HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL REVISION PETITION NO. 1128 OF 2025

BETWEEN:

1 . MR. OWAIS UMER VAHEDNA
AGED ABOUT 51 YEARS,
S/O LATE UMAR ABDUL
SATTAR VAHEDNA,
PRESENTLY RESIDING AT
APARTMENT NO 301,
SKYLINE ELYSEE, NO 24,
VIVIANI ROAD,
FRASER TOWN,
BANGALORE - 560 005.

2 . MR. ATA ASHRAF VAHEDNA
AGED ABOUT 44 YEARS,
S/O LATE UMAR ABDUL
SATTAR VAHEDNA,
PRESENTLY RESIDING AT
APARTMENT NO 301,
SKYLINE ELYSEE, NO 24,
VIVIANI ROAD,
RICHARDS TOWN,
BANGALORE - 560 005.

(NOTE: MR. UMAR ABDUL SATTAR VAHEDNA
SINCE DEASED HENCE NOT MADE A PARTY)

...PETITIONERS

[BY SRI ARJUN REGO, ADVOCATE FOR
SRI REGO L.P.E., ADVOCATE (PH)]

Digitally signed by
GEETHAKUMARI
PARLATTAYA S
Location: High
Court of Karnataka

AND:

MRS. RASHIDA ANWAR
AGED ABOUT 66 YEARS,
W/O MOHAMMED ANWAR
ABDUL SATTAR VAHEDNA,
R/A HAMAD BIN SAUGHAT BUILDING,
APARTMENT NO 304,
3RD FLOOR, NAIF ROAD,
DEIRA DUBAI U A E AND
IN BANGALORE,
C/O RAFIA MUNEER FAZAL,
NO 7/4, CLARKE ROD,
RICHARD TOWN,
BANGALORE - 560 005.

…RESPONDENT

[BY SRI H.RAMACHANDRA, ADVOCATE (PH)]

THIS CRL.RP IS FILED U/S.397 R/W 401 CR.P.C., PRAYING TO SET ASIDE ORDER DATED 30.05.2025 PASSED IN PCR NO.14037/2017 ON THE FILE OF THE HONBLE VIII ACJM, BENGALURU AS PER ANNEXURE-A HERETO AND DIRECT HONBLE VIII ACJM, BENGALURU, TO TAKE COGNIZANCE OF THE COMPLAINT, REGISTER CASE AS A C.C AND ISSUE PROCESS TO THE ACCUSED IN PCR NO.14037/2017 ON THE FILE OF THE HONBLE VIII ACMM, BENGALURU, AND TO PROCEED IN ACCORDANCE WITH LAW AND ETC.,

THIS PETITION IS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 05.11.2025, THIS DAY, THE COURT, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

CAV ORDER

Challenging order dated 30.05.2025 passed by VIII ACJM, Bengaluru, in PCR.no.14037/2017 at Annexure-A refusing to take cognizance of offence punishable under Section 500 read with Sections 211 and 182 of Indian Penal Code, 1860 ('**IPC**' for short), this revision petition is filed.

2. Sri Arjun Rego, learned counsel appearing for Sri Rego LPE, advocate for petitioners (complainants) submitted, a private complaint was filed against respondent (accused) under Section 200 of Code of Criminal Procedure, 1978 ('**CrPC**' for short) stating that complainants and accused were relatives and there was dispute between them relating to ownership, construction, use, occupation and enjoyment of immovable property bearing Municipal no.20, A Cross, Benson Town, JC Nagar, Bangalore ('**Premises**', for short). It was alleged, accused and her family members were attempting to dispossess complainant from said premises, which was resisted. That on 03.04.2008, accused with malice, sinister and oblique motives lodged a patently false case against complainants alleging commission of offences punishable under Sections 448,

504 and 506 read with Section 34 of IPC. Based on complaint, Crime no.64/2008 came to be registered by JC Nagar Police Station, and later charge-sheet in CC no.4240/2009 was also filed, apparently in collusion with one Tanveer Ahmed, which dragged on for seven years until quashed by this Court in Crl.P.no.6136/2015 on 10.08.2016. It was stated, Hon'ble Lokayuktha had issued directions for exemplary action against said Tanveer Ahmed.

3. It was stated, macabre ordeal had etched indelibly immense embarrassment, fear, mental torment, loss of health, money as well as restriction of movement and apprehension of incarceration on complainants and required to be compensated. It was stated, litigation included appearance before Hon'ble Supreme Court at New Delhi, as follows:

(i) Crl.RP.no.330/2011
(ii) Crl.RP.no.286/2011
(iii) Crl.P.no.1311/2013
(iv) Crl.P.no.1999/2008
(v) WP.no.29694-95/2014
(vi) Crl.P.no.6136/2015
(vii) SLP(Crl.)3680/2014
(viii) SLP(Crl.)3708/2014
(ix) SLP(Crl.)3793/2014 and
(x) SLP(Crl.)3930/2014.

4. It was stated, same caused loss estimated at Rs.50 Lakhs, to which complainants reserved liberty to recover from accused. It was alleged accused had committed offences punishable under Sections 182, 211, 499 and 500 read with Section 34 of IPC and sought action against her.

5. Learned counsel drew attention of this Court to contents of complaint filed by accused describing present complainants as goondas etc., as well as to sworn statement recorded on 25.11.2023, wherein detailed description of acts of defamation and wrongful prosecution committed by accused against present complainants were substantiated along with documents. It was submitted, Hon'ble Supreme Court in case of ***Lachhman v. Pyarchand*** reported in ***1959 SCC OnLine Raj 18,*** had held statement made by a party in a complaint to Police would be sufficient publication for action under Sections 499 and 500 of IPC.

6. Further, relying on ratio in case of ***Vijay Dhanuka & Ors. v. Najima Mamtaj & Ors.*** reported in ***(2014) 14 SCC 638,*** it was submitted, there was failure to hold enquiry under Section 202 of CrPC and reason assigned that offence under

Section 500 read with Sections 211 and 182 of IPC form part of same transaction and therefore, bar against taking cognizance of one offence would be bar against others also was contrary to ratio laid down by Hon'ble Supreme Court in cases of ***State of UP v. Suresh Chandra Srivastava & Ors.*** reported in ***(1984) 3 SCC 92*** and ***State of Karnataka v. Hemareddy & Anr.*** reported in ***AIR 1981 SC 1417,*** wherein it was held where cause of action for several offences alleged were distinct and closure of prosecution for one offence would not automatically lead to closure of all prosecution. Based on above contentions, learned counsel sought for allowing revision petition.

7. On other hand, Sri H Ramachandra, learned counsel for respondent opposed revision petition. It was submitted, question of compliance with Sections 202 and 2(g) of CrPC would arise only in case of cognizable offences. Even on merits, it was submitted, offences alleged namely statements and conduct of witnesses in proceedings would be protected by Fifth Exception to Section 499 of IPC which reads:

Fifth Exception.— Merits of case decided in Court or conduct of witnesses and others concerned.— It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further.

8. In support of his submissions, learned counsel relied on ratio laid down by Hon'ble Supreme Court in case of ***Subramanian Swamy v. Union of India, Ministry of Law & Ors.*** reported in ***AIR 2016 SCC 2728***.

9. Apart from above, it was submitted, admittedly incident of defamation i.e., complaint filed by accused herein was on 03.04.2008. Therefore, private complaint filed herein i.e. PCR no.14037/2017 on 23.11.2017 more than 9 years after alleged incident would be clearly belated and as such trial Court had rightly refused to take cognizance of same. Therefore, no interference was warranted. On said grounds, sought dismissal.

10. Heard learned counsel and perused impugned order.

11. This revision petition is by complainants being aggrieved by order of trial Court refusing to take cognizance of offences alleged in private complaint filed by petitioners herein.

12. From contentions noted above, points arising for consideration are:

(i) *Whether statements made in a complaint filed before Police and deposition in trial, could give rise to cause of action for defamation under Section 499 of IPC?*

(ii) *Whether failure to hold enquiry as per Section 202 and 2 (g) of CrPC renders impugned order contrary to law and warrants interference?*

(iii) *Whether private complaint filed by petitioners in PCR no.14037/2017 on 23.11.2017 is barred by limitation?*

13. At outset, it would be beneficial to refer to observations of Hon'ble Supreme Court in case of **State of Bihar v. Lal Krishna Advani** reported in **AIR 1998 SC 236,** that *reputation is an integral and important aspect of dignity of every individual*. *The right to preservation of one's reputation is acknowledged as a right in rem, a right good against the entire world*.

14. Further, Hon'ble Supreme Court of India in **Shatrughna Prasad Sinha v. Rajbhau Surajmal Rathi** reported in **(1996) 6 SCC 263**; **State of Bihar v. Kripalu Shankar** reported in **1987 (3) SCC 34**; **Sewakram Sobhani v. RK Karanjia** reported in **(1981) 3 SCC 208** and also in **MC Verughese v. TJ Ponnan** reported in **AIR 1970 SC 1876** held, defamatory statement is made in judicial proceeding can give rise to cause of action for prosecution for offence under Section 500 IPC.

15. In fact, even in ***Subramanian Swamy***'s case (*supra*) relied upon by accused, it is held, '*a person making libelous statements in his complaint filed in court is not absolutely protected in a criminal proceeding for defamation*'. Insofar as immunity sought under Fifth Exception to Section 499 of IPC, Hon'ble Supreme Court therein clarified:

> **"*187.*** *The Fifth Exception stipulates that it is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal which has been decided by a court of justice, or respecting the conduct of any person as a party, witness or agent. The further stipulation is that the said opinion must relate to the character of the said person, as far as his character appears in that conduct…".*

16. To escape from consequences of statements made (including in judicial proceedings), it would require to be established that they fall within any of Exceptions to Section 499 of IPC, or made in good faith and without intention to harm reputation of person in respect of whom they are made.

17. Same view is taken by this Court in case of **Sushma Rani v. Nagaraja Rao** reported in **2020 SCC OnLine Kar 1913**, leading to conclusion that even statements made in course of judicial proceedings can give rise to prosecution for defamation.

18. In so far as failure to hold enquiry, it is seen that decision in ***Vijay Dhanuka***'s case (*supra*) is an authority for proposition, enquiry under Section 2(g) read with Section 202 of CrPC is mandatory, in case accused were residing beyond territorial jurisdiction of concerned Court with intent to protect innocent persons residing at far off places being harassed. Benefit of such mandate accrues to accused. But petitioners herein are complainants and cannot take recourse to same.

19. Insofar as period of limitation for initiation of prosecution for offence under Section 499 of IPC, it is seen Section 500 of IPC, prescribes maximum sentence of imprisonment for two years. Thus period of limitation applicable under Section 468 (2) (c) of CrPC would be, **three years**. Though punishment prescribed for offences under Section 182 of IPC is six months and in case of Section 211, maximum sentence is seven years, trial Court observed bar under Section 195 of CrPC for taking cognizance of offence under Section 182. And as all offences alleged arise out of same transaction, namely, filing of complaint and it was not possible to split transaction, bar under Section 195 of CrPC would be attracted to all offences. In ***Hemareddy***'s case (*supra)* reveals that offences alleged against accused therein were under Sections 120-B, 193, 465, 467, 468 and 420 read with Section 114 of IPC on allegation that accused had forged a document and registered it to wrest title over immovable property. But noting that said document was not produced in Court as evidence, it was held bar under Section 195 (1) (b) of CrPC would not be attracted. And even though in ***Suresh Chandra Srivatsava***'s case (*supra*), it is held, where cause of action for several

offences alleged were distinct, bar of prosecution for one offence would not attract to other offences, however, in instance case, complaint is genesis of all offences. Therefore, observation by trial Court would be justified.

20. In light of its above conclusion, Trial Court did not examine issue about complaint being barred by time. Though learned counsel for complainants sought to contend that period of limitation would commence from 10.08.2016 i.e., date of order passed by this Court in Crl.P.no.6136/2015, quashing proceedings initiated in pursuance of complaint dated 03.04.2008 filed by accused herein and registered as Crime no.64/2008 by JC Nagar Police Station, Bangalore, same would not be acceptable, as Section 469 of CrPC provides for no such exception and complainants have not made out any case for exclusion of period of limitation under Section 470 thereof.

21. Besides above, while passing impugned order, trial Court observed, contents of complaint and sworn statement of CW.1 do not indicate material to constitute offences alleged, especially to establish that assertions made by accused had lowered reputation of complainants.

22. In view of above discussion, points no.1 and 3 are answered in affirmative, while point no.2 is answered in negative.

Consequently, Revision Petition is ***dismissed***.

Sd/-
(RAVI V HOSMANI)
JUDGE

Psg*/AV/GRD
List No.: 1 Sl No.: 71