime No.43/2022 is quashed.

Sd/-
(H.P.SANDESH)
JUDGE

MD
List No.: 1 Sl No.: 35