HC-KAR

NC: 2026:KHC:59570
CRL.P No. 4661 of 2024

CNR: KAHC010281392024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO.4661 OF 2024

BETWEEN:

SMT. J.INDU
AGED ABOUT 40 YEARS,
W/O MANJUNATH,
R/AT NO.229, 3RD CROSS,
OLD POLICE STATION OPPOSITE
TYAGARAJANAGR,
BENGALURU 560070
(ADVOCATE
HAVING OFFICE AT ABOVE ADDRESS

…PETITIONER

(BY SRI. HEMANTH KUMAR K., ADVOCATE)

AND:

Digitally signed by PANKAJA S
Location: HIGH COURT OF KARNATAKA

1. THE STATE OF KARNATAKA
MICO LAYOUT POLICE,
BENGALURU
REP BY STATE PUBLIC PROSECUTOR
HIGH COURT COMPLEX
BENGALURU 560 001.

2. PANKAJ JAIN
AGED ABOUT 49 YEARS
S/O K.S.JAIN
R/AT 27, 16TH MAIN,

5TH B CROSS,
IAS OFFICERS COLONY,
BTM 2ND STAGE,
BENGALURU 560 069.

…RESPONDENTS

(BY SRI.MAHESHA P., HCGP F0R R-1;
MUTHURAJU A., ADVOCATE FOR R-2)

THIS CRL.P IS FILED U/S 482 OF CR.PC PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.28612/2023 FOR THE OFFENCE P/U/S 427 AND 448 R/W 34 OF IPC AGAINST THE PETITIONER, PENDING ON THE FILE OF VI ADDL. CMM AT BENGALURU.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

This petition is filed by the petitioner/accused No.2 under Section 482 of Cr.P.C. to quash the proceedings in C.C.No.28612/2023, arising out of Crime No.81/2023 dated 04.04.2023, registered by the Mico Layout Police Station, Bengaluru City, against the petitioner and accused No.1 for the offences punishable under Sections 427, 448 r/w 34 of IPC pending on the file of VI ACMM, Bengaluru.

2. The brief facts of the case are that respondent No.2 lodged a complaint before respondent No.1-Police on 04.04.2023, alleging that he had taken on rent a house belonging to the husband of the petitioner i.e., accused No.1, namely, Manjunatha, under a tenancy agreement dated 01.07.2021, at a monthly rent of Rs.23,100/-, by paying a deposit of Rs.1,45,000/-. Thereafter, respondent No.2 was running his office in the said premises.

3. It is further alleged that on 03.01.2023, the BESCOM authorities disconnected the electricity supply to the premises, which was brought to the notice of the petitioner and her husband-accused No.1. However, both of them allegedly abused respondent No.2 in filthy language. It is further alleged that the accused No.1 failed to restore the electricity supply, on account of which respondent No.2 suffered loss in his business. The further allegation is that on 26.03.2023, at about 10:30 a.m., the petitioner and accused No.1 trespassed into the said rented premises by breaking open the lock and cut the internet and telephone wires. They also allegedly damaged the furniture and the UPS and telephone board. Subsequently, they dumped

the said articles in front of the house of one Indumathi, CW-4. The articles were later recovered by the Police from the house of respondent No.2. As such, respondent No.2 lodged the complaint before respondent No.1-Police. On the basis of the said complaint, FIR came to be registered in Crime No.81/2023 dated 04.04.2023 for the aforesaid offences. Subsequently, respondent No.1-Police conducted investigation and filed the charge sheet against the petitioner and her husband, arraying them as accused Nos.1 and 2 respectively, for the offences punishable under Sections 427 and 448 r/w Section 34 of IPC. The offence punishable under Section 379 of IPC was dropped on the ground that the allegations constituting the said offence were not substantiated during the investigation. Accordingly, the learned Magistrate took cognizance of the aforesaid offences. Aggrieved by the same, the petitioner has preferred the present petition.

4. Heard the learned counsel for the petitioner and learned counsel for respondent No.2 and the learned HCGP.

5. Apart from urging several other contentions, learned counsel for the petitioner primarily contended that the dispute between the petitioner and respondent No.2 is purely civil in nature, arising out of the landlord-tenant relationship, and that, in order to give a criminal colour to the said dispute, a false case has been foisted against the petitioner. He submits that, after investigation, respondent No.1-Police dropped the offence punishable under Section 379 of IPC and filed the charge sheet only for the offences punishable under Sections 427 and 448 r/w Section 34 of IPC. He further contended that the offence punishable under Section 448 of IPC is not attracted against the petitioner, particularly when her husband, who is arrayed as accused No.1, is the owner of the premises.

6. It is further submitted that the offence punishable under Section 427 of IPC is also not attracted, as the allegations in the complaint and charge sheet are that the petitioner and her husband trespassed into the premises occupied by respondent No.2, damaged the office equipment and subsequently dumped the same in front of the house of CW-4. However, during the course of investigation, the Police conducted a mahazar in front

of the house of CW-4, wherein no such articles were found. Ultimately, the said articles were allegedly recovered from the house of respondent No.2. In such circumstances, the ingredients of the offence punishable under Section 427 of IPC are also not made out. Learned counsel further contends that respondent No.2 was a defaulter in payment of rent and, therefore, the petitioner insisted that him to vacate the premises. Instead of vacating the premises, respondent No.2 has allegedly lodged a false complaint against the petitioner and her husband. Accordingly, he prays to allow the petition.

7. *Per contra,* learned counsel for respondent No.2 opposed the petition on the ground that the charge sheet has already been filed and the statements of the witnesses disclose the involvement of the petitioner in the alleged offences. He further contends that the petitioner and her husband illegally trespassed into the premises occupied by respondent No.2 and ransacked the same, and that the articles removed from the premises were dumped in the house of CW-4. Subsequently, respondent No.2 shifted the said articles back to his premises and handed them over to the Police. Placing reliance on the

photographs produced before the Court, learned counsel submits that the same clearly demonstrate the involvement of the petitioner in the alleged incident. Accordingly, he prays to dismiss the petition.

8. The learned HCGP also opposed the prayer on similar grounds and prays to dismiss the petition.

9. I have given my anxious consideration both on the submission and perused the entire charge sheet materials.

10. As could be gathered from the records, admittedly, the landlord-tenant relationship between the husband of the petitioner and respondent No.2 is not in dispute. It is also not in dispute that respondent No.2 had failed to pay the electricity bill to BESCOM, pursuant to which the authorities issued a notice in that regard. It is in this background that the present complaint came to be lodged. It is pertinent to note that there is an inordinate delay of eight days in lodging the complaint. The alleged incident is stated to have taken place on 26.03.2023, whereas the complaint came to be lodged only on 04.04.2023. No satisfactory explanation is forthcoming either in

the complaint or in the charge sheet materials for the said delay. As rightly contended by learned counsel for the petitioner, the husband of the petitioner being the owner of the premises, the mere fact that the petitioner and her husband visited the premises would not, by itself, constitute criminal trespass. In the absence of material to establish the requisite ingredients of criminal trespass, the offence punishable under Section 448 of IPC is not attracted against the petitioner.

11. Insofar as the offence punishable under Section 427 of IPC is concerned, a perusal of the mahazar dated 06.04.2023 discloses that no such articles were recovered from the house of CW-4. It is the specific case of respondent No.2 that the petitioner and her husband entered the premises, ransacked the same and thereafter shifted the articles to the house of CW-4. However, the mahazar drawn at the said place does not support the alleged recovery. On the contrary, respondent No.2 subsequently produced certain articles before the Police, which came to be seized during the course of investigation. In such circumstances, the charge sheet materials do not disclose any reliable material to *prima facie* establish that the petitioner had

trespassed into the premises and damaged or ransacked the office equipment, as alleged.

12. On overall consideration of the entire charge sheet materials, it appears that the complaint has arisen out of the existing landlord-tenant dispute, coupled with the dispute relating to non-payment of electricity bills. In the circumstances, the possibility of respondent No.2 initiating the criminal proceedings out of vengeance cannot be ruled out. In such circumstances, the Hon'ble Apex Court, in ***Mahmood Ali v. State of U.P.***, reported in **(2023) 15 SCC 488**, at paragraph Nos.11 to 14, held as under:

> ***"11.*** *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.*
>
> ***12.*** *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.

13. *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 482CrPC 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.*

14.*State of A.P. v. Golconda Linga Swamy [State of A.P. v. Golconda Linga Swamy, (2004) 6 SCC 522 : 2004 SCC (Cri) 1805] , 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 : (Golconda Linga Swamy case [State of A.P. v. Golconda Linga Swamy, (2004) 6 SCC 522 : 2004 SCC (Cri) 1805] , SCC p. 527, paras 5-7)*

"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 [R.P. Kapur v. State of Punjab, 1960 SCC OnLine SC 21 : AIR 1960 SC 866] , this Court summarised some categories of cases where inherent power can and should be exercised to quash the proceedings : (SCC OnLine SC 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)

13. On collocating the aforesaid findings of the Hon'ble Apex Court with the facts and circumstances of the present case, I

am of the considered view that the complaint against this petitioner/accused No.2 has been lodged by respondent No.2 out of vengeance. As such, the continuation of the proceedings against the petitioner/accused No.2 is nothing but abuse of process of Court. Accordingly, I proceed to pass the following:

ORDER

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

ii. The proceedings against the petitioner/accused No.2 in C.C.No.28612/2023, arising out of Crime No.81/2023 dated 04.04.2023, registered by the Mico Layout Police Station, Bengaluru City, for the offences punishable under Sections 427, 448 r/w 34 of IPC, pending on the file of VI ACMM, Bengaluru, are hereby quashed.

SD/-
(RAJESH RAI K)
JUDGE

GPG
List No.: 1 Sl No.: 1