



IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 8TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CRIMINAL PETITION NO.101461 OF 2026

(482(Cr.PC)/528(BNSS))

BETWEEN:

GADILINGA S/O. DODDA BASAPPA,
AGE. 32 YEARS OCC. ADVOCATE,
R/O. NEAR CANAL TALUR ROAD,
BHAGATSING NAGAR, BALLARI,
TQ. AND DIST. BALLARI-583101.

...PETITIONER

(BY SRI. U.G. KATTIMANI, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
THROUGH MOKA P.S.I. BALLARI,
REP. BY STATE PUBLIC PROSECUTOR,
HIGH COURT BENCH, DHARWAD-580011.
2. SHARABHAYYA B. S/O. SIDDANAGOUDA B.
AGE. 49 YEARS, OCC. LABOURER,
R/O. WARD NO.05, BEHIND KARIBASAVESHWARA
TEMPLE, GUGGARAHATTI VILLAGE, BALLARI
TQ. AND DIST. BALLARI-583101.

...RESPONDENTS

(BY SMT. GIRIJA S.HIREMATH, HCGP FOR R1)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C. (UNDER SECTION 528 OF BNSS, 2023) PRAYING TO QUASH THE ENTIRE PROCEEDINGS OF MOKA P.S. CRIME NO.53/2026 PENDING ON THE FILE OF LEARNED IV ADDITIONAL CIVIL JUDGE AND JMFC BALLARI FOR THE OFFENCE PUNISHABLE UNDER SECTION 308 (2) AND R/W 3 (5) OF THE BHARTIYA NAYA SANHITA, 2023 IN SO FAR AS IT RELATES TO PETITIONER/ ACCUSED NO.1 AND ETC.,.

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





CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

ORAL ORDER

Heard the learned counsel appearing for the petitioner.

2. The petitioner is before this Court to quash the complaint and the FIR in Crime No. 53/2026 registered before Moka Police Station. The FIR is registered for the alleged offences under Sections 308(2) and 3(5) of Bharatiya Nyaya Sanhita, 2023 ('BNS' for short).

3. The learned counsel appearing for the petitioner would urge that, the contents of the complaint, if read and accepted in its entirety, do not attract any of the offences under the Bharatiya Nyaya Sanhita, 2023.

4. In support of his contention, the learned counsel would refer to the judgment of the Apex Court in ***State of Haryana and others v. Bhajan Lal and others***¹. Referring to the contents of the complaint, it is alleged that even according to the complainant, the petitioners were not in uniform. They have not disclosed as to which police station they belong. They

¹ AIR 1992 Page 604



have not instilled any fear in the mind of the complainant. They are not found in a vehicle belonging to the Police Department and this being the position, the ingredients of Section 308 of BNS are not attracted and would urge that the investigation is not required and registration of FIR is not justified.

5. Learned counsel elaborating his submission would also refer to Section 308 of BNS and the illustrations provided thereunder. Section 308 reads as under:

Illustrations:

- a) A threatens to publish a defamatory libel concerning Z unless Z gives him money. He thus induces Z to give him money. A has committed extortion.
- b) A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain monies to A. Z signs and delivers the note. A has committed extortion.
- c) A threatens to send club-men to plough up Z's field unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to signs and deliver the bond. A has committed extortion.
- d) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security. A has committed extortion.
- e) A threatens Z by sending a message through an electronic device that "Your child is in my possession,



and will be put to death unless you send me one lakh rupees." A thus induces Z to give him money. A has committed "extortion".

6. Learned counsel also invited the attention of the Court to the ratio in **Bhajan Lal's** case supra. Para No.8.1 of the said judgment reads as under:

"8.1. In the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code of Criminal Procedure, the following categories of cases are given by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guide- ĩ7 myriad kinds of cases wherein such power should be exer- cised:

(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the ac- cused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investi- gation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in



support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, State Of Haryana And Ors vs Ch. Bhajan Lal And Ors on 21 November, 1990 Indian Kanoon - <http://indiankanoon.org/doc/1033637/> 5 providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge. [305D-H; 306A-E] 8.2. In the instant case, the allegations made in the complaint, do clearly constitute a cognizable offence justifi- on and this case does not call for the exercise of extraor- dinary or inherent powers of the High Court to quash the F.I.R. itself. [307B] State of West Bengal v. S.N. Basak, [1963] 2 SCR 52; distinguished."



7. The Court has considered the contentions raised at the bar and perused the records.

8. On going through the contents of the complaint, it is evident that the allegation against the petitioners is that the petitioners projected themselves as the members of the squad from the Police Department. The petitioners allegedly stopped the complainant's vehicle and demanded ₹5,00,000/- as a bribe. The complainant has stated that, he has offered to pay ₹2,00,000/- and requested them not to insist for ₹5,00,000/-. It is stated that, one of the petitioners spoke to a person sitting in the car and came back stating that at least ₹3,00,000/- is to be paid. The complainant states that, he has paid ₹2,00,000/- and the said amount was refused by the petitioners. The aforementioned contents of the complaint would indicate that there was a threat and pursuant to the threat, the complainant allegedly paid ₹2,00,000/- and petitioners have not accepted ₹2,00,000/- and demanded more.

9. Though the learned counsel for the petitioners would urge that the complaint does not disclose the presence of the vehicle belonging to the Police Department or does not



disclose the fact that the petitioners were not found in the police uniform, it cannot be a reason to quash the proceedings on the premise that there was no threat on the complainant by the petitioners. The very fact that the complainant has stated that, he made a request to accept only ₹2,00,000/-, *prima facie* gives an indication that the complainant believed that the petitioners are from the Police Department.

10. It is also relevant to notice that the complaint has allegedly paid ₹2,00,000/- and the petitioners allegedly refused to accept ₹2,00,000/- and they demanded ₹3,00,000/-.

11. At this juncture, it is necessary to refer to the judgment of the Apex Court in ***Bhajan Lal*** supra, wherein the Apex Court has held that Section 482, which is an extraordinary power, can be exercised in a situation where the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not *prima facie* constitute any offence or make out a case against the accused.

12. In the instant case, as already noticed, the contents of the complaint do attract Section 308 of BNS. The reason is



the contents of the complaint would indicate that, there was a demand by the petitioners who made a claim that they belong to the Police Department. It is not necessary that the petitioners should be wearing the police uniform at the time when they made the demand. Whether the demand was really made or whether the petitioners were present at the time of the alleged incident, whether the complainant paid ₹2,00,000/- and whether the petitioners refused ₹2,00,000/- are all the matters which require investigation.

13. At this juncture, the Court would place reliance on the judgment of the Apex Court in ***Neeharika Infrastructure Private Limited v. State of Maharashtra and others***². The conclusions in the said judgment are found in Paragraph No.23 and they are extracted as under:

Conclusions: 23. 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 Cr.P.C 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

² AIR 2021 SC 1918



steps to be adopted” during the investigation or till the final report/chargesheet is filed under Section 173 Cr.P.C., while dismissing/disposing of/not entertaining/not quashing the criminal proceedings/complaint/FIR in exercise of powers under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India, our final conclusions are as under:

- i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence;
- ii) Courts would not thwart any investigation into the cognizable offences;
- iii) 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;
- iv) 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).
- v) 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;
- vi) Criminal proceedings ought not to be scuttled at the initial stage;
- vii) Quashing of a complaint/FIR should be an exception rather than an ordinary rule;
- viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere;



- ix) The functions of the judiciary and the police are complementary, not overlapping;
- x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;
- xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;
- xii) The first information report is not an encyclopaedia 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;
- xiii) The power under Section 482 Cr.P.C. is 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;
- xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint;



- xv) When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482 Cr.P.C., 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;
- xvi) The aforesaid parameters would be applicable and/or the aforesaid aspects are required to be considered by the High Court while passing an interim order in a quashing petition in exercise of powers under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India. However, an interim order of stay of investigation during the pendency of the quashing petition can be passed with circumspection. Such an interim order should not require to be passed routinely, casually and/or mechanically. Normally, when the investigation is in progress and the facts are hazy and the entire evidence/material is not before the High Court, the High Court should restrain itself from passing the interim order of not to arrest or "no coercive steps to be adopted" and the accused should be relegated to apply for anticipatory bail under Section 438 Cr.P.C. before the competent court. The High Court shall not and as such is not justified in passing the order of not to arrest and/or "no coercive steps" either during the investigation or till the investigation is completed and/or till the final report/chargesheet is filed under Section 173 Cr.P.C., while dismissing/disposing of the quashing petition under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India.
- xvii) Even in a case where the High Court is prima facie of the opinion that an exceptional case is made out for grant of interim stay of further



investigation, after considering the broad parameters while exercising the powers under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India referred to hereinabove, the High Court has to give brief reasons why such an interim order is warranted and/or is required to be passed so that it can demonstrate the application of mind by the Court and the higher forum can consider what was weighed with the High Court while passing such an interim order.

- xviii) Whenever an interim order is passed by the High Court of "no coercive steps to be adopted" within the aforesaid parameters, the High Court must clarify what does it mean by "no coercive steps to be adopted" as the term "no coercive steps to be adopted" can be said to be too vague and/or broad which can be misunderstood and/or misapplied."

14. The Paragraph No.23(xv) of the said judgment is very clear and emphatic. The ratio is that while considering the prayer to quash the FIR, the Court has to only consider whether the allegations in the FIR disclose commission of the cognizable offence or not. The Court is not required to consider the merits of the allegations and the Court should not scuttle the investigation into allegations in the FIR.

15. The contention of the learned counsel would that Section 308 is not attracted unless a person is put in fear. As can be seen from the contents of the complaint, one can make out a prima facie case that the complainant was put in fear as



there was a threat to lodge a police complaint against the complainant.

16. In this view of the matter, this Court does not find any merit in the petition. Accordingly, the petition is ***dismissed.***

Sd/-
(ANANT RAMANATH HEGDE)
JUDGE

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CT: UMD
List No.: 1 Sl No.: 40