



CNR: KAHC010280612026

NC: 2026:KHC:47384
CRL.P No. 6103 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 6103 OF 2026

BETWEEN:

R

...PETITIONER

(BY SRI. ABHILASH H.S, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA BY
KODIGEHALI POLICE STATION,
REPRESENTED BY STATE PUBLIC PROSECUTOR,
KARNATAKA HIGH COURT BUILDING,
BANGALORE - 560 001.



...RESPONDENTS

(BY SRI. K. NAGESHWARAPPA, HCGP FOR R1;
SMT. SWATI GOPALKRISHNA, ADVOCATE FOR R2)



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THIS CRL.P IS FILED U/S 482 OF CR.PC (FILED U/S 528 BNNS) PRAYING TO 1. QUASH THE ORDER DATED 03.03.2026, PASSED BY THE HONBLE 7TH A.C.J.M BENGALURU, TAKING COGNIZANCE AGAINST THE PETITIONER HEREIN FOR THE OFFENCE P/U/S 75(2) OF BNS AND ISSUING SUMMONS TO THE PETITIONER HEREIN BY REGISTERING CASE IN C.C.NO.14887/2026 AS PER ANNEXURE-E.

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

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

ORAL ORDER

The petitioner is before the Court calling in question the proceedings in C.C.No.14887/2026 registered for the offence punishable under Section 75(2) of the Bharatiya Nyaya Sanhita, 2023 ('the BNS' for short), pending on the file of 7th Additional Chief Judicial Magistrate, Bengaluru.

2. Heard Sri. Abhilash H.S., learned counsel appearing for the petitioner - accused; Sri. K. Nageshwarappa, learned High Court Government Pleader appearing for respondent No.1 - State and Smt. Swati Gopalkrishna, learned counsel appearing for respondent No.2 - complainant



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3. The facts adumbrated are as follows:

3.1. Respondent No.2 is the complainant. The genesis of the *lis* lies in a complaint registered on 24-01-2026, which comes to be transformed into Crime No.35 of 2026 for the offence punishable under Section 75(2) of the Bharatiya Nyaya Sanhita, 2023 ('BNS' for short). The allegation, shorn of embellishment, is that the petitioner exposed his private part at a public place near Hebbal at a time when the complainant was walking by. This solitary incident becomes the fulcrum around which the entire crime revolves.

3.2. The Police conduct investigation and, on its culmination, lay a charge sheet against the petitioner. It is the filing of the charge sheet and the consequential continuation of criminal proceedings that have driven the petitioner to the doors of this Court in the subject petition.

SUBMISSIONS:

PETITIONER:

4. The learned counsel appearing for the petitioner would seek to place an altogether different complexion upon the



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incident. He would submit that, after alighting from a bus, the petitioner was in urgent need of a restroom and frantically searched for one in the vicinity. Finding none, and being unable to resist nature's call any longer, the petitioner sought to relieve himself by the side of the street. At that precise moment, the complainant happened to walk past the place. The petitioner, unaware of her presence, suddenly turned around and, in that fleeting moment, the complainant happened to see his private part. This accidental circumstance, according to the learned counsel, has been given the colour of a criminal act and has ultimately snowballed into the impugned prosecution.

4.1. The learned counsel would vehemently contend that an accidental exposure, bereft of any sexual overture, intent or conduct directed towards the complainant, cannot be metamorphosed into an offence merely because the complainant happened to witness it. He would submit that the ingredients necessary to constitute an offence under Section 75(2) of the BNS—corresponding to Section 354A of the erstwhile the IPC—are not merely absent, but are not



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discernible even in their remotest semblance from the complaint or the material collected during investigation.

COMPLAINANT:

5. The learned counsel appearing for the respondent No.2 - complainant would however contend that the petitioner was not only answering the call of nature, but was making some gestures, as well. In that light, the learned counsel submits that this is a matter where it must be permitted to be tried and for the petitioner to come out clean in a full blown trial, as to what was he doing at that point in time.

STATE:

6. The learned High Court Government Pleader also would toe the lines of the learned counsel appearing for the complainant in seeking dismissal of the petition.

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



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CONSIDERATION:

8. The afore-narrated facts are a matter of record. They would not require any iteration. The entire issue gets triggered from the registration of the complaint. The gist of the complaint as found in column No.10 reads as follows:

"10. ಪ್ರಥಮ ವರ್ತಮಾನ ವರದಿಯ ವಿವರಗಳು

ದೂರುದಾರರು ರಾಣಿಗೆ ಹಾಜರಾಗಿ ನೀಡಿದ ದೂರಿನ ಸಾರಾಂಶವೇನಂದರೇ, ಈ ದಿನ ದಿನಾಂಕ:-24-01-2026 ರಂದು ಮಧ್ಯಾಹ್ನ ಸುಮಾರು 03-40 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ನಾನು ಹೆಬ್ಬಾಳ ರಿಂಗ್ ರಸ್ತೆಯ ಬಳಿ ಬಸ್ ಇಳಿದು ಮನೆಗೆ ಹೋಗಲು ರೈಲ್ವೆ ಟ್ರಾಕ್ ಕಡೆಗೆ ನಡೆದುಕೊಂಡು ಹೋಗುತ್ತಿದ್ದಾಗ ನನ್ನ ಎದುರಿಗೆ ಬಂದ ಒಬ್ಬ ಅಪರಿಚಿತ ವ್ಯಕ್ತಿ ನನ್ನ ಹತ್ತಿರ ಬಂದು ಆತನ ಪೈವೇಟ್ ಪಾರ್ಕ್ ನ್ನು ತೆಗೆದು ಸನ್ನೆ ಮಾಡಿದ್ದು, ಆಗ ನಾನು ಸ್ವಲ್ಪ ಮುಂದೆ ಬಂದು ನಂತರ ಮತ್ತೆ ಹೋಗಿ ಆತನನ್ನು ಹಿಡಿದುಕೊಂಡಿದ್ದು, ಆತ ನನ್ನಿಂದ ತಪ್ಪಿಸಿಕೊಂಡು ಹೋಗುತ್ತಿದ್ದಾಗ ನಾನು ಕೂಗಿಕೊಂಡಿದ್ದು, ಅಲ್ಲಿದ್ದ ಜನರು ಆತನನ್ನು ಹಿಡಿಕೊಂಡಿರುತ್ತಾರೆ. ನಾನು ಪೊಲೀಸ್ ರಾಣಿಗೆ ಬಂದ ನಂತರ ಆತನ ಹೆಸರು ಅನಿಲ್ ರೋಹನ್ ಮೆನಂಜನ್ ಎಂದು ತಿಳಿದುಬಂದಿರುತ್ತದೆ, ಆದ್ದರಿಂದ ಆತನ ವಿರುದ್ಧ ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳಬೇಕೆಂದು ಕೊಟ್ಟ ದೂರು ಇತ್ಯಾದಿ."

(Emphasis added)

The complaint itself narrates that the complainant, after alighting from a bus, was proceeding towards the nearby railway track. At that point in time, the petitioner, without noticing the presence of the complainant, was attending to nature's call and, in the



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process, his private part came to be exposed. It is this circumstance—an exposure alleged to have occurred while the petitioner was answering nature's call and without his attention being directed towards the complainant—that becomes the fulcrum of the allegation and leads to registration of the crime for the offence punishable under Section 75(2) of the BNS.

9. The Police thereafter conduct investigation and lay a charge sheet against the petitioner. Thus, what begins with the aforesaid fleeting incident travels through the rigours of investigation and culminates in a final report seeking prosecution of the petitioner under Section 75(2) of the BNS.

10. The summary of the charge sheet as obtaining in column No.17 reads as follows:

"17) ಕೇಸಿನ ಸಂಕ್ಷಿಪ್ತ ವಿವರ (ಅವಶ್ಯವಿದ್ದಲ್ಲಿ ಪ್ರತ್ಯೇಕ ಹಾಳೆ ಲಗತ್ತಿಸಿ : Brief Facts of the case/Charge (Add separate Sheet, if necessary)

ಈ ದೋಷಾರೋಪಣ ಪಟ್ಟಿಯಲ್ಲಿ ಕಂಡ ಸಾಕ್ಷಿ-1 ರವರಾದ ಕು|| ಜಾನ್ಸಿ ಹೆಚ್.ಜಿ ರವರು ದಿನಾಂಕ:24-01-2026 ರಂದು ಸಂಜೆ ಸುಮಾರು 3.40 ಗಂಟೆಗೆ ಕೊಡಿಗೆಹಳ್ಳಿ ಪೊಲೀಸ್ ಠಾಣಾ ಸರಹದ್ದಿನಲ್ಲಿರುವ ಹೆಬ್ಬಾಳ ಬಸ್ ಸ್ಟಾಪ್ ನಲ್ಲಿ ಬಸ್ ನಿಂದ ಇಳಿದು ಮನೆಗೆ ಹೋಗಲು ರೈಲ್ವೆ ಟ್ರಾಕ್ ಕಡೆಗೆ ನಡೆದುಕೊಂಡು ಹೋಗುತ್ತಿರುವಾಗ ಎ-1 ಆರೋಪಿತನಾದ ಅನಿಲ್ ರೋಹನ್ ಮೇನೆಜೀಸ್ ರವರು ಸಾಕ್ಷಿ-1 ರವರ ಬಳಿ ಬಂದು



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ತನ್ನ ಪ್ರೈವೇಟ್ ವಾರ್ಡ್ ತೆಗೆದು ತೋರಿಸಿ, ಕೈಯಿಂದ ಸ್ಪರ್ಶಿಸಿ ಮುಂದೆ ಹೋಗಿದ್ದು, ನಂತರ ಸಾಕ್ಷಿ-1 ರವರು ಎ-1 ಆರೋಪಿತ ಕೈ ಹಿಡಿದುಕೊಂಡು ಜೋರಾಗಿ ಕೂಗಿಕೊಂಡಿದ್ದು ಎ-1 ಆರೋಪಿಯು ತಪ್ಪಿಸಿಕೊಳ್ಳಲು ಸಾಕ್ಷಿ-1 ರವರ ಕೈಗಳಿಗೆ ಜಿಗಿಟಿರುತ್ತಾರೆ. ನಂತರ ಸಾಕ್ಷಿ-1 ರವರ ಸಹಾಯಕ್ಕೆ ಸಾಕ್ಷಿ -4 ಶ್ರೀ. ಸುಧೀರ್ ಮತ್ತು ಸಾಕ್ಷಿ. -5 ಪೂಜಾರಿ, ಲೋಕೇಶ್ ಜಿ ರವರು ಬಂದಿರುತ್ತಾರೆ. ನಂತರ ಸಾಕ್ಷಿ-1 ರವರು 112 ಗೆ ಕರೆ ಮಾಡಿದ್ದು ಸ್ಥಳಕ್ಕೆ ಸಾಕ್ಷಿ. -6 ಶ್ರೀ. ರಂಗಪ್ಪ ಪೂಜಾರಿ ಮತ್ತು ಸಾಕ್ಷಿ-7 ಪರುಶುರಾಮ್ ರವರು ಎಂದು ಎ-1 ಆರೋಪಿಯನ್ನು ಕೊಡಿಗೆಹಳ್ಳಿ, ಪೊಲೀಸ್ ಠಾಣೆಗೆ ಹಾಜರುಪಡಿಸಿರುತ್ತಾರೆ:

ಆದ್ದರಿಂದ ಸಾಕ್ಷಿ-1 ರವರಿಗೆ, ಎ-1 ಆರೋಪಿತನು ತನ್ನ ಪ್ರೈವೇಟ್ ವಾರ್ಡ್ ನ್ನು ತೋರಿಸಿ ಕೈ ಸನ್ನೆ ಮಾಡಿ ಮತ್ತು ಸಾಕ್ಷಿ-1 ರವರ ಕೈಗೆ ಸ್ಪರ್ಶಿಸಿರುವುದು ಧೃಢಪಟ್ಟಿದ್ದರಿಂದ ಎ-1. ರವರ ವಿರುದ್ಧ ಕಲಂ- 75(2) BNS-2023. ರೀತ್ಯಾ ಆರೋಪ ಹೊರಿಸಲಾಗಿ ಮಾನ್ಯ ನ್ಯಾಯಾಲಯಕ್ಕೆ ನಿವೇದಿಸಿಕೊಂಡಿರುತ್ತದೆ."

11. The issue that now falls for consideration is, whether the allegations, even if accepted in their entirety, would satisfy the ingredients of the offence punishable under Section 75(2) of the BNS, corresponding to Section 354A of the erstwhile the IPC.

12. For conduct of the kind alleged to enter the precincts of the offence, the act cannot be viewed in isolation from the circumstances attending it. There must be conduct carrying the necessary sexual overtone and, above all, the requisite *mens rea*. An accidental or unintended exposure, bereft of



sexual intent and not directed towards the woman, cannot, merely because it is witnessed by a woman, be metamorphosed into an offence of sexual harassment.

13. The facts obtaining in the case at hand are required to be noticed on this bedrock. The petitioner was admittedly answering nature's call. The explanation offered is that he had searched for a public toilet and, finding none in the vicinity, was compelled by the exigency of nature to relieve himself at the place in question. It is at that point that the complainant walks towards the place where the petitioner was answering nature's call. **Significantly, the statement of the complainant does not narrate that the petitioner was waiting for her, beckoned her, followed her, made any sexually coloured remark or deliberately exposed himself upon noticing her. The reaction attributed to the petitioner, on noticing the complainant, is one of sudden shock. That reaction, far from supplying the element of sexual intent, *prima facie* travels in the opposite direction.**

14. The distinction cannot be lost sight of. **Exposure of the body and intentional exposure of the**



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body to a woman for a sexual purpose are not synonymous. Criminal law punishes the latter when the statutory ingredients are fulfilled; it cannot mechanically criminalise the former merely because circumstances unfortunately bring it within the sight of another. The surrounding circumstances must lend the act as the colour of the offence alleged. Otherwise, the indispensable element of *mens rea* would disappear and mere happenstance would be elevated to criminality.

15. In the considered view of this Court, therefore, a person answering nature's call and a woman inadvertently coming within his line of sight at that precise moment cannot, without anything more, satisfy the ingredients of the offence alleged under Section 75(2) of the BNS. The complaint and the material collected during investigation, as projected, do not disclose any deliberate act of exposure directed towards the complainant or any conduct demonstrative of sexual intent. The mere fact that the complainant happened to see the private part of the petitioner cannot supply an ingredient which the statute itself requires.



16. The criminal law cannot be permitted to travel on conjecture from exposure to intention, and from intention to sexual intent, when the foundational facts necessary to sustain that journey are themselves absent. Every unpleasant, embarrassing or socially unacceptable circumstance cannot, on that score alone, be brought within the contours of a penal provision . Therefore, permitting the petitioner to undergo the rigmarole of a criminal trial on the aforesaid allegations would amount to permitting the process of law itself to become the punishment. Where the very substratum of the prosecution, taken at its highest, does not disclose the ingredients of the offence alleged, continuation of the proceedings would be an abuse of the process of law and would result in patent miscarriage of justice. The proceedings, therefore, cannot be permitted to continue.

17. It becomes apposite to refer to the judgment of the Apex Court rendered in the case of **STATE OF HARYANA v. BHAJAN LAL**¹, wherein the Apex Court holds as follows:

¹ 1992 Supp. 1 SCC 335



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"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases 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 guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- (1) **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 accused.**
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation 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.
- (3) 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.
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a noncognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.



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- (5) **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.**
- (6) 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, providing efficacious redress for the grievance of the aggrieved party.
- (7) 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."

(Emphasis supplied)

In the light of the principles so unequivocally enunciated by the Apex Court in the afore-quoted judgment, this Court can scarcely remain a mute spectator to the continuance of a prosecution which, on the face of the record, cannot be permitted to survive. This is, therefore, a fit case where the inherent jurisdiction of this Court under Section 528 of the BNSS must be exercised, lest the criminal process itself become an instrument of injustice. Consequently, the crime



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registered against the petitioner deserves to be, and is accordingly, **obliterated from its very inception.**

18. For the aforesaid reasons, the following:

ORDER

- (i) The criminal petition is **allowed**.
- (ii) The proceedings in C.C.No.14887/2026 pending on the file of 7th Additional Chief Judicial Magistrate, Bengaluru stands quashed.

**Sd/-
(M.NAGAPRASANNA)
JUDGE**

JY
List No.: 1 Sl No.: 13