



CNR: KAHC010727662024

NC: 2026:KHC:37991
WP No. 34898 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 34898 OF 2024 (GM-RES)

R

BETWEEN:

MR. THOMAS JADAN,
AGED ABOUT 21 YEARS,
S/O MR. GABRIEL PALDANO,
CURRENTLY RESIDING AT NO.21,
TRINITY ONE APARTMENTS,
CHURCH ROAD,
SHANTINAGAR,
BENGALURU - 560 027.

...PETITIONER

(BY SMT. NIDHISHREE B.V., ADVOCATE)

AND:

1. STATE OF KARNATAKA,
BY ASHOK NAGAR POLICE STATION,
REPRESENTED BY THE
STATION HOUSE OFFICER,
38H, 3RD STREET,
SHANTALA NAGAR,
ASHOK NAGAR,
BENGALURU - 560 025.
2. MS. PURVA K,
AGED ABOUT 20 YEARS,
D/O MR. MANISH KHARBIKER,
RESIDING AT NO.1,
OFFICERS RESIDENTIAL QUARTERS,





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MADIWALA ROAD, 2ND BLOCK,
KORAMANGALA,
BENGALURU - 560 034.

...RESPONDENTS

(BY SMT.WAHEEDA M.M., HCGP FOR R1;
R2 IS SERVED AND UNREPRESENTED)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA R/W SECTION 528 OF BNS PRAYING TO QUASH THE FIR IN CRIME NO.0363/2024 (ANNX-A) REGISTERED BY THE R-1 AGAINST THE PETITIONER DATED 29.11.2024 FILED BY THE R-2 UNDER SECTIONS 77, 78 AND 79 OF THE BHARATIYA NYAYA SANHITA, 2023 AND SECTIONS 66E AND 67D OF THE INFORMATION TECHNOLOGY ACT, 2000 PENDING IN THE COURT OF THE XXIX ADD. CMM COURT, MAYO HALL, BENGALURU AND ALL PROCEEDINGS PURSUANT THERETO AND GRANT SUCH AND FURTHER RELIEFS AS THIS HONBLE COURT MAY DEEM FIT IN THE INTERESTS OF JUSTICE AND ETC.,

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

CORAM: HON'BLE MR. JUSTICE M.NAGAPRASANNA

ORAL ORDER

The petitioner, a student is before the Court calling in question registration of a crime in Crime No.363/2024 for offences punishable under Sections 77, 78 and 79 of Bharatiya Nyaya Sanhita, 2023 (for short 'BNS, 2023') and Sections 66E and 67D of the Information Technology Act, 2000.



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2. Heard Smt. Nidhishree B V, learned counsel for the petitioner and Smt. Waheed M M, learned High Court Government Pleader for respondent No.1.

3. Shorn of unnecessary details, brief facts, are as follows:

The petitioner and respondent No.2, aged 21 and 20 years respectively, were not strangers to each other. They were classmates and, by all accounts, friends as well. The genesis of the controversy lies in a solitary exchange over Instagram. The petitioner, perhaps carried away by youthful exuberance and the informality that characterizes conversations in the digital age, sent a direct message to respondent No.2 complimenting her appearance on a particular day. The compliment, however, was couched in what is now popularly described as "Gen-Z lingo".

4. The message, innocuous according to the petitioner, is said to have been shown to the father of respondent No.2, who, it is submitted, is an Officer of the Indian Police Service in the State. What began as a fleeting digital compliment between



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two young classmates soon snowballed into a criminal prosecution. A crime came to be registered, drawing the petitioner into the labyrinth of criminal law and placing his academic and professional future under a cloud of uncertainty.

5. The petitioner is stated to be a State-level cricketer and was, at the relevant point in time, preparing to represent an Under-19 team in Tamil Nadu. In the course of investigation, his laptop and mobile phone are alleged said to have been seized. Learned counsel for the petitioner would contend that the seizure was wholly contrary to law and bereft of statutory sanction. Be that as it may, confronted with the spectre of a criminal investigation arising out of a solitary message, the petitioner knocked at the doors of this Court. This Court, on consideration of the matter, stayed further investigation insofar as the petitioner was concerned.

6. The complainant-respondent No.2 though served 2 years ago, has remained unrepresented even today. Therefore, the petitioner and respondent No.1 - State are heard.



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7. Learned counsel appearing for the petitioner takes this Court through the documents appended to the petition or the direct message that was sent to the complainant. The learned counsel submits that this would not even attract any of the ingredients of the offences as obtaining under Sections 77, 78 and 79 of the BNS, 2023. It was two classmates, two friends chatting, describing how the complainant was beautiful. The learned counsel would further submit that if investigation is permitted, it would become an abuse of the process of the law and jeopardise the career of the student - the petitioner.

8. Learned High Court Government Pleader appearing for the State would however, put up vehement opposition to any order that would be passed by the Court quashing the investigation itself, contending that be it the classmate or friend, he has no right to speak on how beautiful the complainant looks on a particular day. So, would seek investigation into the matter and dismissal of the petition.

9. I have given my anxious consideration to the submissions made by the learned counsel for the petitioner and



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the learned High Court Government Pleader and have perused the material on record.

10. The entire edifice of the crime rests upon a solitary private communication. It was not a message circulated in the public domain, nor was it published or broadcasted to humiliate respondent No.2. It was a direct communication between two individuals — the petitioner and the complainant. The message reads:

“U kinda look so hot in light coloured clothes.”

The message merely sought to describe how respondent No.2 appeared in light-coloured clothes. **The expression employed is undoubtedly colloquial and belongs to the idiom of contemporary youth. The young increasingly communicate in abbreviations, informal phrases and expressions peculiar to the digital age, often without pausing to contemplate that a casual word, typed in a fleeting moment, may one day drag them into the unforgiving web of criminal proceedings.**



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11. Significantly, there is no series of messages, no repetition, no threat, no pursuit, no demand and no further communication of an objectionable nature. The prosecution rests on this solitary sentence and nothing beyond it.

12. **This lone message has become the proverbial fly in the ointment** and the foundation for invocation of Sections 77, 78 and 79 of the BNS, 2023, relating respectively to voyeurism, stalking and words, gestures or acts intended to insult the modesty of a woman. The said sections read as follows:

"77. Voyeurism.—Whoever watches, or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.

Explanation 1.—For the purposes of this section, "private act" includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy and where the victim's genitals, posterior or breasts are exposed or covered only in underwear; or the



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victim is using a lavatory; or the victim is doing a sexual act that is not of a kind ordinarily done in public.

Explanation 2.—Where the victim consents to the capture of the images or any act, but not to their dissemination to third persons and where such image or act is disseminated, such dissemination shall be considered an offence under this section.

78. Stalking.—(1) Any man who—

(i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or

(ii) monitors the use by a woman of the internet, e-mail or any other form of electronic communication,

commits the offence of stalking:

Provided that such conduct shall not amount to stalking if the man who pursued it proves that—

(i) it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or

(ii) it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or

(iii) in the particular circumstances such conduct was reasonable and justified.

(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.



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79. Word, gesture or act intended to insult modesty of a woman.—Whoever, intending to insult the modesty of any woman, utters any words, makes any sound or gesture, or exhibits any object in any form, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to three years, and also with fine.”

(Emphasis supplied)

Section 77 of the BNS deals with the offence of voyeurism. Voyeurism has certain ingredients. Any man who watches or captures the image of a woman engaging in a private act would be committing the offence of voyeurism. Explanation (1) would define a private act to be including an act of watching carried out in a place which would reasonably be expected to provide privacy. Section 78 of the BNS defines stalking to be an act where any man follows a woman and contacts or attempts to contact a woman to foster personal interaction repeatedly, despite a clear indication of disinterest by the woman. Stalking would also include monitoring of the use of the internet, email or any other form of electronic communication by a woman. Section 79 of the BNS deals with the offence of outraging the modesty of a woman and would



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punish the person who utters any words, makes any sound or any gesture or exhibits any object in any form, with an intent to outrage the modesty of a woman.

13. Criminal statutes, particularly those carrying serious consequences, cannot be set in motion merely because an expression is inelegant, immature or distasteful. Every impropriety is not criminality; every indiscretion cannot be elevated into an offence; and every awkward expression of admiration cannot be forced into the statutory mould of voyeurism, stalking or insult the modesty of a woman.

14. If a solitary private message of the nature quoted hereinabove were permitted to attract all these offences, the invocation of criminal law would become an abuse of the process of law. **There is no allegation of the petitioner having watched, captured or disseminated any private act so as to constitute voyeurism. There is no allegation of repeated following, monitoring or persistent communication, despite disinterest so as to constitute stalking. Nor does the message, viewed in its setting**



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and in the backdrop of the relationship between the parties, disclose the deliberate intention necessary to attract the offence of insulting the modesty of a woman.

15. The expression used, may be inappropriate, indiscreet and best avoided. Youthful vocabulary, however, cannot by itself become the gateway to criminal prosecution, unless the essential ingredients of the alleged offence are demonstrably present. The criminal law cannot be employed as a bludgeon to punish every social indiscretion or linguistic impropriety. It must remain reserved for conduct that squarely falls within the four corners of the penal provision.

16. Permitting the investigation to continue in the peculiar facts of the case would not merely imperil the career of a young student and sportsperson; it would permit the process of criminal law itself to become the punishment. Such continuation would amount to an abuse of the process of law and inevitably result in miscarriage of justice.



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17. For the aforesaid reasons, the following:

ORDER

- i) Writ petition is allowed.
- ii) The FIR registered by the first respondent in Crime No.363/2024, pending on the file of the XXIX Additional Chief Metropolitan Magistrate at Mayo Hall, Bengaluru and all proceedings taken thereto, *qua* the petitioner are hereby quashed.
- iii) In the light of the quashment of the proceedings, I.A.No.1/2025 stands allowed. The concerned Investigating Officer shall, forthwith, return all the items of the petitioner that are seized and if kept in the custody.

Ordered accordingly.

I.A.No.1/2024 stands disposed, as a consequence.

Sd/-
(M.NAGAPRASANNA)
JUDGE

BSV
List No.: 2 Sl No.: 11