Reserved on : 27.08.2026
Pronounced on : 04.11.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 04TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 7018 OF 2026

BETWEEN:

AMAZON SELLER SERVICES PRIVATE LIMITED
(INCORRECTLY MENTIONED AS AMAZON IN
FIR NO. 32 OF 2026)
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956,
HAVING ITS REGISTERED OFFICE AT
SATTVA HORIZON, 2ND FLOOR,
SURVEY NO. 6/1 AND 7/1,
VINAYAK NAGAR, KATTIGENAHALLI,
VENKATALA VILLAGE, YELAHANKA HOBLI,
BENGALURU – 560 064

THROUGH ITS AUTHORISED SIGNATORY
MR.G.S. ARJUN KUMAR

...PETITIONER

(BY SRI SANDESH J.CHOUTA, SR.ADVOCATE FOR
SMT.GITANAJALI MIRIAM MATHEW, ADVOCATE)

Digitally signed by CHETAN B C
Location: High Court of Karnataka

AND:

1. STATE OF KARNTAKA
   BY SUBRAMANYAPURA POLICE STATION,
   THROUGH THE POLICE SUB INSPECTOR,
   SUBRAMANYAPURA SUB-DIVISION,
   BENGALURU CITY – 560 061
   REPRESENTED BY
   STATE PUBLIC PROSECUTOR,
   HIGH COURT OF KARNATAKA,
   AMBEDKAR VEEDHI,
   BENGALURU – 560 001.

2. SMT. BHAVANA BELAGERE,
   D/O LATE RAVI BELAGAERE
   AGED ABOUT 40 YEARS
   RESIDING AT NO.1082,
   SOBHA CLOVELLY APARTMENT
   SUBRAMANYAPURA MAIN ROAD
   PADMANABHANAGARA, BENGALURU CITY
   KARNATAKA – 560 061.

…RESPONDENTS

(BY SRI B.N.JAGADEESHA, SPP-I FOR R-1;
SMT.ANITHA S.M.PATIL, ADVOCATE FOR R-2)

THIS CRL.P IS FILED U/S 528 OF BNSS., (ERSTWHILE SECTION 482 OF CR.P.C., PRAYING TO 1. QUASH THE FIR DATED 04.02.2026 REGISTERED IN CR.NO.0032/2026 BY RESPONDENT NO.1 SUBRAMANYAPURA POLICE STATION, BENGALURU CITY UNDER SECTIONS 51(1)(b) AND 63 OF THE COPYRIGHT ACT, 1957 AGAINST THE PETITIONER, COPY WHEREOF IS PRODUCED HEREWITH AS ANNEXURE-A, PURSUANT THERETO; 2. QUASH THE

COMPLAINT DATED 04.02.2026, FILED BY RESPONDENT NO.2 BEFORE RESPONDENT NO.1, IF ANY/ AS REFERRED TO IN THE IMPUGNED FIR, PURSUANT TO WHICH THE FIR BEARING CR.NO.0032/2026 CAME TO BE REGISTERED AGAINST THE PETITIONER.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 27.08.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioner, accused - Amazon Seller Services Private Limited ('Amazon' for short), is before this Court calling in question the registration of a crime in Crime No.32 of 2026 for the offences punishable under Sections 51(1)(b) and 63 of the Copyright Act, 1957 ('the Act' for short).

2. Heard Sri Sandesh J. Chouta, learned senior counsel for the petitioner, Sri B.N.Jagadeesha, learned State Public Prosecutor – 1

for respondent No.1 and Smt. Anitha S.M.Patil, learned counsel for respondent No.2.

3. Facts, in brief, germane are as follows:

3.1. The petitioner, Amazon, is an online marketplace intermediary, on which third party sellers sell several products, one such product being a book by name 'ಹೇಳೆ ಹೋಗು ಕಾರಣ', authored by the late Ravi Belagere. Respondent No.2 is the complainant, Bhavana Belagere, the daughter of the late author. The complainant is the proprietor of the publication by name Bhavana Prakashana, which possesses the copyright of the book. The complainant registers a complaint on 04.02.2026 alleging that unauthorised reproduction and sale of copies of the book is happening on the online platforms of Amazon, Flipkart and Meesho, in purportedly pirated form at ₹149/-, whereas the maximum retail price of the book is ₹350/-. Respondent No.2, the authorised publisher of the book, claims exclusive publication rights, alleging financial loss and infringement of the copyright. On the basis of the complaint, the jurisdictional police register a crime in Crime No.32 of 2026 for the aforesaid offences. On 05.05.2026, a police notice comes to be issued upon

the petitioner, directing it to appear and cooperate with the investigation. In the notice, the petitioner is said to have been specifically called upon to furnish details regarding the listing of the book on its platform in the name of one Mala M. on 17.01.2026, the source of procurement and the agreement relating to the book. The petitioner replies to the notice through its Law Enforcement Response Team, confirming that the listing of the book has been taken down from the platform pursuant to an oral direction on 07.05.2026. The petitioner also furnishes the details available in its record. It is at that stage that the petitioner is before this Court in the subject petition.

4. Sri. Sandesh J. Chouta, learned senior counsel appearing for the petitioner, would vehemently contend that the petitioner operates as an online marketplace, facilitating transactions between independent third party sellers and buyers, and neither publishes, manufactures, procures nor sells the impugned book. The listing and pricing are controlled by the respective sellers. Amazon serves only as a platform and beyond that there is no act of the petitioner to be drawn into the web of crime. He would submit that the petitioner is

an intermediary as obtaining under Section 2(1)(w) of the Information Technology Act, 2000 ('the IT Act' for short) and is entitled to the statutory safe-harbour protection under Section 79(2) and (3) of the IT Act, read with the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. No allegation attracts the exceptions under Section 79 of the IT Act, namely abetment or connivance in the unlawful act. The petitioner is only required to do its due diligence, and it has infact complied with its statutory obligations of due diligence.

4.1. Learned senior counsel for the petitioner further contends that mere selling or listing of the book at a discount price that does not mean to pirate the book and would not infringe the copyright and there is no material in that regard. Learned senior counsel would rely upon certain judgments of the Apex Court and that of this Court to buttress his submissions that the offences under Sections 51(1)(b) and 63 of the Act cannot be laid against an intermediary – the petitioner.

5. Sri B.N.Jagadeesha, learned State Public Prosecutor - 1 would refute the submissions contending that the petitioner's claim

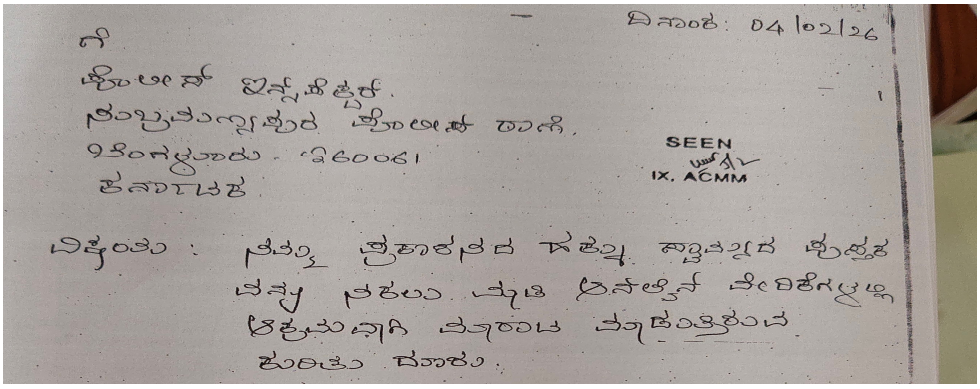
that there is compliance of due diligence requirement is completely disputed, as the question is serious dereliction of due diligence. In terms of the petitioner's own records, it indicates that approximately 6,719 copies of the book were sold in the year 2019, whereas, the number of copies published by respondent No.2, who has copyright has printed only 3,000 copies of the book. Learned State Public Prosecutor submits, wherefrom the difference of 3,800 copies of the book came to be sold by the petitioner - intermediary is what is required to be investigated. He would submit that mere reliance on seller agreement and declaration of intermediary status, cannot by itself establish compliance of due diligence obligations. He would submit that the petition be dismissed and seeks continuation of investigation.

6. Smt. Anitha S.M.Patil, learned counsel for respondent No.2 would also toe the lines of the learned State Public Prosecutor -1 – Sri B.N.Jagadeesha, contending that the protection under Section 79 of the I.T.Act is conditional and not absolute. The petitioner must establish the compliance with the requirement of statutory due diligence under the Act. It cannot be presumed on the basis of

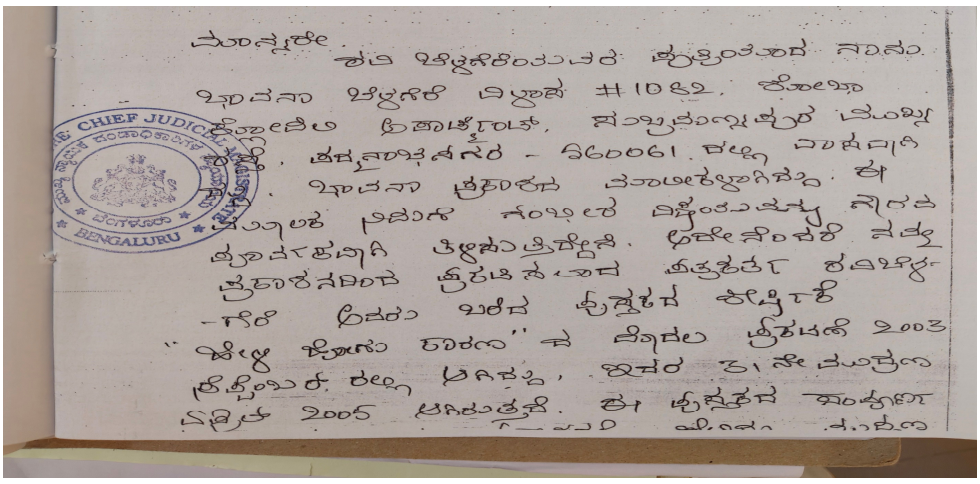
assertions. On the removal of the subsequent listing, does not extinguish the allegations against the petitioner. The authenticity of the sellers on the platform of the petitioner and the compliance of statutory requirement of due diligence must be investigated into and the defense of the petitioner cannot be accepted. Learned counsel submits that under Section 528 of the BNSS, the defense of the accused should not be looked into as there are seriously disputed questions of fact, which cannot be adjudicated in a petition filed under Section 528 of the BNSS, that too at this stage. Learned counsel would further contend that the petitioner in the petition avers that infringing listings were blocked. The petitioner blocked the listing of her authorized reseller of the book in Kannada due to the complaint, while other sellers continue to sell the books on Amazon platform and therefore, matter requires investigation is her submission.

7. I have given my anxious consideration to the submissions made by the respective learned counsel for the parties and have perused the material on record.

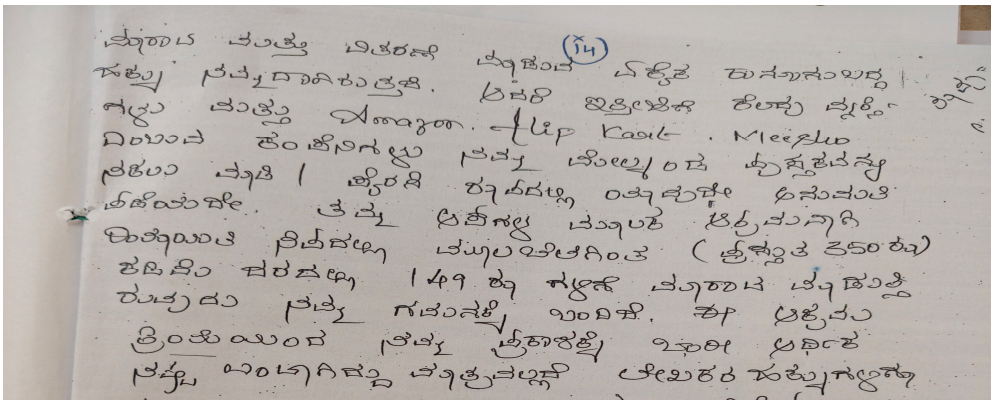
8. The afore-narrated facts, dates, link in the chain of events and the position of the parties are all a matter of record. Respondent No.2 is the proprietor of one publication – Bhavana Prakashana, who is the daughter of the author of the book. The entire issue now gets triggered from the registration of the complaint on 04.02.2026. It reads as follows:

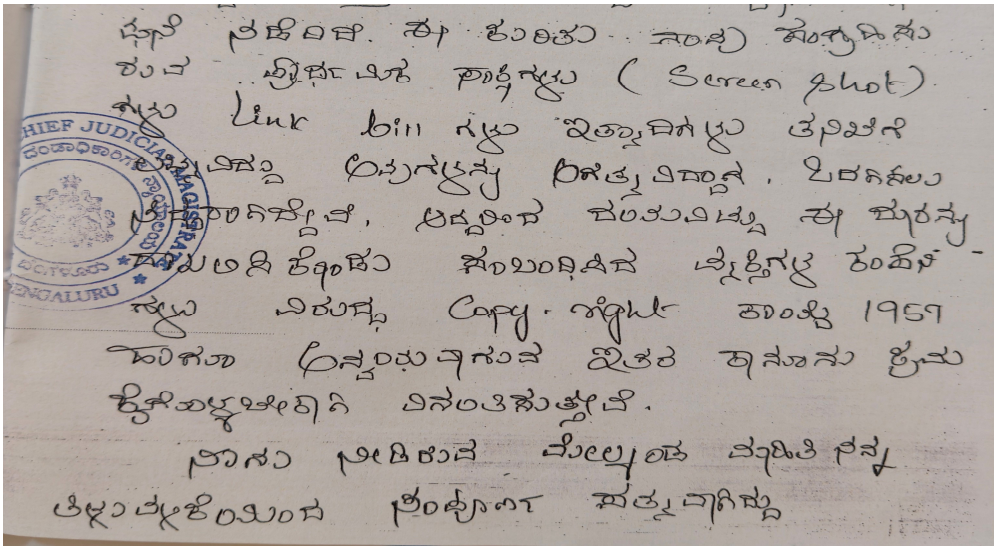


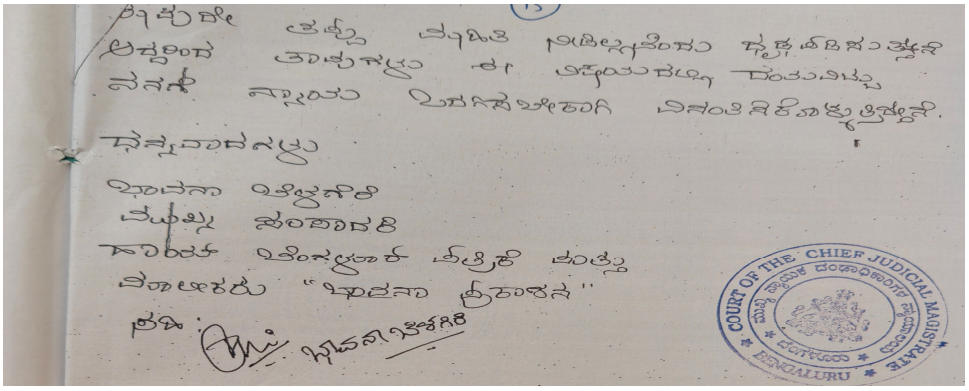
SEEN
IX. ACMM



CHIEF JUDICIAL MAGISTRATE BENGALURU




CHIEF JUDICIAL MAGISTRATE
BENGALURU


COURT OF THE CHIEF JUDICIAL MAGISTRATE
BENGALURU

Then, the complaint becomes a crime in Crime No.32/2026. The complaint is against Amazon, Flipkart and Meesho, on the allegation that the book authored by late Ravi Belagare and published by Bhavana Prakashana, a publication owned by the complainant, is sold through the online platforms Amazon, Flipkart and Meesho, in pirated form without any authorization, as the maximum retail price of the book is ₹350/- and what is sold in three of the said online platforms is ₹149/-, without any valid authorization from the copyright holder.

8.1. The police then issue the notice on registration of the Crime No.32/2026. The notice reads as follows:

> From,
> Police Sub-Inspector
> Subramanyapura Police Station,
> Bangalore City.
>
> Date:-05/05/2026
>
> Section 35(3) B.N.S.S-23
> Police Notice
>
> In exercise of powers conferred by Section 35(3) of Bharatiya nagarik suraksha sanhita 2023, I the undersigned, Investigating Officer here By inform you that Case has been registered against you With Crime No-32/2026 Dated:-05/02/2026 in Subramanya Pura police Station under provisions of Sections 51(1)(b), 63 of Copy rights act As per the preliminary findings found in investigation I have believed that it is necessary to question you to as certain Facts & circumstances of above Said Case Therefore, you Are

directed to appear before Io For questioning At Subramanyapura Police Station within 3 days Once you receive this Notice.

You are hereby directed to strictly comply with all the following Instructions.

1. You shall not commit any offence in future.

2. You shall not influence/Tamper the witness/Witnesses in this case in any way.

3. You shall not intimidate, coerce or induce any person who is aware of the facts and circumstances of this case to testify before the court or the police.

4. You shall appear before the court when required and directed.

5. You shall cooperate with the investigation and participate in the investigation of this case when necessary.

6. You shall cooperate with the investigation of this case in a proper manner and shall give and state all the true facts when asked by the investigating officers without concealing any facts.

7. You shall produce all relevant documents or materials required for the investigation.

8. You shall provide cooperation and assistance in the identification and arrest of the co-accused.

9. You shall not destroy/allow to be destroyed any evidence relevant to the investigation/trial of this case.

10. Apart from the above directions, the investigating officer may impose other directions and conditions as per the gravity of the case.

11. you are instructed to give Complete details about who booked " ಹೇಳಿ ಹೋಗು ಕಾರಣ" book in name of mala.m. on

17/01/2026 Wing your Company Platform, from where did you procured/get the book? and details of agreement to tell the above Said book.

If you do not follow the instructions and directions given in this notice or do not appear, you will be arrested under Section 35(3) of the Indian Civil Code. BNSS act 2023

Contents: enclosed copy of FIR

Sd/-
Police Sub Inspector
Subramanyapura
Police Station
Bengaluru - 560 061

To,

Manager Amazon,
Bagmane Constellation Business Park,
Block-12, Bagmane Constellation, Service,
RD Ferns City, Doddanekkundi,
Bengalore-560048."

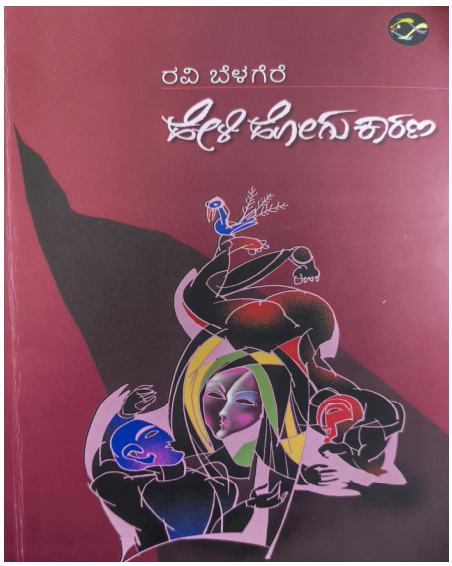
Reply of the petitioner to the afore-quoted notice is submitted not once, but twice and it is then, the petitioner approaches this Court.

9. The only submission of the learned State Public Prosecutor representing the State and the learned counsel for respondent No.2 – complainant is that, for an illustration that in the year 2019, the copyright holder of the book has published only 3,000 copies of the

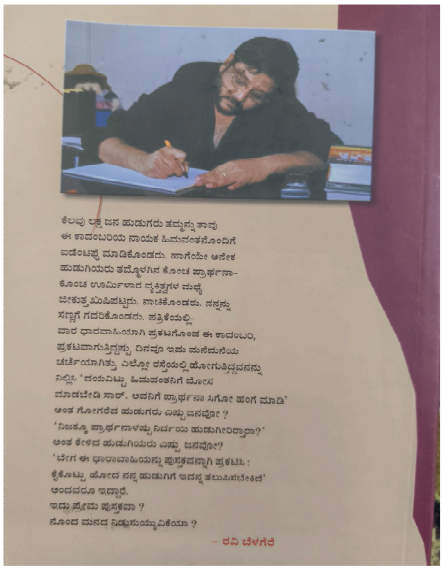
book and the petitioner - Amazon even in terms of its own pleadings or the documents appended to the petition indicates that it has sold 6,719 copies of the book, without the authorization of the publisher or the copyright holder. It is un-understandable as to how so many books are even sold through different channels without any verification.

10. The crime is at the nascent stage. On the very look at the books, which are the issue in the *lis*, *prima facie*, demonstrate that the book 'ಹೇಳಿ ಹೋಗು ಕಾರಣ' is pirated as the front and back cover pages of the book seems to be different, though the contents of the book are the same. The cover pages of both the books are as follows:

ORIGINAL WORK - FACE COVER



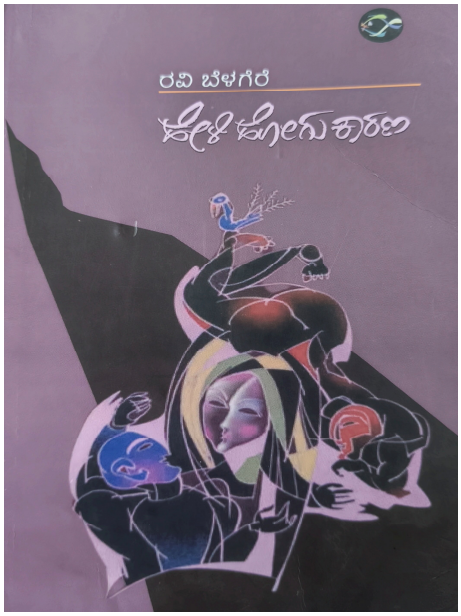
ORIGINAL WORK - BACK COVER



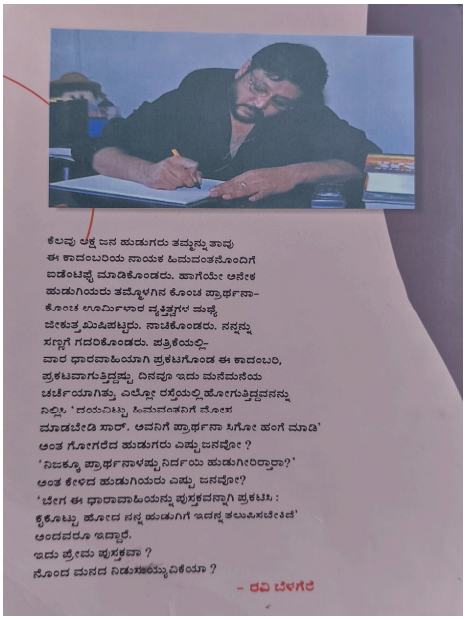
ಕೆಲವು ಲಕ್ಷ ಜನ ಹುಡುಗರು ತಮ್ಮನ್ನು ತಾವು
ಈ ಕಾದಂಬರಿಯ ನಾಯಕ ಹಿಮವಂತನೊಂದಿಗೆ
ಐಡೆಂಟಿಫೈ ಮಾಡಿಕೊಂಡರು. ಹಾಗೆಯೇ ಅನೇಕ
ಹುಡುಗಿಯರು ತಮ್ಮೊಳಗಿನ ಕೊಂಚ ಪ್ರಾರ್ಥನಾ-
ಕೊಂಚ ಊರ್ಮಿಳಾದ ವ್ಯಕ್ತಿಚಿತ್ರಗಳ ಮಜ್ಜೆ
ಜೇಕುತ್ತ ವಿಮರ್ಶಿಸಿಬಿಟ್ಟರು. ನಾಚಿಕೊಂಡರು. ನನ್ನನ್ನು
ಸನ್ನಗೆ ಗದರಿಕೊಂಡರು. ಪತ್ರಿಕೆಯಲ್ಲಿ-
ವಾರ ಧಾರವಾಹಿಯಾಗಿ ಪ್ರಕಟಗೊಂಡ ಈ ಕಾದಂಬರಿ,
ಪ್ರಕಟವಾಗುತ್ತಿದ್ದಷ್ಟು ದಿನವೂ ಇದು ಮನೆಮನೆಯ
ಚರ್ಚೆಯಾಗಿತ್ತು. ಎಲ್ಲೋ ರಸ್ತೆಯಲ್ಲಿ ಹೋಗುತ್ತಿದ್ದವನನ್ನು
ನಿಲ್ಲಿಸಿ 'ದಯವಿಟ್ಟು ಹಿಮವಂತನಿಗೆ ಮೋಸ
ಮಾಡಬೇಡಿ ಸಾರ್. ಅವನಿಗೆ ಪ್ರಾರ್ಥನಾ ಸಿಗೋ ಹಂಗೆ ಮಾಡಿ'
ಅಂತ ಗೋಗರೆದ ಹುಡುಗರು ಎಷ್ಟು ಜನವೋ ?
'ನಿಜಕ್ಕೂ ಪ್ರಾರ್ಥನಾಳಷ್ಟು ನಿರ್ದಯಿ ಹುಡುಗೀರಿರ್ತಾರಾ?'
ಅಂತ ಕೇಳಿದ ಹುಡುಗಿಯರು ಎಷ್ಟು ಜನವೋ?
'ಬೇಗ ಈ ಧಾರಾವಾಹಿಯನ್ನು ಪುಸ್ತಕವನ್ನಾಗಿ ಪ್ರಕಟಿಸಿ :
ಕೈಕೊಟ್ಟು ಹೋದ ನನ್ನ ಹುಡುಗಿಗೆ ಇದನ್ನ ತಲುಪಿಸಬೇಕಿತ್ತು'
ಅಂದವರೂ ಇದ್ದಾರೆ.
ಇದು ಪ್ರೇಮ ಪುಸ್ತಕವಾ ?
ನೊಂದ ಮನದ ನಿಡುಸುಯ್ಯುವಿಕೆಯಾ ?

- ರವಿ ಬೆಳಗೆರೆ

PIRATED WORK - FRONT COVER



PIRATED WORK – BACK COVER



ಕೆಲವು ಲಕ್ಷ ಜನ ಹುಡುಗರು ತಮ್ಮನ್ನು ತಾವು
ಈ ಕಾದಂಬರಿಯ ನಾಯಕ ಹಿಮವಂತನೊಂದಿಗೆ
ಐಡೆಂಟಿಫೈ ಮಾಡಿಕೊಂಡರು. ಹಾಗೆಯೇ ಅನೇಕ
ಹುಡುಗಿಯರು ತಮ್ಮೊಳಗಿನ ಕೊಂಚ ಪ್ರಾರ್ಥನಾ-
ಕೊಂಚ ಊರ್ಮಿಳಾದ ವ್ಯಕ್ತಿಚಿತ್ರಗಳ ಮಜ್ಜೆ
ಜೇಕುತ್ತ ವಿಮರ್ಶಿಸಿಬಿಟ್ಟರು. ನಾಚಿಕೊಂಡರು. ನನ್ನನ್ನು
ಸನ್ನಗೆ ಗದರಿಕೊಂಡರು. ಪತ್ರಿಕೆಯಲ್ಲಿ-
ವಾರ ಧಾರವಾಹಿಯಾಗಿ ಪ್ರಕಟಗೊಂಡ ಈ ಕಾದಂಬರಿ,
ಪ್ರಕಟವಾಗುತ್ತಿದ್ದಷ್ಟು ದಿನವೂ ಇದು ಮನೆಮನೆಯ
ಚರ್ಚೆಯಾಗಿತ್ತು. ಎಲ್ಲೋ ರಸ್ತೆಯಲ್ಲಿ ಹೋಗುತ್ತಿದ್ದವನನ್ನು
ನಿಲ್ಲಿಸಿ 'ದಯವಿಟ್ಟು ಹಿಮವಂತನಿಗೆ ಮೋಸ
ಮಾಡಬೇಡಿ ಸಾರ್. ಅವನಿಗೆ ಪ್ರಾರ್ಥನಾ ಸಿಗೋ ಹಂಗೆ ಮಾಡಿ'
ಅಂತ ಗೋಗರೆದ ಹುಡುಗರು ಎಷ್ಟು ಜನವೋ ?
'ನಿಜಕ್ಕೂ ಪ್ರಾರ್ಥನಾಳಷ್ಟು ನಿರ್ದಯಿ ಹುಡುಗೀರಿರ್ತಾರಾ?'
ಅಂತ ಕೇಳಿದ ಹುಡುಗಿಯರು ಎಷ್ಟು ಜನವೋ?
'ಬೇಗ ಈ ಧಾರಾವಾಹಿಯನ್ನು ಪುಸ್ತಕವನ್ನಾಗಿ ಪ್ರಕಟಿಸಿ :
ಕೈಕೊಟ್ಟು ಹೋದ ನನ್ನ ಹುಡುಗಿಗೆ ಇದನ್ನ ತಲುಪಿಸಬೇಕಿತ್ತು'
ಅಂದವರೂ ಇದ್ದಾರೆ.
ಇದು ಪ್ರೇಮ ಪುಸ್ತಕವಾ ?
ನೊಂದ ಮನದ ನಿಡುಸುಯ್ಯುವಿಕೆಯಾ ?

- ರವಿ ಬೆಳಗೆರೆ

This is where the due diligence that the petitioner had to undertake comes into play. Sections 51 and 63 of the Act read as follows:

> "**Section 51. When copyright infringed.—**
>
> Copyright in a work shall be deemed to be infringed—
>
> (a) when any person, without a licence granted by the owner of the copyright or the Registrar of Copyrights under this Act or in contravention of the conditions of a licence so granted or of any condition imposed by a competent authority under this Act—
>
> (i) does anything, the exclusive right to do which is by this Act conferred upon the owner of the copyright, or 1
>
> [(ii) permits for profit any place to be used for the communication of the work to the public where such communication constitutes an infringement of the copyright in the work, unless he was not aware and had no reasonable ground for believing that such communication to the public would be an infringement of copyright; or]
>
> **(b) when any person—**
>
> **(i) makes for sale or hire, or sells or lets for hire, or by way of trade displays or offers for sale or hire, or**
>
> **(ii) distributes either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright, or**
>
> **(iii) by way of trade exhibits in public, or**
>
> **(iv) imports 2*** into India, any infringing copies of the work:**

[Provided that nothing in sub-clause (iv) shall apply to the import of one copy of any work for the private and domestic use of the importer.]

Explanation.— For the purposes of this section, the reproduction of a literary, dramatic, musical or artistic work in the form of a cinematograph film shall be deemed to be an "infringing copy"".

Xxxxx

Section 63. Offence of infringement of copyright or other rights conferred by this Act.—

Any person who knowingly infringes or abets the infringement of—

(a) the copyright in a work, or

(b) any other right conferred by this Act 1 [except the right conferred by section 53A], 2

[shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees]:

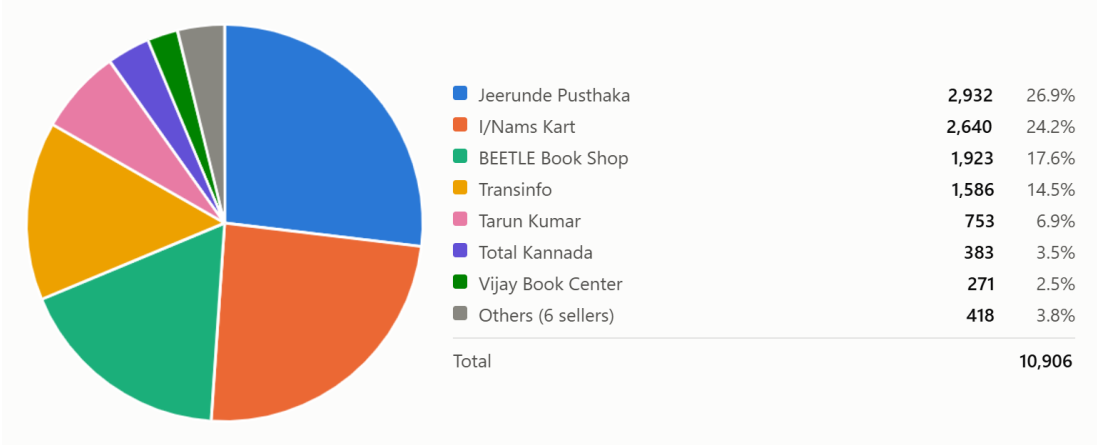
Provided that 1 [where the infringement has not been made for gain in the course of trade or business] the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months or a fine of less than fifty thousand rupees.]

Explanation.— Construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work shall not be an offence under this section."

Section 51(b)(i) of the Act contemplates that when the copyright is infringed. The copyright in a work shall be deemed to be infringed when a person makes for sale or hire, or sells or lets for hire, or by way of trade displays or offers for sale or hire. Section 51(b)(ii) of the Act contemplates that if any distribution of either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright and Section 51(b)(iii) and (iv) addresses commercial exhibition in public and importation of any infringed copies of the work respectively.

11. The crime is registered on 04.02.2026 and as observed hereinabove, the matter is at the stage of investigation. The facts obtaining in the case at hand are threshold seriously disputed questions of facts with regard to the statutory obligation of due diligence complied by the petitioner or otherwise. Admittedly, there is over sale of books, which are not even printed by the copyright holder and the difference is to the tune of 3800 copies of the book in the year 2019. In the reply dated 10.05.2026, submitted by the petitioner to the afore-quoted notice issued by the police, the petitioner had enclosed certain details available in its records

concerning the listings, sellers particulars, dates of sale and the sellers identification numbers and the number of units sold as on the even date. On the basis of the material provided by the petitioner, a pie chart indicating the listings details of the book is shown as follows:



12. These are the matters in the realm of the seriously disputed questions of facts. It is apposite to refer to the judgment of the Apex Court in the case of **KAPTAN SINGH v. STATE OF UTTAR PRADESH[1],** has held as follows:

"…. …. ….

9.1. At the outset, it is required to be noted that in the present case the High Court in exercise of powers

[1] **(2021) 9 SCC 35**

under Section 482 Cr.P.C.,, has quashed the criminal proceedings for the offences under Sections 147, 148, 149, 406, 329 and 386 IPC. It is required to be noted that when the High Court in exercise of powers under Section 482 Cr.P.C.,, quashed the criminal proceedings, by the time the investigating officer after recording the statement of the witnesses, statement of the complainant and collecting the evidence from the incident place and after taking statement of the independent witnesses and even statement of the accused persons, has filed the charge-sheet before the learned Magistrate for the offences under Sections 147, 148, 149, 406, 329 and 386 IPC and even the learned Magistrate also took the cognizance. From the impugned judgment and order [Radhey Shyam Gupta v. State of U.P., 2020 SCC OnLine All 914] passed by the High Court, it does not appear that the High Court took into consideration the material collected during the investigation/inquiry and even the statements recorded. **If the petition under Section 482 Cr.P.C.,, was at the stage of FIR in that case the allegations in the FIR/complaint only are required to be considered and whether a cognizable offence is disclosed or not is required to be considered. However, thereafter when the statements are recorded, evidence is collected and the charge-sheet is filed after conclusion of the investigation/inquiry the matter stands on different footing and the Court is required to consider the material/evidence collected during the investigation.** Even at this stage also, as observed and held by this Court in a catena of decisions, the High Court is not required to go into the merits of the allegations and/or enter into the merits of the case as if the High Court is exercising the appellate jurisdiction and/or conducting the trial. As held by this Court in Dineshbhai Chandubhai Patel [Dineshbhai Chandubhai Patel v. State of Gujarat, (2018) 3 SCC 104 : (2018) 1 SCC (Cri) 683] in order to examine as to whether factual contents of FIR disclose any cognizable offence or not, the High Court cannot act like the investigating agency nor can exercise the powers like an appellate court. It is further observed and held that that question is required to be examined keeping in view, the contents of FIR and prima facie material, if any, requiring no proof. **At such stage, the High Court cannot appreciate evidence nor can it draw its**

own inferences from contents of FIR and material relied on. It is further observed it is more so, when the material relied on is disputed. It is further observed that in such a situation, it becomes the job of the investigating authority at such stage to probe and then of the court to examine questions once the charge-sheet is filed along with such material as to how far and to what extent reliance can be placed on such material.

9.2. In Dhruvaram Murlidhar Sonar [Dhruvaram Murlidhar Sonar v. State of Maharashtra, (2019) 18 SCC 191 : (2020) 3 SCC (Cri) 672] after considering the decisions of this Court in Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , it is held by this Court that exercise of powers under Section 482 Cr.P.C.,, to quash the proceedings is an exception and not a rule. **It is further observed that inherent jurisdiction under Section 482 Cr.P.C.,, though wide is to be exercised sparingly, carefully and with caution, only when such exercise is justified by tests specifically laid down in the section itself. It is further observed that appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 Cr.P.C.**, Similar view has been expressed by this Court in Arvind Khanna [CBI v. Arvind Khanna, (2019) 10 SCC 686 : (2020) 1 SCC (Cri) 94] , Managipet [State of Telangana v. Managipet, (2019) 19 SCC 87 : (2020) 3 SCC (Cri) 702] and in XYZ [XYZ v. State of Gujarat, (2019) 10 SCC 337 : (2020) 1 SCC (Cri) 173] , referred to hereinabove.

9.3. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand, we are of the opinion that the High Court has exceeded its jurisdiction in quashing the criminal proceedings in exercise of powers under Section 482 Cr.P.C.,

10. The High Court has failed to appreciate and consider the fact that there are very serious triable issues/allegations which are required to be gone into and considered at the time of trial. The High Court has lost sight of crucial aspects which have emerged during the course of the investigation. The High Court has failed to appreciate and consider the fact that the document i.e. a joint notarised affidavit of Mamta Gupta

Accused 2 and Munni Devi under which according to Accused 2 Ms Mamta Gupta, Rs 25 lakhs was paid and the possession was transferred to her itself is seriously disputed. It is required to be noted that in the registered agreement to sell dated 27-10-2010, the sale consideration is stated to be Rs 25 lakhs and with no reference to payment of Rs 25 lakhs to Ms Munni Devi and no reference to handing over the possession. However, in the joint notarised affidavit of the same date i.e. 27-10-2010 sale consideration is stated to be Rs 35 lakhs out of which Rs 25 lakhs is alleged to have been paid and there is a reference to transfer of possession to Accused 2. Whether Rs 25 lakhs has been paid or not the accused have to establish during the trial, because the accused are relying upon the said document and payment of Rs 25 lakhs as mentioned in the joint notarised affidavit dated 27-10-2010. It is also required to be considered that the first agreement to sell in which Rs 25 lakhs is stated to be sale consideration and there is reference to the payment of Rs 10 lakhs by cheques. It is a registered document. The aforesaid are all triable issues/allegations which are required to be considered at the time of trial. The High Court has failed to notice and/or consider the material collected during the investigation.

11. Now so far as the finding recorded by the High Court that no case is made out for the offence under Section 406 IPC is concerned, it is to be noted that the High Court itself has noted that the joint notarised affidavit dated 27-10-2010 is seriously disputed, however as per the High Court the same is required to be considered in the civil proceedings. There the High Court has committed an error. Even the High Court has failed to notice that another FIR has been lodged against the accused for the offences under Sections 467, 468, 471 IPC with respect to the said alleged joint notarised affidavit. Even according to the accused the possession was handed over to them. However, when the payment of Rs 25 lakhs as mentioned in the joint notarised affidavit is seriously disputed and even one of the cheques out of 5 cheques each of Rs 2 lakhs was dishonoured and according to the accused they were handed over the possession (which is seriously disputed) it can be said to be entrustment of property. Therefore, at this stage to opine that no case is made out for the offence under Section 406 IPC is premature and the aforesaid aspect is to be considered during trial. It is also

required to be noted that the first suit was filed by Munni Devi and thereafter subsequent suit came to be filed by the accused and that too for permanent injunction only. Nothing is on record that any suit for specific performance has been filed. Be that as it may, all the aforesaid aspects are required to be considered at the time of trial only.

12. Therefore, the High Court has grossly erred in quashing the criminal proceedings by entering into the merits of the allegations as if the High Court was exercising the appellate jurisdiction and/or conducting the trial. The High Court has exceeded its jurisdiction in quashing the criminal proceedings in exercise of powers under Section 482 Cr.P.C.,

13. Even the High Court has erred in observing that original complaint has no locus. The aforesaid observation is made on the premise that the complainant has not placed on record the power of attorney along with the counter filed before the High Court. However, when it is specifically stated in the FIR that Munni Devi has executed the power of attorney and thereafter the investigating officer has conducted the investigation and has recorded the statement of the complainant, accused and the independent witnesses, thereafter whether the complainant is having the power of attorney or not is to be considered during trial.

14. In view of the above and for the reasons stated above, the impugned judgment and order [Radhey Shyam Gupta v. State of U.P., 2020 SCC OnLine All 914] passed by the High Court quashing the criminal proceedings in exercise of powers under Section 482 Cr.P.C., is unsustainable and the same deserves to be quashed and set aside and is accordingly quashed and set aside. Now, the trial is to be conducted and proceeded further in accordance with law and on its own merits. It is made clear that the observations made by this Court in the present proceedings are to be treated to be confined to the proceedings under Section 482 Cr.P.C., only and the trial court to decide the case in accordance with law and on its own merits and on the basis of the evidence to be laid and without being influenced by any of the observations made by us hereinabove. The present appeal is accordingly allowed."

12.1. The Apex Court in the case of **MUSKAN v. ISHAAN KHAN (SATANIYA)[2],** has held as follows:

"…. …. ….

C. ANALYSIS

17. The main issue that arises for our analysis is whether the High Court was right in quashing the criminal proceedings against the private respondents primarily on the ground that the earlier complaints did not mention the two specific incidents dated 22.07.2021 and 27.11.2022, which were later on added in the FIR and whether the same would not amount to conducting a '*mini trial*' which is clearly prohibited under the scheme of Section 482 of the Cr. P.C.

…. …. ….

22. On the aspect of the powers of the Courts under Section 482 of the Cr. P.C., it is settled that at the stage of quashing, the Court is not required to conduct a *mini trial.* Thus, the jurisdiction under Section 482 of the Cr. P.C. with respect to quashing is somewhat limited as the Court has to only consider whether any sufficient material is available to proceed against the accused or not. If sufficient material is available, the power under Section 482 should not be exercised.

23. This Court in the case of *State of Odisha* v. *Pratima Mohanty*[10] held that:

"**8.2.** It is trite that the power of quashing should be exercised sparingly and with circumspection and in rare cases. As per the settled proposition of law while examining an FIR/complaint quashing of which is sought, the court cannot embark upon any enquiry as

[2] 2025 SCC OnLine SC 2355

to the reliability or genuineness of allegations made in the FIR/complaint. Quashing of a complaint/FIR should be an exception rather than any ordinary rule. Normally the criminal proceedings should not be quashed in exercise of powers under Section 482 CrPC when after a thorough investigation the charge-sheet has been filed. **At the stage of discharge and/or considering the application under Section 482 CrPC the courts are not required to go into the merits of the allegations and/or evidence in detail as if conducting the mini-trial. As held by this Court the powers under Section 482 CrPC are very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the Court."**

24. Further in the case of *Central Bureau of Investigation* v. *Aryan Singh*[11], this Court held that at the stage of Section 482 of the Cr. P.C., the High Court is not required to conduct a mini trial.

> **"6. From the impugned common judgment and order [*Aryan Singh* v. *CBI*, 2022 SCC OnLine P&H 4158] passed by the High Court, it appears that the High Court has dealt with the proceedings before it, as if, the High Court was conducting a mini trial and/or the High Court was considering the applications against the judgment and order passed by the learned trial court on conclusion of trial. <u>As per the cardinal principle of law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the powers under Section 482 CrPC, the Court is not required to conduct the mini trial.</u> The High Court in the common impugned judgment and order has observed that the charges against the accused are not proved. This is not the stage where the prosecution/investigating agency is/are required to prove the charges. The charges are required to be proved during the trial on the basis of the evidence led by the prosecution/investigating agency."**
>
> (emphasis supplied)

25. This Court in *Neeharika Infrastructure Private Limited* (supra) gave following directions to the Courts exercising the power under Section 482 of the Cr. P.C.:

> "***Conclusions***
>
> 33. In view of the above and for the reasons stated above, our final conclusions on the principal/core issue, whether the High Court would be justified in passing an interim order of stay of investigation and/or "no coercive steps to be adopted", during the pendency of the quashing petition under Section 482 CrPC and/or under Article 226 of the Constitution of India and in what circumstances and whether the High Court would be justified in passing the order of not to arrest the accused or "no coercive steps to be adopted" during the investigation or till the final report/charge-sheet is filed under Section 173 CrPC, while dismissing/disposing of/not entertaining/not quashing the criminal proceedings/complaint/FIR in exercise of powers under Section 482 CrPC and/or under Article 226 of the Constitution of India, our final conclusions are as under:
>
> **33.1** ….
>
> **33.2.** Courts would not thwart any investigation into the cognizable offences.
>
> **33.3.** It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on.
>
> **33.4.** The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the "rarest of rare cases" (not to be confused with the formation in the context of death penalty).
>
> **33.5.** <u>While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint.</u>

33.6 ….

33.7. Quashing of a complaint/FIR should be an exception rather than an ordinary rule.

33.8 to 33.11 ….

33.12. The first information report is not an encyclopedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure.

33.13 and **33.14** …..

33.15. When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482 CrPC, only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR."

(emphasis supplied)

26. Further, this Court in the case of *State of Telangana* v. *Habib Abdullah Jeelani*[12] held that:

"13. There can be no dispute over the proposition that inherent power in a matter of quashment of FIR has to be exercised sparingly and with caution and when and only when such exercise is justified by the test specifically laid

down in the provision itself. <u>There is no denial of the fact</u> that the power under Section 482 CrPC is very wide but <u>it needs no special emphasis to state that conferment of wide power requires the Court to be more cautious. It casts an onerous and more diligent duty on the Court.</u>

14. In this regard, it would be seemly to reproduce a passage from *Kurukshetra University* [*Kurukshetra University* v. *State of Haryana*, (1977) 4 SCC 451 : 1977 SCC (Cri) 613] wherein Chandrachud, J. (as his Lordship then was) opined thus : (SCC p. 451, para 2)

> "2. It surprises us in the extreme that the High Court thought that in the exercise of its inherent powers under Section 482 of the Code of Criminal Procedure, it could quash a first information report. The police had not even commenced investigation into the complaint filed by the Warden of the University and no proceeding at all was pending in any court in pursuance of the FIR. It ought to be realised that inherent powers do not confer an arbitrary jurisdiction on the High Court to act according to whim or caprice. That statutory power has to be exercised sparingly, with circumspection and in the rarest of rare cases.""

(emphasis supplied)

27. We are of the view that the High Court has erred in law by embarking upon an enquiry with regard to credibility or otherwise of the allegations in the complaints and the FIR. Normally, for quashing an FIR, it must be shown that there exists no *prime facie* case against the accused persons. In the present case, from the conjoint reading of the complaints and the FIR, it can be seen that *prime facie* allegations of harassment and demand of dowry are made out, despite that the High Court quashed the FIR against the private respondents primarily on the ground that the earlier two complaints that were filed by the appellant did not mention the specific instances that happened on 22.07.2021 and 27.11.2022 and the same were later on mentioned in the FIR only as an afterthought and was a

counterblast to the legal notice sent by respondent no. 1/husband to the appellant as she was not coming back to her matrimonial home. This approach adopted by the High Court, in our considered opinion, amounts to conducting a *mini trial*."

(Emphasis supplied at each instance)

In the light of the afore-quoted judgments of the Apex Court and the facts obtaining in the case at hand, there is no warrant of interference at the stage of investigation, while reserving liberty to the petitioner to knock at the doors of the appropriate *fora* at the appropriate stage.

13. For the aforesaid reasons, the petition lacking in merit stands ***rejected.***

Sd/-
(M.NAGAPRASANNA)
JUDGE

NVJ