



CNR: KAHC010075452025

NC: 2026:KHC:54429
CRL.P No. 1737 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO.1737 OF 2025 (482(Cr.PC)

/ 528(BNSS)-)

BETWEEN:

S P SHANTHI PRASAD
S/O SRI.S.PADMANABHAIAH,
AGED ABOUT 53 YEARS,
R/AT SAMSE VILLAGE,
KALASA TALUK - 577 124,
CHIKKAMAGALURU, KARNATAKA

...PETITIONER

(BY SRI. MANJU BYRAL R.,ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY KUDREMU KH P.S.
REP. BY ITS PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-560001.

2. SRI. S.G.SANMATHIKUMAR
S/O S GUNAPALAI AH,
AGED AROUND 54 YEARS,
RESIDING AT
KODIGE MANE, SAMSE VILLAGE,
KALASA HOBLI,
KALASA TALUK- 577 124
CHICKMAGALUR

...RESPONDENTS

(BY SMT. RASHMI PATEL., HCGP FOR R1;
SRI. N. CHETHAN., ADVOCATE FOR
SRI. M.S. HARINATH., ADVOCATE FOR R2)



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THIS CRIMINAL PETITION IS FILED U/S 482 CR.PC (FILED U/S 528 BNSS) PRAYING TO ALLOW THIS PETITION AND TO QUASH THE FIR IN CR.NO.1/2025 FOR THE OFFENCE P/U/S 352 AND 351(2) OF BNS 2023 REGISTERED BY THE KUDUREMUKH P.S. AGAINST THE PETITIONER AND THE SAME IS PENDING BEFORE THE HONBLE ADDL.CIVIL JUDGE (JR.DN) AND J.M.F.C COURT MUDIGERE AND ETC.

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

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. The Petitioners are before this Court seeking for the following reliefs:

- a. *Allow this petition and to quash the FIR in Cr.No.1/2025 for the offence p/u/s 352 and 351(2) of BNS 2023 registered by the Kuduremukh P.S. against the petitioner and the same is pending before the Honble Addl.Civil Judge (Jr.Dn) and J.M.F.C Court Mudigere;*
- b. *Pass such other order or orders as this Hon'ble Court deems fit in the interest of justice.*

2. Respondent No.2 had lodged a complaint on 19.12.2024 on which basis Crime No.1/2025 had been registered on 03.01.2025 by the Kuduremukh Police Station for offences under Section 352 and 351(2) of the Bharatiya Nyaya Sanhita,2023 (hereinafter for brevity referred to as 'the **BNS**'). The allegation made in the said complaint was that the

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complainant is the owner of the land in Sy.No.273. The petitioner is the owner of the neighbouring land. As regards which, there is a boundary dispute pending in O.S.No.2/2024. The fences between the property had been removed by the petitioner, resulting in cattle coming into the property of the respondent, which cattle were driven out of the said property. Pursuant thereto, the petitioner is stated to have called respondent No.2 on his mobile and threatened him with dire consequences and also insulted him as under:

“ನೀ ನಮ್ ತೋಟಕ್ಕೆ ದನ ಬಿಡುಡ್ ಬೇಡ ಆಯ್ತಾ, ನೀ ಆ ಜಾಗಕ್ಕೆ ಬಾ ಬೋಳಿಮಗನೆ, ಬೇವರ್ಸಿ, ನಿನ್ ಅಮ್ಮನ ಕೆಯ್ಯ, ನಿನ್ ಅಪ್ಪನ ಹಡ, ನೀ ಸೂಳಿಮಗನೆ ಸ್ಕಾಟ್ ಗೆ ಬಾರ”

3. In pursuance thereof, the complaint was filed.
4. The submission of learned counsel for the petitioner is that the mother of respondent No.2 having filed suit in O.S.No.2/2024 seeking for perpetual injunction and declaration. The petitioner along with his wife has also filed a suit in O.S.No.11/2024 seeking for injunction. As regards the very same property and on that ground, he submits that there being civil dispute between the parties, criminal law

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has been set in motion to give a criminal colour to a civil dispute.

5. His submission is that the ingredients of Section 352 and 351(2) of BNS are not made out in the present matter. The said provisions are reproduced hereunder for easy reference:

"S. 352 Intentional insult with intent to provoke breach of peace: *Whoever intentionally insults in any manner, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.*

S. 351Criminal intimidation.

- (1) *Whoever threatens by any means, another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.*

Explanation: A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

Illustration: A, for the purpose of inducing B to resist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation."

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6. He submits that these provisions correspond to earlier Sections 504 and 506 of IPC and in that regard, he relies upon the decision of the Hon'ble Apex Court in ***B.V. Ram Kumar v. State of Telangana*** [2025 3 SCC 475] more particularly para 22, 23 and 24 thereof, which are reproduced hereunder for easy reference:

22. For appreciating the necessary ingredients required to substantiate a charge under Section 504IPC, a reference in this regard may be made to the judgment of this Court in *Fiona Shrikhande v. State of Maharashtra* [*Fiona Shrikhande v. State of Maharashtra*, (2013) 14 SCC 44 : (2014) 1 SCC (Cri) 715] , wherein the Court discussed the essential ingredients of Section 504IPC. The Court held as follows : (SCC pp. 49-50, paras 13-14)

"13. Section 504IPC comprises of the following ingredients viz. **(a) intentional insult, (b) the insult must be such as to give provocation to the person insulted, and (c) the accused must intend or know that such provocation would cause another to break the public peace or to commit any other offence. The intentional insult must be of such a degree that should provoke a person to break the public peace or to commit any other offence.** The person who intentionally insults intending or knowing it to be likely that it will give provocation to any other person and such provocation will cause to break the public peace or to commit any other offence, in such a situation, the ingredients of Section 504 are satisfied. **One of the essential elements constituting the offence is that there should have been an act or conduct amounting to intentional insult and the mere fact that the accused abused the complainant, as such, is**

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not sufficient by itself to warrant a conviction under Section 504IPC.

14. We may also indicate that it is not the law that the actual words or language should figure in the complaint. One has to read the complaint as a whole and, by doing so, if the Magistrate comes to a conclusion, *prima facie*, that there has been an intentional insult so as to provoke any person to break the public peace or to commit any other offence, that is sufficient to bring the complaint within the ambit of Section 504IPC. It is not the law that a complainant should verbatim reproduce each word or words capable of provoking the other person to commit any other offence. **The background facts, circumstances, the occasion, the manner in which they are used, the person or persons to whom they are addressed, the time, the conduct of the person who has indulged in such actions are all relevant factors to be borne in mind while examining a complaint lodged for initiating proceedings under Section 504IPC."**

(emphasis supplied).

23. Thus, upon reading the complaint as a whole, if the Magistrate comes to a conclusion, *prima facie*, that there has been an intentional insult made by the accused to the complainant so as to provoke the latter to break the public peace or to commit any other offence, then only the act complained of would fall within the ambit of Section 504IPC. The law does not mandate that the complainant should verbatim reproduce each word or words capable of provoking him/her to commit breach of peace or any other offence. The background facts, circumstances, the occasion, the manner in which the offending words are used, the person to whom they are addressed, the time, the conduct of the person who has indulged in such actions are all relevant factors to be borne in mind while examining a complaint lodged for initiating proceedings under Section 504IPC.

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24. Further, this Court in *Mohd. Wajid v. State of U.P.* [*Mohd. Wajid v. State of U.P.*, (2023) 20 SCC 219], while discussing Section 504IPC, propounded the test for considering the circumstances wherein, an abusive language takes the form and shape of an intentional insult and held thus : (SCC paras 29-31).

"29. Section 504 IPC contemplates intentionally insulting a person and thereby provoking such person insulted to breach the peace or intentionally insulting a person knowing it to be likely that the person insulted may be provoked so as to cause a breach of the public peace or to commit any other offence. Mere abuse may not come within the purview of the section. But, the words of abuse in a particular case might amount to an intentional insult provoking the person insulted to commit a breach of the public peace or to commit any other offence. If abusive language is used intentionally and is of such a nature as would in the ordinary course of events lead the person insulted to break the peace or to commit an offence under the law, the case is not taken away from the purview of the section merely because the insulted person did not actually break the peace or commit any offence having exercised self-control or having been subjected to abject terror by the offender.

30. In judging whether particular abusive language is attracted by Section 504IPC, the court has to find out what, in the ordinary circumstances, would be the effect of the abusive language used and not what the complainant actually did as a result of his peculiar idiosyncrasy or cool temperament or sense of discipline. **It is the ordinary general nature of the abusive language that is the test for considering whether the abusive language is an intentional insult likely to provoke the person insulted to commit a breach of the peace and not the particular conduct or temperament of the complainant.**

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31. Mere abuse, discourtesy, rudeness or insolence, may not amount to an intentional insult within the meaning of Section 504IPC if it does not have the necessary element of being likely to incite the person insulted to commit a breach of the peace of an offence and the other element of the accused intending to provoke the person insulted to commit a breach of the peace or knowing that the person insulted is likely to commit a breach of the peace. Each case of abusive language shall have to be decided in the light of the facts and circumstances of that case and there cannot be a general proposition that no one commits an offence under Section 504IPC if he merely uses abusive language against the complainant."

7. By relying on **B.V. Ram Kumar**, which in turn had referred to Fiona Shrikhande, learned counsel for the petitioner submits that the insult must be such as to give provocation to the person insulted to break the public peace or commit any other offences. In the present case, the insult allegedly having been made by the petitioner to respondent No.2, respondent No.2 has not broken the peace or committed any offence and as such, the offence under Section 504 would not be attracted.
8. He submits that in the decision of **B.V. Ram Kumar**, the decision of **Mohd. Wajid v. State of U.P.** had also been referred to in para 24. By relying on the same, he submits that even in **Mohd. Wajid**, it had been categorically held that Section 504

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contemplates intentionally insulting a person thereby provoking such person insulted to breach the peace or intentionally insulting a person knowing it to be likely that the person insulted may be provoked so as to cause the breach of the public peace or to commit any offence.

9. He again submits that there is no offence which has been committed by Respondent No.2 requiring the invocation of Section 504 i.e. Section 351(2) of the BNS.
10. Insofar the offence under Section 352, his submission is that there is a vague allegation which has been made that the petitioner has threatened the life of respondent No.2. There being civil disputes, it is a completely false allegation which has been made. The civil disputes would be adjudicated in the pending civil proceedings. The criminal complaint filed by respondent No.2 is only to give a criminal colour to the civil dispute between the parties as rightly contented by learned counsel for the petitioner.
11. Heard learned counsel for the petitioners. Perused papers.

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12. At the outset, it is necessary to bear in mind that while exercising jurisdiction under Section 528 of the BNSS, this Court is not required to conduct a detailed appreciation of evidence or undertake a mini-trial. At the same time, where the allegations contained in the complaint, even if accepted in their entirety, do not disclose the essential ingredients of the offences alleged, continuation of the criminal proceedings would not be justified.
13. In the present case, the offences alleged are under Sections 352 and 351(2) of the BNS. Section 352 deals with intentional insult with intent to provoke breach of peace. The provision requires, apart from intentional insult, that the insult should be accompanied by provocation of such nature that the accused intended or knew it to be likely that such provocation would cause the person concerned to break the public peace or commit any other offence.
14. The principles governing the corresponding provision under the erstwhile Section 504 of the IPC have been considered by the Hon'ble Supreme Court in **B.V. Ram Kumar**. The Hon'ble Supreme Court, referring to **Fiona Shrikhande and Mohd. Wajid**, has reiterated that mere abuse, discourtesy, rudeness or

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insolence would not, by itself, constitute intentional insult within the meaning of the provision. The nature of the words, the circumstances in which they were used, the occasion, the person to whom they were addressed and the surrounding circumstances have to be considered to ascertain whether the statutory requirement of provocation with the requisite intention or knowledge is made out. The material relied upon by the petitioners records these principles.

15. In the present case, the words attributed to the petitioner are undoubtedly abusive and intemperate. However, the mere fact that the words are offensive or insulting cannot, by itself, satisfy the requirements of Section 352 of the BNS. The complaint must disclose the further ingredient that the petitioner intended, or knew it to be likely, that such provocation would cause respondent No.2 to break the public peace or commit any other offence.
16. A reading of the complaint as a whole does not disclose any such factual foundation. There is no allegation that the petitioner intended to provoke respondent No.2 to commit an offence. There is also no specific circumstance pleaded from which such

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intention or knowledge can reasonably be inferred. The complaint merely proceeds from the alleged use of abusive words to the registration of the offence.

17. It is necessary to clarify that the fact that respondent No.2 did not actually breach the peace cannot, by itself, be the basis for quashing the proceedings. The offence under Section 352 does not require an actual breach of peace. The statutory requirement is one of intention or knowledge as to the likelihood of such consequence. It is the absence of the necessary factual foundation for such intention or knowledge in the complaint which assumes significance in the present case.
18. The allegation under Section 351(2) of the BNS also requires consideration. Criminal intimidation, as defined under Section 351, requires a threat of injury to the person, reputation or property of the person threatened, or to the person or reputation of one in whom such person is interested, coupled with the requisite intention to cause alarm or to compel the person threatened to do or omit to do an act.
19. In the present case, the allegation is that the petitioner called respondent No.2 over the telephone and "threatened him with dire consequences",

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followed by the use of abusive expressions. The complaint does not set out any specific threat of injury to the person, reputation or property of respondent No.2. More importantly, it does not disclose the particular act which the petitioner intended respondent No.2 to do or omit to do as a consequence of the alleged threat, nor does it set out circumstances demonstrating the requisite intention to cause alarm.

20. The distinction between an abusive expression and a legally actionable threat cannot be overlooked. Every abusive or offensive statement does not constitute criminal intimidation. The statutory ingredients have to be discernible from the allegations themselves. An omnibus assertion that the accused threatened the complainant with dire consequences, without the necessary particulars or circumstances constituting the threat, cannot by itself be treated as sufficient disclosure of the offence.
21. The existence of a civil dispute between the parties is another relevant circumstance, though not by itself determinative. The complaint itself refers to the dispute concerning the adjoining properties. The material placed before this Court indicates that

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proceedings in O.S.No.2/2024 and O.S.No.11/2024 are pending in respect of the same property. Thus, the alleged telephone conversation and the words attributed to the petitioner arise in the immediate backdrop of an ongoing property and boundary dispute. The petitioner has specifically contended that the criminal proceedings have been initiated to give a criminal colour to the civil dispute.

22. Ordinarily, merely because a dispute has a civil complexion, criminal proceedings cannot be quashed if the complaint independently discloses the ingredients of a criminal offence. However, in the present case, the civil dispute assumes significance when the allegations themselves are examined to determine whether the essential ingredients of Sections 351(2) and 352 of the BNS are made out.
23. On a consideration of the complaint in its entirety, this Court finds that the allegations disclose, at the highest, an altercation arising out of a pre-existing property dispute and the use of abusive and intemperate language in the course thereof. The allegations do not disclose the requisite ingredients of criminal intimidation under Section 351(2) of the BNS. Likewise, the allegations do not disclose the

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necessary intention or knowledge required to constitute intentional insult with intent to provoke breach of peace under Section 352 of the BNS.

24. This Court is conscious that, at the stage of considering a petition under Section 528 of the BNSS, the allegations are ordinarily required to be taken at their face value. Even on that test, however, the basic ingredients of the offences alleged are absent. Relegating the petitioners to trial in circumstances where the complaint itself does not disclose the statutory ingredients would not advance the cause of justice and would amount to permitting continuation of criminal proceedings where the foundation for the offences is absent.
25. The power under Section 528 of the BNSS is intended, inter alia, to prevent abuse of the process of law and to secure the ends of justice. The present case falls within the category where interference is warranted, since continuation of the proceedings would serve no legitimate criminal-law purpose.
26. For the aforesaid reasons, this Court passes the following:

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ORDER

- (i) The Criminal Petition is **allowed**.
- (ii) The proceedings arising out of Crime No.1/2025 registered by Kuduremukh Police Station and pending before the learned Additional Civil Judge (Jr. Dn.) and JMFC, Mudigere, are hereby quashed insofar as the petitioners are concerned.
- (iii) It is made clear that this order is confined to the criminal proceedings arising out of the allegations considered herein and shall not affect the rights or contentions of either party in the pending civil proceedings.

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(SURAJ GOVINDARAJ)
JUDGE

KTY/List No.: 1 Sl No.: 23