HC-KAR

NC: 2026:KHC:59444
CRL.P No. 6869 of 2021

CNR: KAHC010323812021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF OCTOBER, 2026

BEFORE

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

CRIMINAL PETITION NO. 6869 OF 2021 (482(Cr.PC) / 528(BNSS))

BETWEEN:

1. NANDITA KUMAR
   D/O BRIG.S.V.ABHAYANKAR,
   AGED ABOUT 53 YEARS,
   RESIDING AT CHIKKADANAHALLY
   FARM HOUSE, HUNSUR TALUK,
   MYSURU DISTRICT-571 103.

2. P M NANAIAH
   G M OASIS HOTEL, MYSURU
   S/O LATE P.U.MUDDAPPA
   AGED ABOUT 55 YEARS,
   AT CHIKKADANAHALLY FARM HOUSE,
   HUNSUR TALUK,
   MYSURU DISTRICT-571 103.

...PETITIONERS

Digitally signed by DEVIKA M
Location: HIGH COURT OF KARNATAKA

(BY SRI. SANDESH J. CHOUTA, SR.COUNSEL FOR
SRI AKSHAY RAVINDRA PRABHU, ADVOCATE)

AND:

1. STATE OF KARNATAKA BY
   BILIKERE POLICE STATION,
   BILIKERE, HUNSUR TALUK,
   BILIKERE-571 103

   REPRESENTED BY THE STATE PUBLIC
   PROSECUTOR
   HIGH COURT BUILDINGS,
   BENGALURU-560 001.

2. MR. C.L.MEENA
AGED ABOUT 56 YEARS
POLICE INSPECTOR
HAVING OFFICE AT
DIU, BIRLA MANDIR
NEW DELHI DIST,
NEAR BIRLA MANDIR PS,
MANDIR MARG COMPLEX
NEW DELHI- 110 001.

…RESPONDENTS

(BY SRI. MOHAMMED AYUB ALI, ADDL. SPP FOR
R1 AND R2, ADVOCATE)

THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO QUASH THE CHARGE SHEET REGISTERED IN C.C.NO.996/2019, ARISING OUT OF CR.NO.355/2018 OF THE BILIKERE P.S., REGISTERED AGAINST THESE PETITIONERS FOR THE OFFENCE P/U/S 186,353 OF IPC R/W 34 OF IPC, PENDING ON THE FILE OF THE ADDITIONAL CIVIL JUDGE (SENIOR DIVISION) AND JUDICIAL MAGISTRATE FIRST CLASS, HUNSUR TALUK, MYSURU.

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

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

ORAL ORDER

Heard learned counsel for the petitioner counsel and also the counsel appearing for the state.

2. The factual matrix of case of prosecution is that consequent upon the order passed by the Additional Metropolitan Magistrate Patiala House Court, New Delhi, issued search warrant to recover stolen property in connection with Crime No.129/2016 registered at Barakhamba Police Station, New Delhi and that FIR was registered on 01.08.2016. In pursuance of the said order, the complainant came along with his staff, as per the direction to conduct the search warrant on 28.09.2018. The present petitioner and her father, ie., petitioner no.1 and petitioner No.2 who have been arrayed as accused Nos.1 and 2 have obstructed the execution of search warrant and also further threatened the concerned persons by filing false complaint against them.

3. Learned counsel appearing for the petitioners brought to notice of this Court that based on complaint dated 28.09.2018 at New Delhi, complaint was given to the Station House Officer, Bilikere Police Station, Hunsur Taluk, Mysore District, Karnataka, where the crime was

registered. The counsel appearing for the petitioner brought to notice of this Court, the ingredients of Section 353 of IPC, and the same is not found in the complaint as per Annexure-A. Further, learned counsel appearing for the petitioner brought to notice of this Court regarding the contents of the complaint that though there were averments to attract the provisions of Section 186 of IPC, but there was no ingredients under Section 353 of IPC was found as there was no criminal force and though the said offence is cognizable, but when the ingredients of section 353 of IPC are not found, the other offence under Section 186 of IPC is only a non-cognizable offence.

4. Learned counsel also brought to notice of this Court, the bar under Section 195 (1) of the said Act and further demanded that if no ingredients in respect of Section 353 of IPC, it requires permission under Section 155(2) of Cr.P.C, to investigate the matter under Section 186 of IPC. The Court has to take note of the ingredients of the offences which have been invoked in the complaint

at Annexure-A and the same is missing. Apart from that, counsel also brought to notice of this Court that when the original complaint was registered in Crime No.129/2016 of 1.18.2016 and the same was passed by the Delhi High Court on 18.01.2024, in view of the amicable settlement arrived between the parties, memo along with the said order passed by the Delhi High Court is also placed before the Court. Learned counsel vehemently contended that statement of CW1 to CW7 never discloses anything about any force was used by these petitioners and when no such statements of using of criminal force, question of attracting Section 353 of IPC does not arise. The counsel also relies upon judgment of the Apex Court reported in 2025 SCC Online SC 1066, ***Umashankar Yadav Versus State of Uttar Pradesh*** through Chief Secretary and another reported in ***2025 SCC Online SC 1066***. Learned counsel brought to notice of this Court wherein a reference was made invoking of similar set of facts and circumstances i.e., offences under Section 186 of IPC as

well as Section 353 of IPC, the counsel mainly brought to notice of this Court the paragraph No.10, paragraph No.14 and 17, wherein the ingredients of the offence under Section 353, as well as 186 of IPC were taken note of in paragraph Nos.18 and 19 and so also the words 'force' and 'criminal force' are defined in Section 349 and 356 of IPC and assault is defined in Section 351 of the said Code in paragraph No.20 and also brought to notice of this Court paragraph nos.22 and 24. In a similar set of facts and circumstances, the counsel brought to notice of this Court, the discussions made in paragraph Nos.30, 31, 32, wherein the Apex Court comes to the conclusion that if no grounds are made out, to invoke the ingredients of offence under Section 353 and so also discussed with regard to Section 195 of Cr.P.C., inter alia provides, no court shall take cognizance of offence under Section 186 of IPC, and except on a complaint in writing by the aggrieved Public Servant or his Superior and quashing of the same. The Counsel relying upon this Judgment would vehemently

contend that this Judgment is aptly applicable to the case on hand, and hence it is a case for quashing.

5. Per contra, learned counsel appearing for the respondent/State brought to the notice of this Court at Annexure-A that the very recitals of the document at Annexure-A, complaint, that there was a threat by these petitioners that they are going to file a false complaint and also specific averment made that in view of the said circumstances of obstruction made by them in discharging the official duty, they left the premises without execution of search warrant under the videography by photographer from both side.

6. Having heard learned counsel appearing for the petitioners and also the counsel appearing for the respondent/State and upon perusal of the contents of the complaint, this court is of the considered view that the very complaint dated 28.09.2018 is the genesis for setting the law into motion. No doubt the complainant came

along with other staff and videographer to conduct the search warrant, but it is also found that in the complaint on the very same day from 13:40 hours served a notice upon the first petitioner in compliance of the Court order and the same was received by her and allowed the search at premises at 15:00 hours and when they started the same, the second petitioner also joined along with the first petitioner in causing the obstruction and police based on the complaint, investigated the matter and filed the charge sheet. The main contention of the learned counsel appearing for the petitioners is that if no ingredients of Section 353 of IPC is made out, therefore question of entertaining and taking of cognizance by the Court, does not arise under Section 195(1)(a) of Cr.P.C., It is also to be noted that the Court has to take note of the contents of the complaint at Annexure-A and having perused the Annexure-A any ingredients of the offence under Section 353 of IPC is not found that the criminal force was used, except allegation of causing obstruction in order to attract

Section 186 of IPC and the same is a non cognizable offence. No doubt if the offence is made out in respect of the punishment under Section 353 of IPC, then there would be a force in the contention of the counsel appearing for the State that the ingredients of Section 353 of IPC is also made out.

7. Having taken note of the contents of the complaint at Annexure-A, as well as statement of witnesses which have been recorded particularly CW2 to CW6 and they also spoken about causing of obstruction and nothing is mentioned about using of criminal force by these petitioners. The Court also to take note of column number 17, allegation made in the charge sheet and no doubt, offences are invoked against these petitioners, nothing is found ingredients of Section 353 of IPC and no use of criminal force. When such being the case, the principle laid down in the judgment of the apex Court referred supra with the counsel appearing for the petitioner, aptly applicable to the case on hand and there

is no any ingredients of offence under Section 353 of IPC. When such being the case, excluding this offence other offence is non-cognizable offence and if it is a non-cognizable offence, then under Section 155 (2) of Cr.P.C, requires a permission to investigate the matter, and when such being the case, in a similar set of facts and circumstances, the Apex Court has quashed the proceedings and when the same is applicable to the facts of the case on hand, and the same comes to the aid of the petitioner, it is a fit case to quash the proceedings.

8. It is also brought to the notice of this Court that the search was also, on account of pursuance of the order passed by the learned Magistrate at Delhi, consequent upon the Crime No.129/2016 and order was passed in 2017 and the complainant came to Bangalore to conduct the search in 2018 and subsequently in the year 2024, in view of the settlement arrived between the original complainant and respondent in the said crime, matter was also quashed in Crl.M.C.No.423/2024 and

Crl.M.A.No.1665/2024 by the Delhi High Court and column No.5 of the order is very clear that settlement agreement dated 23.07.2022, out of the lump sum settlement amount of Rs.3,52,00,000/- the sum of Rs.2,42,00,000/- was paid and balance amount of Rs.1,10,00,000/- is handed over to respondent no.2 in court by way of demand draft and court has to take note of the same i.e. subsequent development in the case on hand. The same is also an additional factor for consideration of quashing of the proceedings when the ingredients of offence under Section 353 of IPC is not made out, and hence it is a fit case to exercise the power under Section 482 of Cr.P.C., or otherwise if the matter is continued, it leads to miscarriage of justice and hence petitioners have made out the case to quash the proceedings.

In view of the discussions made above, I proceed to pass the following order,

This criminal petition is ***allowed***.

The proceedings against the petitioners in C.C.No.996/2019 arising out of Crime No.355/2018 registered at Bilikere police station pending on the file of Addl. Civil Judge and judicial Magistrate first Class, Hunsur Taluk, Mysuru is hereby quashed.

Sd/-
(H.P.SANDESH)
JUDGE

AKV
List No.: 1 Sl No.: 36