HC-KAR

NC: 2026:KHC:57298
CRL.P No. 16549 of 2025

CNR: KAHC010787262025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO. 16549 OF 2025

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

BETWEEN:

1. DHEERAJ G KUNDER
S/O GOPALAKRISHNA M.
AGED ABOUT 25 YEARS,
R/AT, NO.CL-3-26B,
NITK CAMPUS,
SURATHKAL,
SRINIVASA NAGAR,
MANGALURU,
D.K. DISTRICT-575 025

2. SHRAVAN,
S/O M. SURESH.
AGED 23 YEARS.
R/AT NO.5-13/6,
5TH BLOCK,
KRISHNAPURA,
KATIPALLA,
MANGALURU,
D.K. DISTRICT- 575 030

3. ROSHAN,
S/O NARAYANA,
AGED ABOUT 25 YEARS,
R/AT NO.4-202,
KATIPALLA,
MANGALURU,
D.K. DISTRICT-575 030

4. SOHAN,
S/O SADASHIVA,
AGED ABOUT 25 YEARS,

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R/AT NO. GL-3-238/1,
3RD BLOCK,
KATIPALLA,
MANGALURU,
D.K. DISTRICT-575 030

5. AJITH @ GUNAPAL POONJA,
S/O LOKANATH POONJA,
AGED ABOUT 29 YEARS,
R/AT NADUMANE, B.T. ROAD,
UPPALA, KASARAGOD DISTRICT,
KERALA STATE -671 322

...PETITIONERS

(BY SRI. K RAVISHANKAR., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REP. BY D.K. CENTRAL CRIME,
MANGALURU CITY,
D.K. DISTRICT-575 001
AND ALSO REPRESENTED BY
THE OFFICE OF THE SPP,
HIGH COURT OF KARNATAKA,
BENGALURU 560 001

2. [redacted]

...RESPONDENTS

(BY SRI. RANJITH KUMAR., HCGP FOR R1)

THIS CRIMINAL PETITION IS FILED U/S 482 CR.PC (FILED U/S 528 BNSS) PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN CC.NO.899/2024 (CR.NO.5/2020) REGISTERED BY THE 1ST RESPONDENT POLICE AS AGAINST THE PETITIONERS FOR THE OFFENCES P/U/S. 66(C) AND 67 OF THE INFORMATION

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TECHNOLOGY ACT 2008 NOW PENDING ON THE FILE OF THE PRL.CIVIL JUDGE AND JMFC, PUTTUR D.K.

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. Learned HCGP has filed a memo enclosing the FSL report. His submission is that the FSL did not have the facility to verify.

2. The petitioners are before this Court seeking for the following reliefs:

> *Quash the entire proceedings in CC.No.899/2024 (Cr.No.5/2020) registered by the 1st respondent police as against the petitioners for the offences p/u/s. 66(c) and 67 of the Information Technology Act 2008 now pending on the file of the Prl.Civil Judge and JMFC, Puttur D.K.*

3. The present petition is filed under Section 482 of the Code of Criminal Procedure, challenging the charge sheet filed against the petitioners in Crime No. 5/2020 of D.K. Central Crime Police Station. The said crime was registered on 06.03.2020 on the basis of a complaint lodged by respondent No. 2 for offences

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punishable under Sections 66(C) and 67 of the Information Technology Act, 2000 (hereinafter referred to as '**the IT Act**'). Upon completion of investigation, the charge sheet was filed on 17.07.2024. The petitioners seek quashing of the said proceedings.

4. The complaint lodged by respondent No. 2 alleges that she was working as a lecturer at St. Philomina College, Puttur, and had an Instagram account. According to the complaint, unknown persons used her Instagram ID and a photograph available on that account to circulate an obscene video in a WhatsApp group named 'Bad Boys'. Thereafter, the Instagram ID, photograph and video were circulated in other WhatsApp groups. Respondent No. 2 further alleged that she began receiving messages on her Instagram account in connection with the said circulation. On these allegations, she lodged the complaint, which resulted in registration of the crime.

5. Learned counsel for the petitioners, Sri K. Ravishankar, submits that the photograph available on the Instagram account of respondent No. 2 and the person shown in the indecent video are different. According to him, the circulation of the photograph

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and Instagram ID of respondent No. 2, without any material establishing that she is the person shown in the video, does not attract the offences alleged under the IT Act. It is therefore contended that the allegations in the complaint do not make out the offences against the petitioners.

6. Having regard to the said submission, the learned High Court Government Pleader was directed to examine the forensic material and place the relevant reports before this Court, particularly with regard to the identity of the female person shown in the photograph and the video.

7. Today, learned HCGP has filed a memo enclosing the test reports of the photo signatory. The first test report dated 25.04.2024 deals with the examination of the mobile, model number LLD-AL 10. In the opinion of the expert, it is stated as under:

OPINION

1. The Honor mobile phone marked as DJa was supported for partial data extraction only. The extracted digital data contains the details are as follows:

- *5 alleged files namely: IMG-20200303-WA0003, IMG-20200304-WA0016, VID-20200303 WA0005, VID-20200303-WA0024 and IMG-20200303-WA0023.jpg are present and which are similar to the images present in reference copy of the D2b and D2c (IO mark:Z (W2 and -W3)) of case file FSL/MFS/473/2021,*

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Reg.No.FSL(Be)/3737/2020) based on visual observation. The details are enclosed in a soft copy as Annexure-Ala. Further, the content of reference copy of D2a is not present.

- *1 WhatsApp Application is installed and is registered using mobile number 917892593924 The details are enclosed in a soft copy as Annexure-Alb.*

- *The WhatsApp shared details of 5 alleged files present in Annexure-Ala are as follows:*

Sl. No	*Alleged image file name*	*From Mobile number*	*To mobile number/WhatsApp Group name*
1	*IMG-20200303-WA0003*	*917892593924*	*918151899719*
2	*IMG-20200304-WA0016*	*917411839587*	*TEAM MAHAKAL and 917892593924*
3	*VID-20200303-WA0005*	*917892593924*	*918151899719*
4	*VID-20200303-WA0024*	*917892593924*	*919535010926*
5	*VID-20200303-WA0023.jpg*	*917892593924*	*919535010926*

The WhatsApp shared details of 5 alleged files are enclosed in a soft copy as Annexure-Alc. Further, the alleged WhatsApp group namely: BAD BOYS present in D2a, D2b and D2c is not present.

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8. A perusal of the above would indicate that the image files which have the prefix IMG and the video files which have the prefix VID above had been examined, and the images found are similar in both the photograph and the video as examined with the photograph on Instagram.

9. The second report dated 28.07.2023, which relates to examination of the mobile phone Lenovo Model No.XT 1902-3 indicates the following opinion:

OPINION

1. The alleged video & image files present in Lenovo mobile phone marked as DMa, Redmi mobile phones marked as DP1a, DP3a & Realme mobile phone marked as DP2a are furnished in report No.FSL/MFS/473/2021. Further, editing of alleged image/video files in the respective mobile phones is beyond the scope of Audi Video Forensic Section, SFSL, Bengaluru. Hence, analysis of the same is not carried out.

2. The Audio-Video Forensic Section, SFSI, Bengaluru does not have tools/facility to compare visual content of the A4 size document marked as DZ1 to DZ3 with in screenshot of the of the documents marked as DBS-1 to DBS-5, DBS0-1 to DBS0-4 & DBR-1 to DBR-5. Hence, opinion on the same could not be ascertained.

3. The facial features of the female individual present in A4 size documents marked as DZ2 & DZ3 are similar with respect to facial features of the female individual present in A4 size documents marked as DBS-2 & DBS5 and DBS0-3 & DBS0-4. The system generated facial feature comparison reports are enclosed in a hardcopy

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as Annexures-Al (02 Pages). Further, the facial features of female individual are not visible in DZ1, DBS1, DBS3, DBS4, DBS0-1, DBS0-2, BR-1 to BR-5. Hence, comparison of the same is not possible.

10. Insofar as this report is concerned, the reference to DZ1 and DZ3 is a screenshot of the image and video and the reference to DBS-2, DBS-1 to DBS-5, DBSO-1 TO DBSO-4, and DBR-1 TO DBR-5 is related to a WhatsApp screenshot of the image and video files. The report indicates that the facial features of the female individual present in A4-size documents marked as DZ1 and DZ3 are similar with respect to the facial features of the female individual present in A4-size documents marked as DBS-2 and DBS-5 and DBSO-3 and DBS0-4. Though it is stated that the Forensic Science Laboratory [FSL], Bengaluru does not have the tools or facilities to compare the visual content of A4-size documents, the opinion on the visual inspection has been provided.

11. The third report is dated 24.05.2023 relating to the Lenovo mobile phone of Model No.XT1902-3 bearing IMEI No. 1:864310035012411, as well as other models viz., Realme mobile Phone Model No. RMX 1971 and Redmi Mobile Phone Model No. ME 17S

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(Redmi Note 5 Pro) and Redmi Mobile Phone Model No. M1901 F71 (Redmi Note 7).

12. On examination of the said phones, it is opined that the Lenovo Mobile Phone marked as D1a contains WhatsApp chats in the WhatsApp group namely Bad Boys. The complete chat of the WhatsApp group named 'Bad Boys' was enclosed in a soft copy as Annexure- A1. The images contained in Realme and Redmi are also related to the WhatsApp group, and they contain several images and videos, and a detailed report has been provided as to how there is a transfer of images and videos from one mobile WhatsApp account to the other.

13. The allegations in the complaint are not confined to the circulation of an ordinary photograph of respondent No. 2. The specific allegation is that a photograph available on her Instagram account was used in connection with an obscene video and that the video, along with her Instagram ID and contact details, was circulated in WhatsApp groups, including a group named 'Bad Boys'.

14. The use of a publicly available photograph does not, by itself, authorise another person to misuse it, create an obscene or indecent video by associating it

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with the photograph, or circulate the resulting material along with the woman's identity and contact details. A photograph posted by a person on a social media account for ordinary and legitimate purposes cannot be treated as consent to its use in obscene material or to the circulation of such material among others.

15. The alleged act of using the complainant's photograph to create or circulate a fake obscene video, and then placing her Instagram ID and contact details before members of WhatsApp groups, is a serious allegation. If established, such conduct would expose the complainant to unwanted attention, humiliation, harassment and harm to her reputation. It would also adversely affect her dignity and privacy as a woman. The alleged circulation of the material in groups for public consumption aggravates the nature of the allegation, as the complainant's identity and contact details are allegedly made available to persons who may use them to contact or harass her.

16. The seriousness of the allegation is also evident from the complainant's statement that, following the circulation, she began receiving messages on her Instagram account. The allegation is that the

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material was circulated in a manner that linked her identity to an obscene video and thereby exposed her to unwanted communications. The effect of such conduct cannot be assessed merely by observing that the original photograph was available on Instagram. The issue is the alleged misuse of that photograph, the association of her identity with the obscene video, and the subsequent circulation of the material and her contact details.

17. These allegations require examination in the context of the material collected during investigation. The forensic reports refer to the recovery of image and video files, the sharing of such files through WhatsApp, and similarity in the facial features of the female person appearing in certain images and screenshots. The reports therefore provide material that supports the prosecution's case and requires consideration at trial. The petitioners' contention that the person shown in the video is different from respondent No. 2 raises a disputed question of fact which cannot be conclusively determined in the present proceedings.

18. The allegations which have been made in the complaint are serious, that a woman's Instagram ID

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with her image and an indecent video has been circulated in various WhatsApp groups by the petitioners. Section 66(C) of IT Act is reproduced hereunder for easy reference:

> ***66C. Punishment for identity theft. –***
>
> *Whoever, fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other person, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine with may extend to rupees one lakh.*

19. A perusal of Section 66-C indicates that whoever has fraudulently or dishonestly made use of electronic signature, password or any other unique identification feature of any other person, shall be punished with imprisonment or video description for a term which may extend to 3 years and shall also be liable to fine which may extend to ₹1,00,000/-. In the present case, it is the identification or the facial identification of the person which has been used, as also, the Instagram handle of the respondent No.2 has been shared in the various WhatsApp groups with a video showing the same facial features as respondent No.2.

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20. Insofar as Section 67 is concerned, the same relates to publishing or transmitting of obscene material in electronic form, which is reproduced hereunder for easy reference:

> ***67. Punishment for publishing or transmitting obscene material in electronic form. -***
>
> *Whoever publishes or transmits or causes to be published or transmitted in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to three years and with fine which may extend to five lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to five years and also with fine which may extend to ten lakh rupees.*

21. A perusal of Section 67 indicates that whoever publishes or transmits or causes to be published or transmitted in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction. The video which has been circulated is an erotic, indecent video, bearing the

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facial resemblance of the complainant, as per the report of the FSL. Whether it is indeed so would have to be subject to trial.

22. The complaint alleges that an obscene video was circulated through WhatsApp groups along with the Instagram ID and photograph of respondent No. 2. The prosecution relies upon the recovered image and video files, the WhatsApp records and the forensic reports in support of these allegations. The allegations, taken together with the material collected during investigation, raise issues concerning the nature of the video, the manner of its circulation, the use of the complainant's identity and the role of the petitioners in the alleged acts.

23. The contention of learned counsel for the petitioners that the photograph of respondent No. 2 and the person shown in the video are different cannot be accepted as a ground for quashing the proceedings. The forensic reports contain material indicating similarity in facial features. The reports also record the limitations of the forensic examination. These aspects must be assessed together with the other evidence during trial. This Court cannot undertake a detailed examination of the forensic material or

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decide the disputed question of identity in a petition under Section 482 of the Code of Criminal Procedure.

24. The petitioners seek to have the proceedings terminated at the threshold by relying upon their contention that the photograph and the person shown in the video are different. However, the prosecution case is not based solely on the complainant's photograph. It also relies upon the alleged circulation of the video, the WhatsApp records, the recovered files and the forensic reports. The material collected during investigation must be considered as a whole. The petitioners' contention does not displace the prosecution material or establish that the proceedings are liable to be quashed.

25. The investigation has been completed and the charge sheet has been filed. The material collected during investigation provides a basis for the prosecution to proceed. The allegations concern the alleged misuse of a woman's photograph and identifying details to circulate obscene material in WhatsApp groups. The forensic reports indicate similarity in facial features and record the sharing of image and video files. The disputed questions regarding the identity of the

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person shown in the video, the manner in which the material was created or circulated, and the role of each petitioner are matters for the trial court to determine on the evidence.

26. This Court, while exercising jurisdiction under Section 482 of the Code of Criminal Procedure, cannot conduct a mini-trial or weigh the forensic evidence as though deciding the guilt or innocence of the petitioners. The power to quash proceedings is not to be exercised where the allegations in the complaint and the material collected during investigation raise issues that require adjudication at trial. The present case falls in that category.

27. Accordingly, this Court finds no ground to exercise its jurisdiction under Section 482 of the Code of Criminal Procedure to quash the charge sheet or the proceedings arising therefrom.

28. The petition stands **dismissed**.

29. It is made clear that the observations made in this order are confined to the consideration of the petition under Section 482 of the Code of Criminal Procedure. The trial court shall conduct the trial independently and decide the matter on the basis of the evidence

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adduced before it, uninfluenced by any observation made herein.

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(SURAJ GOVINDARAJ)
JUDGE

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